UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8 1595 Wynkoop Street; Denver, CO 80202-1129

PUBLIC NOTICE AND OPPORTUNITY TO COMMENT ON CLEAN WATER ACT SETTLEMENT

Action: EPA is providing notice of a Consent Agreement with penalty assessment and the opportunity for public comment on the proposed administrative penalty assessment against Burlington Northern Santa Fe Railway Company (BNSF) for alleged Clean Water Act violations associated with a discharge of oil into the North Platte River near Guernsey, Wyoming.

Summary: EPA is authorized in Class II proceedings under Section 311(b)(6) of the Clean Water Act (Act), 33 U.S.C. § 1321(b)(6), to issue orders assessing civil penalties for violations of the Act and its implementing regulations, after providing the person subject to the penalty notice an opportunity for a hearing, and after providing the public with notice of the proposed penalty, and the opportunity to submit written comments and to participate in a Class II penalty proceeding (hearing), if any. The deadline for submitting public comment is thirty (30) calendar days after issuance of this notice.

On March 18, 2021, EPA filed a Consent Agreement pursuant to Section 311(b)(6)(B)(ii) of the Act. Pursuant to Section 311(b)(6)(C) of the Act, and 40 C.F.R. § 22.45, EPA hereby notifies the public of this proposed penalty assessment:

In the matter of:

Burlington Northern Santa Fe Railway Company

EPA Docket Number: CWA-08-2021-0013

Proposed penalty in the Complaint: \$ 140,000

Alleged violations: The discharge occurred on February 4, 2019, due to a derailment of three locomotives and five rail cars owned by BNSF in Wendover Canyon. The sources of the diesel and oil were two of the derailed locomotives. The locomotives discharged 5900 gallons of diesel fuel and 800 gallons of lubricating oil into the North Platte River.

Written comments on the Consent Agreement are encouraged and will be accepted at the address listed below for a period of thirty (30) calendar days after the publication of this notice. Written comments submitted by the public, as well as information submitted by BNSF, will be available for public review, subject to the provisions of law restricting the disclosure of confidential information. Any person submitting written comments has a right to participate in a hearing if one is held. The Consent Agreement is available for review on the internet at: http://yosemite.epa.gov/oa/rhc/epaadmin.nsf.

Submit written comments to

Melissa Haniewicz Regional Hearing Clerk (80RC-IO) <u>Haniewicz.melissa@epa.gov</u>

Due to the COVID-19 pandemic, the Region 8 office is currently closed, and EPA employees are currently teleworking. Any individual wishing to review the Consent Agreement by means other than accessing the internet site provided above or to submit comments by means other than email is asked to contact Ms. Haniewicz by telephone at (303) 312-7059 or at the above email address.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the Consent Agreement, or other documents in this proceeding (such as the regulations in 40 C.F.R. part 22, which establish procedures for hearings), or to comment upon the proposed penalty assessment, or any other aspect of the matter, should contact the Regional Hearing Clerk identified above. No action will be

taken by EPA to finalize a settlement in this matter until ten (10) calendar days after this public notice period is complete.