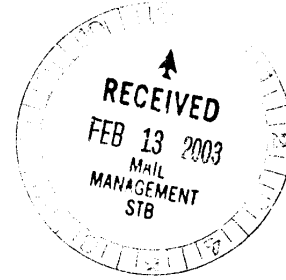


207231

February 12, 2003

Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001



**Re: Surface Transportation Board Docket No. AB-6 (Sub-No. 403X);
The Burlington Northern and Santa Fe Railway Company
Abandonment of Wichita, Kansas Trackage and between Wichita
and Valley Center, Kansas**

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Michael A. Smith
Senior Counsel
Direct 312.360.6724
Fax 312.360.6598
msmith@
freebornpeters.com

Chicago

Springfield

Dear Ms. Rutson:

On or after March 4, 2003, we are filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon or discontinue service 16.91 miles of railroad line between railroad milepost 494.22 and milepost 505.20 in or near Wichita, Kansas and between Wichita (milepost 509.30) and Valley Center (milepost 515.23), Kansas, which line segment traverses through United States Postal Zip Codes 67147, 67204, 67206, 67208, 67214, 67219 and 67230 in Sedgwick County, Kansas. Attached are ten copies plus the original of the Environmental and Historic Report describing the proposed action and any expected environmental or historic effects, as well as a map of the affected area.

Sincerely, \

Michael A. Smith

Enclosures

ENTERED
Office of Proceedings

FEB 13 2003

Part of
Public Record

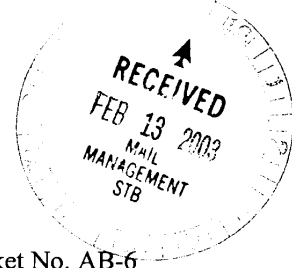
FEB 13 2003

BEFORE THE

Part of
Public Record

SURFACE TRANSPORTATION BOARD

2-7231
In the Matter of The Burlington Northern and
Santa Fe Railway Company Notice of Exemption to
Abandon Its Line of Railroad Between M.P.
494.22 and 505.20 in and near Wichita
and M.P. 515.23 and M.P. 509.30 between
Wichita and Valley Center, Sedgwick County,
Kansas



Docket No. AB-6
(Sub No. 403X)

ENVIRONMENTAL REPORT

The following information is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption for abandonment of its line between M.P. 494.22 and 505.20 in and near Wichita and M.P. 515.23 and M.P. 509.30 between Wichita and Valley Center, Sedgwick County, Kansas, total distance of 16.91 miles.

(1) Proposed action and Alternatives: Describe the proposed action, including commodities transported, the planned disposition (if any) of any railline and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF seeks to abandon and discontinue service of the line. A map of the line is attached as Exhibit A.

(2) Transportation system. Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

The proposed abandonment will have no affect on existing transportation systems or patterns as the line is out of service.

(3) Land Use: (i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

The proposed abandonment is consistent with local land use plans. See Exhibit B, letter from Wichita-Sedgwick County Metropolitan Area Planning Department. BNSF is continuing to work with the city of Wichita to preserve the area from East Wichita to the Sedgwick-Butler County line a greenway.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.

The proposed abandonment will have no effect on prime farmland. See Exhibit C, letter from the Natural Resources Conservation Service, Salina, Kansas.

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9

N/A

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10906 and explain why.

The line may be suitable for alternative public use. See Exhibit B, letter from Wichita-Sedgwick County Metropolitan Planning Department.

(4) Energy:

(i) Describe the effect of the proposed action on transportation of energy.

To the best of BNSF's knowledge there are no undeveloped energy resources such as oil, natural gas or coal in the vicinity of this line.

(ii) Describe the effect of the proposed action on recyclable commodities.

The abandonment and discontinuance will not adversely affect movement or recovery of recyclable commodities as the line is out of service.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

This abandonment will not result in an increase or decrease in overall energy efficiency as the line is out of service.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.

There will be no diversions of traffic because the line is out of service.

(5) Air:

(i) If the proposed action will result in either:

(A). An increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line effected by the proposed, or

No.

(B). An increase in rail yard activity of at least 100% (measured by carload activity), or

No.

(C). An average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The action will not involve an increase in truck traffic of more than 10% or 50 vehicles per day on any affected road segment as the line is out of service.

(ii) If the proposed action affects a Class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three train a day on any segment of rail line, or

(B) An increase in rail yard activity of at least 20% (measured by carload activity), or

(C) An average increase in truck traffic or more than 10-% of the average daily traffic of 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or in a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed abandonment will not result in an increase of rail or truck traffic because the line is out of service.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and from) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

This action will have no effect of the transportation of ozone-depleting materials.

(6) Noise: If any of the thresholds identified in item (5)(c) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more,

N/A

(ii) An increase to a noise level of 76 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for those receptors if the thresholds are surpassed.

N/A

(7) Safety: (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).

This abandonment should have no adverse effect on health or public safety. The proposed abandonment will eliminate freight service over 34 public crossings and 8 private crossings. During the salvage operations on the line, precautions

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

Abandonment will not result in transportation of hazardous materials.

(iii) If there are any known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

There is no evidence of known hazardous waste site or sites where there have been known hazardous materials spills on the right of way between Wichita, Kansas and Valley Center, Kansas between M.P. 515.23 and 509.30 or in and near Wichita, Kansas between M.P. 494.22 and M.P. 505.20.

(8) Biological resources. (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

The following federally listed and proposed threatened or endangered species may be present in the area proposed for abandonment: the speckled chub (*Macrhybopsis aestivalis*), the Arkansas River shiner (*Notropis girardi*), bald eagle (*Haliaeetus leucocephalus*), least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), and whooping crane (*Grus americana*). However, the proposed line abandonment should have no adverse impacts on these species. See Exhibit D, Letter from the United States Department of the Interior, Fish and Wildlife Service, Manhattan, Kansas and see Exhibit E, letter from the Kansas Natural Heritage Inventory

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

There are no public lands administered by the Bureau of Land Management that will be effected by the proposed abandonment. See Exhibit F, letter from the United States Department of the Interior, Bureau of Land Management, Moore, Oklahoma. There are no wildlife sanctuaries, refuges, state or federal parks affected by the proposed abandonment. See Exhibits G and H, letters from the State of Kansas Department of Wildlife and Parks, Topeka, Kansas

(9) Water: (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

If there are any impacts to bridges that during the activity may impede water in the stream, a permit from the Department of Agricultural-Division of

Water Resources may be required. See Exhibit I, letter from the Kansas Department of Health & Environment. BNSF does not anticipate any such impacts to bridges. The Kansas Department of Health and Environment has stated that the railroad should write a pollution control plan to address any potential water quality problems to which the action of rail abandonment may contribute. See Exhibit J, Agency Review Transmittal Form from the Kansas Department of Health and Environment, Division of Environment. Salvage contractors shall be made aware of this agency request in advance of salvage. If the proposed project includes the construction of the dam, or if it in any way changes or diminishes the course, current or cross section of a stream or watercourse in Kansas, the Burlington Northern and Santa Fe Railway Company may be required to obtain a permit and approval from the Chief Engineer prior to construction. See Exhibit K, letter from the State of Kansas Department of Agriculture. BNSF does not anticipate any such construction of a dam or alteration of a water course.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year floodplains will be affected. Describe the effects.

A Section 404 permit is not required. See Exhibit L, letter from the Army Corps of Engineers. Removal of the track rails should not have any effects on the 100 year floodplains. See Exhibit M, letter from the City of Wichita, Department of Public Works and See Exhibit N, letter from the Sedgwick County Public Works.

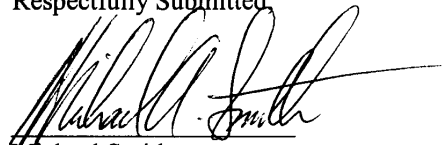
(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.

If construction activity exceeds five acres of soil surface disturbance, BNSF may need to submit a Notice of Intent form to be covered by the Kansas general permit for construction stormwater discharges. If construction is expected to continue beyond March 10, 2003 the need to submit a Notice of Intent form for construction stormwater discharge would be reduced to one acre. See Exhibit I, letter from the Kansas Department of Health and Environment.

(10) Proposed Mitigation: Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposes mitigation is appropriate.

Any salvage operations that may result will be in accordance with BNSF's general practice of requiring its private contractors to comply with all federal, state and local laws and regulations pertaining to the environment, including, but not limited to noise, air quality, water quality, and items of archaeological significance. Discontinuance of rail service in the area should mitigate adverse environmental impacts of continued operations.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Michael A. Smith", written over a horizontal line.

Michael Smith

Freeborn & Peters

311 S. Wacker Dr. Suite 3000

Chicago, Illinois 60606-6677

Phone: (312) 360-6724

Fax: (312) 360-6598

Date: February 11, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of The Burlington Northern and
Santa Fe Railway Company Notice of Exemption to
Abandon Its Line of Railroad Between M.P.
494.22 and 505.20 in and near Wichita
and M.P. 515.23 and M.P. 509.30 between
Wichita and Valley Center, Sedgwick County,
Kansas

Docket No. AB-6
(Sub No. 403X)

HISTORICAL REPORT

The following is submitted to the Surface Transportation Board by The
Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the
Board's reporting requirements set forth in 49 C.F.R. § 1105.8 for the purpose of assisting
the Board's environmental and historical assessment regarding BNSF's Notice of
Exemption to abandon its line of railroad between M.P. 494.22 and M.P. 505.20 all in or
near Wichita, Kansas and additionally between Wichita M.P. 509.30 and Valley Center
M.P. 515.23 Kansas, a total distance of 16.91 miles.

(1) A U.S.G.S. topographic map (or alternate map drawn to scale and sufficiently
detailed to show buildings and other structures in the vicinity of the proposed action)
showing the location of the proposed action, and the locations and approximate
dimensions of the railroad structures that are 50 years old or older and are part of the
proposed action;

One copy of a U.S.G.S. Topographical map has been provided to the Kansas
Historical Society and one copy is being provided to the Surface Transportation Board's
Section of the Environmental Analysis upon filing of this Report.

(2) A written description of the right-of-way (including approximate widths, to
the extent known) and the topography and urban and/or rural characteristics of the
surrounding area:

The 10.98 mile Wichita, KS Trackage is located in Sedgwick county, Kansas and the right of way goes from rural/suburban characteristics near the Sedgwick/Butler county line to the downtown area of Wichita, KS, a major Midwestern city. Wichita, Kansas has a population of 344,284 as listed in the 2002 Rand McNally atlas. The corridor is 100 feet wide with minimal station property and the right of way and adjacent property is generally flat.

The 5.93 Wichita to Valley center, KS line is located in Sedgwick county Kansas and the right of way is generally suburban/rural in nature. Valley Center has a population of 4,883 as listed in the 2002 Rand McNally atlas. This corridor is also 100 feet wide with minimal station property and the adjacent real estate is generally flat.

(3) Good quality photographs (actual photographic prints, not photocopies) or railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There no structures along the proposed abandonment that are 50 years old or older other than two bridges. Photographs of the bridges are attached in exhibit O.

(4) The date(s) of construction of the structures, and the date(s) and extent of any major alterations, to the extent such information is known;

Bridge 509.3 and bridge 509.4 were built in 1952. Bridge 503.91 and bridge 503.96 were built in 1977.

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

The right of way of the Wichita, KS Trackage as well as the right of way of the Wichita to Valley Center, KS line was acquired by the St Louis Wichita and Western Railway Company and the Kansas Midland Railway Company, both predecessors in

interest to the St Louis-San Francisco Railway Company (SLSF) from 1879 to 1887.

SLSF merged into the Burlington Northern Railroad Company (BN) in 1980. BN and The Atchison Topeka and Santa Fe Railway Company merged in 1995 to become The Burlington Northern and Santa Fe Railway Company (BNSF).

The Wichita, KS Trackage and the Wichita to Valley Center, KS line have both been out of service for several years.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is to be historic;

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archaeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

The Kansas State Historical Society states the proposed abandonment should have no affect of property listed on the National Register of Historical Places otherwise identified in their files as having historical significance. See Exhibit P, letter from the Kansas State Historical Society.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

BNSF is not aware of any known prior subsurface ground disturbance or fill or any other environmental conditions (naturally occurring or man-made) that might affect the recovery of archaeological resources.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. Smith", with a long horizontal flourish extending to the right.

Michael Smith

Freeborn & Peters

311 S. Wacker Dr. Suite 3000

Chicago, Illinois 60606-6677

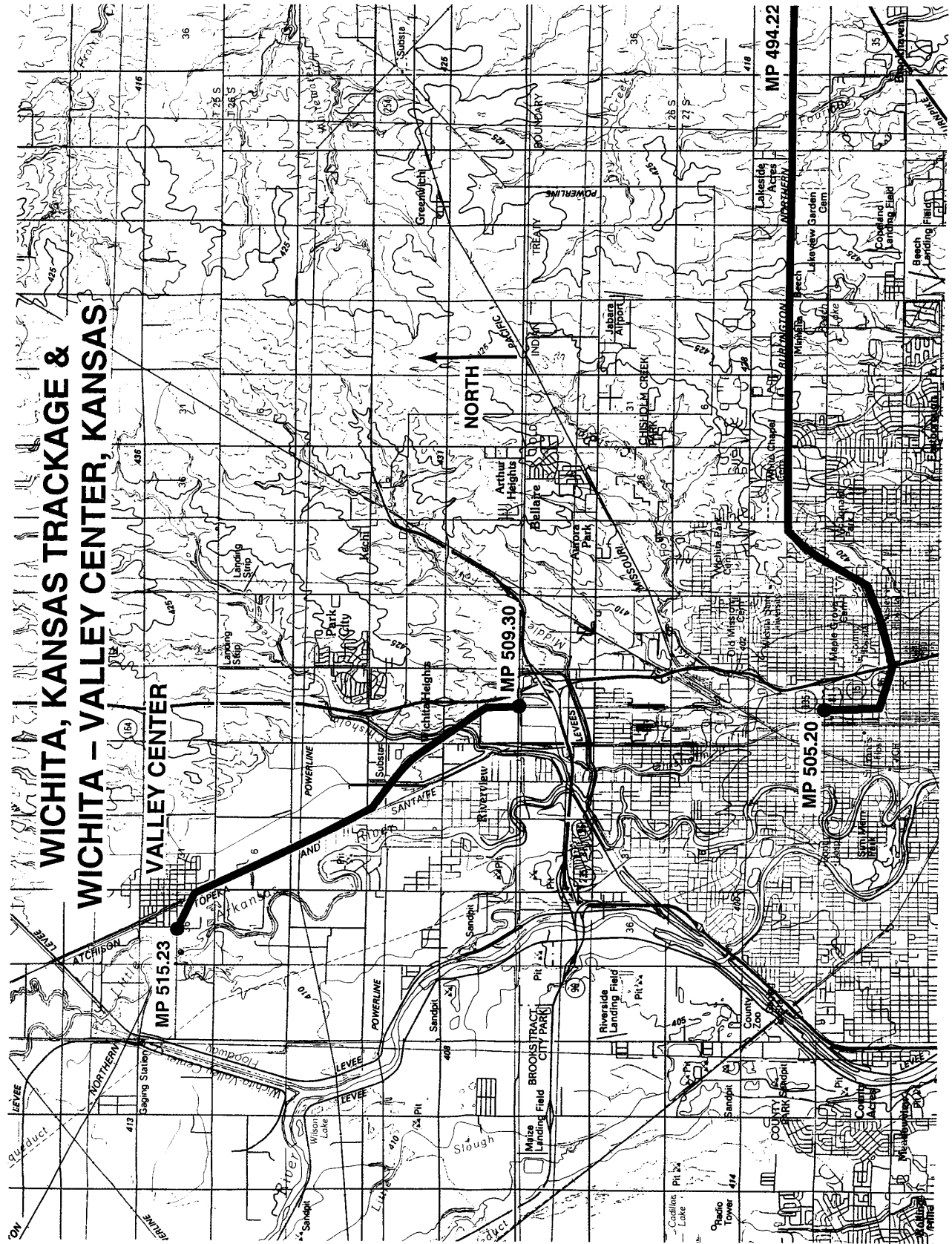
Phone: (312) 360-6724

Fax: (312) 360-6598

Date: February 11, 2003

A

WICHITA, KANSAS TRACKAGE & WICHITA - VALLEY CENTER



B



Wichita-Sedgwick County Metropolitan Area Planning Department

December 8, 2000

Mr., John A. Sims
The Burlington Northern and Santa Fe Railway
2500 Lou Menk Drive
P.O. Box 961039
Fort Worth, TX 76161-0039

Dear Mr. Sims:

Thank you for the opportunity to respond to BNSF's proposal for abandonment in Sedgwick County, Kansas. We are aware that these two railroad lines have not been used for a few years, and have anticipated a notice of abandonment.

The Wichita-Sedgwick County's Park and Open Space Master Plan is an element of the community's Comprehensive Plan. A specific goal in this Plan is to establish a network of linear parks and recreational corridors, and one of the stated strategies is to monitor the availability of railroad right-of-way and utility corridors and, when feasible, aggressively pursue the acquisition of such corridors for recreation.

Regarding the Wichita-Valley Center railroad line, it is not presently designated as a "greenway" in the Park and Open Space Plan. However, the Metropolitan Area Planning Department is aware that the cities of Park City and Valley Center are considering the railbanking alternative. The railway line from East Wichita to the Sedgwick-Butler County line is designated as a proposed "greenway," and the Planning Department is in the process of engaging a consultant to prepare plans for "interim trail use" that will help the community to decide whether to pursue this option.

Based on our review of the Comprehensive Plan and local land use developments, we find that the proposed action for abandonment is consistent with the Plan.

We look forward to working with you through this interim trail use process.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Mehta', written over a horizontal line.

Jamsheed Mehta, AICP
Chief Planner
Transportation Division

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 F 316.268.4390

www.wichitagov.org

C



**United States Department of Agriculture
Natural Resources Conservation Service**

**760 South Broadway
Salina, KS 67401-4642**

Phone: 785-823-4500
FAX: 785-823-4540

December 5, 2000

Mr. John A. Sims
Certified Legal Assistant
The Burlington Northern and Santa Fe Railway
P.O. Box 961039
Fort Worth, Texas 76161-0039

Dear Mr. Sims:

Thank you for the opportunity to review the proposed plans of the Burlington Northern and Santa Fe Railway Company to abandon approximately 16.91 miles of railroad located in Sedgwick County, Kansas.

The proposed project should have no effect on prime farmland. There are no other negative effects for which the Natural Resources Conservation Service is responsible for evaluating as defined by the Farmland Protection Policy Act.

If I can be of further assistance, please let me know.

Sincerely,


TOMAS M. DOMINGUEZ
State Conservationist

cc:
Jesse F. Crockford, Assistant State Conservationist, NRCS, Hutchinson, Kansas
Robert K. Stutzman, District Conservationist, NRCS, Wichita, Kansas
Susan Erienwein, Conservation District Manager, Sedgwick County CD, Wichita, Kansas

D



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Kansas Field Office
315 Houston Street, Suite E
Manhattan, Kansas 66502-6172

November 30, 2000

John A. Sims
Certified Legal Assistant
Burlington Northern and Santa Fe Railway Company
2500 Lou Menk Drive, P.O. Box 961039
Fort Worth, Texas 76161-0039

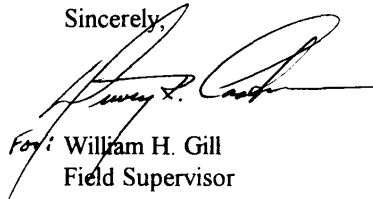
Dear Mr. Sims:

This responds to your letter of November 15, 2000 describing a proposed abandonment of 16.91 miles of existing railway line between Wichita and Valley Center, in Sedgwick County, Kansas. In response to your specific inquiry, and in accordance with section 7(c) of the Endangered Species Act (16 U.S.C. 1531 et seq.), we have determined that the following federally-listed threatened or endangered species may occur in the vicinity of the Arkansas River, adjacent to the rail line in question: bald eagle (*Haliaeetus leucocephalus*), least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), and whooping crane (*Grus americana*). However, if this action is simply a line abandonment, it appears likely that there should be no adverse impacts to fish and wildlife resources, including threatened and endangered species. Therefore, the U.S. Fish and Wildlife Service has no objection to your proposal as planned.

The Service encourages the BNSF Railway Company to keep the right-of-way in a natural condition for the benefit of native wildlife, plants, and the public. You may wish to contact Mary Mae Hardt, National Park Service, Omaha, Nebraska (402) 221-3350, for more information on the "Rails to Trails" Program. You may also wish to contact the Kansas Department of Wildlife and Parks in Pratt, Kansas (316-672-5911) to determine their interest in acquiring a nature trail.

Thank you for this opportunity to comment on your proposal.

Sincerely,



For: William H. Gill
Field Supervisor

cc: KDWP, Pratt, KS (Environmental Services)

This is your future. Don't leave it blank. -- Support the 2000 Census.

E

The University of Kansas

Kansas Biological Survey

November 29, 2000

John A. Sims
The Burlington Northern and Santa Fe Railway
2500 Lou Menk Drive
P.O. Box 961039
Fort Worth, TX 76161-0039

Dear Mr. Sims:

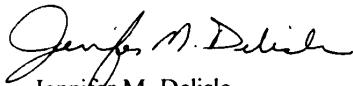
This letter is in response to your request for information on the potential effects of the abandonment of 16.91 miles of railroad line near Wichita, Kansas.

Our database contains no records of endangered or threatened species in the vicinity of the project although no surveys for such species have been conducted in the area. The Arkansas River as it runs through Wichita is designated as critical habitat for the speckled chub (*Macrhybopsis aestivalis*) and the Arkansas River shiner (*Notropis girardi*).

The Kansas Natural Heritage Inventory does not have regulatory authority for rare or endangered species in Kansas. The Kansas Department of Wildlife and Parks (in Pratt: 316-672-5911) administers regulations pertaining to state listed threatened and endangered species and the U. S. Fish and Wildlife Service (in Manhattan: 785-539-3474) has regulatory authority for federally listed species.

Please feel free to call at 785-864-7639 if you additional questions or concerns.

Sincerely,



Jennifer M. Delisle
Information Manager
Kansas Natural Heritage Inventory

F



IN REPLY REFER TO

2000 (04410)

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

MOORE FIELD STATION
221 N. Service Road
Moore, Oklahoma 73160-4946
<http://www.nm.blm.gov>

November 21, 2000

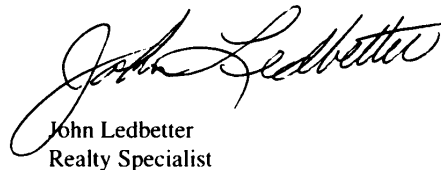
Mr. John A. Sims
Burlington Northern and Santa Fe Railway Company
P.O. Box 961039
Fort Worth, TX 76161-0039

Dear Mr. Sims:

Thank you for the opportunity for input concerning the planned abandonment of 16.91 miles of railroad line between Milepost 505.20 and Milepost 494.22 all in or near Wichita, Kansas and additionally between Wichita (Milepost 509.30) and Valley Center (Milepost 515.23), Kansas. Your letter indicated you were seeking information as to "whether or not there are any wildlife sanctuaries or refuges, National or State parks or forests in the proposed project impact area." The Bureau of Land Management (BLM) is responsible for the management of public lands. Public lands are defined as any land or interest in land owned by the United States administered by the Secretary of the Interior through the BLM. There are no public lands within or near the subject area and therefore, we have no substantive comments pertaining to the planned abandonment at this time. However, jurisdiction for wildlife sanctuaries, wildlife refuges, National or State parks, and forests would be with agencies other than the BLM. The proper agencies to respond to your specific needs would include the U.S. Fish and Wildlife Service for any units of the national wildlife refuge system, the National Park Service for national parks, the U.S. Forest Service for national forests and grasslands, Kansas Department of Wildlife and Parks and other State of Kansas agencies for state wildlife sanctuaries or refuges, state parks, and state forests.

If you have addition questions or concerns pertaining to the planned abandonment, please feel free to contact me at the letterhead address or by phone at (405) 794-9624, ext. 1014.

Sincerely,



John Ledbetter
Realty Specialist

G



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Operations Office
512 SE 25th Avenue
Pratt, KS 67124-8174
316/672-5911 FAX 316/672-6020



November 28, 2000

Mr. John A. Sims
The Burlington Northern and Santa Fe Railway
P.O. Box 961039
Fort Worth, TX 76161-0039

Ref: D2.0401A
Sedgwick
BNSF RR Abandonment
Track: 20000697

Dear Mr. Sims:

We have reviewed the Burlington Northern and Santa Fe Railway Company (BNSF) map submitted, showing the nearly 17 miles of railroad line proposed for abandonment in Sedgwick County. The project was reviewed for potential impacts on crucial wildlife habitats, current state-listed threatened and endangered species and species in need of conservation, and public recreation areas for which this agency has some administrative authority.

As long as project activity remains within the existing BNSF right-of-way, none of the cited resources should be impacted. We recommend reseeded any vegetation impacted by project activities to native grasses and forbs; and implementing erosion control BMP's, as needed, throughout the project area.

Results of our review indicate there will be no significant impacts to crucial wildlife habitats; therefore, no special mitigation measures are recommended. The project will not impact any public recreational areas, nor could we document any potential impacts to currently listed threatened or endangered species or species in need of conservation. No Department of Wildlife and Parks permits or special authorizations will be needed if construction is started within one year, and no design changes are made in the project plans. Since the Department's recreational land obligations and the State's species listings periodically change, if construction has not started within one year of this date, or if design changes are made in the project plans, the project sponsor must contact this office to verify continued applicability of this assessment report. For our purposes, we consider construction started when advertisements for bids are distributed.

Sincerely,

Jim Hays, Terrestrial Ecologist
Environmental Services Section

JFH:md

xc: Region 4, Sorensen

H



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612-1233
785/296-2281 FAX 785/296-6953



November 20, 2000

John A. Sims
Certified Legal Assistant
The Burlington Northern and Santa Fe Railway
P.O. Box 961039
Fort Worth, TX 76161-0039

Re: Proposed Abandonments in and near Wichita, Kansas
Milepost 505.20 to Milepost 494.22
Milepost 509.30 to Milepost 515.23

Dear Mr. Sims:

In response to your letter dated November 15, 2000, concerning proposed abandonment of the two section of railroad line described above, our agency offers the following comments in response to your specific requests for information.

The nearest state park to the proposed abandonments would be El Dorado State Park in Butler County, Kansas, which is approximately 20 miles east of the easternmost point of the proposed abandonments. We are not aware of any other state or federal parks within that distance. In addition, we have no direct knowledge of the suitability of the rights-of-way for alternative use as public recreational trail. Our agency would have no intention of applying for railbanking status, however, and consequently we do not expect to have any further information to offer regarding the proposed abandonments. We do not know whether any other local or federal governmental entity would have further comment along these lines.

We trust this information meets your needs and requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Clinton Riley".

Clinton Riley
Department Legal Counsel

I



KANSAS

DEPARTMENT OF HEALTH & ENVIRONMENT

BILL GRAVES, GOVERNOR

Clyde D. Graeber, Secretary

February 15, 2002

Mr. Bryan Nettles
Freeborn & Peters
311 S. Wacker Dr., Ste. 3000
Chicago, IL 60606

Re: Burlington Northern & Santa Fe Railway Co.
Abandonment of the Following Lines:
Ottawa, KS Trackage
Trackage between Columbus, KS and Carthage, MO
Trackage between Wichita and Valley Center

Dear Mr. Nettles:

This Department is in receipt of individual letters for the above three referenced railway trackage abandonments and a request of the information as to whether a section 402 and/or an NPDES permit are required as a result of the proposed abandonment. From the information provided this Department can only indicated that if construction activities for each abandonment exceeds five acres of soil surface disturbance the project will need to submit a Notice of Intent form to be covered by the Kansas general permit for construction stormwater discharges. If construction is expected to continue beyond March 10, 2003 the need to submit a Notice of Intent form for construction stormwater discharge would be reduced to one acre.

Information on the Kansas Notice of Intent form and general permit for construction stormwater discharges can be located at the website at the following address: <http://www.kdhe.state.ks.us/stormwater>.

If there any impacts to bridges that during the activity may impede water in the stream you may need to obtain a permit from the Department of Agricultural-Division of Water Resources for the stream crossings.

If you have any additional questions, please contact this office.

Sincerely,

Joe Mester, P.E.
Chief, Industrial Unit
Bureau of Water

dg

J

AGENCY REVIEW TRANSMITTAL FORM

Comments by

Transmittal Date

This form provides notification and the opportunity for your agency to review and comment on this proposed project as required by Executive Order 12372. Review Agency, please complete Parts II and III as appropriate and return to contact person listed below. Your prompt response will be appreciated.

RETURN TO: Mr. John Sims
BNSF
2500 Lou Menk Drive
P.O. Box 961039
Fort Worth, TX 76161-0039

PART I REVIEW AGENCIES/COMMISSIONS

☐ Aging	☐ Education	☐ State Forester
☐ Agriculture-DWR	☐ Geological Survey, KS	☐ Transportation
☐ Biological Survey, KS	☒ Health & Environment	☐ Water Office, KS
☐ Conservation Commission	☐ Historical Society	☐ Wildlife & Parks
☐ Corporation Commission	☐ Social & Rehabilitation Services	
☐ Commerce		

PART II AGENCY REVIEW COMMENTS

COMMENTS: (Attach additional sheet if necessary) Mr. Bill Bider offers this comment. KDHE requires proper disposal of all removed railroad ties at a permitted Solid Waste landfill unless the removal contractor or owner of the ties can demonstrate that the ties will be reused within a reasonable time frame.

Please see Ms. Judy Scherff, Bureau of Water comments.

PART III RECOMMENDED ACTION COMMENTS

☐ Clearance of the project should be granted.	☐ Clearance of the project should not be delayed but the Applicant should (in the final application) address and clarify the questions or concerns indicated above.
☐ Clearance of the project should not be granted.	
☐ Clearance of the project should be delayed until the issues or questions above have been clarified.	☐ Request the opportunity to review final application prior to submission to the federal funding agency.
☐ Request a State Process Recommendation in concurrence with the above comments.	

DEVISIONS/AGENCY/COMMISSION

Reviewer's Name

Ronald H. Hunsicker

Date: December 6, 2000

Organization: Kansas Department of Health & Environment
Division of Environment

AGENCY REVIEW TRANSMITTAL FORM

Comments by: Nonpoint Source Section
Bureau of Water6 December 2000
Transmittal Date

This form provides notification and the opportunity for your agency to review and comment on this proposed project as required by Executive Order 12372. Review Agency, please complete Parts II and III as appropriate and return to contact person listed below. Your prompt response will be appreciated.

RETURN TO:

PART I REVIEW AGENCIES/COMMISSIONS

☐ Aging	☐ Education	☐ State Forester
☐ Agriculture-DWR	☐ Geological Survey, KS	☐ Transportation
☐ Biological Survey, KS	☒ Health & Environment	☐ Water Office, KS
☐ Conservation Commission	☐ Historical Society	☐ Wildlife & Parks
☐ Corporation Commission	☐ Social & Rehabilitation Services	
☐ Commerce		

PART II AGENCY REVIEW COMMENTS

COMMENTS: (Attach additional sheet is necessary)

The railroad should write a pollution control plan to address any potential water quality problems to which the action of rail abandonment may contribute.

PART III RECOMMENDED ACTION COMMENTS

☐ Clearance of the project should be granted.	☒ Clearance of the project should not be delayed but the Applicant should (in the final application) address and clarify the questions or concerns indicated above.
☐ Clearance of the project should not be granted.	
☐ Clearance of the project should be delayed until the issues or questions above have been clarified.	☐ Request the opportunity to review final application prior to submission to the federal funding agency.
☐ Request a State Process Recommendation in concurrence with the above comments.	

DIVISIONS/AGENCY/COMMISSION

Reviewer's Name: Judy ScherffDate: 6 December 2000

Organization: Kansas Department of Health & Environment
Division of Environment

K

STATE OF KANSAS

BILL GRAVES, GOVERNOR
Jamie Clover Adams, Secretary of Agriculture
109 SW 9th Street
Topeka, Kansas 66612-1280
(785) 296-3555
FAX: (785) 296-8389



Division of Water Resources
David L. Pope, Chief Engineer
109 SW 9th Street, 2nd Floor
Topeka, KS 66612-1283
(785) 296-3717 FAX (785) 296-1176

KANSAS DEPARTMENT OF AGRICULTURE

December 7, 2000

Mr. John A Sims
The Burlington Northern and
Santa Fe Railway
2500 Lou Menk Drive
PO Box 961039
Forth Worth, Texas 76161-0039

RE: DWR A-95 2000.406

Dear Mr. Sims:

This will acknowledge receipt of your letter and attachments dated November 15, 2000 regarding your plans to file an exemption to abandon a total of 16.91 miles of railroad line in or near Wichita, Sedgwick County, Kansas.

If the proposed project includes the construction of a dam, or if it in any way changes or diminishes the course, current or cross section of a stream or watercourse in this state, it is subject to the provisions of K.S.A. 82a-301 to 305a, which requires the issuance of a permit and approved by the Chief Engineer prior to construction.

If you have questions regarding water structures, please contact Dennis Lawlor at (785) 296-5440.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Robert F. Lytle, Jr.", written in dark ink.

Robert F. Lytle, Jr.
Environmental Scientist
Technical Services Section

RFL:drc

pc: Bruce Falk, Water Commissioner, Stafford Field Office

L



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
STATE REGULATORY PROGRAM OFFICE - KANSAS
2710 N.E. SHADY CREEK ACCESS ROAD
EL DORADO, KANSAS 67042

REPLY TO
ATTENTION OF:

November 28, 2000

Kansas State Regulatory Office
(200100289)
(Sedgwick, KS, NPR)

Mr. John A. Sims
Burlington Northern Santa Fe Railway
P. O. Box 961039
Fort Worth, Texas 76161-0039

Dear Mr. Sims:

This is in response to your letter received on November 20, 2000, requesting a Department of the Army (DA) permit determination concerning the abandonment of two segments of railroad line. Site one originates in Section 36, Township 25 south, Range 1 west and extends 5.93 miles to Section 21, Township 26 south, Range 1 east. Site two originates in Section 16, Township 26 south, Range 1 east and extends 10.98 miles to Section 12, Township 27 south, Range 2 east. The entire project is located in Sedgwick County, Kansas.

The Corps of Engineers has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act (33 USC 1344). The implementing regulation for this Act is found at 33 CFR 320-330.

We have reviewed the information furnished and have determined that the proposed activity will not involve the discharge of dredged or fill material in waters of the United States. Therefore, Department of the Army permit authorization is not required. Other Federal, state and/or local permits may be required, however, and you should verify this yourself.

Ms. Shannon J. Warner, Regulatory Specialist, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact Ms. Warner at 316-322-8247 (FAX 316-322-8259).

Copies Furnished:

Environmental Protection Agency,
Water Resources Protection Branch
Kansas Department of Wildlife and Parks
Kansas Department of Agriculture
Kansas Department of Health and Environment

M



Department of Public Works

February 28, 2002

Freeborn & Peters
Attorneys at Law
Attn: Brian Nettles
Litigation Clerk
311 South Wacker Drive
Suite 3000
Chicago, Illinois 60606-6677

Re: The Burlington Northern and Santa Fe Railway Company Abandonment
Of Wichita, Kansas Trackage and between Wichita and Valley Center,
Kansas

Dear Mr. Nettles,

I have looked at the flood maps of the area between Wichita (Milepost 509.30) and Valley Center (Milepost 515.23) that you requested information on. To the best of my knowledge, I see no reason that removing the track rails and ties would have any affect on the 100 year floodplain. The only problem I foresee is if the Burlington Northern and Santa Fe Railway Company would remove any of the track roadbed material that would lower the existing elevations. It is possible that the areas where the roadbed would be removed would need to be studied in the future to make sure that the 100 year floodplain would not expand and inundate property that is currently protected by the roadbed.

I am sending you copies of the floodplain map of the area you requested for you use. If you have any questions please feel free to contact me.

Sincerely,

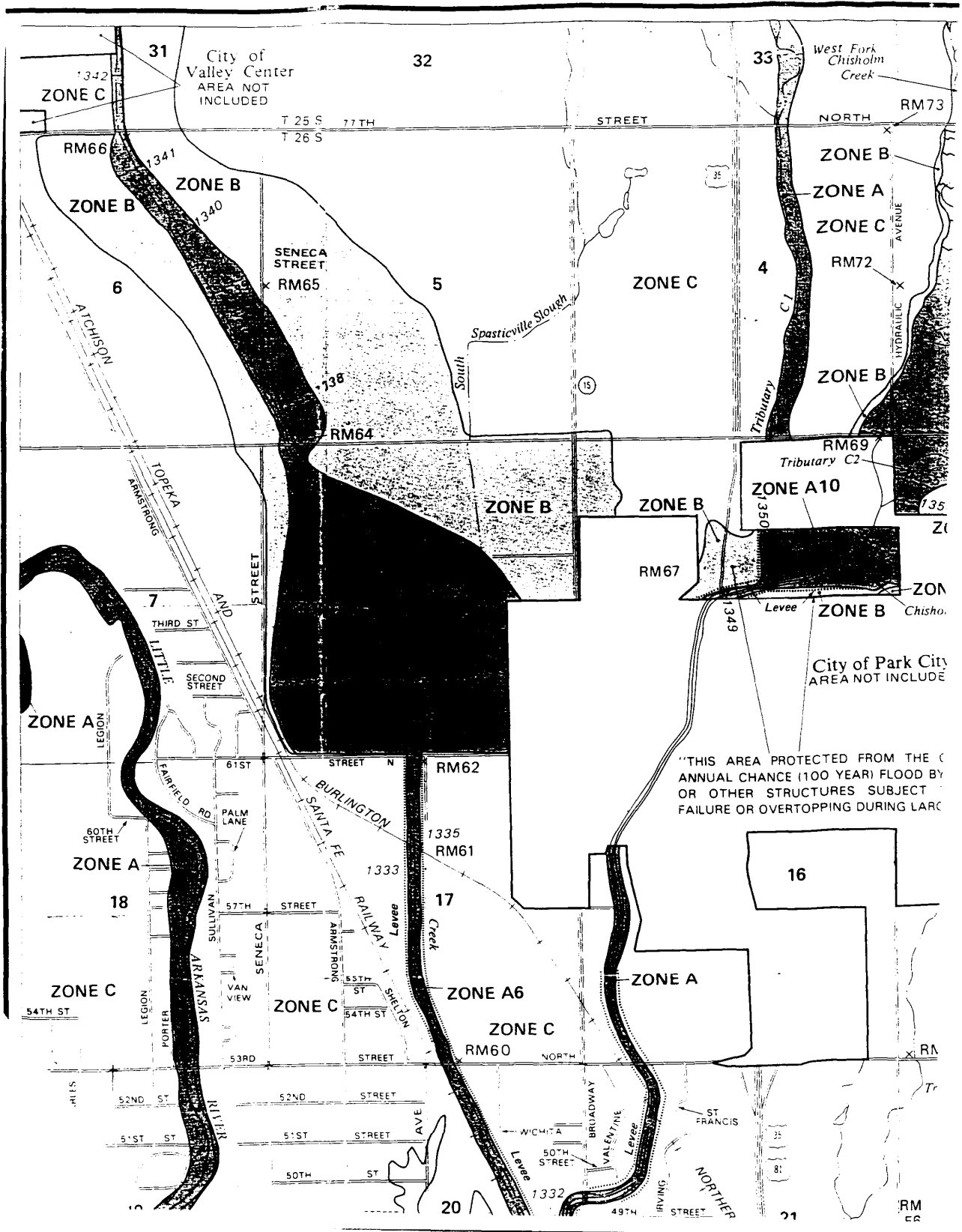
Shawn R. Bryan, E.I.
Storm Water Management

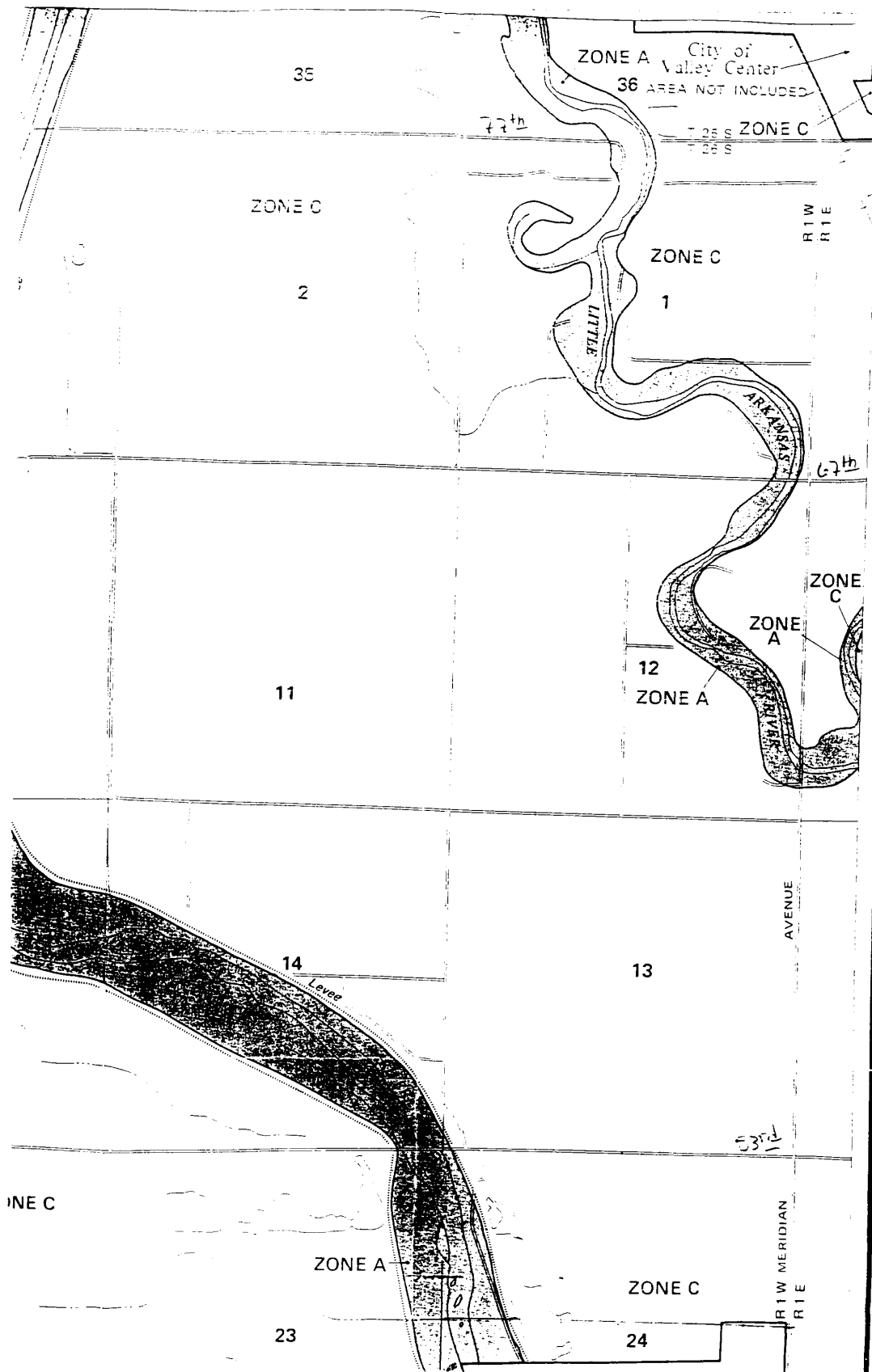
Enclosures

Storm Water Management Division

City Hall • 8th Floor • 455 N. Main • Wichita, Kansas 67202

T 316.268.4498





500-Year Flood Bound
100-Year Flood Bound
Zone Designations*

100-Year Flood Bound
500-Year Flood Bound
Base Flood Elevation
With Elevation In Feet
Base Flood Elevation
Where Uniform Within
Elevation Reference M
Zone D Boundary
River Mile

**Referenced to the N

*EXPLANATION

ZONE	
A	Areas of flood hazard
A0	Areas of are between of inundation are determined
AH	Areas of are between elevations are determined
A1-A30	Areas of flood hazard
A99	Areas of protection elevations
B	Areas between year flood; ing with ave the contrib mile; or are. (Medium sh.
C	Areas of mir
D	Areas of ur
V	Areas of 10 action); base not determin
V1-V30	Areas of 10 action); base determined.

Certain areas not in the
may be protected by flood
This map is for flood in
sailly show all areas su
all planimetric features o
For adjoining map pane

INITIAL

FLOOD HAZARD

N



**SEDGWICK COUNTY
PUBLIC WORKS**

1144 S. SENECA
WICHITA, KANSAS 67213-4443
(316) 383-7901
FAX: (316) 263-9241

David C. Spears, P.E.
Director County Engineer

Freeborn and Peters
311 South Wacker Drive, Suite 3000
Chicago, Illinois 60606-6677

Attn: Brian Nettles

Re: Burlington Northern and Santa Fe Railroad track abandonment

Dear Mr. Nettles:

Enclosed please find the copies of the floodplain maps that you requested covering the 16.91 miles of track between Milepost 509.30 and Milepost 515.23.

There are no mapped floodplains covering this area.

If you should have any questions, please feel free to contact me at (316) 660-3063 or by email at rlgeorge@sedgwick.gov.

Sincerely,

Robert George, CFM
Floodplain Management Technician

Enc

Cc: Paul Taylor, Director
Jim Weber
File

NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP

**SEDGWICK
COUNTY,
KANSAS**
(UNINCORPORATED AREAS)

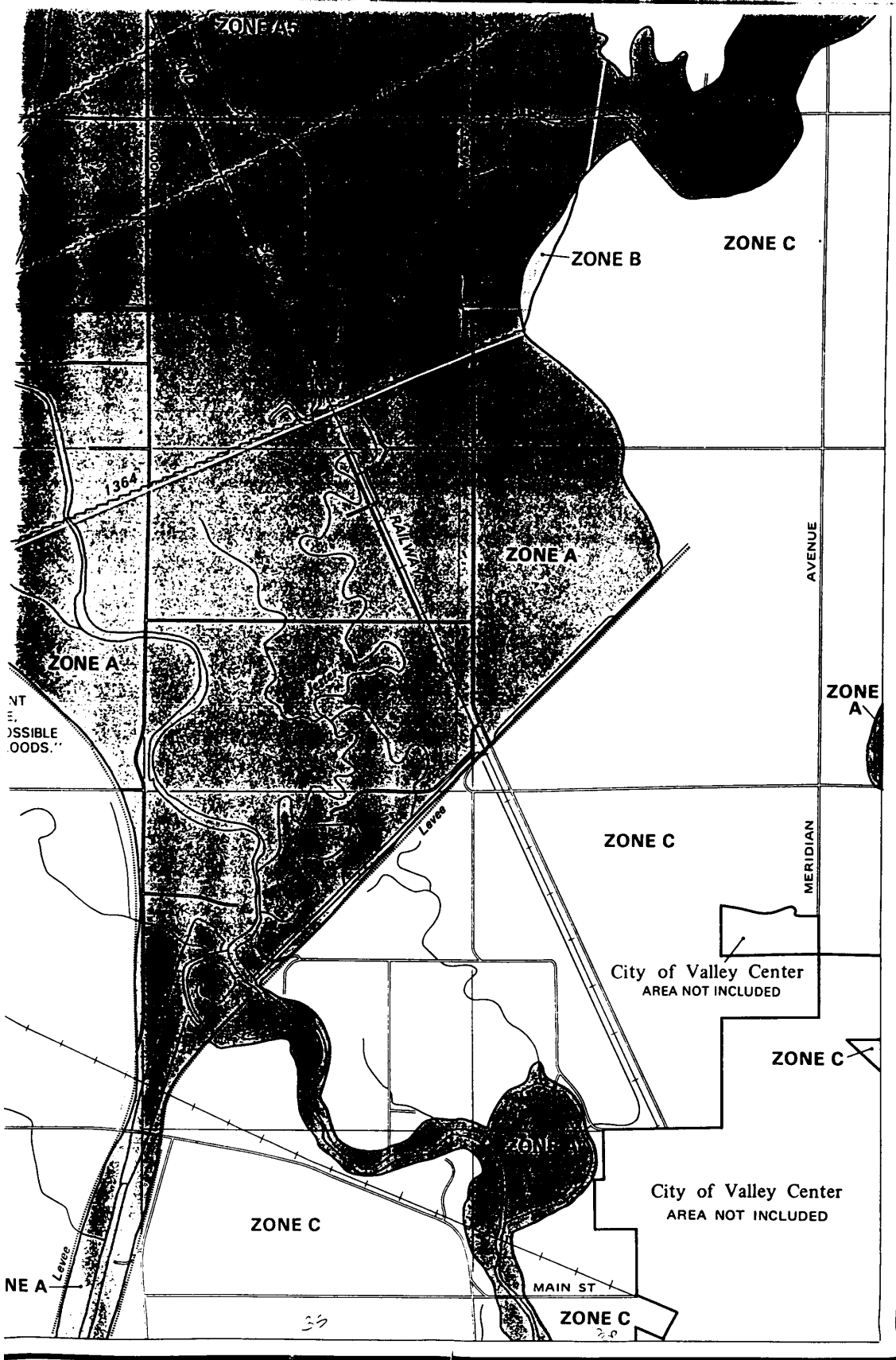
PANEL 50 OF 300

COMMUNITY-PANEL NUMBER
200321 0050 A

EFFECTIVE DATE:
JUNE 3, 1986



Federal Emergency Management Agency



To
co
Pr

NATIONAL FLOOD INSURANCE PROGRAM

FIRM

FLOOD INSURANCE RATE MAP

**SEDGWICK,
COUNTY,
KANSAS**
(UNINCORPORATED AREAS)

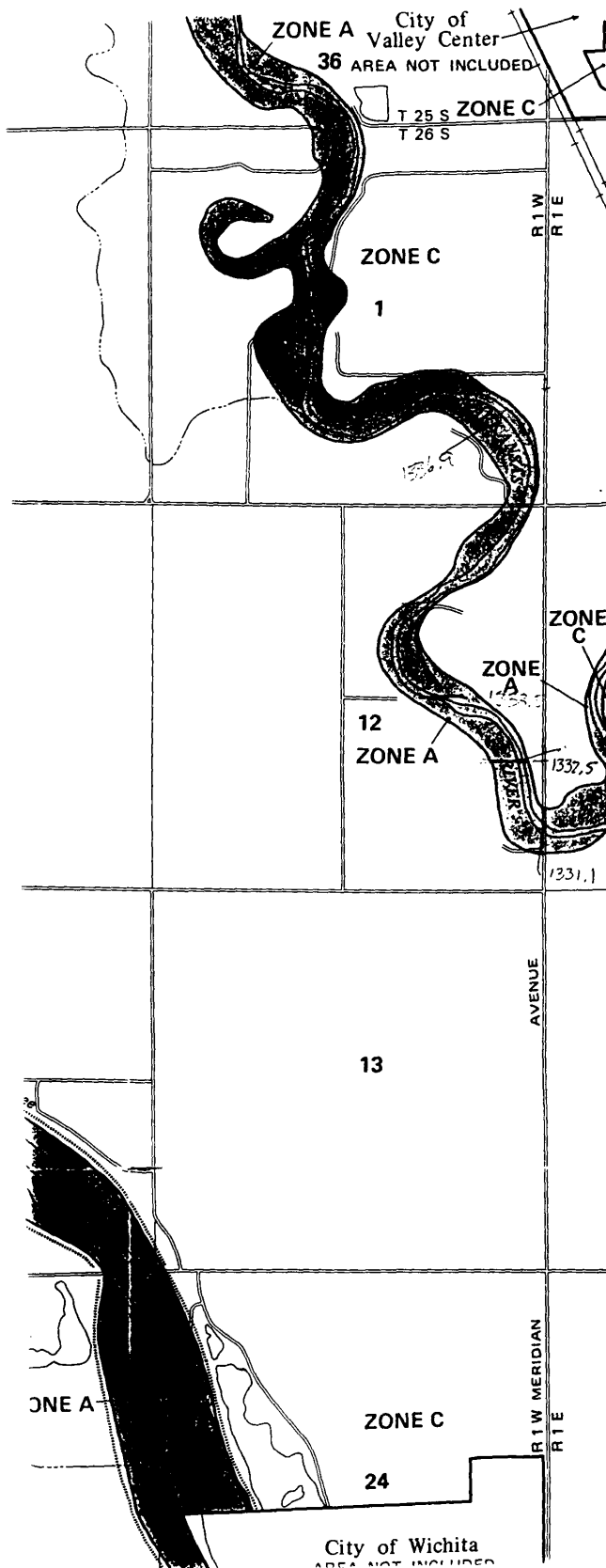
PANEL 125 OF 300

COMMUNITY-PANEL NUMBER
200321 0125

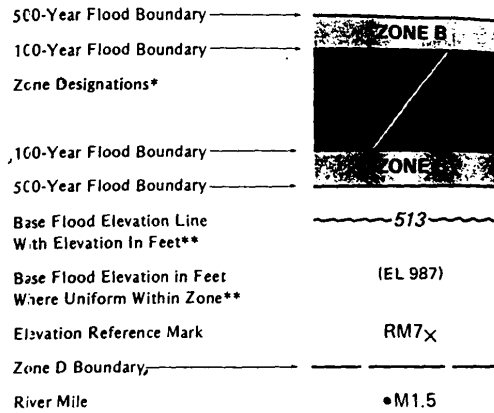
EFFECTIVE
JUNE



Federal Emergency Mar



KEY TO MAP



**Referenced to the National Geodetic Vertical Datum of 1929

*EXPLANATION OF ZONE DESIGNATIONS

ZONE	EXPLANATION
A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
A0	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined.
AH	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors are determined.
A1-A30	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
A99	Areas of 100-year flood to be protected by flood protection system under construction; base flood elevations and flood hazard factors not determined.
B	Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood. (Medium shading)
C	Areas of minimal flooding. (No shading)
D	Areas of undetermined, but possible, flood hazards.
V	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.
V1-V30	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined.

NOTES TO USER

Areas not in the special flood hazard areas (zones A and V) may be protected by flood control structures.

This map is for flood insurance purposes only; it does not necessarily show all areas subject to flooding in the community or all planimetric features outside special flood hazard areas.

For adjoining map panels, see separately printed Map Index.

INITIAL IDENTIFICATION:

AUGUST 2, 1974

FLOOD HAZARD BOUNDARY MAP REVISIONS:

NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP

**SEDGWICK
COUNTY,
KANSAS**
(UNINCORPORATED AREAS)

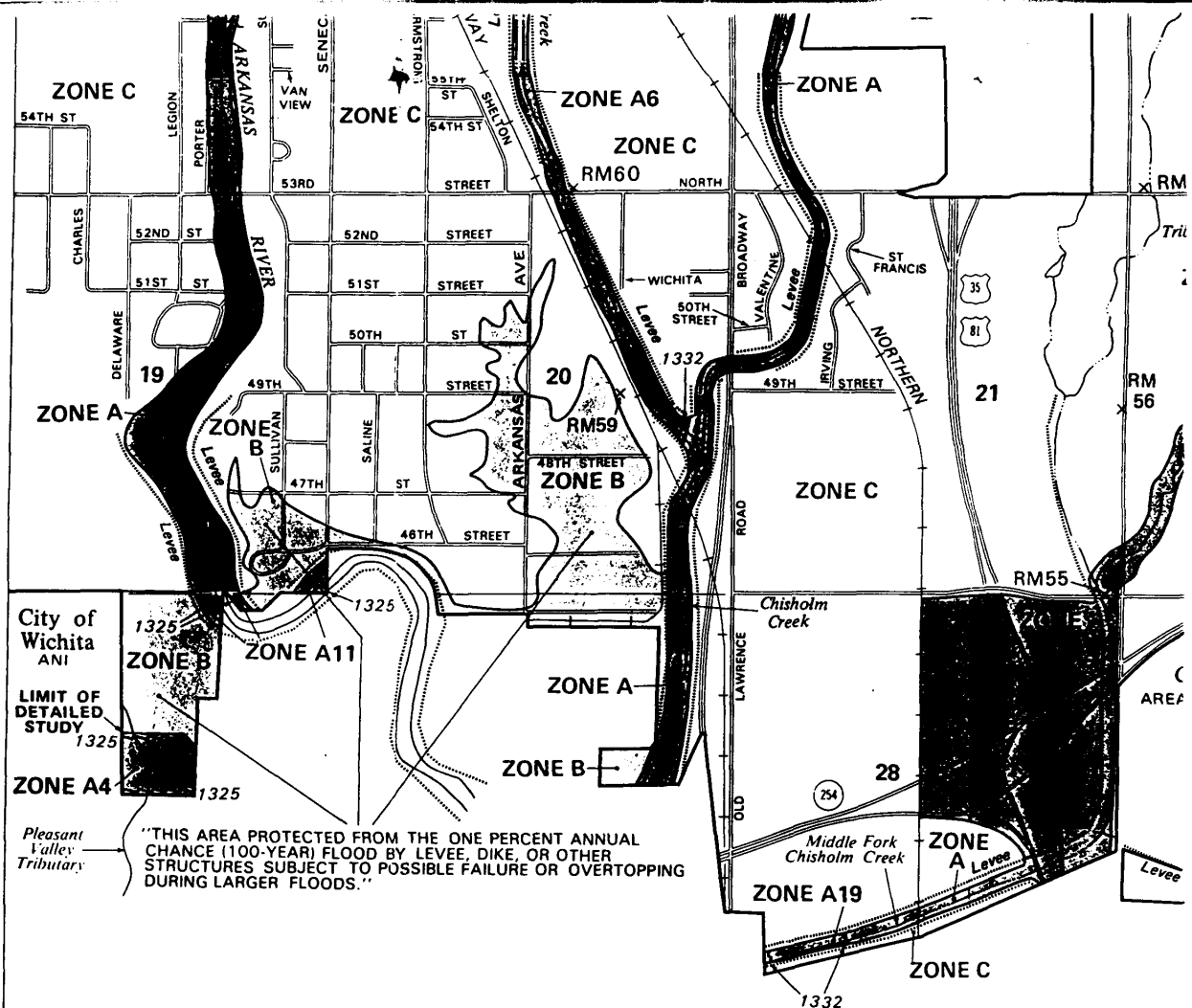
PANEL 150 OF 300

COMMUNITY-PANEL NUMBER
200321 0150 A

EFFECTIVE DATE:
JUNE 3, 1986



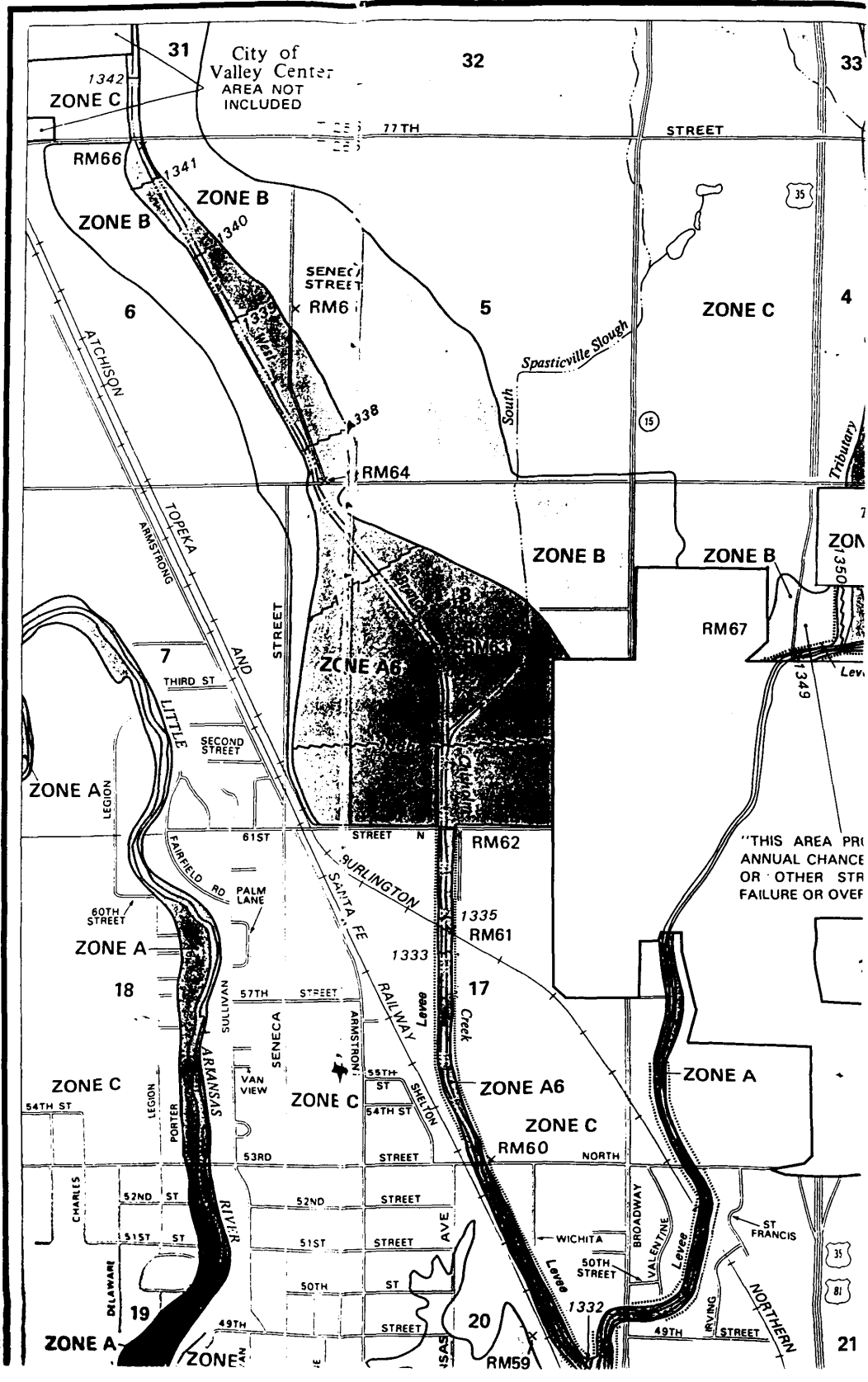
Federal Emergency Management Agency



City of Wichita
AREA NOT INCLUDED

ELEVATION REFERENCE MARKS

REFERENCE MARKS	ELEVATION FEET (NGVD)	DESCRIPTION OF LOCATION
RM 21	1317.20	Top of iron in thimble at the northwest corner of intersection at Central Avenue and East.
RM 22	1334.59	A chiseled square in the curb of the north radius of the island in the middle of the Court about 1,400 feet south of 13th Street North.
RM 23	1347.81	A chiseled square in east abutment on north side of the Burlington Northern Railroad bridge over Creek.



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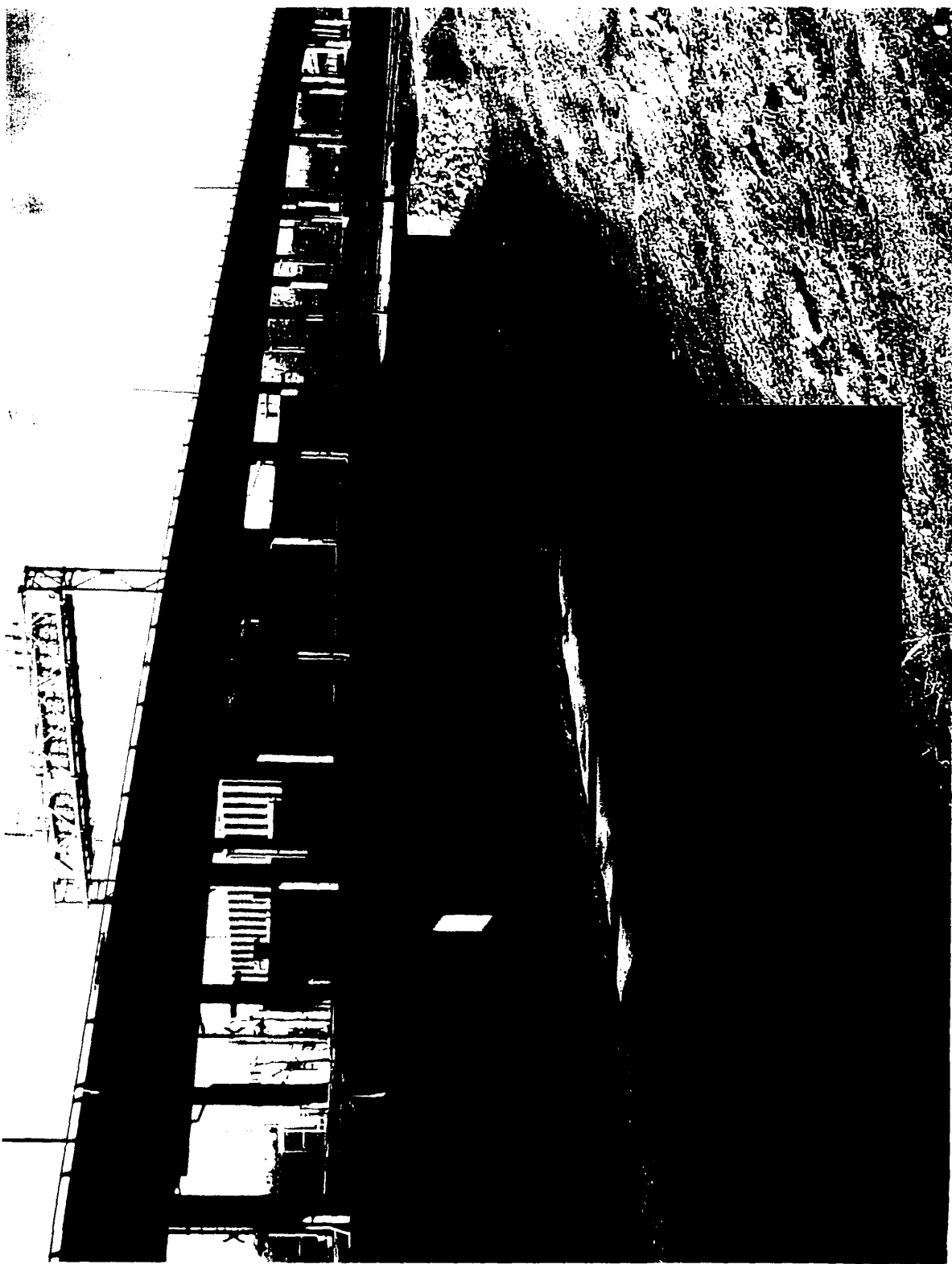












P



**KANSAS
STATE
HISTORICAL
SOCIETY**

◆
Cultural Resources Division
Extension 240

◆
6425 S.W. 6th Avenue
Topeka, Kansas
66615-1099
PHONE# (785) 272-8681
FAX# (785) 272-8682
TTY# (785) 272-8683

◆
KANSAS HISTORY CENTER

Administration
Center for Historical Research
Cultural Resources
Education / Outreach
Historic Sites
Kansas Museum of History
Library & Archives

HISTORIC SITES

Adair Cabin
Constitution Hall
Cottonwood Ranch
First Territorial Capitol
Fort Hays
Goodnow House
Grinter Place
Hollenberg Station
Kaw Mission
Marais des Cygnes Massacre
Mine Creek Battlefield
Native American Heritage Museum
Pawnee Indian Village
Pawnee Rock
Shawnee Mission

May 25, 2001

Brian Nettles
Paralegal
Freeborn & Peters
311 S Wacker Dr Suite 3000
Chicago IL 60606-6677

Re: Abandon Burlington Northern and Santa Fe Trackage Between Wichita and
Valley Center
Sedgwick County

Dear Mr. Nettles:

We have reviewed the project identified above and have determined that it should not affect any property listed on the National Register of Historic Places or otherwise identified in our files as having historical significance. This office has no objection to implementation of the project.

Sincerely yours,

Ramon Powers
State Historic Preservation Officer

Richard Pankratz, Director
Historic Preservation Office

clg