

or 1-800-533-3508
(negri.beverly@epa.gov).

Information Repositories:

Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Suite 12D13, Dallas, Texas, 75202-2733, (214) 665-6427, Monday through Friday, 7:30 a.m. to 4:30 p.m.; New Mexico Environment Department, Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, Monday through Friday, 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Oral comments will also be received through this date and should be directed to: Ms. Petra Sanchez, Remedial Project Manager, (6SF-LT), sanchez.petra@epa.gov, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-6686 or 1-800-533-3508.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA Region 6 is publishing this direct final notice of deletion of the ATSF Clovis, Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in the § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective March 17, 2003 unless EPA receives adverse comments by February 18, 2003 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section

IV discusses the ATSF Clovis, Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a Site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. all appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

- (1) The EPA consulted with the State of New Mexico on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.
- (2) The State of New Mexico concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of

general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The ATSF Clovis Superfund Site is locally known as the Santa Fe Lake. The affected site is a natural playa lake originally owned by Atchison, Topeka and Santa Fe Railway Company (AT&SF). As a result of a merger, Burlington Northern Santa Fe Railway Company (BNSF) now owns and operates the site and is the potentially responsible party (PRP). The ATSF Clovis site is approximately 140 acres in size and is located approximately one mile south of the BNSF railyard in Clovis, Curry County, New Mexico.

Site History

The playa lake is approximately 40 acres in size and is located near the center of the site. Surrounding land use is primarily agricultural in nature, with a small residential area located to the east of the site. Over the years, storm water run-off and wastewater discharge from the railyard was directed to the