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FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

BRADON J. SMITH

(312) 252-1516
bsmith@fletcher-sippel.com

ENTERED
Office of Proceedings
September 29, 2023

Part of
Public Record

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

September 29, 2023

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

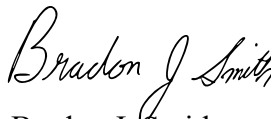
Re: **FD 35441 (Sub-No. 1)**
Blackwell Northern Gateway Railroad Company —
Lease Exemption — Oklahoma Department of Transportation
and Blackwell Industrial Authority

Dear Ms. Brown:

Attached and filed here is a **Verified Notice of Exemption of the Blackwell Northern Gateway Railroad Company under 49 C.F.R. Part 1150, Subpart E** to lease certain rail lines from the Oklahoma Department of Transportation and the Blackwell Industrial Authority. The filing fee has been paid via Pay.gov.

I am happy to answer any questions about this filing. Thank you for your assistance.

Yours,



Bradon J. Smith
Attorney for the Blackwell Northern Gateway
Railroad Company

FILED
September 29, 2023
SURFACE TRANSPORTATION BOARD

BJS:bs

Attachment

FEE RECEIVED
September 29, 2023
SURFACE TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 35441 (SUB-NO. 1)

BLACKWELL NORTHERN GATEWAY RAILROAD COMPANY
—LEASE EXEMPTION—
OKLAHOMA DEPARTMENT OF TRANSPORTATION AND BLACKWELL INDUSTRIAL
AUTHORITY

**VERIFIED NOTICE OF EXEMPTION OF THE
BLACKWELL NORTHERN GATEWAY RAILROAD COMPANY
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEY FOR THE BLACKWELL
NORTHERN GATEWAY RAILROAD
COMPANY**

Dated: September 29, 2023

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 35441 (SUB-NO. 1)

BLACKWELL NORTHERN GATEWAY RAILROAD COMPANY
— LEASE EXEMPTION —
OKLAHOMA DEPARTMENT OF TRANSPORTATION AND BLACKWELL INDUSTRIAL
AUTHORITY

**VERIFIED NOTICE OF EXEMPTION OF THE
BLACKWELL NORTHERN GATEWAY RAILROAD COMPANY
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Blackwell Northern Gateway Railroad Company (the “Gateway”), a Class III rail carrier, files this Verified Notice of Exemption (the “Notice”) under 49 C.F.R. Part 1150, Subpart E to continue under a new lease its holding in adjoining line segments the Oklahoma Department of Transportation (the “State”) and the Blackwell Industrial Authority (the “Authority”) own (the adjoining segments, collectively, the “Line”).¹ Per 49 C.F.R. § 1150.43, the Gateway submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.43(a)

The full name and address of the applicant is:

Blackwell Northern Gateway Railroad Company
620 Kruk Street
Lemont, IL 60439

¹ *Blackwell Northern Gateway Railroad Company — Change in Operators Exemption — Oklahoma Department of Transportation and Blackwell Industrial Authority, FD 34777 (STB served Nov. 30, 2005) (“Gateway-Change in Operators”); Blackwell Northern Gateway Railroad Company — Lease Renewal Exemption — Oklahoma Department of Transportation and Blackwell Industrial Authority, FD 35441 (STB served Nov. 17, 2010) (“Gateway-Lease Renewal”).*

Applicant's Representative: 49 C.F.R. § 1150.43(b)

Correspondence on this transaction should be sent to:

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)

The Gateway, the State, and the Authority have executed a new "Track Lease and Operating Agreement" which will govern Gateway operations going forward from the effective date of this Notice.

Operator of the Property: 49 C.F.R. § 1150.43(d)

The Gateway will operate and provide all rail common carrier service to shippers on the Line, as it has since 2005.

Background and Summary of the Transaction: 49 C.F.R. § 1150.43(e)

The Line is 37.26 miles of the former "Blackwell" subdivision of the Atchison, Topeka & Santa Fe Railway between milepost 0.09 at Wellington, Kansas and milepost 35.35 at Blackwell, Oklahoma and from milepost 127.0 at Blackwell to milepost 125.0, also at Blackwell. The State owns the portions of the Blackwell Line extending from milepost 18.32 at Hunnewell, Kansas to milepost 35.35 at Blackwell, and from milepost 127.0 to milepost 126.45 in

Blackwell.² The Authority owns the portions from milepost 0.09 at Wellington to milepost 18.32 at Hunnewell, and from milepost 126.45 to milepost 125.0 in Blackwell.³

The Gateway is the current operator of the subject line segments under a “First Track Lease and Operating Agreement” dating from 2005, as renewed in 2010.⁴ The Gateway, the State, and the Authority have entered a new “Track Lease and Operating Agreement” to take effect with the effective date of this Notice.

The name and address of the State and Authority respectively are:

State of Oklahoma Department of Transportation
200 Northeast 21st Street
Oklahoma City, Oklahoma 7310

Blackwell Industrial Authority
PO Box 150
515 N. 25th St.
Blackwell, Oklahoma 73631

Maps: 49 C.F.R. § 1150.43(f)

Attached as Exhibit A are maps of the Line.⁵

² *State of Oklahoma by and through the Oklahoma Department of Transportation and Blackwell Industrial Authority — Acquisition Exemption — Central Kansas Railway LLC*, FD 33492 (STB served Oct. 31, 1997).

³ *Id.*

⁴ *See n. 1, above.*

⁵ *See also, Gateway Lease Renewal*, Gateway Notice of Exemption filing of November 1, 2010, Exhibit A.

Certificate of Compliance: 49 C.F.R. § 1150.43(g)

The Gateway certifies its projected revenues will not result in it becoming a Class II carrier under *Indexing the Annual Operating Revenues of Railroads*, EP 748 (STB served June 29, 2023). See the Certification and Verification below.

Advance Notice: 49 C.F.R. § 1150.42(e)

The Gateway certifies its revenues are projected to be less than \$5 million. See the Certification and Verification below.

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

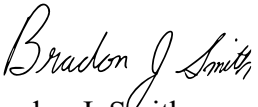
Under 49 C.F.R. § 1105.6(c)(1), this transaction is exempt from environmental reporting requirements because it will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1) the transaction—intended for the purpose of continued rail operations—is exempt from historic preservation reporting requirements. Separate Board approval is needed to discontinue service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.42(a)

A caption summary in appropriate form is attached as Exhibit B to this Notice.

Respectfully submitted,

By: 

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEY FOR THE BLACKWELL
NORTHERN GATEWAY RAILROAD
COMPANY**

Dated: September 29, 2023

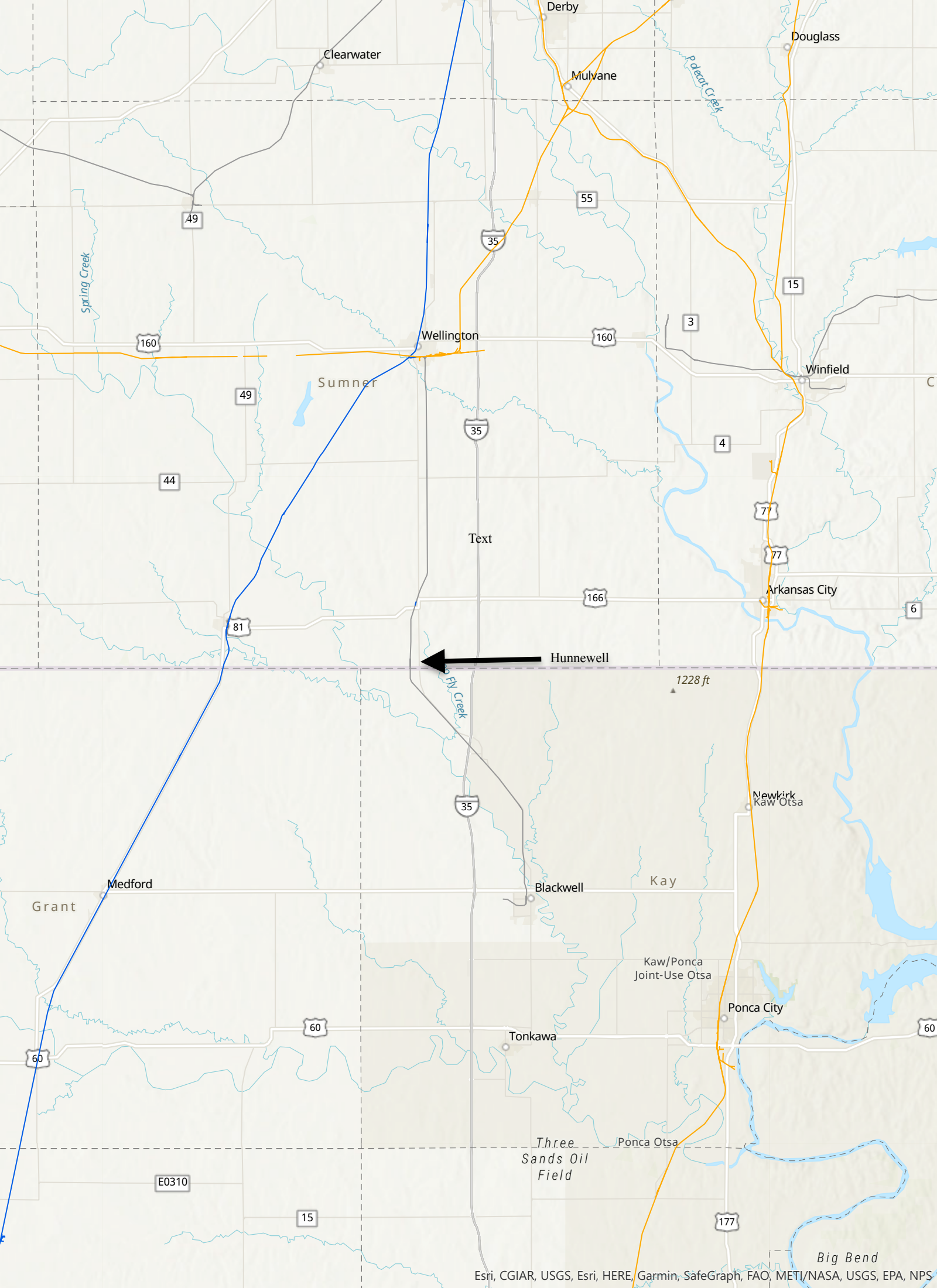
**BEEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35441 (SUB-NO. 1)

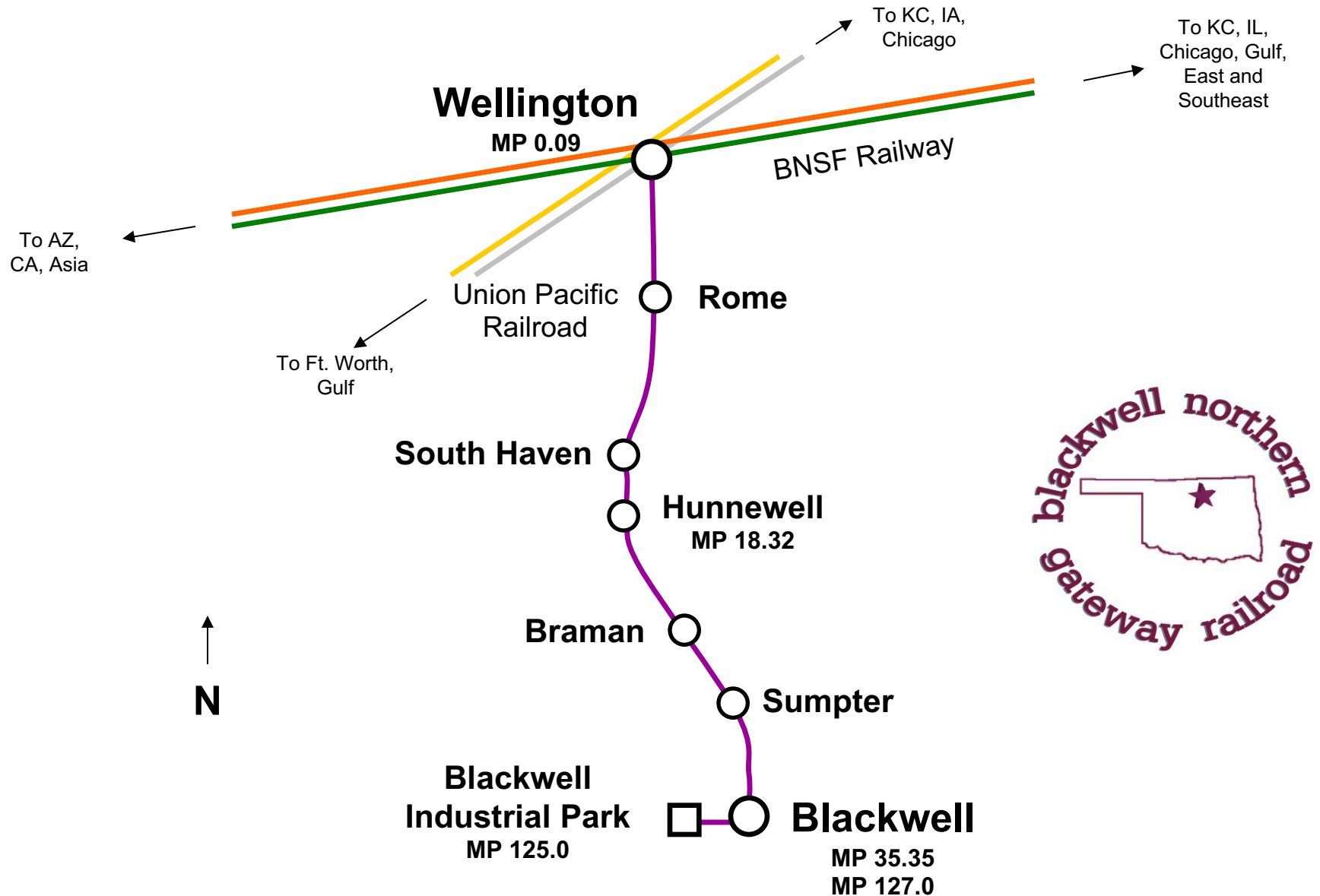
**BLACKWELL NORTHERN GATEWAY RAILROAD COMPANY
— LEASE EXEMPTION —
OKLAHOMA DEPARTMENT OF TRANSPORTATION AND BLACKWELL
INDUSTRIAL AUTHORITY**

EXHIBIT A

MAPS



Blackwell Northern Gateway Railroad



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35441 (SUB-NO. 1)

**BLACKWELL NORTHERN GATEWAY RAILROAD COMPANY
— LEASE EXEMPTION —
OKLAHOMA DEPARTMENT OF TRANSPORTATION AND BLACKWELL
INDUSTRIAL AUTHORITY**

EXHIBIT B

DRAFT FEDERAL REGISTER NOTICE

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FD 35441 (SUB-NO. 1)

BLACKWELL NORTHERN GATEWAY RAILROAD COMPANY
— LEASE EXEMPTION —
OKLAHOMA DEPARTMENT OF TRANSPORTATION AND BLACKWELL INDUSTRIAL
AUTHORITY

The Blackwell Northern Gateway Railroad Company, a Class III carrier, has filed a notice of exemption (“Notice”) to continue to lease from the Oklahoma Department of Transportation and the Blackwell Industrial Authority a line of railroad between milepost 0.09 at Wellington, Kansas and milepost 35.35 at Blackwell, Oklahoma and from milepost 127.0 at Blackwell to milepost 125.0, also at Blackwell.

Comments must be filed with the Board and served on:

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

The Notice is filed under 49 C.F.R. § 1150.41. If the Notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35441 (SUB-NO. 1)

**BLACKWELL NORTHERN GATEWAY RAILROAD COMPANY
— LEASE EXEMPTION—
OKLAHOMA DEPARTMENT OF TRANSPORTATION AND BLACKWELL
INDUSTRIAL AUTHORITY**

CERTIFICATION AND VERIFICATION

VERIFICATION AND CERTIFICATION

Donald Purdie, being duly sworn, states as follows:

1. I am President of the Blackwell Northern Gateway Railroad Company (“Gateway”).
2. I certify that the Gateway is not now a Class I or II rail common carrier, and that its projected annual revenues will not exceed \$5 million.
3. I am qualified and authorized to make this Verification and Certification.
4. I have read the above Notice of Exemption and know that the facts stated are true and correct to the best of my information and belief.

Dated: September 29, 2023

Donald K Purdie