



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

**DEC 14 2009**

Colonel Roger A. Wilson, Jr.  
Commander, Kansas City District  
U.S. Army Corps of Engineers  
700 Federal Building  
Kansas City, Missouri 64106-2896

OFFICE OF  
THE REGIONAL ADMINISTRATOR

Dear Colonel Wilson:

Re: Environmental Assessment for Burlington Northern Santa Fe Railway Intermodal Facility (BNSF IMF) in Johnson County, Kansas

The Environmental Protection Agency (EPA), Region 7, has reviewed the revised Environmental Assessment and supporting documentation submitted by the U.S. Army Corps of Engineers (Corps) on 11 November, 2009 in support of a Clean Water Act Section 404 permit for the BNSF IMF. As a formal Cooperating Agency, EPA has been involved in various aspects of environmental impact analysis for this proposal since April 2007. EPA's involvement includes Jurisdictional Determinations of Waters of the United States, and investigation of air quality considerations of the IMF (itself), i.e., the reasonably foreseeable consequences they may have on air quality. Based on your assessment and proposed conclusions, reasonably foreseeable consequences of the preferred option (development of the project adjacent to 191<sup>st</sup> Street), include:

- 1) the initial warehouse development by The Allen Group (TAG) of 400,000 square feet, and
- 2) the potential indirect warehouse expansion of up to 2.86 million square feet (MSF).

Based on our review of the documentation, one area of concern relating to the significance of the project's impact on air quality involves particulate matter (PM) emissions reasonably attributable to the project. Modeling runs conducted by EPA predict that PM could exceed the National Ambient Air Quality Standards (NAAQS) along 191<sup>st</sup> Street<sup>1</sup>. EPA considers predicted PM concentrations above the national standards, which are established to protect public health and welfare, to be potentially "significant" in a National Environmental Policy Act (NEPA) context (see 40 CFR 1508.27(b)(2)). To address this potential "significance" BNSF has entered into a 2-year agreement with the Kansas Department of Health and Environment (KDHE) for PM monitoring, and for implementation of mitigation measures to ensure that PM concentrations either remain below the standard or that the project's contribution

<sup>1</sup> Modeling conducted by EPA examined impacts from resuspended dust from paved roads. The analysis did not include emissions from vehicle exhaust and brake and tire wear because of the dominance of the predicted concentrations resulting from resuspended dust. Because emissions from brake and tire wear are relatively small, the additional impact of those emissions on modeled emissions are expected to be insignificant.

to exceedances will be minimized. The agreement also contemplates that the monitoring period could be extended if specified PM concentrations are exceeded. We recommend that BNSF, in good faith, and to ensure the ongoing protection of public health and the environment in the project area, support the continuation of KDHE's efforts to implement the ambient air monitoring and mitigation plan through the period for which the maximum emissions impacts are projected. This will ensure that the emissions increases resulting from the growth in traffic trips associated with the ramp-up of activity at the facility will be accounted for in the analysis. In addition, we recommend that the plan be extended, as necessary, to account for any air impacts associated with any future expansions to the primary and ancillary facilities which are not currently anticipated and for which impacts have not been evaluated.

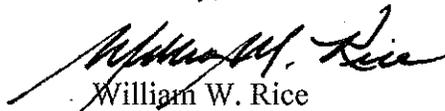
We would like to reiterate our previous recommendations that BNSF explore existing diesel emission reduction programs and strategies. These include, but are not limited to truck queuing programs, electrification of equipment, retrofits, energy efficiency measures, and clean fuel alternatives to minimize any air quality impacts that may be associated with cargo loading and unloading for both rail and road transport. These efforts not only reduce emissions impacts near the facility, but also minimize the contribution of ozone precursors to the greater Kansas City area. The Kansas City area is currently violating the ozone standard, and any measures to reduce emissions will be critical to the area in achieving the ozone standard in the future.

EPA has reviewed the proposed Stream & Wetland Mitigation Plan according to the compensatory mitigation requirements of the 404(b)(1) Guidelines. The document proposes to mitigate for all impacts to Waters of the U.S. through the construction of an approximate 60 acre, on-site conservation corridor. We concur with the conceptual mitigation plan as appropriate and adequate compensation for the projected impacts to the aquatic environment. EPA requests the opportunity to review and comment on any additional documents or changes that may be made to the current mitigation plan.

In fulfillment of our responsibilities as a Cooperating Agency, the matters relating to our jurisdiction or special expertise have been satisfactorily addressed. With the provision of monitoring and effective implementation of mitigation measures (if needed), EPA concurs with your proposed determination that no significant impact exists. With respect to air impacts, we emphasize that this concurrence is in the context of our responsibility under NEPA, and does not implicate any judgment we would make if the project were subject to any regulatory requirements under the Clean Air Act.

EPA appreciates the efforts undertaken by the Corps to ensure that relevant analyses were challenged - and improved, that the public was informed and engaged, and that mitigation has been secured to address potential impacts. Noteworthy public service by Corps officials, Joshua Marx and Matthew Jeppson were essential to successful completion of this joint analysis. Please relay my thanks to these individuals for their efforts.

Sincerely,



William W. Rice  
Acting Regional Administrator