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November 23, 2021

VIA E-FILING

Danielle Gosselin
Acting Director, Office of Environmental Analysis
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

**Re: STB Docket No. AB 6 (Sub-No. 498X), BNSF Railway Company—
Abandonment Exemption—In Pawnee County, Oklahoma**

Dear Ms. Gosselin,

By a decision served in this proceeding on April 25, 2019, the Surface Transportation Board (“Board”) authorized the abandonment of the subject rail line, effective May 25, 2019. In a decision served on May 24, 2019, the Board reopened this proceeding and imposed three environmental conditions related to salvage activities. The second condition requires BNSF Railway Company (“BNSF”), prior to commencement of any salvage activities, to consult with the Oklahoma Department of Environmental Quality (“DEQ”) “to ensure that DEQ’s Tier 2a screening level requirements for the petroleum hydrocarbon contamination in the area of the proposed abandonment have been adequately addressed and submit the results of these consultations in writing to [the Board’s Office of Environmental Analysis].” Slip op. at 2. By a decision served on April 1, 2021, the Board granted BNSF’s request that the Board grant an extension of the consummation deadline in this proceeding to April 25, 2022.

As reflected in the attached Notice of Remediation and Land Use Restrictions, BNSF has consulted with DEQ to ensure that DEQ’s Tier 2a screening level requirements for the petroleum hydrocarbon contamination in the area of the proposed abandonment have been adequately addressed.

Please contact me with any questions.

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Sincerely,

A handwritten signature in black ink, appearing to read 'Peter W. Denton', with a long horizontal flourish extending to the right.

Peter W. Denton
Attorney for BNSF Railway Company



NOTICE OF REMEDIATION AND LAND USE RESTRICTIONS

**FORMER BULK STORAGE STATION
11TH STREET AT ST. LOUIS AND SAN FRANCISCO RAILWAY
PAWNEE, PAWNEE COUNTY, OKLAHOMA**

LEGAL BASIS FOR NOTICE: The Oklahoma Department of Environmental Quality ("DEQ") hereby files this Notice of Remediation pursuant to Oklahoma Statutes, 27A §2-7-123(C). This Notice does not grant any right to any person not already allowed by law and shall not be construed to authorize or encourage any person or other legal entity to cause or increase pollution, to avoid compliance with State or Federal laws and regulations regarding pollution, or to escape responsibility for maintaining environmentally sound operations.

The DEQ may take administrative or civil action to recover costs or to compel compliance with the "Land Use Restrictions" and to prevent damage to or interference with the "Engineering Controls" and "Continuing Operation, Maintenance, and Monitoring" herein described.

The Land Use Restrictions, Engineering Controls and Continuing Operation, Maintenance or Monitoring shall apply to the Affected Property and to persons who own and/or use the Affected Property until such time as the DEQ files a subsequent Notice of Remediation that changes or removes one or more of them. Activities that cause or could cause damage to the Remedy or the Engineering Controls or recontamination of soil or groundwater are prohibited.

REASON FOR NOTICE: The Affected Property was a bulk distribution center for fuels whose operation resulted in contamination to soil and groundwater. In groundwater on the site, Total Petroleum Hydrocarbons (TPH) Gasoline-Range Organics (GRO), TPH Diesel-Range Organics (DRO), and benzene were observed in samples collected on February 27, 2017.

Remediation activities ("Remedy") consisted of removal of contaminated soil and removal of Light Non-Aqueous-Phase Liquid (LNAPL) found in one of the wells. This is more fully described in "Remedy" below. This Notice is required because following the Remedy, some wells still indicate levels of TPH-GRO, TPH-DRO and benzene in groundwater above residential risk-based standards. Based on monitoring results to date, the plume appears to be stable or shrinking, and confined to the Right-of-Way.

AFFECTED PROPERTY: The legal description of the Affected Property is hereto attached as Exhibit A and the site map of the Affected Property is hereto attached as Exhibit B.

REMEDY: The Remedy on the Affected Property included:

- Excavation of visibly contaminated soil in a 130' x 20' area in 2000;
- Removal in March 2000 of an underground petroleum storage tank (UST) discovered during the excavation. The initial excavation and subsequent excavation areas are shown in Exhibit B.
- Removal of free-phase hydrocarbon, also known as Light Non-Aqueous-Phase Liquid (LNAPL) that was encountered in one well, MW-9. Three Mobile Dual-Phase Extraction (MDPE) events were performed in November 2013 to remove LNAPL from MW-9.

Contaminated soil was over-excavated to the extent possible given proximity to active rail lines. Remedial activities were completed in November 2013.

ENGINEERING CONTROLS, CONTINUING OPERATION, MAINTENANCE, AND MONITORING: Monitoring wells specified by DEQ, as shown in Exhibit B, must be maintained and sampled at intervals of approximately 5 years. Sampling results must be provided to DEQ within 60 days of receipt from the laboratory. Any reduction or change in frequency of sampling or reporting must be negotiated with DEQ. To end the monitoring requirement, a stable or shrinking plume front must be demonstrated to DEQ's satisfaction. Pursuant to Oklahoma Statutes, 27A §2-7-123(D) any person who damages or interferes with the remedy, the engineering controls, or continuing operation, maintenance or monitoring of the site, or who increases the amount or extent of contamination, is liable to repair the damage, remedy the interference, or remediate the contamination, or for costs incurred by the Department in doing so.

LAND USE RESTRICTIONS: The land use restrictions on the Affected Property are the following:

- a) No digging to or below ten (10) feet from the surface;
- b) No activities that will cause erosion of the soil;
- c) No use of the groundwater for any purpose;
- d) No wells of any kind other than for groundwater monitoring or water level measurement; and
- e) Commercial or Industrial use only. No residential day care, pre-K-12 schools, or edible agriculture use of the Affected Property.

CHANGING LAND USE RESTRICTIONS: DEQ shall be notified by the current owner at least thirty (30) days prior to any proposed change in land use and/or zoning on the Affected Property. Changes to land use restrictions must be approved by the Department of Environmental Quality or its successor agency. The person requesting the change must demonstrate to the DEQ's satisfaction that the contamination at the Affected Property has reached levels appropriate for the proposed new land use and that further remediation is not necessary or that additional institutional or engineering controls are adequate to achieve levels protective of human health and the environment for the proposed use.

The DEQ may require oversight costs, work plans, sampling, reports, and public participation as part of its review of the new information to support the requested changes in Land Use Restrictions. The person requesting the change will be required to follow agency procedures effective at the time of the request.

The DEQ, in its discretion, may determine, based on the new information submitted, that contaminants are present at the Affected Property at levels that will not pose a risk to human health or the environment if the new Land Use Restrictions being requested are allowed. Upon making this determination, the DEQ will file a recordable Notice of Remediation pursuant to state law in the land records of the office of the county clerk where the Affected Property is located designating the new Land Use Restrictions.

This Notice of Remediation and the restrictions and requirements contained herein run with the land and no change of ownership of the Affected Property will change the Land Use Restrictions.

for Jimmy A. Givens
 Scott A. Thompson, Executive Director
 Oklahoma Department of Environmental Quality

5-27-2021
 Date

ACKNOWLEDGMENT

State of Oklahoma)
) ss.
 Oklahoma County)

Before me, Teresa McPherson, in and for this state, on this 21st day of May, 2021, personally appeared Jimmy Givens, Deputy Director, Department of Environmental Quality, for Scott A. Thompson, Executive Director, Department of Environmental Quality, to me known to be the identical person who executed the within and foregoing instrument, and acknowledge to me that he executed same as his free and voluntary act and deed for the uses and purposes therein set forth.

Teresa McPherson
 Notary Public

My Commission expires:

January 17, 2024



EXHIBIT A

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER (SW1/4) OF SECTION THIRTY-ONE (31), TOWNSHIP TWENTY-TWO NORTH (T22N), RANGE FIVE EAST OF THE INDIAN MERIDIAN (R5E.I.M.), PAWNEE COUNTY, OKLAHOMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SW1/4, THENCE SOUTH (S 00°30'10" E) ALONG THE EAST BOUNDARY OF SAID SW1/4 A DISTANCE OF 199.17 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF THE BNSF RAILWAY, THENCE ALONG SAID RIGHT-OF-WAY ON A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 2914.93 FEET, A CHORD DIRECTION OF S 55°01'28"W, A CHORD LENGTH OF 266.65 FEET, AND AN ARC LENGTH 266.74 FEET, THENCE SOUTHWESTERLY (S 52°24'10" W) ALONG SAID RIGHT-OF-WAY A DISTANCE OF 410.47 FEET TO THE POINT OF BEGINNING, THENCE SOUTHWESTERLY (S 52°24'10" W) ALONG SAID RIGHT-OF-WAY A DISTANCE OF 209.12 FEET, THENCE SOUTHEASTERLY (S 37°35'50" E) A DISTANCE OF 218.92 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF THE STILLWATER CENTRAL RAILROAD RIGHT OF WAY, THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY ON A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 2814.93 FEET, A CHORD DIRECTION OF N 61°12'13" E, A CHORD LENGTH OF 211.61 FEET, AND AN ARC LENGTH OF 211.66 FEET, THENCE NORTHWESTERLY (N 37°35'50" W) A DISTANCE OF 251.30 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 1.12 ACRES.

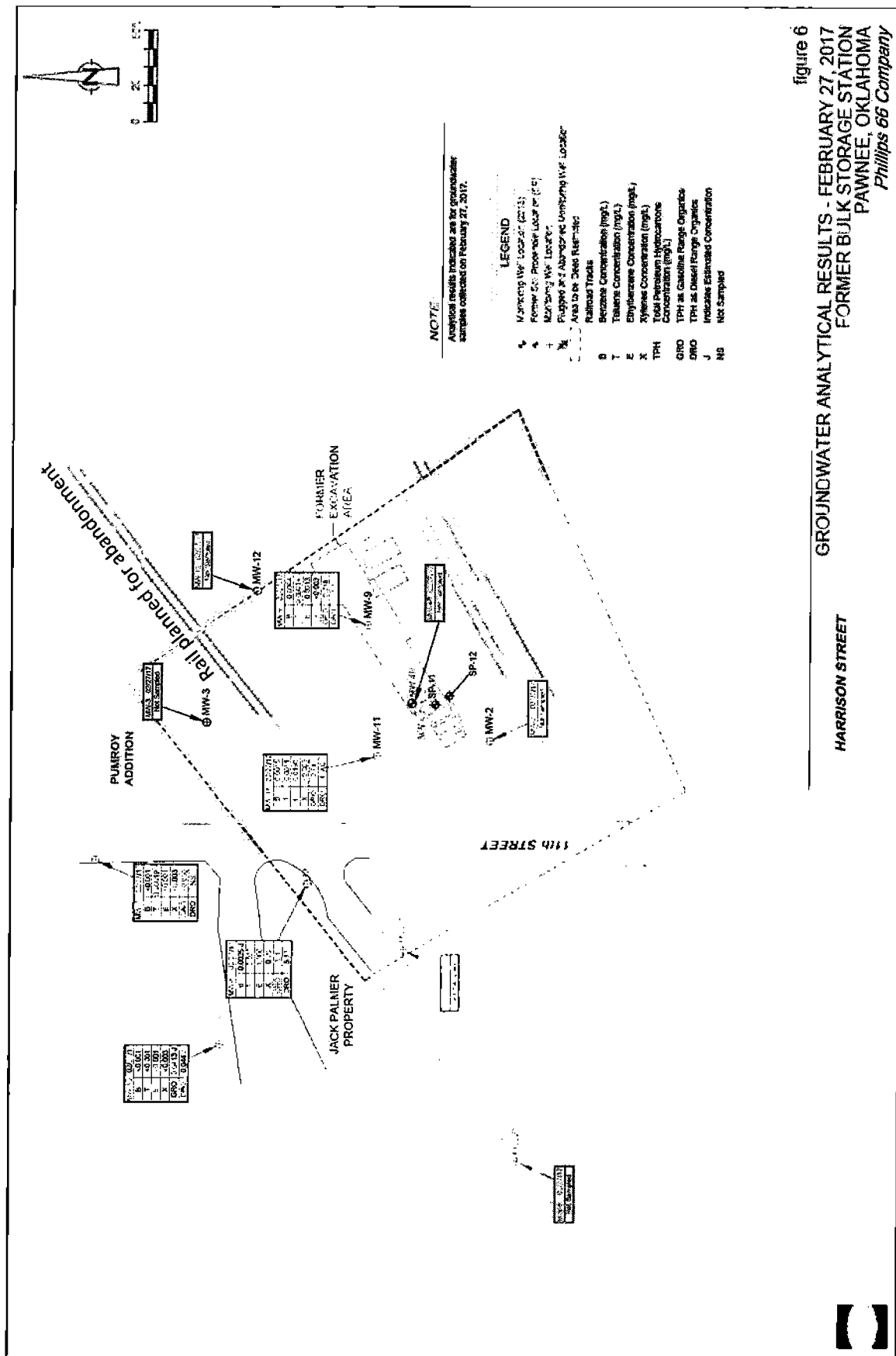


EXHIBIT B