

SERVICE DATE – JUNE 24, 2024

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 1330X

**The State of Oklahoma by and through the Oklahoma
Department of Transportation – Abandonment Exemption –
In Payne County, Okla.**

Docket No. AB 1040 (Sub-No. 1X)

**Stillwater Central Railroad, LLC. – Discontinuance Exemption –
In Payne County, Okla.**

BACKGROUND

In this proceeding, The State of Oklahoma by and through the Oklahoma Department of Transportation (ODOT) and Stillwater Central Railroad, LLC (SLWC) filed a notice with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with ODOT's abandonment and SLWC's discontinuance of a line of railroad located in the City of Stillwater in Payne County, Oklahoma. The rail line proposed for abandonment and discontinuance is approximately 3.2 miles in length and extends from milepost 30.74 to milepost 27.54 in the city of Stillwater (the Line).¹ A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If this notice becomes effective, ODOT would be able to salvage the track, and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

The Line travels in a southeasterly direction roughly from West Lakeview Road, past residential and commercial communities and near Boomer Lake and the University of Oklahoma, and stub-ends at Couch Park and East 14th Avenue. According to ODOT, the Line was constructed between 1900 and 1902 by the Eastern Oklahoma Railway Company and was later purchased by Atchison, Topeka & Santa Fe Railway, which then became Burlington Northern Railroad Company. ODOT purchased the Line in 1998 but explains that common carrier service ended in 2018. There are nine public crossings, four bridges, and one station on the Line. ODOT believes the Line may be suitable for public use and intends to transfer the

¹ ODOT owns the Line, and SLWC leases and operates over the Line.

underlying right-of-way to the City of Stillwell for conversion to a trail, pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d).²

The right-of-way is generally 10 to 30 feet in width, and the Line traverses United States Zip Code 74074. Based on available information, ODOT states that the Line does not contain any federally granted rights-of-way.

ENVIRONMENTAL REVIEW

ODOT submitted a combined E&H Report that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including abandonment-related salvage activities. ODOT provided the E&H Report to a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)] implementing the National Environmental Policy Act (NEPA).³ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to ODOT, no local traffic has moved over the Line for at least two years, and there is no need to reroute any overhead traffic. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. If abandonment authority is granted, ODOT would remove rail and track materials but intends to leave bridges, culverts, and other structures in place.

By letter dated May 12, 2023, the U.S. Army Corps of Engineers' Tulsa District (Corps) concluded that salvage activities resulting from the proposed abandonment would not involve the discharge of fill material in waters of the United States. The Corps noted that it would need to review any changes to the proposed action, should they occur. Accordingly, OEA has concluded

² <https://stillwaterok.gov/CivicAlerts.aspx?AID=46> (last accessed 3/26/2024).

³ The E&H Report is available for viewing on the Board's website at <https://stb.gov> by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "1330" "0" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on March 11, 2024.

that a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not be required for the proposed abandonment.

The proposed abandonment is not located within a Coastal Zone. Therefore, no further consultation is required.

By email dated May 9, 2023, the National Geodetic Survey (NGS) indicated that no geodetic survey markers are present in the area of the proposed abandonment. Therefore, no further consultation with NGS is recommended.

By email dated May 8, 2023, the Oklahoma Department of Environmental Quality (ODEQ) commented that the proposed abandonment would have no adverse impacts on the resources under its jurisdiction but did note that a stormwater construction permit would be required for any soil disturbances greater than one acre. OEA believes a permit would not be required because ODOT has indicated that abandonment-related salvage would involve minimal disturbance of the right-of-way to remove track, ties and other above-ground rail appurtenances. ODOT intends to retain the bridges, culverts, and other subsurface structures. OEA is providing ODEQ a copy of this Draft EA for review.

ODOT requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact the proposed abandonment could have on protected wildlife, including federally listed threatened and endangered species under the Endangered Species Act (16 U.S.C. §§ 1531-1544). To date, USFWS has not provided comments on the proposed abandonment. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.⁴ The following six species may be present in the project area:

Protected Species in Payne County, Oklahoma			
Group	Common Name	Federal Status	Habitat Description
Mammals	Tricolored Bat	Proposed Endangered	Living and dead leaf clusters of live or recently dead deciduous hardwood trees.
Birds	Piping Plover	Threatened	Coastal areas including sand spits; small islands; tidal flats; shoals; and sandbars.
	Rufa Red-Knot	Threatened	Dry tundra slopes with sparse stunted willow or mountain avens; south or southwest-facing sunny slopes.
Reptiles	Alligator Snapping Turtle	Endangered	Rivers and streams that feed into the Gulf of Mexico.
Fishes	Peppered Chub	Endangered	Freshwater; unimpeded rivers and streams.
Insects	Monarch Butterfly	Candidate	Prairies, meadows, grasslands and along roadsides.

⁴ U.S. Fish and Wildlife Service, Information for Planning and Consultation (IPaC) system, <https://ecos.fws.gov/ipac> (last visited March 26, 2024).

The database indicates that there is no designated critical habitat for these species in the project area. OEA has determined that the proposed abandonment would have no effect on these federally listed species because the Line is located in a residential and commercial area; no trees, culverts, bridges or trestles would be removed; and ODOT's proposed abandonment-related salvage operation, involving the removal of the rail, ties and other surficial rail structures, is of limited scope. OEA is providing a copy of this Draft EA to USFWS Oklahoma Field Office for its review.

OEA believes that there would be no or minimal impact from any air emissions or noise on the area surrounding the proposed abandonment because abandonment-related salvage or other land disturbing activities would be minimal.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the U.S. Army Corps of Engineers Tulsa District; U.S. Fish and Wildlife Service, Oklahoma Field Office; and the Oklahoma Department of Environmental Quality for review.

HISTORIC REVIEW

ODOT submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the University of Oklahoma, Oklahoma Archaeological Survey (OAS) and the Oklahoma Historical Society (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).⁵ By letters dated May 23, 2023 and March 24, 2024, OAS commented (#OAS FY23-1722) that it cross-checked its state files containing approximately 27,000 archaeological sites recorded in Oklahoma, and found that no sites have been recorded in the area of the proposed abandonment. OAS further evaluated the topographic and hydrologic setting and determined that no archaeological materials are likely to be encountered. OAS concluded that an archaeological field inspection is not necessary but did request that its office be contacted if buried archaeological materials such as chipped stone tools, pottery, bone, historic crockery, glass, metal items or building materials are exposed during salvage activities. OAS also commented that it was deferring comments on the bridges to the SHPO.

By letter dated May 15, 2023, the SHPO commented (SHPO Reference #1145-24) that the Stillwater Santa Fe Depot (Depot) is eligible for listing on the National Register of Historic Places (National Register) and requested additional information regarding the Line, the four bridges located on the Line, and the post-abandonment trail project. On February 27, 2024, ODOT submitted the requested documentation, including the Historic Preservation Resource

⁵ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the NHPA. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board's website at <https://stb.gov/resources/environmental/historic-preservation-overview/>.

Identification (HPRI) form prepared by ODOT's Cultural Resources Program and clarified that the proposed undertaking is to abandon the Line, not construct the trail. The HPRI documentation included an opinion that the Line and the four bridges located on the Line are not eligible for listing on the National Register of Historic Places (National Register). By letter dated March 20, 2024, the SHPO commented that it concurred with the HPRI documentation and the opinion that the Line and the four bridges located on the Line are not eligible for listing on the National Register. The SHPO further stated that the project would have an adverse effect on the Depot unless ODOT agreed to a condition by the SHPO requiring ODOT to make an impression of the portion of railroad tracks in front of the Depot in the new concrete trail to maintain the connection between the tracks and the Depot. In a May 30, 2024 filing with the Board, ODOT responded that it is opposed to the SHPO's condition because it will not be the trail sponsor but clarified that ODOT has agreed that when it enters into a trail use agreement, it will seek to incorporate the requested language into the agreement to implement the SHPO's request.

OEA has reviewed the materials from the historic report, including the supplementary information provided by ODOT, and the comments submitted by OAS and SHPO. Based on these materials, OEA has determined that the Line and the associated bridges on the Line are not eligible for listing on the National Register. OEA has also determined that no archaeological resources are likely to be encountered. However, in the event archaeological sites, human remains, funerary items or associated artifacts are discovered during ODOT's abandonment-related salvage activities, OEA is recommending a condition on any decision granting abandonment authority that would require ODOT to immediately cease all work and notify OEA, interested Federally recognized tribes, OAS and SHPO pursuant to 36 C.F.R. § 800.13(b). OEA would then consult with the interested parties to determine whether appropriate mitigation measures would be necessary.

Accordingly, pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.5(b), and following consultation with OAS, SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of ODOT's historic report, all relevant correspondence, and this Draft EA, which have been provided to OAS and SHPO and made available to the public through posting on the Board's website at <https://stb.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development Tribal Directory Assessment Tool to identify federally recognized tribes that may have ancestral connections to the project area.⁶ The database indicates that there are seven federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way or APE of the proposed abandonment. The seven tribes are: the Apache Tribe of Oklahoma; the Cherokee Nation; the Cheyenne and Arapaho Tribes, Oklahoma; the Muscogee (Creek) Nation; the Osage Nation; the Otoe-Missouria Tribe of Indians, Oklahoma; and the Wichita and Affiliated Tribes

⁶ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat/> (last visited May 7, 2024).

(Wichita, Keechi, Waco, and Tawakonie), Oklahoma. OEA is sending a copy of this Draft EA to these tribes for review and comment.

CONDITION

OEA recommends that the following condition be imposed on any decision granting abandonment authority.⁷

In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's abandonment-related salvage activities, the State of Oklahoma by and through the Oklahoma Department of Transportation (ODOT) will immediately cease all work and notify the Office of Environmental Analysis (OEA), interested Federally recognized tribes, the University of Oklahoma, Oklahoma Archaeological Survey (OAS), and the Oklahoma Historical Society (State Historic Preservation Office or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with OAS, SHPO, interested Federally recognized tribes, ODOT, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the Line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Board's Federal Register notice of the proposed abandonment. The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁸

⁷ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 were to be reached for the Line (or a portion thereof), compliance with this condition would not be required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

⁸ Board decisions are available for viewing on the Board's website at <https://stb.gov> by

TRAILS USE

A request for a NITU is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁹

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

OEA encourages interested parties to submit their comments on the Draft EA electronically through the Board's website at <https://stb.gov>. From the Board's home page, select "File an Environmental Comment" below the "Need Assistance?" button. Log-in accounts are not needed to file environmental comments electronically, and brief comments can be typed in the comment field, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

Alternatively, comments submitted by mail should be addressed to: Diana Wood, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention: Environmental Filing, Docket No. AB 1330X. If you have any questions, please contact Diana Wood by email at Diana.Wood@stb.gov or by phone at 202-934-0388.

Date made available to the public: June 24, 2024.

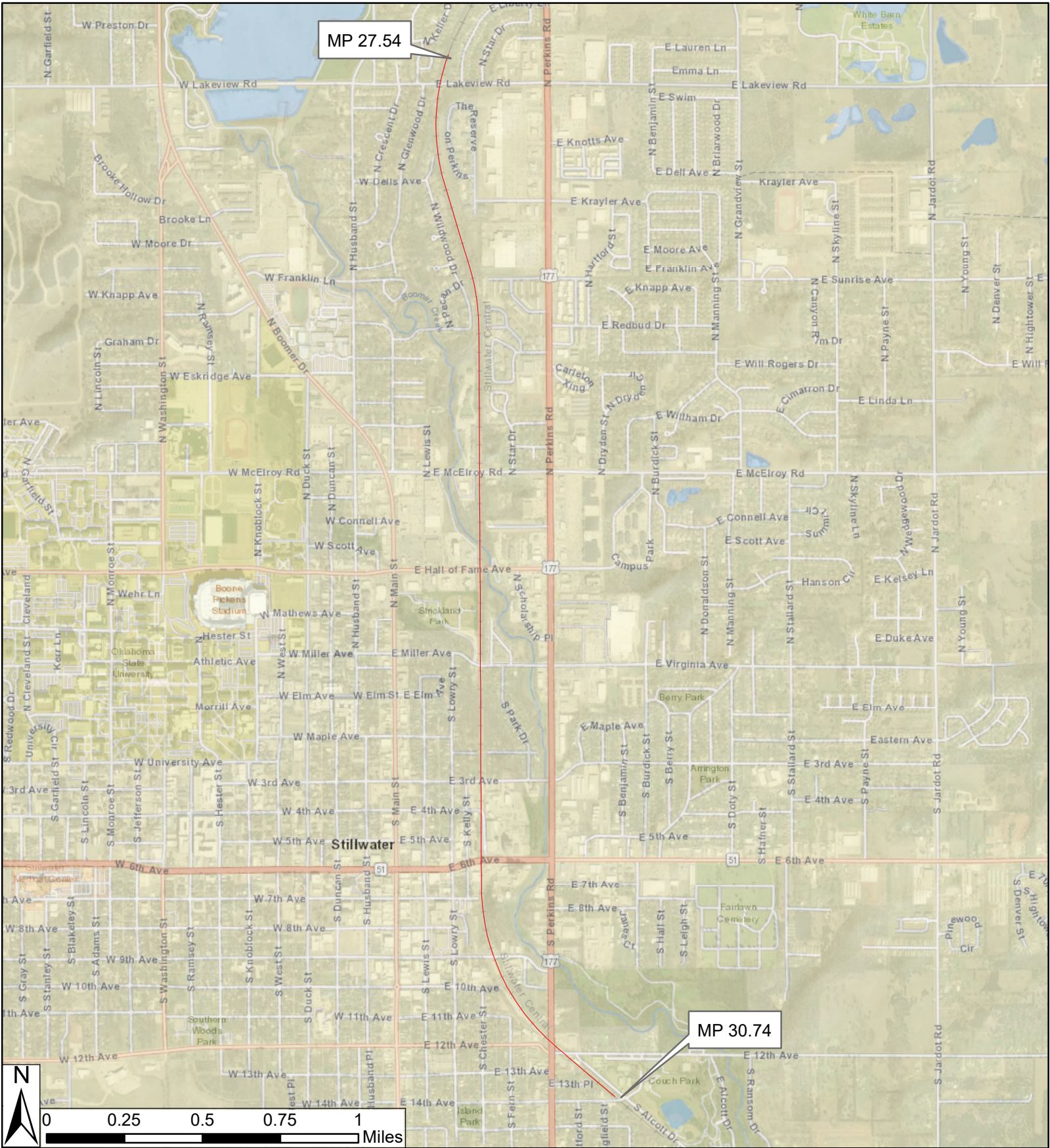
Comment due date: July 10, 2024.

By the Board, Danielle Gosselin, Director, Office of Environmental Analysis.

Attachment

clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "1330" "0" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁹ Id.



STB Docket No. AB 1330X

The State of Oklahoma by and through the Oklahoma Department of Transportation Abandonment Exemption In Payne County, Oklahoma

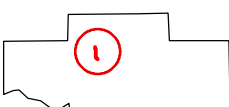
STB Docket No. AB 1040 (Sub-No. 1X)

Stillwater Central Railroad, L.L.C. Discontinuance Exemption In Payne County, Oklahoma

Legend

— the Line

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.



Payne County



Oklahoma