

241482

# FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive  
Suite 920  
Chicago, Illinois 60606-2832

AUDREY L. BRODRICK  
(312) 252-1518  
abrodrick@fletcher-sippel.com

ENTERED  
Office of Proceedings  
September 13, 2016  
Part of  
Public Record

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

September 13, 2016

## VIA FEDERAL EXPRESS

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W., Room 1034  
Washington, DC 20024



Re: **Docket No. AB-507 (Sub-No. 2X)**  
**Florida Northern Railroad Company, Inc. – Discontinuance**  
**of Service Exemption – In Marion County, Florida**

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Verified Notice of Exemption of Florida Northern Railroad Company, Inc. Pursuant to 49 C.F.R. § 1152.50**, dated September 13, 2016. A check in the amount of \$4,000, representing the appropriate fee for this filing, is attached.

The proposed action entails the discontinuance of rail common carrier service over the subject rail line, rather than abandonment of that line. Accordingly, no environmental/historic report has been prepared as part of this proceeding.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,

Audrey L. Brodrick  
Attorney for Florida Northern Railroad  
Company, Inc.

FEE RECEIVED  
September 13, 2016  
SURFACE  
TRANSPORTATION BOARD

ALB:dg  
Enclosures

FILED  
September 13, 2016  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-507 (SUB-NO. 2X)

FLORIDA NORTHERN RAILROAD COMPANY, INC.  
-- DISCONTINUANCE OF SERVICE EXEMPTION --  
IN MARION COUNTY, FLORIDA

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**VERIFIED NOTICE OF EXEMPTION OF  
FLORIDA NORTHERN RAILROAD COMPANY, INC.  
PURSUANT TO 49 C.F.R. § 1152.50**

Thomas J. Litwiler  
Audrey L. Brodrick  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 920  
Chicago, Illinois 60606-2832  
(312) 252-1500

**ATTORNEYS FOR FLORIDA NORTHERN  
RAILROAD COMPANY, INC.**

Dated: September 13, 2016

BEFORE THE  
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-507 (SUB-NO. 2X)

FLORIDA NORTHERN RAILROAD COMPANY, INC.  
-- DISCONTINUANCE OF SERVICE EXEMPTION --  
IN MARION COUNTY, FLORIDA



**VERIFIED NOTICE OF EXEMPTION OF  
FLORIDA NORTHERN RAILROAD COMPANY, INC.  
PURSUANT TO 49 C.F.R. § 1150.50**

Florida Northern Railroad Company, Inc. ("Florida Northern") hereby submits this Verified Notice of Exemption under 49 C.F.R. § 1152.50 for the discontinuance of service over Florida Northern's line of railroad extending approximately 5.3 miles from Lowell, Florida to a point just south of Zuber, Marion County, Florida (the "Line"). A map showing the Line is attached hereto as Exhibit A.

In accordance with the requirements of 49 C.F.R. § 1152.50(d)(2), Florida Northern submits the following information:

**General Corporate Information: 49 C.F.R. § 1152.22(a)(1) - (2)**

Florida Northern is a Class III common carrier by rail subject to the jurisdiction of the Surface Transportation Board under the Interstate Commerce Act, Subtitle IV of Title 49 of the United States Code. Florida Northern operates approximately 88 miles of rail line in north-central Florida, and commenced operations in 1988 after acquiring two lines (including a portion of the line over which service is to be discontinued) from CSX Transportation, Inc. ("CSXT"). Florida Northern Railroad Company, Inc. -- Acquisition and Operation Exemption -- Certain Rail Lines of CSX Transportation, Inc., Docket No. FD 31368 (ICC served December 22, 1988).

Florida Northern later leased an additional, non-connecting line from CSXT. Florida Northern Railroad Company, Inc. -- Lease Exemption -- CSX Transportation, Inc., Docket No. FD 34689 (STB served June 15, 2005).

Florida Northern is a wholly-owned subsidiary of Pinsky Railroad Company, a non-carrier holding company which also controls three other Class III rail carriers in Florida and Massachusetts. See Pinsky Railroad Company -- Continuance in Control Exemption -- Florida Northern Railroad Company, Inc., Docket No. FD 31369 (ICC served December 22, 1988).

The complete name and address of Florida Northern is:

Florida Northern Railroad Company, Inc.  
3001 W. Orange Avenue  
P.O. Box 967  
Plymouth, FL 32768-0967

**Relief Sought: 49 C.F.R. § 1152.22(a)(3)**

Pursuant to the Board's class exemption for the discontinuance of out-of-service rail lines, codified at 49 C.F.R. § 1152.50(b), Florida Northern seeks to discontinue service over its line of railroad extending from milepost 756.8 in or around Lowell, Florida and extending south to milepost 762.1 in or around Zuber, Florida, a distance of approximately 5.3 miles in Marion County, Florida.

**Map: 49 C.F.R. § 1152.22(a)(4)**

A map showing the location of the Line and its relation to other rail lines, highways and geographic features in the area is attached hereto as Exhibit A.

**Applicant's Representative: 49 C.F.R. § 1152.22(a)(7)**

Any correspondence regarding the proposed discontinuance should be sent to Florida Northern's representative at the following address:

Audrey L. Brodrick  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 920  
Chicago, IL 60606-2832  
(312) 252-1500

**ZIP Codes Traversed: 49 C.F.R. § 1152.22(a)(8)**

The Line traverses United States Postal Service ZIP Codes 34482, 32686, and 34475.

**Qualification for Class Exemption: 49 C.F.R. § 1152.50(b)**

Florida Northern certifies that no local traffic has moved over the Line for at least two years and that there is no overhead traffic on the stub-ended Line to be rerouted over other lines. Florida Northern further certifies that no formal complaint by a user of rail service on the Line (or a state or local governmental entity acting on behalf of such user) regarding cessation of service on the Line either is pending with the Board or any U.S. District Court or has been decided in favor of such complainant during the last two years. See Certification and Verification of Tom Owen, attached hereto as Exhibit B.

**Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)**

Florida Northern intends to consummate the proposed discontinuance on or shortly after November 2, 2016.

**Suitability for Other Public Purposes: 49 C.F.R. § 1152.22(e)(4)**

The informational requirement of Section 1152.22(e)(4) (alternative public uses of rail property) is pertinent only where a railroad proposes to abandon rail property, not where

(as here) the railroad proposes solely to discontinue service over a line.<sup>1</sup> Florida Northern is unaware of any alternative public use for which the subject rail property might be appropriate.

**Notice Requirement: 49 C.F.R. §§ 1152.50(d)(1), 1105.12**

Certificates that the agencies designated in 49 C.F.R. § 1152.50(d)(1) have been served with written pre-filing notice of the proposed discontinuance and that the newspaper notice required by 49 C.F.R. § 1105.12 has been published are attached hereto as Exhibit C. For reasons set forth in the “Environmental and Historic Report” section below, the certification of service requirement at 49 C.F.R. § 1105.11 (transmittal of Environmental and Historic Reports) is inapplicable here.

**Labor Protection: 49 C.F.R. § 1152.50(d)(2)**

The appropriate level of labor protection for the transaction proposed herein is that set forth in Oregon Short Line R. Co. -- Abandonment -- Goshen, 360 I.C.C. 91 (1979). No Florida Northern employees will be adversely affected by the proposed abandonment.

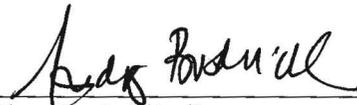
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<sup>1</sup> See, e.g., Columbus and Greenville Railway Company -- Discontinuance of Service Exemption -- In Greenwood, MS, Docket No. AB-297 (Sub-No. 103X) (STB served July 3, 2007) at 2 n.2 (“Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate”); Norfolk Southern Railway Company -- Discontinuance Exemption -- In Mahoning County, OH, Docket No. AB-290 (Sub-No. 292X) (STB served March 15, 2007) at 2 n.2 (same); Chillicothe-Brunswick Rail Maintenance Authority -- Discontinuance Exemption -- In Livingston, Linn and Chariton Counties, MO, Docket No. AB-1001X (STB served February 23, 2007) at 2 n.3 (same).

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

A notice of exemption to discontinue service over (rather than to abandon) a line of railroad that has been out of service for more than two years does not require the preparation or submission of an Environmental/Historic Report.<sup>2</sup>

Respectfully submitted,

By: 

Thomas J. Litwiler  
Audrey L. Brodrick  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 920  
Chicago, Illinois 60606-2832  
(312) 252-1500

**ATTORNEYS FOR FLORIDA NORTHERN  
RAILROAD COMPANY, INC.**

Dated: September 13, 2016

<sup>2</sup> See, e.g., Everett Railroad Company -- Discontinuance of Service Exemption -- In Blair County, PA, Docket No. AB-721X (STB served November 16, 2007) at 2 n.2 (“Because this is a discontinuance proceeding and not an abandonment . . . no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.”) and cases cited supra at note 1.

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-507 (SUB-NO. 2X)

FLORIDA NORTHERN RAILROAD COMPANY, INC.  
-- DISCONTINUANCE OF SERVICE EXEMPTION --  
IN MARION COUNTY, FLORIDA

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**EXHIBIT A**

**MAP**

**Florida Northern Railroad Company, Inc. Discontinuance Exemption  
in Marion County, Florida. Docket AB-507 (Sub No. 2x)**



EXHIBIT  
A

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-507 (SUB-NO. 2X)

FLORIDA NORTHERN RAILROAD COMPANY, INC.  
-- DISCONTINUANCE OF SERVICE EXEMPTION --  
IN MARION COUNTY, FLORIDA

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## **EXHIBIT B**

# **VERIFICATION OF TOM OWEN**

DOCKET NO. AB-507 (SUB-NO. 2X)

FLORIDA NORTHERN RAILROAD COMPANY, INC.  
-- DISCONTINUANCE OF SERVICE EXEMPTION --  
IN MARION COUNTY, FLORIDA

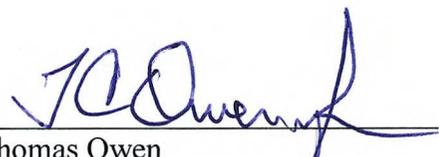
CERTIFICATION AND VERIFICATION

STATE OF FLORIDA        )  
                                  ) ss  
COUNTY OF ORANGE    )

Thomas Owen, being duly sworn, deposes and says:

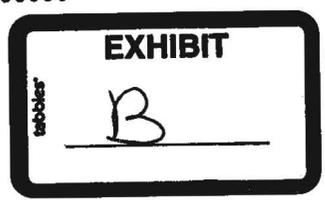
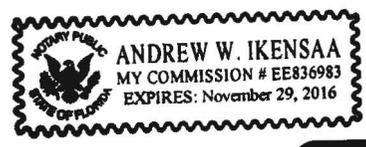
1. Florida Northern Railroad Company, Inc. ("Florida Northern") proposes to discontinue common carrier service over approximately 5.3 miles of railroad line starting at milepost 756.8 in or around Lowell, Florida and extending south to milepost 762.1 in or around Zuber, Florida ("the Line"). The Line traverses United States Postal Service ZIP Codes 34482, 32686, 34475. The entirety of the Line is located in Marion County, Florida.
2. No local traffic has moved over the Line for at least two years, and there is no overhead traffic to be rerouted over other lines; and
3. No formal complaint filed by a user of rail service (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is either pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of the complainant within the past two years.
4. I have read the foregoing notice of exemption; know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief; and state that I am duly authorized to make such verification on behalf of Florida Northern.

Date: 9/2/16

  
Thomas Owen  
President, Florida Northern Railroad Company, Inc.

Subscribed and sworn to before me this 2<sup>nd</sup> day of September, 2016

  
Notary Public



BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-507 (SUB-NO. 2X)

FLORIDA NORTHERN RAILROAD COMPANY, INC.  
-- DISCONTINUANCE OF SERVICE EXEMPTION --  
IN MARION COUNTY, FLORIDA

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**EXHIBIT C**

**CERTIFICATES OF SERVICE AND  
PUBLICATION**

**CERTIFICATE OF SERVICE**

I hereby certify that on August 23, 2016, in accordance with the requirements of 49 C.F.R. § 1152.50(d)(1), notice in the attached form was served by first class mail, postage prepaid, upon the following parties:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

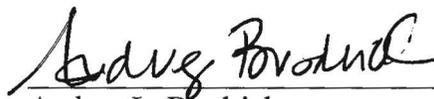
Florida Department of Transportation  
Rail and Motor Carrier Office  
605 Suwannee Street  
Tallahassee, Florida 32399

National Park Service  
Attention: Charlie Stockman  
Org: 2220  
1201 I (Eye) Street N.W.  
Washington, D.C. 20005

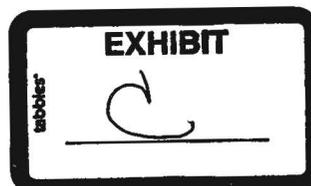
Mr. Tom Tidwell  
Chief of the Forest Service  
U.S. Department of Agriculture  
14000 Independence Avenue, S.W.  
Washington, D.C. 20250-0003

Railroads for National Defense Program  
Military Surface Deployment & Distribution Command  
Transportation Engineering Agency  
1 Soldier Way, Bldg. 1900W  
Scott AFB, IL 62225-5006

September 12, 2016



Audrey L. Brodrick  
Attorney for Florida Northern Railroad  
Company, Inc.



# FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive  
Suite 920  
Chicago, Illinois 60606-2832

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

AUDREY L. BRODRICK  
(312) 252-1518  
abrodrick@fletcher-sippel.com

August 23, 2016

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: **Docket AB- 507 (Sub No. 2X) – Florida Northern Railroad Company, Inc. – Discontinuance Exemption – in Marion County, Florida**

Dear Sir/Madam:

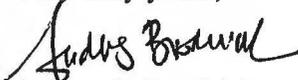
On or after September 2, 2016, Florida Northern Railroad Company, Inc., (“Florida Northern”) expects to file with the Surface Transportation Board (“STB”) a Notice of Exemption (“Notice”) pursuant to 49 C.F.R. Part 1152, Subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, to discontinue common carrier service over approximately 5.3 miles of railroad line starting at milepost 756.8 in or around Lowell, Florida and extending south to milepost 762.1 in or around Zuber, Florida (“the Line”). The entire Line is located in Marion County, Florida. A map depicting the Line is enclosed. The Line traverses United States Postal Service ZIP Codes 34482, 32686, 34475.

This proceeding involves the discontinuance of common carrier service over the subject rail line and not the abandonment of that line, and accordingly, Florida Northern understands that the question of whether the Line contains federally-granted rights-of-way is inapplicable. The Line is not suited at this time for alternative public use. Any documentation in Florida Northern’s possession will be made available promptly to those requesting it.

If you have any questions about the Notice that Florida Northern plans to file, please review the applicable regulations or contact me or the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001; TEL: (202) 245-0230.

Thank you for your assistance.

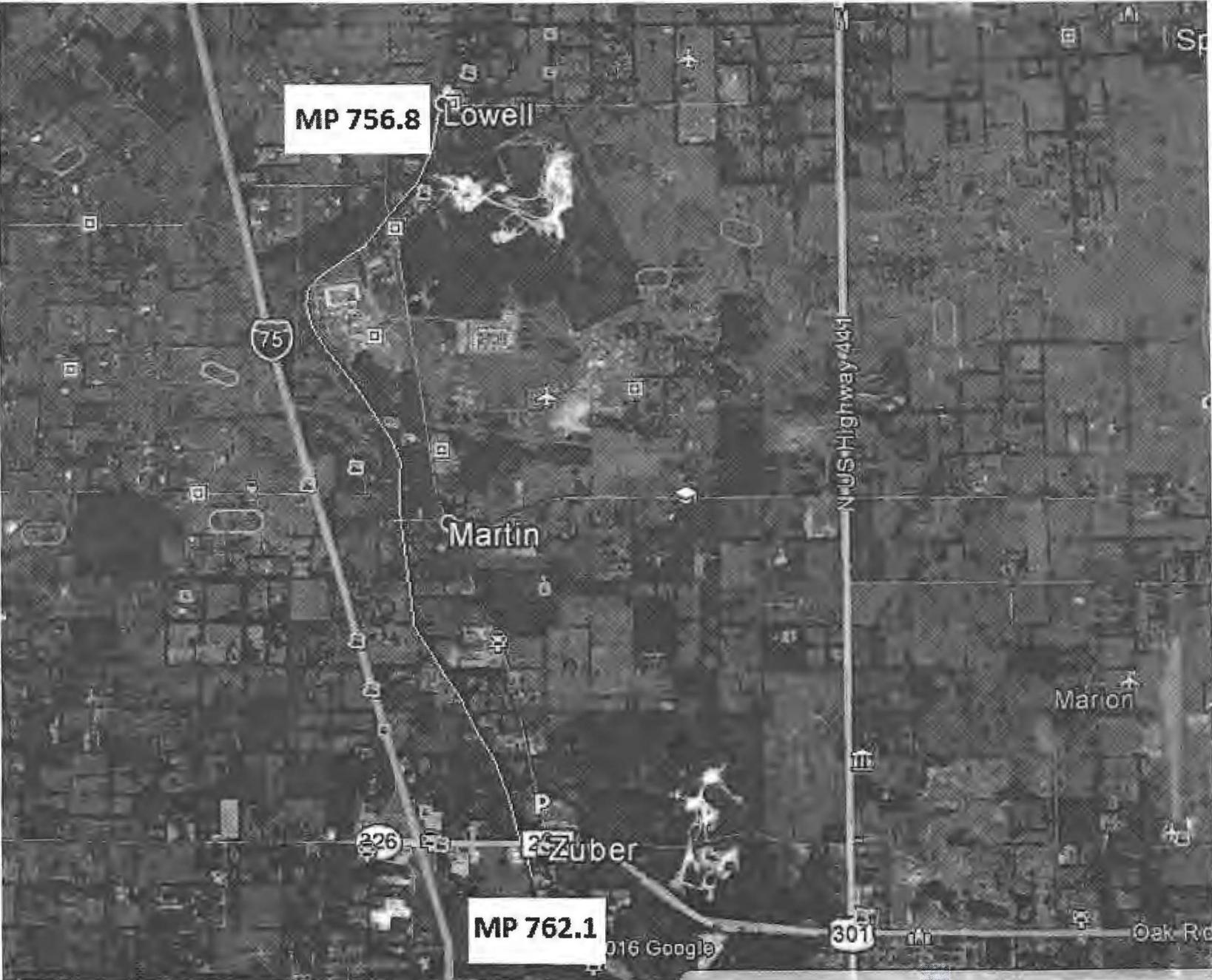
Very truly yours,



Audrey L. Brodrick  
Counsel for Florida Northern Railroad  
Company, Inc.

ALB:dg  
Enclosure

# Florida Northern Railroad Company, Inc. Discontinuance Exemption in Marion County, Florida. Docket AB-507 (Sub No. 2x)



**CERTIFICATE OF NEWSPAPER PUBLICATION**

I certify that a "Notice of Intent to Discontinue Rail Service," in the form prescribed by the Surface Transportation Board and as attached hereto, was published on August 24, 2016 in *The Ocala Star Banner*, a newspaper of general circulation in Marion County, Florida, where the subject rail line is located.

September 12, 2016



\_\_\_\_\_  
Audrey L. Brodrick  
Attorney for Florida Northern Railroad  
Company, Inc.

# AFFIDAVIT OF PUBLICATION

**Star-Banner**  
Published - Daily  
Ocala, Marion County, Florida

STATE OF FLORIDA  
COUNTY OF MARION

Before the undersigned, a Notary Public of Said County and State, [Signature] who on oath says that they are an authorized employee of the Star-Banner, a daily newspaper published at Ocala, in Marion County, Florida; that the attached copy of advertisement, being a notice in the matter of

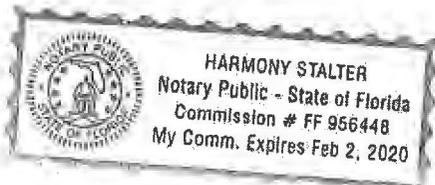
**NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE STB DOCKET NO. AB-507 Sub-No. 2X Florida Northern Railroad Company, Inc. Florida Northern gives notice that on or after September 2, 2016, it intends to file with the Surface Transportation Board, Washington**

was published in said newspaper in the issues of:

8/24 1x

Affiant further says that the said STAR-BANNER is a daily newspaper published at Ocala, in said Marion County, Florida, and that the said newspaper has heretofore been continuously published in said Marion County, Florida, daily, and has been entered as second class mail matter at the post office in Ocala in said Marion County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the person of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 24 day of August, A.D., 2016



[Signature]  
Notary Public  
**HARMONY STALTER**

(Print, Type or Stamp Name of Notary Public)

Ad #: A000895279



NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE  
STB DOCKET NO. AB-507 (Sub-No. 2X)

Florida Northern Railroad Company, Inc. ("Florida Northern") gives notice that on or after September 2, 2016, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 C.F.R. Part 1152 Subpart F – *Exempt Abandonments and Discontinuances of Service and Trackage Rights* permitting Florida Northern to discontinue common carrier service over approximately 5.3 miles of railroad line (herein after the "Line") starting at milepost 756.8 in or around Lowell, Florida and going south to milepost 762.1 in or around Zuber, Florida, in Marion County, Florida. The Line traverses United States Postal Service ZIP Codes 34482, 32686, and 34475. The proceedings will be docketed as STB Docket No. AB- 507 (Sub- No. 2x).

The proposed action entails the discontinuance of rail common carrier service over the Line, but not abandonment. Accordingly, no environmental and/or historic report will be prepared as part of this proceeding.

Appropriate offers of financial assistance to subsidize Florida Northern rail service can be filed with the Board. An original and 10 copies of any pleading pertaining to offers of financial assistance or responding generally to the proposed discontinuance of service must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and a copy must be served on Florida Northern's representative [See 49 C.F.R. § 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on Florida Northern's representative: Audrey L. Brodrick, FLETCHER & SIPPEL LLC, 29 North Wacker Drive, #920, Chicago, IL 60606 (phone: 312-252-1500; fax 312-252-2400).