

Exhibit No: CWA-01

Witness: Jennifer Clary

Proceeding: A.25-03-016; A.25-03-017 CONSOLIDATED

Date: July 23, 2026

**CLEAN WATER ACTION'S
PREPARED DIRECT TESTIMONY OF JENNIFER CLARY
REGARDING APPLICATION OF UNION PACIFIC RAILROAD COMPANY, D/B/A
KEENE WATER SYSTEM (U0434W) FOR ADJUSTMENTS TO REVENUE
REQUIREMENT, RATE DESIGN, AND RATES**

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1 INTRODUCTION, BACKGROUND, AND QUALIFICATIONS

2 Q: Please state your name and address.

3 A: My name is Jennifer Clary. My business address is: Clean Water Action, 350 Frank H.
4 Ogawa Plaza, Suite 200, Oakland CA 94612.

5 Q: By whom are you employed?

6 A: My employer is Clean Water Action (“CWA”), a national nonprofit organization
7 dedicated to protecting our environment, health, economic wellbeing and community quality of
8 life. I have worked in the California CWA office since 2003.

9 Q: Please describe your position and summarize your responsibilities.

10 A: I have served as California Director of CWA since 2020. I work to advance key water
11 and climate justice and equity measures in the State of California. I have served on key
12 stakeholder committees that advise state agencies on actions to protect communities and direct
13 funding to address longstanding environmental problems. Clean Water Action was one of the
14 key organizations that successfully developed and passed SB 200 (Monning) in 2019, which
15 created the Safe and Affordable Drinking Water Fund, which forms the basis for the California
16 State Water Resources Control Board’s (“SWRCB”) Safe and Affordable Funding for Equity and
17 Resilience (“SAFER”) program. SAFER was designed to assist failing and at-risk water systems
18 to achieve long-term sustainability. Since 2019, 321 systems serving 3.3 million people have

1 been removed from the failing water system list.¹ SAFER is funding the engineering assessment
2 currently being developed by Provost & Pritchard for the Keene water system.

3 **Q: Please summarize your education, professional qualifications and experience.**

4 **A:** I have a Bachelor’s degree in Chemistry from the University of California at Berkeley.
5 Please see my Statement of Qualifications included as Attachment A.

6 **Q: On whose behalf are you submitting this testimony?**

7 **A:** I am submitting this testimony on behalf of CWA and the Keene residents with whom we
8 have entered into a Memorandum of Understanding to intervene as parties to this proceeding.
9 All of the above have authorized me to provide this testimony on their behalf.

10 **Q: What is the purpose of your testimony?**

11 **A:** The purpose of my testimony is to provide factual information and recommendations
12 relevant to issues identified in the March 2, 2026 Assigned Commissioner’s Scoping Memo and
13 Ruling (“Scoping Ruling”). The Commission is considering two consolidated applications
14 submitted by Union Pacific Railroad Company (“UPRR”), which operates the Keene Water
15 System (“KWS”), a California Public Utilities Commission (“Commission”) jurisdictional
16 California water utility charged with providing service to residents and business customers in
17 Keene, California. One UPRR application requests authorization for UPRR to be “relieved of its
18 public utility status and water service obligations.”² The other UPRR application seeks approval
19 of a large increase in rates charged for water service to Keene residents and businesses.³

¹ State of California FY 2025-26 Fund Expenditure Plan, Safe and Affordable Drinking Water Fund at 25,
https://www.waterboards.ca.gov/water_issues/programs/grants_loans/docs/2025/fy2025-26-fep-final-1125.pdf.

² Application 25-03-017.

³ Application 25-03-016.

1 **Q: Please describe the organization of your testimony.**

2 **A:** For the sake of efficiency and the Commission's convenience, I have organized my
3 testimony according to the order and organization of the issues as laid out by the Assigned
4 Commissioner on pages 3 through 5 of the Scoping Ruling. My testimony addresses the relevant
5 factual issues that are within my knowledge and expertise.

6 As discussed in more detail below, some of the factual issues identified in the Scoping
7 Ruling cannot be fully addressed here because the record is not yet complete. The SWRCB has
8 initiated a study to identify potential additional sources of water and options for water service to
9 the Keene customers currently served by UPRR. That study is scheduled for completion in
10 February of 2027 and then the SWRCB will evaluate the study and may consider further action
11 in relation to its pending Compliance Order sometime after February 2027.⁴ The outcome of the
12 SWRCB study is unknown, and I cannot speculate as to its conclusions or recommendations.
13 However, given the scope of the study we believe it will be highly relevant and perhaps
14 dispositive of the central question presented in the two applications, which is whether the
15 Commission should grant one of UPRR's alternative requests to either abandon water service to
16 Keene residents or significantly raise their rates for water service. I do not address legal issues,
17 which will be more appropriately addressed in legal briefing.

18 **UPRR'S MANAGEMENT OF THE KEENE WATER SYSTEM**

19 **Q: Has UPRR been a reasonable and prudent manager of the Keene Water System?**

20 **A:** No. In many critical respects, UPRR has not been a reasonable and prudent manager of
21 the Keene Water System. Stepping back from the current situation and looking at UPRR's
22 actions going back to the abandonment of pipeline service to Keene in 1994, it is evident that

⁴ See Attachment B – SWRCB Division of Drinking Water Compliance Order No. 03_19_23R_003 (the "Compliance Order").

UPRR has never accepted and prioritized its core responsibilities to maintain its system and provide safe, reliable water at a reasonable rate. Indeed, in recent statements and in its testimony, UPRR frankly admits that it views its operation of KWS as a burden rather than as a privilege and responsibility.⁵

Q: Does the State Water Resources Control Board approve of UPRR’s current management of the Keene Water System?

A: No, it does not. As the record shows, UPRR is currently subject to a Compliance Order issued by SWRCB in 2023 detailing a history of issues and concluding that UPRR is in violation of state safe drinking laws and regulations:

The State Water Board has determined that the Water System has failed to comply with section 116555, subdivision (a)(3), and California Code of Regulations, title 22, section 64554, in that it has failed and is failing to provide a reliable and adequate supply of potable water and cannot meet its maximum day demand without using hauled water. This violation has continued from 2009 when the Water System destroyed all local sources of supply (wells) and switched to 100% hauled water.⁶

As described in the SWRCB’s November 27, 2024 Denial of Renewed Request for Stay (attached to this testimony as Attachment C), UPRR’s response to the Compliance Order has been less than cooperative.⁷ First, UPRR challenged the citation and requested a stay. That stay was denied by SWRCB on September 18, 2023 because UPRR had provided “no facts or arguments” supporting a stay, and no allegation of substantial harms resulting from compliance with SWRCB’s directives.⁸ Despite SWRCB’s “multiple attempts” to communicate with UPRR to clarify the scope of its expectations and to communicate that funding was available for

⁵ See e.g. A.25-03-016 at 3 (“UPRR never intended to be a water of utility; it became one by operation of law as byproduct of its railroad operations.”); Shahabi Opening Testimony at 4 (lines 17-18) (“...this is not a geographic area where there should have ever been a water utility serving retail customers.”).

⁶ Compliance Order at RCB-0352.

⁷ See Attachment C, Petition for Review of Division of Drinking Water Citation and Compliance Order No. 03_19_23R_003: Denial of Renewed Request for Stay [File D-1135] (November 27, 2024) at 1-3.

⁸ *Id.* at 5.

1 planning and drilling of test wells, UPRR did not submit any applications for funding, and
2 instead submitted the Renewed Request for Stay, which was denied upon SWRCB’s finding that
3 proceeding with a “stepwise approach” to compliance would not result in “substantial financial
4 risk and harm” as alleged by UPRR.⁹

5 To address the Compliance Order and at SWRCB’s direction, UPRR applied for and
6 ultimately received a Technical Assistance grant, which was executed on May 14, 2025 and a
7 workplan was issued thereafter. Following the issuance of the grant, the SWRCB indicated that
8 it is currently not actively pursuing enforcement or penalties against UPRR.¹⁰

9 **Q: Please explain why you conclude that UPRR is not a reasonable and prudent**
10 **manager of the Keene Water System.**

11 **A:** In preparing this testimony, I engaged in extensive discussions with members of the
12 Keene community who have lived in the area for decades. I could provide numerous illustrations
13 of UPRR’s failure to reasonably and prudently manage the KWS. For purposes of this
14 testimony, I will describe only a few illustrative examples.

15 **Example 1: Prioritizing profit over customers.** As described in UPRR’s testimony, the
16 current situation, in which UPRR serves the Keene community by hauling water instead of
17 conveying it through a pipeline like most other water utilities, is due entirely to historical choices
18 made by UPRR. In service of its own business interests, UPRR chose not to replace its water
19 delivery system after the existing pipeline was destroyed as part of a tunnel enlargement in 1994.
20 This route, which allowed for the affordable, gravity-driven delivery of water to the community
21 of Keene, was not abandoned for the purposes of supporting the water system. Nor was the age
22 or condition of the pipeline a valid reason for abandonment; water systems must include

⁹ *Id.*

¹⁰ SWRCB Comments in Response to Joint Motion to Dismiss (November 17, 2025) at 4.

1 distribution system maintenance and pipe replacement as part of normal operations, and all
2 infrastructure requires maintenance and renewal, consistent with the requirements of Parts III
3 and VII of the Commission’s General Order 103-A (“GO 103-A”). For a period of time after
4 that decision, UPRR relied on six wells. However, water produced by those wells contained
5 fluoride, iron, and manganese at levels above their respective maximum contaminant levels.¹¹
6 Since abandoning those wells in 2009, UPRR has relied on hauling water from the City of
7 Tehachapi instead of working on a sustainable, long-term solution for its customers.¹² As a result
8 of UPRR’s choices in managing the Keene Water System, the system has been designated a
9 failing water system in the SWRCB’s Drinking Water Needs Assessment due to water
10 accessibility, affordability and technical, managerial, financial capacity (TMF).¹³

11 In these proceedings, UPRR continues to demonstrate its unwillingness to pursue viable,
12 long-term solutions or alternatives, citing the same concerns about cost recovery and
13 profitability.

14 **Example 2: Failure to maintain essential utility infrastructure.** UPRR’s hauled water
15 scheme involves moving water by truck from Tehachapi to Keene, where the water is stored in
16 two large water storage tanks. Maintaining these tanks (as well as the downstream water
17 distribution system) is essential to the provision of water service to UPRR’s customers.

18 On June 19, 2018, the SWRCB sent UPRR a formal notice of Significant Deficiency with
19 respect to the Keene Water System’s storage tanks.¹⁴ The letter notice describes water tests that
20 revealed bacterial contamination of the water provided from UPRR’s tanks. On inspection of

¹¹ Compliance Order at RCB-0351.

¹² *Id.*

¹³ See State Water Resource Control Board, SAFER Dashboard:

https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/saferdashboard.html.

¹⁴ See Attachment D, SWRCB, Significant Deficiency at Union Pacific Railroad Company – Keene Water System (June 19, 2018).

1 UPRR’s water tanks, the SWRCB found holes and leaks in both tanks that were deemed
2 “significant deficiencies.” The SWRCB found that holes and leaks had been “patched with
3 welded metal or plugged with wooden twigs and/or metal pins.” At one location, water was
4 “gushing out of the holes where wooden twigs had been used to stop the leaks.”

5 The degraded tanks were found to be in violation of Title 22, California Code of
6 Regulations, Ground Water Rule, Section 66430 – CA Ground Water Rule, Section 141.403 of
7 the Code of Federal Register. The SWRCB letter and pictures of the rusty, poorly maintained
8 tanks are included as Attachment A to the Opening Testimony of Arash Shahabi.¹⁵ The
9 testimony of Catherine Blagg at the March 3, 2026 public participation hearing elaborates on the
10 sequence of events leading from that customer’s loss of water pressure to discovery of coliform
11 bacteria in the decrepit tanks and the SWRCB’s subsequent orders to protect the community.¹⁶

12 The fact that UPRR allowed its tanks to degrade to the extent described in the SWRCB’s
13 Significant Deficiency letter and illustrated by the supporting photos speaks for itself. UPRR
14 cannot be relied upon to maintain its utility infrastructure in a reasonable manner. The
15 SWRCB’s discovery of this issue is evidence of careless, substandard service by UPRR. As
16 discussed elsewhere in my testimony, the Commission should establish some means of oversight
17 over UPRR’s operations until a permanent replacement service provider is in place.

18 **Example 3: Billing errors and related customer service issues.**

19 ***(1) Billing Errors.*** In 2009 UPRR replaced water meters for Keene Water System
20 residential accounts. The meters installed were the incorrect size, being 3/4-inch meters rather
21 than the 5/8-inch meters usual for residential connections. UPRR agreed to bill residential

¹⁵ See Attachment E, photos from Shahabi Opening Testimony, Exhibit A.

¹⁶ See transcript of March 3, 2026 Public Participation Hearing (“TR Vol. 1”) at 54-55 (Blagg), available at: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M601/K872/601872217.PDF>.

1 customers for the 5/8-inch meters rather than the incorrectly installed 3/4-inch size. On the May
2 2024 bills, customers were informed that they had been charged in error for the 5/8-inch meters
3 and would henceforth be charged at the 3/4-inch meter rates. The billing error resulted in higher
4 bills for both May and June 2024, after which UPRR acknowledged the error and refunded
5 customer accounts.¹⁷

6 **(2) *Widely variable bills.*** Customers have experienced widely variable bills and have
7 testified to the difficulty of budgeting for already high bills when the size of the bills is so
8 unpredictable. As an example, I provide evidence from two residential customers.

9 Catherine Blagg is a senior living on a fixed income. She has testified at the public
10 participation hearing about the effort she makes to keep her water use down, including limiting
11 showers to two per week.¹⁸ Despite these efforts, her water bills indicate a steady rise in
12 consumption during this calendar year. The water system operator checked Ms. Blagg's
13 property for leaks and found none.

14 Reville Niccolls provided 11 bills from the past 18 months, for a family of four.¹⁹ I have
15 reviewed their bills and the relevant billing records to calculate daily water use by month,
16 information that is not provided on the customer bill. As one example, the bills show daily usage
17 varying from 85.5 gallons (September 2025) to 599.1 (October 2025). In the past four months,
18 billing periods appear to have varied wildly, from a low of 25 days to a high of 39 days. This,
19 despite the fact that meters are now being read weekly. Extreme variability in billing creates
20 significant hardship for customers who are increasingly confused and concerned about the
21 variable bills, and uncertain how to budget either their funds or their water use.

¹⁷ See, e.g. Attachment F – June 24, 2024 letter from Ryan Byalick to UPRR and UPRR July 19, 2024 letter response.

¹⁸ TR Vol. 1 at 55 (Blagg).

¹⁹ Note that the customer of record for this household's bills is Richard Chavez.

1 Mr. Niccolls has also testified at the public participation hearing to difficulties in trying
2 to pay his water bill, with experiences including apparently incorrect links for online payment,
3 threats of shutoff and an actual shutoff resulting from his difficulty with online payment.²⁰ In
4 preparing this testimony, I heard from other community members reporting issues with incorrect
5 payment links and shut offs shortly after making failed payment attempts to incorrect payment
6 links. For example, Ms. Blagg also experienced a shutoff threat resulting from a delay in
7 UPRR's receipt of payment.²¹ The company's responses were confusing and inconsistent, which
8 is a problem that seems to be shared by many other customers.

9 **Example 4: Failure to provide reliable service and related customer service issues.**

10 Keene residents attending the March 3, 2026 public participation hearing offered
11 numerous examples of low water pressure and loss of water service. The Weathers family is one
12 example of an ongoing and serious situation. In March of this year, the Bradley and Jessica
13 Weathers' home lost all water pressure while a UPRR contractor worked on the system
14 downstream. The system operator was contacted, and the contractor returned to work on the
15 system, but water pressure was only partially restored. The home continues to lose water
16 pressure several times per week. Rather than work on returning full service to the household,
17 UPRR instead sent a reminder letter about the family's bill repayment agreement (which was in
18 place because the family had requested a respite from bills while dealing with a serious family
19 illness).

20 Water systems are required to maintain at least 20 psi throughout the distribution system
21 at all times. Failure to do this is a violation of section 64602 of the drinking water regulations.²²

²⁰ TR Vol. 1 at 83-85 (Niccolls).

²¹ TR Vol. 1 at 55.

²² 22 CCR § 64602.

1 Loss of water pressure is a serious water quality concern, as it allows contaminants to infiltrate
2 the pipeline and enter the water system. The system operator should have collected samples to
3 ascertain the presence of bacteria, specifically e-coli. If e-coli was detected, a boil water notice
4 would need to be issued. Due to the presence of vulnerable household members, UPRR should
5 also provide drinking water supplies to the household until such time as water pressure is
6 restored to that portion of the distribution system.

7 At the March 3, 2026 public participation hearing conducted by the Commission in
8 Tehachapi, other community members testified regarding regular loss of system pressure.²³ It
9 appears the chronic issue of water pressure loss is due to multiple causes. There is no indication
10 that UPRR conducted any testing at affected residences to ascertain whether water quality had
11 been compromised.

12 **Example 5: Failure to protect against water losses and theft.** UPRR admits in its
13 testimony that between 2022-2024 it lost so much water due to leaks and “significant” water
14 theft that Keene residents only received an average of 4.8 million gallons annually of the
15 “between 6.8 and 7.8 million gallons” transported from the system’s water source in
16 Tehachapi.²⁴ That is actually an underestimate, as the system has experienced significant water
17 loss for most of the past decade. In my professional experience, I do not know of any other
18 water utility in California that accepts as normal and continues to operate with this level of water
19 loss, or that has been allowed to impose the costs resulting from this magnitude of water loss on
20 customers. The industry standard for non-revenue water is 10 percent or less. From my review
21 of UPRR’s annual report data, it appears that in the past 15 years UPRR’s annual water loss
22 (identified as “non-revenue water”) achieved the industry standard just twice, in 2014 and 2019.

²³ TR Vol. 1 at 83-84 (Niccolls); TR Vol. 1 at 54 (Blagg); TR Vol. 1 at 99 (Dabio).

²⁴ Shahabi Opening Testimony at 8 (lines 21-24).

1 A significant driver of costs for the UPRR Keene Water System is the transportation of
2 hauled water. As UPRR is routinely hauling large volumes of non-revenue water, that cost alone
3 is a serious issue and a considerable expense to the water system. Therefore, I am surprised that
4 no meaningful plan to track, identify and mitigate these losses seems to be in existence. Non-
5 revenue water loss can come from multiple sources. In addition to water theft, other unmetered
6 uses at the point of discharge in Tehachapi could contribute to this number, as could system
7 leaks, poorly calibrated meters and water loss during transport. These considerable costs seem to
8 be incorporated into UPRR's request for an exorbitant and unprecedented rate increase.

9 The issue of non-revenue water is not simply a fiscal concern. As I've noted above, loss
10 of water pressure is reported to be relatively common in Keene, which should trigger immediate
11 reporting to the Division of Drinking Water and include public health alerts and additional
12 monitoring. Additionally, Kern County Fire Department, Station 11, is a customer of the Keene
13 Water System; it relies on water pressure to fight fires in and around Keene. Many water system
14 customers have publicly and privately expressed concern that ongoing water loss impacts the
15 station's ability to protect the community.

16 Instead of fixing this chronic problem, UPRR has apparently focused its attention and
17 resources on preparing its applications to the Commission seeking to either abandon its service to
18 Keene residents or impose a huge rate increase on the customers.

19 **Example 6: Failure to thoroughly investigate alternatives.** UPRR states in its
20 application that it has "simply run out of options" as alternatives to the status quo.²⁵ UPRR
21 offers testimony regarding its limited, failed exploration of alternatives to water hauling in the
22 period following issuance of Decision 06-07-034 and since.²⁶ But that testimony shows that

²⁵ A.25-03-016 at 2.

²⁶ See e.g. Bylsma Testimony 16-21; Atkinson Testimony at 3-13.

1 instead of pursuing identified alternatives with diligence and creativity, it generally ceases its
2 efforts at the point at which it encounters any type of hurdle (e.g. from a potential neighboring
3 service provider or property owner) or reaches a conclusion that an alternative might be more
4 costly than anticipated.

5 Consolidation has long been the SWRCB's preferred form of resolving systemic service
6 issues faced by small water systems. It is not clear that UPRR made a meaningful effort to
7 engage any of the nearby water utilities and it appears to have only made cursory attempts at
8 outreach. UPRR has valuable water rights it could offer to other water providers. Yet it is not
9 clear that UPRR ever got to the point in its outreach at which it offered to make available all or
10 any portion of its water rights in the Tehachapi basin for the KWS.²⁷

11 The examples discussed above are only a small sampling of the issues we discovered in
12 our discussions with the Keene community members, SWRCB, and others. UPRR's self-serving
13 decisions have had consequences – for itself and for its water customers in Keene. At the recent
14 public participation hearings, numerous Keene residents testified to the negative impact of
15 UPRR's poor service on their property values, and the frustration of being stuck with a house
16 that effectively cannot be sold because no one wants to purchase a property that may not have
17 reliable access to drinking water.²⁸ High bills have led to hard choices for some families. More
18 than one resident at the public participation hearings noted that their family was barely able to

²⁷ See Bylsma Opening Testimony at Exhibit 8; Tehachapi basin adjudication March 21, 1971, <https://www.tccwd.com/adjudication#docaccess-c35a4ec899109f8ac0b255455574a38a099b7bce612dcd7798f5e4ffee3a8a93>; Amendment to judgement November 20, 1973 <https://www.tccwd.com/adjudication#docaccess-02d5c5a2deedd530c5122824ebb7bc17dbf7dea443aae1f037d7f008328f3916>.

²⁸ See TR Vol.1 at 32 (lines 3-6) (Beatty); at 40 (lines 6-8) and 41 (lines 19-22) (Beard); at 90 (lines 16-18) (Kite); at 95 (lines 15-17) (Frantz). Local resident and realtor Debra McTaggart provided specific examples of homes sold for significantly under appraised values. TR Vol.1 at 112 (lines 12-22).

1 pay for food under current rates.²⁹ Another testified that her family likewise had to make hard
2 choices about food.³⁰ The Commission should consider UPRR's rate increase request in the
3 context of its consistent failure to operate as a competent, responsible Class D water utility, and
4 UPRR's already high rates, which are the result of its own self-serving decisions and actions
5 over the years.

6 **Q: Is UPRR in compliance with the provisions of General Order 103-A?**

7 **A:** GO 103-A establishes the Commission's Rules Governing Water Service, Including
8 Minimum Standards for Operation, Maintenance, Design and Construction.³¹ It appears that
9 UPRR is not in compliance with numerous aspects of GO 103-A.

10 Above I described a number of persistent service quality issues. To the extent that UPRR
11 has not implemented specific institutional improvements to address the root cause of these issues
12 and prevent them from recurring in the future, UPRR's service is not up to the standards
13 established in GO 103-A. There may also be issues with service to fire hydrants, which are
14 specifically covered under GO 103-A.

15 For example, Section II.B.3.A provides that a water utility "shall make all reasonable
16 efforts to prevent interruptions to service and when such interruptions occur shall reestablish
17 service with the shortest possible delay consistent with the safety of its customers, its employees,
18 and the general public." UPRR customers at some locations on the KWS have experienced and
19 continue to experience periodic service interruptions. It appears that this mainly occurs when the
20 water tanks are low and the system cannot maintain the pressure necessary for service. Possibly
21 there are other causes. It appears that UPRR has not made "all reasonable efforts" to prevent

²⁹ TR Vol. 1 at 104 (lines 8-11) (M. Romero); TR Vol. 1 at 116 (lines 14-15) (Weathers).

³⁰ TR Vol. 1 at 57 (lines 10-13) (Blagg).

³¹ See <https://docs.cpuc.ca.gov/PUBLISHED/Graphics/107118.PDF>.

1 these service failures, or to restore full, good quality service “with the shortest possible delay” as
2 required by GO 103-A.

3 As discussed further in my recommendations in this testimony, we recommend that the
4 Commission undertake an investigation of UPRR’s lack of compliance with GO 103-A.

5 **Q: If the Commission finds that UPRR’s service is unjust, unreasonable, unsafe,**
6 **improper, inadequate or insufficient, what actions should the Commission take to ensure**
7 **that UPRR addresses such conditions?**

8 **A:** I have several suggestions for addressing the current deficiencies in quality of service by
9 UPRR and ensuring that they do not recur.

10 First, the Commission has broad oversight and authority to order remedial actions under
11 Section 761 of the Public Utilities Code, which provides in relevant part that whenever the
12 Commission finds that utility services are “unjust, unreasonable, unsafe, improper, inadequate or
13 insufficient, the commission shall determine and, by order or rule, fix the rules, practices,
14 equipment, appliances facilities, service, or methods to be observed, furnished, constructed,
15 enforced or employed.”

16 There are several deficiencies that warrant immediate correction through a Commission
17 order. In its decision in these proceedings, or by an interim decision, if actions on the
18 applications are postponed as we recommend, the Commission should order:

- 19 • Immediate investigation of customer complaints of inadequate water pressure, and
20 review of UPRR’s response to each complaint. This investigation should include
21 water quality testing for a period of at least two years to ensure that there has been
22 no intrusion of contaminants due to unpressurized pipes.
- 23 • Immediate development by UPRR of a detailed remedial action plan for detecting
24 and reducing water loss from all sources. The plan should be submitted to the

Commission and made available for review and comment by interested parties.

The Water Division, in consultation with the SWRCB, should review and offer recommendations for improvements to the plan and develop recommended reporting and enforcement measures to ensure that the plan is diligently and consistently carried out by UPRR.

Second, the Commission should establish a means of oversight to enable ongoing monitoring of UPRR's quality of service to its water customers in Keene. For example, the Commission could require UPRR to report non-revenue water more frequently to provide a better understanding of when losses may be highest. The Commission could require calibration and/or replacement of water meters to ensure proper measurement of water flowing to customer homes. Leak detection inspections of homes with unusually high water consumption should be routine. The Commission could also require meter reading and billing every 28-32 days to provide greater bill certainty to customers. Additionally, the Commission should work with the Division of Drinking Water on an emergency response plan that takes into account the frequency of system pressure loss and its impact on customers.

Third, to the extent that the record demonstrates specific violations by UPRR of applicable California laws or Commission requirements, the Commission should consider further regulatory action. If the information on the record of this proceeding is sufficient to warrant the initiation of an enforcement action against UPRR, the Commission's decision should include an appropriate order to do so. If the information on the record of this proceeding is deemed not sufficient to warrant the initiation of an enforcement action, but raises questions sufficient to warrant further investigation, the Commission should issue an Order Instituting Investigation to

1 enable the compilation of a complete factual record from which the Commission may consider
2 further enforcement action.

3 **Q: Do you have a preferred approach to Commission oversight?**

4 **A:** No, we would leave that up to the Commission to determine. However, at a minimum,
5 we suggest that the Commission require UPRR to provide a report to the Commission every 6
6 months certifying under penalty of perjury that it is currently in compliance with all applicable
7 laws and Commission rules. This report could be coordinated with reporting on actions taken
8 pursuant to the water loss reduction plan recommended above.

9 **ALTERNATIVE SOURCES OF WATER OR WATER SERVICE FOR THE**
10 **COMMUNITY OF KEENE, CALIFORNIA**

11 **Q: What alternative sources of water or water service exist for the community of**
12 **Keene, California?**

13 **A:** It is difficult to answer this question because the record on this question is currently
14 incomplete. I can list hypothetical possibilities for alternatives to continuation of UPRR's
15 current method of providing water to Keene, but we will not know which alternatives are
16 realistic options until the study of alternatives currently underway at the SWRCB is complete
17 and SWRCB has an opportunity to evaluate the study and make a determination on it.

18 One action to evaluate alternatives that should have already been undertaken by UPRR is
19 a meaningful evaluation of consolidation with a neighboring system. The SWRCB has taken
20 action in recent years to encourage consolidation that includes water rights. Typically the system
21 taking on the service is held harmless through the provision of water rights by the transferring
22 system. As noted elsewhere in my testimony, UPRR has valuable water rights in the Tehachapi
23 basin that could be transferred to another system as an incentive to accept a consolidation plan.

24 **Q: Can you categorically rule out any of the alternatives that have been discussed in**
25 **testimony or pleadings in this proceeding?**

1 **A:** No.

2 **Q:** **What about the other alternatives?**

3 **A:** The Commission cannot and should not reach any factual conclusions about the other
4 alternatives until it has examined the final report and relevant findings of the SWRCB study that
5 is currently underway.

6 **RELATIONSHIP BETWEEN SWRCB STUDY AND FUNDING RESOURCES ON**
7 **UPRR’S REQUESTS FOR ABANDONMENT OF SERVICE OR RATE INCREASE**

8 **Q:** **How does the status of SWRCB’s study and/or funding resources impact UPRR’s**
9 **requests?**

10 **A:** Given the pendency of the SWRCB study, UPRR’s requests for abandonment of service
11 and for the requested rate increase are premature. On October 31, 2025 the Keene parties and
12 the Public Advocates Office jointly submitted a motion to dismiss the applications without
13 prejudice (“Motion to Dismiss”) in order to allow time for completion of the SWRCB study, and
14 implementation of its recommendation. That motion is still pending and, in my opinion, should
15 be granted. The limited time and resources that the Commission and parties to this proceeding
16 continue to divert towards these applications is time that would be better spent working with the
17 SWRCB to find alternatives for sustainable solution.

18 **HOW CAN THE COMMISSION BEST SERVE THE PUBLIC INTEREST?**

19 **Q:** **What options are the Commission currently considering for the immediate**
20 **disposition of the pending applications?**

21 **A:** The Scoping Memo poses the question of whether the public interest would be better
22 served by: a) implementing the rates necessary to support UPRR’s operations, b) granting
23 UPRR’s request to withdraw from service, or c) establishing an alternative approach to be
24 determined in this proceeding.³²

³² Scoping Ruling at 4.

1 The choice between these three options is stark and the answer is obvious. The
2 Commission cannot implement the rates that UPRR claims are “necessary” and cannot grant
3 UPRR’s request to withdraw from service because these options are not in the public interest and
4 would also violate the law. That leaves only the third alternative – establishing an alternative
5 approach.

6 **Q: Why would granting UPRR’s rate request not be in the public interest?**

7 **A:** On page 1 of its rate request application UPRR states that “the rate adjustments required
8 to sustain KWS’s ongoing operations are untenable and unsustainable.” On page 21 of the
9 application UPRR describes its requested rate request as raising average rates by “more than
10 345% or more,” which UPRR admits would result in “compromising affordability in its service
11 territory.” This, according to UPRR results in only one “rational solution” – its withdrawal from
12 service.³³

13 There is little need to look beyond the utility’s frank admissions to reject the UPRR rate
14 request as not serving the public interest. Approving an “untenable and unsustainable” and
15 admittedly not “rational” rate request that would increase Keene citizens’ already high water
16 rates by more than three times would not be in the public interest. The potential consequences of
17 the requested rate increase were addressed by the numerous Keene residents who testified at the
18 public participation hearings. Keene is a disadvantaged community and is covered by the
19 Commission’s Environmental & Social Justice (“ESJ”) Action Plan. Customers are already
20 struggling to pay very high water rates and making difficult tradeoff decisions related to other
21 necessities, such as food. They cannot afford the current rates or the requested rate increase.

³³ See also A.25-03-017 at 1 (“As the Rate Case Application demonstrates, KWS would have to charge customer average monthly rates of approximately \$1,110, \$2,810, and \$18,900 for meter sizes ¾-inch, 1-inch, and 2-inch, respectively, just to continue providing water in the area, but these rates would be unaffordable for the residents and small businesses in the area.”)

1 The Luskin Center at UCLA maintains a Southern California Water Atlas. The 2025
2 edition provides water rate information for 381 public water systems (the report doesn't include
3 the Keene water system because that data was not included in the system's required annual
4 reporting to the Water Board).³⁴ Keene's *current* water rates, expressed as a total cost for 6
5 Centum Cubic Feet of delivered water, would be the 9th highest on the list out of 381 entities.
6 Clearly the proposed more than 300% increase over current rates would be excessive and
7 unreasonable.

8 **Q: Why would granting UPRR's request to withdraw from service not be in the public**
9 **interest?**

10 **A:** Allowing a jurisdictional water utility to walk away from its service obligations would be
11 contrary to California law, which establishes the right of every citizen of access to water. It
12 would patently not be in the public interest, particularly considering that UPRR is a huge,
13 profitable multibillion-dollar corporation.

14 **Q: Please elaborate on how the Commission should go about establishing an alternative**
15 **approach.**

16 **A:** For the present, the alternative approach requires suspending all further activity in these
17 proceedings until the SWRCB study is complete. UPRR should be ordered to continue
18 providing water service, with improvements to address quality of service deficiencies, for the
19 time being. As recommended above, the Commission should initiate investigatory requirements
20 for a remedial action plan and enforcement actions, as it may deem appropriate. Such
21 investigations and enforcement actions would be independent of these proceedings and could be
22 pursued during the pendency of these proceedings.

³⁴ UCLA Luskin Center for Innovation, Edith B. DeGuzam, Gregory Pierce, et.al., The 2025 Southern California Community Water Systems Atlas. <https://innovation.luskin.ucla.edu/wp-content/uploads/2025/09/The-2025-Southern-California-Community-Water-Systems-Atlas-report.pdf>.

Once the SWRCB final report is issued, the Commission should, in coordination with the SWRCB, take appropriate action consistent with the findings of the study's recommendations.

ALIGNMENT WITH THE COMMISSION'S ESJ ACTION PLAN

Q: Do UPRR's requests align with the achievement of any of the nine goals of the Commission's ESJ Action Plan?

A: No. UPRR's requests do not align with the achievement of ESJ Action Plan goals.³⁵ Keene is a disadvantaged community. Offering the customers in Keene a choice between unreasonably high rates that are 2.5 times the highest rates of any water utility in California or no water service at all is patently at odds with the Commission's goals.

Q: Is UPRR's Keene service territory an ESJ community?

A: Yes it is. The ESJ Action Plan aims to target disadvantaged communities, tribal lands, low-income households and low-income census tracts.³⁶ According to the Technical Assistance Work Plan No. 7309-A, filed by the SWRCB in this proceeding, the median household income in Keene is \$52,159.³⁷ The town is located in Kern County, which has a median household income nearly \$30,000 below the median household income in California and a poverty rate 7% higher than that of the state as a whole.³⁸ Many of the citizens attending the recent public participation hearing also personally attested to their low-income status. It appears there is no dispute in this proceeding that UPRR is serving a low-income community.³⁹

Q: Please discuss why the UPRR requests are at odds with the goals of the ESJ Action Plan.

³⁵ See <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf>.

³⁶ ESJ Action Plan at 2.

³⁷ Technical Assistance Work Plan No. 7309-A is available at: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M585/K815/585815632.PDF>.

³⁸ Source: U.S. Census Bureau: https://data.census.gov/profile/Kern_County,_California?g=050XX00US06029#income-and-poverty.

³⁹ See Bylsma Opening Testimony at 3 (lines 18-23).

1 **A:** Goals 3 and 6 are of particular relevance here. Pursuant to Goal 3, the Commission has
2 committed to strive to “improve access to high-quality water, communications, and
3 transportation services for ESJ communities.” As discussed above, the current quality of water
4 service provided by UPRR is substandard. It would obviously not improve low-income Keene
5 residents’ access to high-quality water service if the Commission were to approve a rate increase
6 that UPRR itself has called “untenable” or allow UPRR to discontinue service altogether.⁴⁰

7 Goal 6 calls for the Commission to “[e]nhance enforcement to ensure safety and
8 consumer protection for ESJ communities.” Keene is not seeking “enhanced” enforcement in
9 this proceeding, but it is asking the Commission to simply require a reasonable quality of service
10 from UPRR – service that consistently and demonstrably complies with all applicable standards.
11 In addition, we request that water service be subject to Commission oversight until a viable water
12 source is located and an alternative service provider is put in place. This is really a request for
13 the bare minimum level of service that should be expected by the customers of a regulated water
14 utility in any California community.

15 **WITHDRAWAL OF SERVICE ISSUES**

16 **Q:** **Should UPRR be relieved of its public utility status and water service obligations**
17 **without establishing an alternative water source or service?**

18 **A:** No, of course not. As a Class D jurisdictional California water utility UPRR has an
19 existing legal obligation to serve. Section 106.3 of the California Water Code states that every
20 human being has the right to safe, clean, affordable, and accessible water adequate for human
21 consumption, cooking, and sanitary purposes. The community also needs water for fire
22 protection, which is a critical community safety issue in this state.

⁴⁰ A.25-03-016 at 1.

1 UPRR has been entrusted by the State and by this Commission with meeting its statutory
2 and regulatory obligations as the certificated water utility serving the community of Keene. It
3 cannot simply decide that it wants to be relieved of its public utility status and walk away,
4 leaving its customers without water. UPRR needs to work with the community to find a viable
5 replacement arrangement, and it should not be relieved of its utility obligations until the residents
6 of Keene have an alternative provider of water that has been acknowledged as adequate by this
7 Commission.

8 The SWRCB has weighed in on this issue. In comments in response to the pending Joint
9 Motion to Dismiss, SWRCB states that granting UPRR's request to cease providing water to the
10 community of Keene would not further the State of California's Human Right to Water law.⁴¹
11 The Commission should act consistent with SWRCB's expert guidance.

12 The application repeatedly asserts that UPRR has explored every alternative and that
13 there is simply no solution for the residents of Keene.⁴² I disagree with this self-serving
14 rationalization. As discussed above, UPRR has not adequately and thoroughly investigated all
15 alternatives, and the SWRCB has contracted with expert consultants to explore alternative
16 service options. That process is not yet complete. The SWRCB study should be completed. The
17 recommendations in the final report should be pursued. In the meantime, the Commission
18 should order UPRR to continue providing water service to the community, with oversight and

⁴¹ SWRCB Comments in Response to Joint Motion to Dismiss at 2. The SWRCB's comments recommend that the Commission support "(1) continued access to drinking water for the customers of Keene, at the very least through the completion of the Water Board's Technical Assistance Work Plan to continue to completion before a CPUC determination is made on Keene's Applications, with the goal of identifying a long-term and sustainable solution to providing drinking water to the Keene community. (*Id.* at 2-3.)

⁴² See e.g. A.25-03-017 at 2.

1 improvements to address service quality issues, as discussed in my testimony, and as the
2 Commission may deem appropriate.

3 **Q: Can UPRR's customer base generate sufficient revenue to cover UPRR's operating**
4 **costs?**

5 **A:** I do not know the answer to this question. As UPRR itself seems to acknowledge in
6 testimony, the requested rate increase is patently unreasonable. The residents of this low-income
7 community are already paying high water rates and cannot afford to pay the exorbitant rate
8 increase requested by UPRR. What is unknown is whether UPRR could significantly reduce its
9 costs by addressing water theft and leakage and implementing other efficiencies. It is possible
10 that even after addressing the issues that are currently contributing to its asserted shortfall in
11 revenues UPRR's customer base would not generate sufficient revenue to cover UPRR's
12 operating costs.

13 But I want to emphasize that if this is the case, it is UPRR's problem to solve, in
14 coordination with the community. UPRR has made many business decisions over the years that
15 have led it to where we are now. Most significantly, UPRR decided long ago to abandon
16 pipeline water service to Keene, which is the reason that UPRR now relies on the current system
17 of transporting water. It may take some time to formulate and implement a plan for a
18 replacement of UPRR as the water provider to the community of Keene. It is UPRR's
19 responsibility to continue serving the community until that process is complete. The situation is
20 not ideal. As expressed by many at the public participation hearing, relying on water transported
21 by trucks is far from an ideal solution. The trucks are a constant annoyance; the issues of
22 leakage and theft and insufficient water pressure are troublesome. But the alternative of having
23 no water service at all is not acceptable.

1 **RATE CASE ISSUES**

2 **Q:** Are the rates requested by UPRR to support UPRR's operations "justified" and
3 "just and reasonable" rates?

4 **A:** No. I have addressed this question above.

5 **SUMMARY OF RECOMMENDATIONS**

6 **Q:** Please summarize your recommendations

7 **A:** The Commission should dismiss the applications. The Commission should investigate
8 UPRR's compliance with General Order 103-A, require a remedial action plan, and take other
9 enforcement action as the Commission deems appropriate.

Attachment A

Statement of Qualifications of Jennifer Clary

Jennifer Clary has been the California Director of Clean Water Action since 2020. Clean Water Action is a national environmental advocacy organization with offices in twelve states and the District of Columbia; in that position, she supervises four programs and up to 8 staff.

Prior to becoming director, Ms. Clary served as the director of the water program for the same organization from 2003-2020. In that position, Ms. Clary specialized in expanding access to funding for small water systems, promoting source water protection and developing a platform to advance the Human Right to Water, which was adopted by the Legislature in 2012. Ms. Clary was lead advocate in the development and passage of SB 200 (Monning, 2019), which established a stable flexible funding source, the Safe and Affordable Drinking Water Fund, which forms the nucleus of the State Water Board's SAFER program. That program has helped 3.3 million Californians access safe drinking water since 2019.

Prior to 2003 Ms. Clary worked in the private sector and volunteered as an environmental advocate in San Francisco. Her work included advocating successfully for the adoption of an environmental justice policy at the San Francisco Public Utilities Commission (SFPUC) and the establishment of a Stewardship policy for SFPUC-owned and managed lands.

Ms. Clary holds a bachelor's degree in Chemistry from the University of California at Berkeley.

Attachment B

SWRCB Division of Drinking Water Compliance Order No. 03_19_23R_003

State Water Resources Control Board

Division of Drinking Water

August 1, 2023

System No. CA1500371

Thomas Cappucci, Senior Manager
Union Pacific Railroad Company
1400 Douglas Street
MS 1030
Omaha, CA 68179

COMPLIANCE ORDER NO. 03_19_23R_003

FAILURE TO PROVIDE A RELIABLE AND ADEQUATE SUPPLY OF WATER – UNION PACIFIC RAILROAD COMPANY – KEENE WATER SYSTEM

Dear Mr. Cappucci:

Enclosed is Compliance Order No. 03_19_23R_003 (Order), issued to the Union Pacific Railroad Co.-Keene Water System (hereinafter “Water System”) public water system. **Specifically, the Water System is in violation of the California Waterworks Standards.** Please note that there are legally enforceable deadlines associated with this Order.

The Water System will be billed at the State Water Resources Control Board’s (State Water Board) hourly rate for the time spent on issuing this Order. A public water system must reimburse the State Water Board for actual costs it incurs for specified enforcement actions, including preparing, issuing, and monitoring compliance with an order. (Health & Saf. Code, § 116577, subd. (a).) The Water System will receive a bill sent from the State Water Board in August of the next fiscal year. This bill will contain fees for any enforcement time spent on the Water System for the current fiscal year.

A process exists by which a public water system can petition the State Water Board for reconsideration of this compliance order. Petitions sent to the State Water Board “shall include the name and address of the petitioner, a copy of the order or decision for which the petitioner seeks reconsideration, identification of the reason the petitioner alleges the issuance of the order or decision was inappropriate or improper, the specific action the petitioner requests, and other information as the state board may prescribe. The petition shall be accompanied by a statement of points and authorities of the legal issues raised by the petition.” (Health & Saf. Code, § 116701, subd. (b).)

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Petitions must be received by the State Water Board within 30 days of the issuance of this compliance order by the State Water Board. If the 30th day falls on a Saturday, Sunday, or state holiday, the petition is due the following business day by 5:00 p.m. Information regarding filing petitions may be found at:

Drinking Water Petitions for Reconsideration

https://www.waterboards.ca.gov/drinking_water/programs/petitions/instructions.html

If you have any questions regarding this matter, please contact please contact me at (661) 335-7318 or Tricia A. Wathen, Central California Section Chief at (559) 447-3398.

Sincerely,

Jaswinder S. Dhaliwal, P.E.
Senior Sanitary Engineer
TEHACHAPI DISTRICT

Enclosures: Compliance Order No. 03_19_23R_003

Certified Mail No. 7020-2450-0002-1454-8334

cc: [all via email]

Kern County Public Health Services Department, Environmental Health Division
Kern County Planning Department
Maria Carmen Rocha, California Public Utilities Commission
Pete Owen, Bridge Supervisor, Union Pacific Railroad Co.
Jennifer Clack, Environmental Field Operations, Union Pacific Railroad Co.
Dennis Gatson, Contract Operator and Sampler, McMor Chlorination

TAW/JSD/JNW

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF DRINKING WATER

Name of Public Water System: Union Pacific Railroad Co.-Keene Water System

Water System No: CA1500371

Attention: Thomas Cappucci
Union Pacific Railroad Company
1400 Douglas Street
MS 1030
Omaha, CA 68179

Issued: August 1, 2023

COMPLIANCE ORDER FOR NONCOMPLIANCE
CALIFORNIA HEALTH AND SAFETY CODE SECTION 116555 AND
CALIFORNIA CODE OF REGULATIONS, TITLE 22, SECTION 64554

FAILURE TO PROVIDE A RELIABLE AND ADEQUATE SUPPLY OF WATER

The State Water Resources Control Board (State Water Board) is authorized to issue a compliance order to a public water system when the State Water Board determines that the public water system has violated or is violating the California Safe Drinking Water Act (Health & Saf. Code, division 104, part 12, chapter 4, commencing with section 116270) (California SDWA) or any regulation, standard, permit, or order issued or adopted under the Act. (Health & Saf. Code, § 116650.)

The State Water Board, acting by and through its Division of Drinking Water (Division), and the Deputy Director for the Division, and pursuant to Health and Safety Code¹ section 116655, hereby issues Compliance Order No. 03_19_23R_003 (Order) to the Union Pacific Co.-Keene Water System (hereinafter “Water System”), for violation of the California Health & Saf. Code §116555 and California Code of Regulations, title 22, section 64554.

STATEMENT OF FACTS

The Water System is classified as a Community public water system with a population of 208, serving 26 connections. The Water System operates under Domestic Water Supply Permit No. 03-19-16P-008 issued by the State Water Board on June 15, 2016. The Water System is using 100% hauled water to supply potable water to the distribution system. Several years ago, the Water System used to have seven active wells. Water produced by the wells contained fluoride, iron, and manganese at levels above their respective maximum contaminant levels. Due to various water quality issues, the Water System destroyed all wells and started hauling water from the City of Tehachapi (Water System No. CA1510020). The Water System uses a licensed water hauler to haul water from the City of Tehachapi.

The California SDWA requires all public water systems to provide “a reliable and adequate supply of pure, wholesome, healthful, and potable water.” (Health & Saf. Code, §116555, subd. (a)(3).) At all times, a public water system must have enough

¹ Unless otherwise indicated, all statutory citations are to the California Health and Safety Code.

source capacity to meet the public water system's maximum day demand (MDD). (Cal. Code Regs., tit. 22, § 64554.)

Based on the discussion in the Division's Sanitary Survey Report (SSR) dated December 20, 2012, the Water System had zero active wells and the Water System was using 100% hauled water. In the SSR, the Water System was directed to submit a permit amendment application for using hauled water . On December 20, 2012, Dennis Gatson from McMor Chlorination, contract operator & sampler for the Water System, submitted a permit amendment application to the Division, to haul 100% water from the City of Tehachapi. The permit amendment application noted that the Water System's wells were abandoned (destroyed) in 2009.

In 2009, the Water System began hauling 100% of water to maintain adequate pressure in its distribution system. The hauled water was needed as a result of no active local sources of supply. The Water System's reliance on 100% hauled water indicates that the Water System does not currently have a reliable and adequate local source of supply and is not able to satisfy its maximum day demand without using hauled water.

DETERMINATION

The State Water Board has determined that the Water System has failed to comply with section 116555, subdivision (a)(3), and California Code of Regulations, title 22, section 64554, in that it has failed and is failing to provide a reliable and adequate supply of potable water and cannot meet its maximum day demand without using hauled water. This violation has continued from 2009 when the Water System destroyed all local sources of supply (wells) and switched to 100% hauled water.

DIRECTIVES

The Water System is hereby directed to take the following actions:

1. By **December 31, 2026**, comply with the source capacity requirements of California Code of Regulations, title 22, section 64554, by providing a reliable and adequate supply of potable water that meets or exceeds the Water System's MDD.
2. By **October 31, 2023**, the Water System must provide to the State Water Board, for its review and approval, a Source Capacity Planning Study that complies with California Code of Regulations, title 22, section 64558. The study must be prepared by a Civil Engineer, registered in the State of California, or another qualified person approved by the State Water Board. (Bus. & Prof. Code, § 6730.)
3. By **November 30, 2023**, submit to the State Water Board for approval a Corrective Action Plan, identifying improvements to the water system designed for meeting or exceeding the Water System's MDD. The plan must include a time schedule for completion of each of the phases of the project such as design, construction, and startup, and a date that shows when the Water System will be in compliance. The date must be no later than **December 31, 2026**. The Corrective Action Plan must include consolidation with nearby public water systems as an option. The plan must include at a minimum the following elements:
 - a. A Source Capacity Planning Study that complies with California Code of Regulations, title 22, section 64558. The study must be prepared by a Civil

Engineer, registered in the State of California, or another qualified person approved by the State Water Board. (Bus. & Prof. Code, § 6730.)

- b. A detailed proposal, including milestones and timelines, for the addition of permittable new source capacity necessary to meet or exceed MDD. All permittable sources must be permanent, dedicated sources solely for use by the Water System. Hauled or delivered water is not an acceptable source for meeting MDD requirements. The proposed date for the completion of all necessary tasks for the Water System to have sufficient capacity to meet MDD must be no later than **December 31, 2026**.
4. By **January 10, 2024**, and every three months thereafter, the Water System must provide a progress report to the State Water Board regarding compliance with its approved Corrective Action Plan during the previous quarter. The Water System must continue submitting these reports until the Corrective Action Plan is fully implemented, or until the State Water Board issues written approval to cease submitting them. A quarterly progress report template is attached to this Order as **Appendix 1**.
5. Effective immediately, **the Water System must not add any additional service connections**, including any service connections for which a “will serve letter” has been issued by the Water System, but for which a building permit has not been issued prior to the date of issuance of this Order. As used in this Order, a “will serve letter” means any form of notice, representation, or agreement that the Water System will supply water to a property or structure. This directive will remain in effect until the Water System’s source capacity exceeds its maximum day demand, as determined pursuant to the California Code of Regulations, title

22, section 64554, and the State Water Board issues written approval that the Water System's source capacity is reliable and adequate.

6. By **September 30, 2023**, the Water System must identify any and all properties and structures for which a "will serve letter" has been issued, but a building permit has not been issued.
7. By **October 15, 2023**, the Water System must advise the owner(s) of the properties and structures identified in Directive #6 above and all local planning agencies with jurisdiction over such properties or structures that the "will serve letters" issued for such properties are null and void.
8. By **October 15, 2023**, the Water System must provide to the State Water Board the following documents:
 - a. Copies of all "will serve letters" issued by the Water System at any time for a property or structure for which a building permit has not been issued, including the address or assessor's parcel number of the property
 - b. A list of property owners and planning agencies it notified that its "will serve letters" are null and void, along with a certification that the required notification was completed by the Water System
 - c. A current list of all service connections, including the street address and assessor's parcel number associated with each connection
9. By **August 21, 2023**, complete and return to the State Water Board the "Notification of Receipt" form attached to this Order as **Appendix 2**. Completion of this form confirms that the Water System has received this Order and understands that it contains legally enforceable directives(s) with due dates.

All submittals required by this Order, unless otherwise specified in the directives above, must be electronically submitted to the State Water Board at the following address. The subject line for all electronic submittals corresponding to this Order must include the following information: Water System name and number, compliance order number, and title of the document being submitted.

Jaswinder S. Dhaliwal

dwpdist19@waterboards.ca.gov

The State Water Board reserves the right to make modifications to this Order as it may deem necessary to protect public health and safety. Such modifications may be issued as amendments to this Order and shall be effective upon issuance.

Nothing in this Order relieves the Water System of its obligation to meet the requirements of the California SDWA or any regulation, standard, permit, or order issued or adopted thereunder.

PARTIES BOUND

This Order shall apply to and be binding upon the Water System, its owners, shareholders, officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The directives of this Order are severable, and future invalidation of a provision of this Order shall not be deemed to affect the validity of any other provision of this Order.

FURTHER ENFORCEMENT ACTION

The California SDWA authorizes the State Water Board to issue an order or citation with assessment of administrative penalties to a public water system for violation or continued violation of the requirements of the California SDWA or any regulation, permit, standard, citation, or order issued or adopted thereunder including, but not limited to, failure to correct a violation identified in a citation or compliance order. The California SDWA also authorizes the State Water Board to take action to suspend or revoke a permit that has been issued to a public water system if the public water system has violated applicable law or regulations or has failed to comply with an order of the State Water Board, and to petition the superior court to take various enforcement measures against a public water system that has failed to comply with an order of the State Water Board. The State Water Board does not waive any further enforcement action by issuance of this Order.

Tricia A. Wathen, P.E.
Chief, Central California Section
State Water Resources Control Board
Division of Drinking Water
Southern CA Drinking Water Field Operations Branch

Date

Appendices:

1. Quarterly Progress Report Template
2. Notification of Receipt Form

Certified Mail No. 7020-2450-0002-1454-8334

Appendix 1 – Quarterly Progress Report

Water System: Union Pacific Co.-Keene Water System	Water System No: CA1500371
Compliance Order No: 03_19_23R_003	Violation: Failure to Provide a Reliable and Adequate Source of Water
Calendar Quarter:	Date:

This form should be prepared and signed by the Water System personnel with appropriate authority to implement the directives of the Compliance Order and the Corrective Action Plan. Please attach additional sheets as necessary. The quarterly progress report must be submitted by the 10th day of each subsequent quarter, to the Division of Drinking Water, Tehachapi District Office to the following email address DWPDIST19@waterboards.ca.gov titled appropriately.

Summary of Compliance Plan:

--

Tasks completed in the reporting quarter:

--

Tasks remaining to complete:

--

Anticipated compliance date:

--

Printed Name

Signature

Appendix 2 – Notification of Receipt

Compliance Order Number: 03_19_23R_003

Name of Water System: Union Pacific Railroad Co.-Keene Water System

System Number: CA1500371

Certification

I certify that I am an authorized representative of the Union Pacific Co.-Keene Water System and that Compliance Order No. 03_19_23R_003 was received on _____ . Further I certify that the Order has been reviewed by the appropriate management staff of the Union Pacific Co.-Keene Water System and it is clearly understood that Compliance Order No. 03_19_23R_003 contains legally enforceable directives with specific due dates.

Signature of Water System Representative

Date

THIS FORM MUST BE COMPLETED AND RETURNED TO THE STATE WATER BOARD, DIVISION OF DRINKING WATER, NO LATER THAN AUG. 21, 2023.

Disclosure: Be advised that the California Health and Safety Code sections 116725 and 116730 state that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the Safe Drinking Water Act may be liable for, respectively, a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation or, for continuing violations, for each day that violation continues, or be punished by a fine of not more than \$25,000 for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment.

Attachment C

SWRCB Denial of Renewed Request for Stay

State Water Resources Control Board

November 27, 2024

[VIA CERTIFIED MAIL AND EMAIL]

Meredith E. Nikkel
Brian E. Hamilton
Downey Brand LLP
Attorneys for
Union Pacific Railroad Company
621 Capitol Mall, 18th Floor
Sacramento, California 95814

mnikkel@downeybrand.com
bhamilton@downeybrand.com

PETITION FOR REVIEW OF DIVISION OF DRINKING WATER CITATION AND COMPLIANCE ORDER NO. 03_19_23R_003: DENIAL OF RENEWED REQUEST FOR STAY [FILE D-1135]

Dear Ms. Nikkel and Mr. Hamilton:

The State Water Resources Control Board (State Water Board) received Union Pacific Railroad Company – Keene Public Water System’s (Keene) Renewed Request for Stay (Renewed Stay) on September 11, 2024.

BACKGROUND

The State Water Board’s Division of Drinking Water (Division) issued citation number 03_19_23R_003 to Keene on August 1, 2023 (Citation), alleging violations of the California Safe Drinking Water Act based on Keene’s failure to provide a reliable and adequate supply of potable water and failure to meet its maximum daily demand without using hauled water. Keene submitted a petition challenging the citation along with a stay request on August 31, 2023. The State Water Board denied the stay on September 18, 2023, stating that “[a]lthough the Petition raises challenges to the appropriateness or fairness of the citation and the directives, the Petition asserts no facts or arguments

supporting issuance of a stay (Petition at p. 16.) The Petition has not alleged any substantial harms that will result from being required to comply with the directives.”¹

Since the denial of the stay, Keene and the Division have been in regular communication over the subsequent year regarding the Citation, its directives, and the tasks that the Division has requested of Keene. The State Water Board has not sought further enforcement (i.e., no further citations or have been issued and no penalties have been issued). The Division has made several attempts to communicate to Keene the inherent risks of hauled water and the importance of exploring alternatives to long-term water hauling, and has worked with Keene to facilitate compliance with the directives from the Citation.

Keene submitted a *Corrective Action Plan Response and Extension Request* on May 31, 2024, outlining the steps Keene has taken so far towards compliance with the directives from the Citation. On August 29, 2024, Keene’s attorney Mr. Brian Hamilton forwarded information regarding estimates for the costs of developing a water system, having just relayed to the Division via phone call that the costs were infeasible and that Keene would be pursuing a renewed stay request. On August 30, 2024, the Division responded to Mr. Hamilton via email attempting to clarify what the Division wanted to see Keene work on, which was a much smaller scope than development of an entire water system.² The email, in summary, stated:

On reviewing what has been requested by the Division and what UP indicated in its letter that it is working on/pursuing, it seems there are incremental steps that could continue to be taken at this time. Specifically: (1) drilling of test wells, (2) applying for financial assistance for drilling of wells, and (3) continued investigation of options for sourcing water from other nearby water systems.

This email echoed a previous email sent by the Division to Keene on March 1, 2024, which emphasized that grant funding was available from the State Water Board for exploration of possible water sources via drilling of test wells:³

DDW said that they would like to see Keene Water System move forward with an application with Division of Financial Assistance (DFA) for funding a planning project or technical assistance to further investigate test wells consistent with the NV5 Technical Memorandum No. 3. The concern that staff has is that if these potential sources of water are not explored, then we might never move the system off of hauled water, which is really our ultimate goal.

¹ September 18, 2023 email from Nicole Di Camillo to Sam Bivins, attached as Attachment 1.

² August 30, 2024 email from Nicole Di Camillo to Brian Hamilton, attached as Attachment 2.

³ March 1, 2024 email from Kim Niemeyer to Sam Bivins, attached as Attachment 3.

If a grant was provided for test wells, and the investigation demonstrated that there is potential for wells to be able to serve the system, then the next step would be for Keene to apply to DFA for funding a project to install new wells and required infrastructure. There is not an expectation that Keene would be able to afford to do such a project without funding because as the 10% design and construction cost estimate demonstrated, the cost of such a project would be too high for the system if they did not receive funding.

The Division has attempted to communicate that it is aware that if test wells do not show promise or if funding is not available for development of a new water system, that it will not continue to require Keene to pursue development of a new water system.⁴ The State Water Board, via the Office of Chief Counsel and Division DDW staff, has attempted to communicate that funding for planning and drilling of test wells is available to Keene through the State Water Board's Division of Financial Assistance (DFA) via the Technical Assistance Funding Program (TA).⁵ Despite the State Water Board's multiple attempts to communicate to Keene that it is not seeking that Keene immediately fund and develop a new water system, and that funding is available for planning and drilling of test wells, Keene has not formally submitted any applications to DFA for funding. Keene subsequently submitted a Renewed Request for Stay on September 11, 2024.

ISSUE

Is Petitioner Entitled to a stay of the Division's Citation and Compliance Order?

DISCUSSION

No. Petitioner has not shown that it meets the standard required for a stay.

⁴ *E.g.*, Attachment 2: "Regarding funding from the Division of Financial Assistance (DFA), again, we don't expect that at this point UP would be applying for or obtaining funding for an entire new system, but instead for the test wells. I reviewed the email chain you sent with DFA, and I think ultimately, what needs to happen is an actual application to DFA for funding for drilling of test wells. I think it's very hard to get a handle on what is available from DFA in the absence of an actual application. I think the Division sees this as an incremental step that could help facilitate the drilling of test wells, which would in turn help determine if further water system development is even feasible."

⁵

https://www.waterboards.ca.gov/water_issues/programs/grants_loans/tech_asst_funding.html

Health and Safety Code section 116701, subdivision (e) authorizes the State Water Board to stay the effect of an order or decision subject to a petition for reconsideration. The State Water Board's decision whether to grant a stay in this instance is guided by the standards it has adopted for granting stays in other contexts and general principles of injunctive relief. The State Water Board adopted a standard for granting stays of underground storage tank cleanup orders in State Water Board Resolution 88-23. Section (5)(B) of the Resolution provides:

A petition for a stay will be denied unless the petitioner alleges facts and produces proof of:

- (i) Substantial harm to petitioner or to the public interest if a stay is not granted;
- (ii) A lack of substantial harm to other interested persons and or the public interest if a stay is granted; and
- (iii) Substantial questions of law or fact regarding the action or decision [for which the stay is requested].

State Water Board regulations set the same criteria for issuance of a stay of the effect of an action of a regional water quality control board (Regional Water Board) (Cal. Code Regs., tit. 23, § 2053) or for a stay of a water quality certification issued by the State Water Board executive director or a Regional Water Board executive officer. These criteria are consistent with the standard that courts apply to petitions for preliminary injunctions. The evidentiary burden lies with the petitioner, and the petitioner must show that denial of injunctive relief will likely result in substantial harm to the petitioner that outweighs the harm that would result from granting injunctive relief.⁶

(A) Substantial Harm to Petitioner

Keene alleges that Union Pacific would be subject to substantial harm without a stay because it would be required to "spend significant sums." (Renewed Stay at 6.) Keene states that:

⁶ *Citizens for Better Streets v. Bd. of Supervisors* (2004) 117 Cal. App. 4th 1, 6 ("A plaintiff seeking a preliminary injunction bears the burden of presenting facts which show a reasonable probability that he will succeed on the merits"); *Common Cause v. Bd. of Supervisors* (1989) 49 Cal. 3d 432, 441-42 ("In deciding whether to issue a preliminary injunction, a trial court must evaluate two interrelated factors: (i) the likelihood that the party seeking the injunction will ultimately prevail on the merits of his claim, and ii) the balance of harm presented, i.e., the comparative consequences of the issuance and nonissuance of the injunction.")

complying with the Order will place an enormous financial burden on Union Pacific *and* would potentially result in significant harm to the public (its ratepayers), rather than actually protecting them from harm. As noted above, the lowest bid received for drilling test wells was \$2,724,900, and even if grant funds were to be awarded, those funds would fall far short of the cost of drilling those wells by millions of dollars.

(Renewed Stay at 6.) In sum, Keene argues that continuing to incur costs to “fulfill the directives in the Order while the Order is under challenge, puts both Union Pacific and its ratepaying customers at substantial financial risk and harm.” (*Id.* at 7.)

Keene’s arguments about financial risk and harm are unpersuasive because, as communicated to Keene, the Division has not insisted on Keene funding and developing of a new water system. The State Water Board has requested a stepwise approach to exploring alternatives to permanent hauling. As communicated to Keene, the Division would like to see a first step of Keene applying for TA for planning and funding of drilling test wells, to assess whether a future water system based on those wells would show promise.⁷ TA through the State Water Board is available for small water systems that serve Disadvantaged Communities (DACs) and is prioritized for systems that are out of compliance. Fulfillment of the Division’s request for the initial step of planning and drilling of test wells can therefore be completed without costs or financial risk or harm to Keene and its ratepayers.

Even if the test wells showed some promise for a water system, the Division has repeatedly stated it will not demand the development of a financially infeasible water system, including if sufficient funding is not available from the State Water Board or the costs to the ratepayers are unreasonably high. There is therefore no substantial harm to Keene in continuing to collaborate with the State Water Board’s Division and DFA to comply with the directives. The Petitioner therefore has failed to meet the substantial harm prong of the test for granting of a stay.

(B) Lack of Substantial Harm to Other Interested Persons or to the Public Interest

Because the Petition failed to satisfy the first prong of the test for the issuance of a stay, it is unnecessary to determine whether it has demonstrated a lack of substantial harm to other persons or the public interest if a stay is granted.

⁷ See Attachments 1-3.

(C) Substantial Questions of Fact or Law Regarding the Disputed Action

For the same reason, because the Petition failed to satisfy the first prong of the test for the issuance of a stay, it is unnecessary to determine whether the Petition raises substantial issues of fact or law.

CONCLUSION ON STAY

For the reasons stated above, Keene has failed to demonstrate that a stay is warranted, and the renewed stay request is hereby denied. The State Water Board will continue to process the Petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Oppenheimer", is displayed on a light gray rectangular background.

Eric Oppenheimer
Executive Director

cc:

Darrin Polhemus, Deputy Director
Division of Drinking Water
State Water Resources Control Board

Jeff Densmore, Supervising WRC Engineer, South Central California Branch
Division of Drinking Water
State Water Resources Control Board

Jesse Dhaliwal, District Engineer, Tehachapi District
Division of Drinking Water
State Water Resources Control Board

Andy Sawyer, Assistant Chief Counsel
Office of Chief Counsel
State Water Resources Control Board

Kim Niemeyer, Attorney IV
Office of Chief Counsel
State Water Resources Control Board

Nicole Di Camillo, Attorney IV
Office of Chief Counsel
State Water Resources Control Board

Attachment D

SWRCB Significant Deficiency at Union Pacific Railroad Company – Keene
Water System (System No. 1500371)

State Water Resources Control Board

Division of Drinking Water

June 19, 2018

Pete Owen, Bridge Supervisor
Union Pacific Railroad Company
9451 Atkinson St
Roseville, CA 95747

SIGNIFICANT DEFICIENCY AT UNION PACIFIC RAILROAD COMPANY – KEENE WATER SYSTEM (SYSTEM NO. 1500371)

Dear Mr. Owen:

On June 15, 2018, Aayush Khurana, Water Resource Control Engineer, and I from the State Water Resources Control Board ("State Water Board"), Division of Drinking Water conducted an inspection of the Union Pacific Railroad Company – Keene Water System's ("Water System") storage tanks site. The State Water Board has found significant deficiencies (Title 22, California Code of Regulations, Ground Water Rule, Section 66430 – CA Ground Water Rule, Section 141.403 of Code of Federal Register) with both 25,000-gallon storage tanks of the Water System. Below is the summary of events that led to the inspection and details of the inspection findings.

On June 14, 2018, Dennis Gatson, Contract Operator, McMor Chlorination inc. contacted the State Water Board about an ongoing low pressure and water outage in the distribution system of the Water System. Considering the potential health risk due to water outage and low pressure, the State Water Board issued a precautionary Boil Water Notice ("BWN"), on the same day, to the customers of the Water System. It is noted that the Water System does not have any local source of water supply and completely relies on the hauled water from the City of Tehachapi. Licensed water haulers from RMR Trucks bring hauled water to the tank site. Mr. Gatson informed the State Water Board that the water outage and low pressure in the distribution system were caused by leaking storage tanks since delivery of hauled water was not able to keep up with the system demand and water loss from the tanks. As part of the issuance of the BWN, the State Water Board directed the Water System to address the water outage and low-pressure problem and collect two rounds of samples from the distribution system for bacteriological analysis.

On June 14, 2018, the Water System collected five samples from the distribution system for bacteriological analysis. One sample out of the five was present for total coliform bacteria. On June 15, 2018, the Water System collected another set of five samples from the distribution system. Three samples out of the five were present for total coliform bacteria. None of the samples were tested positive for *E. coli* bacteria. To resolve the bacteriological contamination, the Water System is increasing the chlorine residual in the distribution system and the frequency of water hauling from City of Tehachapi. The Water System collected another set of five samples on June 18, 2018. All five samples were absent for total coliform bacteria.

During the inspection on June 15, 2018, the State Water Board staff found several holes and leaks in both storage tanks. Several holes and leaks in the tanks have been patched with welded metal or plugged with wooden twigs and/or metal pins. At one location from the westside tank, water was gushing out of the holes where wooden twigs had been used to stop the leaks. The tanks are also leaking from the bottom. These leaks may cause the tanks to fail catastrophically. According to Mr. Gatson, the storage tanks are leaking approximately 10-15 gallons of water per minute. Due to constant leaks from the tanks, low pressure in the distribution system remains a threat. The leaking tanks are considered a potential health risk for the customers of the Water System. Pictures taken during the inspection are enclosed that show various leaks and patch repairs. Storage tanks are the most vulnerable parts of the Water System since the water inside the tanks is not pressurized. **Holes and leaks in storage tanks are considered significant deficiencies. Due to the poor condition of the tanks, they are beyond repairs and need to be replaced. Per CA Ground Water Rule, significant deficiencies must be addressed within 120 days of identification.**

Within 30 days of this letter, the Water System shall submit a written response (including plan and time schedule to replace the tanks) to the State Water Board describing a corrective action plan to address the significant deficiency found at the Water System's storage tanks. **Within 120 days**, the Water System shall implement the corrective action plan and fix the significant deficiencies. Failure to comply may result in enforcement action by the State Water Board.

If you have any questions about this letter, please contact Mr. Khurana at (661) 335-7346.

Sincerely,



Jaswinder S. Dhaliwal, P.E.
Senior Sanitary Engineer
TEHACHAPI DISTRICT

Enclosure: Inspection Pictures

CC: Kern County Dept. of Public Health, Env. Health Division (w/o enclosure)
Dennis Gatson, Contract Operator, McMor Chlorination Inc. (via email)
Robert Bylsma, Sr. General Counsel, Union Pacific Railroad Co. (via email)
Angela Hershey, Paralegal, Union Pacific Railroad Co. (via email)
Demian Brunty, Asst. Manager- Bridge Maintenance, Union Pacific Railroad Co. (via email)
Chinelo Okafor, Analyst- Finance, Union Pacific Railroad Co. (via email)
Rami Kahlon, California Public Utilities Commission (via email)

Attachment E

Photos from Shahabi Opening Testimony Exhibit A



**KEENE WATER
SYSTEM**

Do You Know Where
Your **HOT COLD** Are?







Attachment F

June – July, 2024 Correspondence Between Ryan Byalick and UPRR

Ryan Byalick
PO Box 72
Keene, CA 93531-0072
310 920 1595

24 JUL -3 PM 3:36

California Public Utilities Commission
Consumer Affairs Branch
505 Van Ness Avenue Room 2003
San Francisco, CA 94102

C#: 639893

June 24, 2024

RE: Union Pacific Railroad Company (Keene Water System)

I would like to file a complaint against the Union Pacific Railroad, Keene Water System supplier. My bills have always been very high in relation to my actual water usage. I am charged a meter charge, usage charge, surcharge and the PUC fee. I find these charges excessive in accordance with my actual water usage, I do not know if your department is able to help in this issue of water charges.

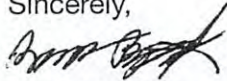
Recently, I received a notice regarding service charge relating to meter size, I don't know if this service charge is in reference to meter charge or surcharge as my bill doesn't reflect a service charge, per se. My invoices have had 5/8" meter with variable amounts being billed to this meter size however, my current invoice dated 5/14/2024 is showing a 3/4" meter. This has happened in the past with the meter size discrepancy without any explanation given.

According to my current invoice for service period dated 3/29/2024 to 4/30/2024 my current bill is \$292.17 for 1847 gallons of water. This is very costly and difficult for me to sustain my water supply at this current rate. I would like to ask the Public Utilities Commission to review these cost and offer any help possible with the lowering of costs in this water supply system that is in place at this time.

I have included my current invoice along with a notice of "water system billing adjustment" as I do not understand the billing procedure for my meter size. I have also included past months invoices as references.

I would like to thank you in advance for your attention in this matter, as any help I could receive in the reduction of costs to this water bill would be greatly appreciated.

Sincerely,



Ryan Byalick

Encl



BUILDING AMERICA
Keene Water System

Account Information

Name BYALICK RYAN
Customer Number 51734
Meter Number 505-110-06
Bill Date 5/14/2024
Due Date 6/2/2024
Bill Number 333019102
Service Period 3/29/2024 to 4/30/2024

BYALICK RYAN
PO BOX 72
KEENE, CA 93531-0072

Account Activity

Previous Reading	Previous Reading Date	Current Reading	Current Read Date	Days	Gallons Used
35305	3/29/2024	35552	4/30/2024	32	1847

This Bill is due and payable upon date of presentation. It will become past due if not paid within 19 days from the date of mailing.

Should the amount of this bill be questioned, an explanation should be requested from the utility. If an explanation satisfactory to the customer is not made by the utility and the bill is still questioned, the customer may deposit with the California Public Utilities Commission, Consumer Affairs Branch, 505 Van Ness Avenue, Room 2003, San Francisco, California 94102, (telephone numbers are: public (415) 703-1170 or 1(800) 649-7570, hearing impaired (TDD) (415) 703-2032) the amount of the bill to avoid discontinuance of service. Make remittance payable to the California Public Utilities Commission and attach the bill and a statement setting forth the basis for the dispute of the amount of the bill. The Commission will review the basis of the billed amount and disburse the deposit in accordance with its findings.

Amount Due

Meter Charge	(3/4" meter)	\$167.54
Usage Charge		\$18.38
Surcharge		\$102.13
PUC_Fee		\$4.12
Bill Amount		\$292.17

V#1443
Paid

Please remit payment to:

Union Pacific Railroad Company
12567 Collections Center Drive
Chicago, IL 60693

For questions or disputes, please contact trudie.mcgavock@up.com or (281) 350-7644.

PLEASE DETACH AT THIS LINE AND RETURN THIS PORTION WITH CHECK PAYABLE TO:

UNION PACIFIC RAILROAD COMPANY
(KEENE WATER SYSTEM)
12567 COLLECTIONS CENTER DRIVE
CHICAGO, IL 60693

Name BYALICK RYAN
Customer Number 51734
Meter Number 505-110-06
Bill Date 5/14/2024
Due Date 6/2/2024
Bill Number 333019102
Service Period 3/29/2024 to 4/30/2024

Bill Amount \$292.17

Amount Paid

\$ 292.17



BUILDING AMERICA

May 15, 2024

RE: Keene Water System Billing Adjustment

Dear Customer,

We want to bring to your attention a past error made in billing. Tariff Schedule No. 1 General Metered Service, governs customer rates, and provides the following:

RATES

Quantity Rate:

All Water, per 1,000 gallons

\$ 9.95 (I)

Service Charge:

	<u>Per Meter Per Month</u>	<u>Rate Base Surcharge</u>
For 5/8 x 3/4 – inch meter	\$104.71 (I)	\$ 63.83
For 3/4 – inch meter	\$157.07 (I)	\$ 95.75
For 1 – inch meter	\$261.77 (I)	\$ 159.58
For 1-1/2 – inch meter	\$523.53 (I)	\$ 319.16
For 2 – inch meter	\$837.66 (I)	\$ 510.66

In reviewing our billing records, we noted that you have been underbilled based on the size of your meter. Though you have been underbilled in the past, it is not our intention to bill you for those past charges. We are, however, correcting this billing error going forward and will bill you in accordance with the terms of our tariff.



BUILDING AMERICA
Keene Water System

BYALICK RYAN
PO BOX 72
KEENE, CA 93531-0072

Handwritten:
Paid
✓ #1440
5-24-24

Account Information

Name BYALICK RYAN
Customer Number 51734
Meter Number 505-110-06
Bill Date 4/16/2024
Due Date 5/5/2024
Bill Number 332493172
Service Period 2/29/2024 to 3/29/2024

Account Activity

Previous Reading	Previous Reading Date	Current Reading	Current Read Date	Days	Gallons Used
35042	2/29/2024	35305	3/29/2024	29	1967

This Bill is due and payable upon date of presentation. It will become past due if not paid within 19 days from the date of mailing.

Should the amount of this bill be questioned, an explanation should be requested from the utility. If an explanation satisfactory to the customer is not made by the utility and the bill is still questioned, the customer may deposit with the California Public Utilities Commission, Consumer Affairs Branch, 505 Van Ness Avenue, Room 2003, San Francisco, California 94102, (telephone numbers are: public (415) 703-1170 or 1(800) 649-7570, hearing impaired (TDD) (425) 703-2032) the amount of the bill to avoid discontinuance of service. Make remittance payable to the California Public Utilities Commission and attach the bill and a statement setting forth the basis for the dispute of the amount of the bill. The Commission will review the basis of the billed amount and disburse the deposit in accordance with its findings.

Amount Due

Meter Charge	(5/8" meter)	\$97.95
Usage Charge		\$19.57
Surcharge		\$59.71
PUC Fee		\$2.53
Bill Amount		\$179.77

Please remit payment to:

Union Pacific Railroad Company
12567 Collections Center Drive
Chicago, IL 60693

For questions or disputes, please contact trudie.mcgavock@up.com



BUILDING AMERICA
Keene Water System

BYALICK RYAN
PO BOX 72
KEENE, CA 93531-0072

Paid
✓ # 1438

Account Information

Name BYALICK RYAN
Customer Number 51734
Meter Number 505-110-06
Bill Date 3/8/2024
Due Date 3/27/2024
Bill Number 331806726
Service Period 1/30/2024 to 2/29/2024

Account Activity

Previous Reading	Previous Reading Date	Current Reading	Current Read Date	Days	Gallons Used
34725	1/30/2024	35042	2/29/2024	30	2371

This Bill is due and payable upon date of presentation. It will become past due if not paid within 19 days from the date of mailing.

Should the amount of this bill be questioned, an explanation should be requested from the utility. If an explanation satisfactory to the customer is not made by the utility and the bill is still questioned, the customer may deposit with the California Public Utilities Commission, Consumer Affairs Branch, 505 Van Ness Avenue, Room 2003, San Francisco, California 94102, (telephone numbers are: public (415) 703-1170 or 1(800) 649-7570, hearing impaired (TDD) (425) 703-2032) the amount of the bill to avoid discontinuance of service. Make remittance payable to the California Public Utilities Commission and attach the bill and a statement setting forth the basis for the dispute of the amount of the bill. The Commission will review the basis of the billed amount and disburse the deposit in accordance with its findings.

Amount Due

Meter Charge	(5/8" meter)	\$108.32
Usage Charge		\$23.59
Surcharge		\$66.03
PUC_Fee		\$2.83
Bill Amount		\$200.77

Please use enclosed envelope to remit payment, or to pay in person:

**Union Pacific Railroad
Western Region Office
9451 Atkinson Street
Roseville, CA 95747**

For questions or disputes, call (281) 350-7263



BUILDING AMERICA
Keene Water System

BYALICK RYAN
PO BOX 72
KEENE, CA 93531-0072

Handwritten: #1436 ✓

Handwritten signature: [Signature]

Account Information

Name BYALICK RYAN
Customer Number 51734
Meter Number 505-110-06
Bill Date 2/14/2024
Due Date 3/4/2024
Bill Number 331371900
Service Period 12/28/2023 to 1/30/2024

Account Activity

Previous Reading	Previous Reading Date	Current Reading	Current Read Date	Days	Gallons Used
34290	12/28/2023	34725	1/30/2024	33	3253

This Bill is due and payable upon date of presentation. It will become past due if not paid within 19 days from the date of mailing.

Should the amount of this bill be questioned, an explanation should be requested from the utility. If an explanation satisfactory to the customer is not made by the utility and the bill is still questioned, the customer may deposit with the California Public Utilities Commission, Consumer Affairs Branch, 505 Van Ness Avenue, Room 2003, San Francisco, California 94102, (telephone numbers are: public (415) 703-1170 or 1(800) 649-7570, hearing impaired (TDD) (425) 703-2032) the amount of the bill to avoid discontinuance of service. Make remittance payable to the California Public Utilities Commission and attach the bill and a statement setting forth the basis for the dispute of the amount of the bill. The Commission will review the basis of the billed amount and disburse the deposit in accordance with its findings.

Amount Due

Meter Charge	(5/8" meter)	\$111.47
Usage Charge		\$32.37
Surcharge		\$67.95
PUC_Fee		\$3.03
Bill Amount		\$214.81

Please use enclosed envelope to remit payment, or to pay in person:

**Union Pacific Railroad
Western Region Office
9451 Atkinson Street
Roseville, CA 95747**

For questions or disputes, call (281) 350-7263



BUILDING AMERICA®

July 19, 2024

Ryan Byalick
P.O. Box 72
Keene, CA 93531

Re: CPUC Complaint No. 639893

Dear Mr. Byalick,

This letter is in response to your letter of June 24, 2024, and your related complaint to the California Public Utilities Commission (CPUC).

In regard to the meter size, this issue was raised by another customer and we have already researched it. Fortunately, with that customer's assistance we were able to locate documents dating back to shortly after the individual residential meters were installed around 2009 that suggested 3/4 inch meters were installed for residential users, rather than the 5/8 inch meters that had been intended. As a result, we made the decision at that time to bill residential customers for whom we installed the 3/4 inch meters at the 5/8 inch meter rate.

Unfortunately, with the change in personnel responsible for the operations of the water system, this history was lost. Thus, when the discrepancy between the actual meter size and the tariff rates was discovered, the May 2024 bills were adjusted to reflect the tariff rates based on actual meter size. However, once we discovered what had occurred in 2009, we adjusted rates back to the 5/8 inch rate and credited customers for the "overcharge" on their June bill.

So, based on the 5/8 inch meter rate, your May 14, 2024 bill should have been \$200.99, rather than \$292.17, resulting in an "overcharge" of \$91.18. Your June bill, based on your usage and the 5/8 inch meter rates would have been \$172.83. However, because of the error in the May bill, we issued you a credit of \$91.18, resulting in the June 11, 2024 bill you received for \$81.65 (rather than the full \$172.83). We issued similar credits to the other customers impacted by this issue.

In conclusion, your bills, for the service period 3/29/24 - 5/29/24 (as reflected in your 5/14/24 and 6/11/24 bills) at the 5/8 inch meter rate total \$373.82. Please remit your payment to the address listed on your bills.

July 19, 2024
Ryan Byalick
Page 2

If you have any additional questions, please do not hesitate to contact Trudie McGavock at (281) 350-7644.

Very truly yours,


Robert C. Bysma
Senior General Attorney

cc: California Public Utilities Commission



BUILDING AMERICA
Keene Water System

Account Information

Name BYALICK RYAN
Customer Number 51734
Meter Number 505-110-06
Bill Date 6/11/2024
Due Date 6/30/2024
Bill Number 333549773
Service Period 4/30/2024 to 5/29/2024

BYALICK RYAN
PO BOX 72
KEENE, CA 93531-0072

Account Activity

Previous Reading	Previous Reading Date	Current Reading	Current Read Date	Days	Gallons Used
35552	4/30/2024	35723	5/29/2024	29	1279

This Bill is due and payable upon date of presentation. It will become past due if not paid within 19 days from the date of mailing.

Should the amount of this bill be questioned, an explanation should be requested from the utility. If an explanation satisfactory to the customer is not made by the utility and the bill is still questioned, the customer may deposit with the California Public Utilities Commission, Consumer Affairs Branch, 505 Van Ness Avenue, Room 2003, San Francisco, California 94102, (telephone numbers are: public (415) 703-1170 or 1(800) 649-7570, hearing impaired (TDD) (415) 703-2032) the amount of the bill to avoid discontinuance of service. Make remittance payable to the California Public Utilities Commission and attach the bill and a statement setting forth the basis for the dispute of the amount of the bill. The Commission will review the basis of the billed amount and disburse the deposit in accordance with its findings.

<u>Amount Due</u>		
Meter Charge	(5/8" meter)	\$42.10
Usage Charge		\$12.73
Surcharge		\$25.67
PUC_Fee		\$1.15
Bill Amount		\$81.65

Please remit payment to:

**Union Pacific Railroad Company
12567 Collections Center Drive
Chicago, IL 60693**

For questions or disputes, please contact trudie.mcgavock@up.com or (281) 350-7644.

PLEASE DETACH AT THIS LINE AND RETURN THIS PORTION WITH CHECK PAYABLE TO:

**UNION PACIFIC RAILROAD COMPANY
(KEENE WATER SYSTEM)
12567 COLLECTIONS CENTER DRIVE
CHICAGO, IL 60693**

Name BYALICK RYAN
Customer Number 51734
Meter Number 505-110-06
Bill Date 6/11/2024
Due Date 6/30/2024
Bill Number 333549773
Service Period 4/30/2024 to 5/29/2024

Bill Amount \$81.65

Amount Paid \$ _____



BUILDING AMERICA
Keene Water System

Account Information

Name BYALICK RYAN
Customer Number 51734
Meter Number 505-110-06
Bill Date 5/14/2024
Due Date 6/2/2024
Bill Number 333019102
Service Period 3/29/2024 to 4/30/2024

BYALICK RYAN
PO BOX 72
KEENE, CA 93531-0072

Account Activity

Previous Reading	Previous Reading Date	Current Reading	Current Read Date	Days	Gallons Used
35305	3/29/2024	35552	4/30/2024	32	1847

This Bill is due and payable upon date of presentation. It will become past due if not paid within 19 days from the date of mailing.

Should the amount of this bill be questioned, an explanation should be requested from the utility. If an explanation satisfactory to the customer is not made by the utility and the bill is still questioned, the customer may deposit with the California Public Utilities Commission, Consumer Affairs Branch, 505 Van Ness Avenue, Room 2003, San Francisco, California 94102, (telephone numbers are: public (415) 703-1170 or 1(800) 649-7570, hearing impaired (TDD) (415) 703-2032) the amount of the bill to avoid discontinuance of service. Make remittance payable to the California Public Utilities Commission and attach the bill and a statement setting forth the basis for the dispute of the amount of the bill. The Commission will review the basis of the billed amount and disburse the deposit in accordance with its findings.

Amount Due

Meter Charge	(3/4" meter)	\$167.54
Usage Charge		\$18.38
Surcharge		\$102.13
PUC_Fee		\$4.12
Bill Amount		\$292.17

V#1443 paid

Please remit payment to:

Union Pacific Railroad Company
12567 Collections Center Drive
Chicago, IL 60693

For questions or disputes, please contact trudle.mcgravock@up.com or (281) 350-7644.

PLEASE DETACH AT THIS LINE AND RETURN THIS PORTION WITH CHECK PAYABLE TO:

UNION PACIFIC RAILROAD COMPANY
(KEENE WATER SYSTEM)
12567 COLLECTIONS CENTER DRIVE
CHICAGO, IL 60693

Name BYALICK RYAN
Customer Number 51734
Meter Number 505-110-06
Bill Date 5/14/2024
Due Date 6/2/2024
Bill Number 333019102
Service Period 3/29/2024 to 4/30/2024

Bill Amount \$292.17

Amount Paid \$ 292.17