

#E1-20267



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
BOISE REGULATORY OFFICE
10096 WEST EMERALD STREET
COEUR D'ALENE, IDAHO 83814-5699

July 9, 2013

Regulatory Division

SUBJECT: NWW-2013-00385, U.P.R.R. Stoddard Industrial Lead, MP 0.9 to MP 1.75

Mr. Mack Shumate, Jr.
Union Pacific Railroad
Senior General Attorney
101 North Wacker Drive, #1920
Chicago, Illinois 60606

Dear Mr. Shumate:

This is in response to your June 18, 2013, letter requesting scoping comments on the Union Pacific Railroad; Stoddard Industrial Lead Line. Thank you for providing the Corps of Engineers (Corps) the opportunity to provide comments. According to information provided, the proposed project is to abandon and discontinue service of the Stoddard Industrial Lead line, from Milepost 0.9 to Milepost 1.75.

The site is located within Section 35 of Township 3 North, Range 2 West, near latitude 43.5584° N and longitude -116.5470° W, in Canyon County, in Nampa, Idaho. Your project has been assigned Department of Army (DA) File # NWW-2013-00385, which should be referred to in all future correspondence.

AUTHORITY

The DA exerts regulatory jurisdiction over waters of the United States (U.S.), including wetlands, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Section 404 of the Clean Water Act requires a DA permit be obtained prior to discharging dredged or fill material into waters of the U.S., which includes most perennial and intermittent rivers and streams, natural and man-made lakes and ponds, irrigation and drainage canals and ditches that are tributaries to other waters, and wetlands.

We realize that a project at the scoping level is less detailed than a project that is being reviewed for a DA permit. Our comments at this time are limited and are prepared to assist you in response to your June 18, 2013, request for your Environmental and Historical Report.

EXHIBIT 4

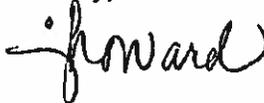
Based on our review of the information you furnished and available to our office, we have preliminarily determined that your proposed project area may impact the South Nampa Lateral, a water of the United States (per *Headwaters v. Talent Irrigation District*, 243 F.3d 526 (9th Cir., 2001)). Our July 8, 2013, site visit did not find emergent wetlands within your proposed project area; however, please note that there are emergent wetlands adjacent to the South Nampa Lateral within approximately 50 feet of your proposed project area. Work activities that would discharge fill material below the ordinary high water mark of the South Nampa Lateral, including wetlands, would require you obtain a permit from our office prior to commencing these activities. If work activities would not discharge any fill material below the ordinary high water mark of the South Nampa Lateral or adjacent wetlands, then a permit from our office is not required. If needed, please contact our Boise Regulatory Field Office at (208) 345-2155 to discuss specific work activities.

PRELIMINARY JURISDICTIONAL DETERMINATION

Attached to this verification is our Preliminary Jurisdictional Determination (PJD) Form showing that waters of the United States, including wetlands, may be located within your proposed project area. The Preliminary Jurisdictional Determination is a non-binding action and shall remain in effect, unless a request for an Approved Jurisdictional Determination or new information supporting a revision is provided to this office. Please note that since this jurisdictional determination is preliminary, it is subject to change and therefore is not an appealable action under the Corps of Engineers Administrative Appeal Procedures (33 CFR 331). Enclosed you will find a *Notification of Administrative Appeal Options and Process and Request for Appeal (RFA) Form* for further clarification.

If you have any further questions or need additional clarification, please contact me by telephone at (208) 345-2155, by mail at the address in the letterhead, or via email at jamie.n.howard@usace.army.mil. For informational purposes, a copy of this letter is being sent to Ms. Jessica L. Johnson, UPRR at email jljohnson@up.com.

Sincerely,



Jamie Howard
Project Manager
Regulatory Division

Enclosure:
Prelim Jurisdictional Determination/Map
Request for Appeals Form