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National Association of Reversionary Property Owners (NARPO)

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STB

Office of Proceedings

Washington, DC 20423

STB Docket No. AB 1330X

THE STATE OF OKLAHOMA BY AND THROUGH THE OKLAHOMA DEPARTMENT OF
TRANSPORTATION - ABANDONMENT EXEMPTION – IN PAYNE COUNTY, OKLAHOMA

This letter is the National Associations of Reversionary Property Owners (NARPO) response to the Oklahoma Department of Transportation (ODOT) July 18, 2024 response to a STB query letter. NARPO is aware that the STB does not accept Replies to Replies, but NARPO does not consider this a Reply to a Reply as the STB had directed ODOT to respond to a question that NARPO had raised. ODOT in their response to the STB query raised issues with NARPO's **standing** to raise a question to ODOT's Abandonment Exemption, and also ODOT intimated that NARPO was trying to quash the Abandonment Exemption *ad initio*.

NARPO Standing

NARPO has participated in ICC and STB rulemaking and abandonment cases since 1986. NARPO participated in the initial ICC Rulemaking in 1987 concerning the rails to trails issues. NARPO has represented hundreds if not thousands of property owners abutting railroad rights of way over the past 37 years. In 2017 NARPO requested the STB to institute a Rulemaking to Limit NITU Time Extensions on rails to trails cases to four years, see EP 749 and EP 749-1. In 2018 the STB finalized the EP 749 Rulemaking incorporating most of NARPO's original suggestions for the EP 749 Rulemaking. From the above, it appears that the STB assumes that NARPO has standing to question abandonment applications.

**NARPO did not mentions Abandonment Exemption rejection
*ad initio***

Nowhere in NARPO's July 18, 2024 comment letter to AB 1330X did NARPO request the STB to reject ODOT's Abandonment Exemption *ad initio*. All NARPO's letter requested was for

ODOT to comply with 49 CFR 1152.22(e)(4). NARPO never asked for the Abandonment Exemption to be quashed *ad initio*. ODOT goes on multiple pages explaining their July 18, 2024 response to the STB query on 49 CFR 1152.22(e)(4). But in the end, ODOT could not come up with the simple answer in finding the Valuation Maps (VAL MAPS) that were transferred by BNSF at the time of the Quit Claim deed. Obviously ODOT does not know what Valuation Maps are in relation to railroad rights of way. Way back 111 years ago Congress enacted a law that would force the existing railroads to show exactly how much land they had in railroad rights of way, how they acquired those rights of way, and just how were the railroads paying taxes on those rights of way.

Evidently prior to 1913, there were many questions on how railroads were conducting their business and getting taxed on their property was a big question. In response to the Congressional Act, the ICC in 1913 required all railroads to make maps that delineated their rights of way across their rail lines. These maps have become known as Valuation Maps and sometimes called right of way Tract Maps. By about 1915, the ICC had all these Val Maps collected. The ICC and then the STB retained all these thousands of Val Maps until the late 1990s when they transferred all the Val Maps to the National Archives in College Park, Maryland where they now reside and are available for viewing and copying.

After 1913 the various states decided that they were missing out on some taxes that the railroads might not have been paying. Most states then devised a scheme that they could use the Val Maps to get a handle on just how much land the railroads owned and were paying taxes on. So most states got copies of the Val Maps the ICC had, and then kept a running total of how much right of way was actually in their state. That process goes on today in the tax collecting agency in each state. These taxing agencies keep track when a railroad abandons a line or adds to a line or builds a new rail line and adjusts the amount of tax each railroad is taxed. The railroads also kept updated copies of their own Val Maps.

Most states including Oklahoma have adopted what is known as a “Unit Taxing State”. Railroads and non-public utilities in Unit Taxing States are taxed differently than normal homeowners and businesses. Railroads and non-public utilities are taxed on a per mile basis versus an individual parcel basis like the rest of us. Consequently railroads and non-public utilities taxes are never revealed to the public as our taxes are revealed by looking at the county tax records. If you look at a county tax record for a railroad right of way, you will see \$ 0.00 taxes paid as they are paid to the state agency for a hidden amount.

ODOT’s futile search for reversionary right information

Let us remember that ODOT is the abandoning railroad in this Abandonment Exemption. As they are the railroad, they should have or should have gotten the Val Maps with the Quit Claim Deed from BNSF. Even if ODOT did not get the Val Maps from BNSF, ODOT should have been aware that the Oklahoma Tax Commission had copies of the maps right next door to their offices. These Val Maps normally cover one section of land but in rural areas may cover miles or in cities may only cover a few blocks as there are many more individual parcels in the cities.

There is an index on each Val map that describes the size of each right of way parcel, the date it was acquired, the type of deed instrument or conveyance, and most importantly where a copy of the deed or conveyance is stored in the county property records by Deed Book and Page. So ODOT could have gone next door and looked at the Oklahoma Tax Commission's Val Maps and determined with minimal observation if there was possibly any reversionary interests in the right of way for AB 1330X. It would have been apparent that there were reversionary interest as many of the deeds or conveyances mention Easement or Right of Way Deed which under Oklahoma statutory and case law are considered reversionary to the then abutting property owner after abandonment of rail use. When a railroad files for an abandonment, any prospect of rail to trails is not in play at that time; only the Abandonment Exemption. 49 CFR 1152.22(e)(4) should be complied with in the Abandonment Exemption so if NARPO or any of the reversionary property owners are looking at the STB filings, they can react accordingly.

NARPO believes it has standing in this abandonment process. Also NARPO did not request the STB declare the Abandonment Exemption in AB 1330X void *ad initio* as ODOT did that on their own initiative.

The Parties of Record to AB 1330X have been served by email on 7/21/2024.

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