



**US Army Corps  
Of Engineers**  
Omaha District

# PUBLIC NOTICE

**Application Number:** NE 2006-11149

**Applicant:** Burlington Northern Santa Fe Railroad

**Waterway:** Rifle Creek, wetlands adjacent to Rifle Creek, isolated wetlands

**Issue Date:** July 12, 2011

**Expiration Date:** August 2, 2011

**21-DAY NOTICE**

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**Reply To:**

**Kearney Regulatory Office**

**2214 2<sup>nd</sup> Avenue Kearney, NE 68847-5315**

**(308) 234-1403**

**<http://www.nwo.usace.army.mil/html/od-rne/nehome.html>**

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**JOINT PUBLIC NOTICE:** This public notice is issued jointly by the US Army Corps of Engineers, Omaha District, and the Nebraska Department of Environmental Quality (NDEQ). The NDEQ, PO Box 98922, Lincoln, Nebraska 68509-8922, will review the proposed project for state certification in accordance with the provisions of Section 401 of the Clean Water Act. NDEQ hereby incorporates this public notice as its own public notice and procedures by reference thereto. For the purposes of NDEQ, this public notice will expire 30 days from the above issue date.

**AUTHORITY:** Section 404 of the Clean Water Act (33 USC 1344).

**APPLICANT:** Burlington Northern Santa Fe Railroad Todd Kuhn 3700 Globeville Road Denver, CO 80216  
TranSystems Eric Viera 2400 Pershing Road Suite 400 Kansas City, MO 64108

**PROJECT LOCATION:** Start: NE¼ Section 17, Township 19 North, Range 22 West, Custer County, Nebraska  
End: SE¼ Section 5, Township 20 North, Range 23 West, Custer County, Nebraska

**PROJECT DESCRIPTION:** The applicant is proposing to improve the capacity of BNSF's facilities in Custer County. The proposed improvements will include the construction of approximately 10 miles of mainline railroad track and associated crossover and setout tracks parallel to the existing mainline. Proposed project activities will take place along the existing mainline track between Mile Post (MP) 195.68 and MP 205.68. Mainline construction will take place all on the south side of the existing track at track centers of 25 feet from centerline of the existing main to centerline of the proposed new main. The ends of the project require transitions from the new 25-foot track centers to existing double track at 15-foot centers. Support tracks are proposed from MP 201.59 to 202.52 at 35-foot track centers to the north and 25-foot track centers to the south. The track will be constructed with a track laying machine (TLM), which rides on new track immediately behind the track it is constructing. Once the steel rails and concrete ties are placed, rock ballast is dumped and the track is raised to final line and grade with other on-track equipment. The TLM operates on a track roadbed having a width of approximately 25 feet, which will support the ballast section after the track is raised to final grade. A 13-foot maintenance road is to be constructed along either the existing or proposed track roadbed. The roadbed

will consist of either asphalt or crushed rock immediately beneath the track and crushed rock across the rest of the roadbed and maintenance road. The side slopes and ditches will be seeded with native grass.

**PROJECT PURPOSE:** The applicant's project purpose is to improve line capacity and train traffic efficiency in the project area. The project area has developed into a high traffic area due to increased coal transportation from the Powder River Basin in eastern Wyoming to power plants across the Midwest and South. The project length is currently a single track bottleneck for BNSF operations and results in idling trains at both ends of the project. The reduction in train congestion will lead to decreased blockage of vehicular grade crossings by trains throughout the area adjacent to the project. Mainline track construction and associated capacity improvements are required to improve the overall system efficiency.

**SPECIAL AQUATIC SITES:** Approximately 1.47 acres of riverine floodplain PEMA/C wetland will be impacted by the project as well as approximately 10.96 acres of isolated wetlands.

**MITIGATION:** Wetland impacts were avoided to the extent practicable. Unavoidable impacts were minimized by re-designing the project layout. The 1.47 acres of jurisdictional riverine flood plain PEMA/C wetland will be replaced along the project corridor at a 2 (mitigated) : 1 (impacted) ratio. Approximately 2.94 acres of riverine flood plain PEMA/C wetland will be created in the NW¼ of Section 6, Township 19 North, Range 22 West, adjacent to Wetland C. The upland areas will be excavated to the same elevation as the existing wetland.

The 10.96 acres of isolated wetlands will be mitigated at a 4 (mitigated) : 1 (impacted) ratio. BNSF will participate in a joint initiative with the Sandhills Task Force and Ducks Unlimited in restoring a 420 acre Sandhills marsh located in Sections 15+16+17, Township 22 North, Range 37 West, Grant County, Nebraska. BNSF will be responsible for approximately 43.84 acres of the restoration.

**CULTURAL RESOURCES:** The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966 and amendments and the procedures set forth in 33 CFR 325, Appendix C. We have checked the National Register of Historic Places and its current supplements and there are no known National Register sites in the vicinity. However, we will evaluate input by the State Historic Preservation Office, Tribes and the public in response to this public notice and we may conduct or require a reconnaissance survey of the permit area to check for unknown historic or prehistoric properties, if warranted.

**ENDANGERED SPECIES:** In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the US Fish and Wildlife Service and other interested agencies and individuals.

**FLOODPLAIN:** This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

**WATER QUALITY CERTIFICATION:** Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the state in which the discharge site is located for certification of the discharge. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards.

**PUBLIC INTEREST REVIEW:** The decision whether to issue the Corps' permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against their reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

**COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State, and Local agencies and officials, Indian Tribes and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

Anyone whose interests may be affected by the proposed/completed work is invited to submit favorable or unfavorable written comments to the **Kearney Regulatory Office 2214 2<sup>nd</sup> Avenue Kearney, NE 68847-6856** or **send an e-mail to [barbara.j.friskopp@usace.army.mil](mailto:barbara.j.friskopp@usace.army.mil)**. The District Engineer is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic system's functional values, cumulative and secondary effects and endangered species. All comments received will be considered public information; copies of all comments, including names and addresses of commentors, may be provided to the applicant unless confidentiality is requested. Comments must be submitted on or before the expiration date (located at the top of the first page) of this notice to be considered in the subsequent actions on this application.

**PUBLIC HEARING:** Before the expiration date of this notice, anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state the reason(s) for holding a public hearing. If the District Engineer determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location.

**ADDITIONAL INFORMATION:** For additional information, please **call Mrs. Barb Friskopp at (308) 234-1403**.

**REQUEST TO POSTMASTERS:** Please post this notice conspicuously and continuously until the expiration date specified at the top of page one.

**NOTICE TO EDITORS:** This notice is provided as background information for your use in formatting news stories. This notice is not a contract for classified display or advertising.