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237934

March 13, 2015

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

ENTERED
Office of Proceedings
March 13, 2015
Part of
Public Record

Re: **Docket No. AB-43 (Sub-No. 190X)**
Illinois Central Railroad Company – Discontinuance
Exemption – In Sangamon and Montgomery Counties, Illinois

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Petition for Exemption of Illinois Central Railroad Company**. A check in the amount of \$6,600, representing the appropriate fee for this filing, is attached.

In accordance with 49 C.F.R. § 1152.60(c), a computer disk containing the text of the draft *Federal Register* notice of this petition for exemption (Exhibit B to the Petition) in MS Word 2010 format also is enclosed. For convenience, this disk also contains the text of the Petition for Exemption.

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,



Robert A. Wimbish
Attorney for Illinois Central Railroad Company

Enclosures

FEE RECEIVED
March 13, 2015
SURFACE
TRANSPORTATION BOARD

FILED
March 13, 2015
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. AB-43 (SUB-NO. 190X)

**ILLINOIS CENTRAL RAILROAD COMPANY
-- DISCONTINUANCE EXEMPTION --
IN SANGAMON AND MONTGOMERY COUNTIES, ILLINOIS**

**DISCONTINUANCE PETITION FOR EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY**

**Robert A. Wimbish
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**ATTORNEY FOR ILLINOIS CENTRAL
RAILROAD COMPANY**

Dated: March 13, 2015

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-43 (SUB-NO. 190X)

ILLINOIS CENTRAL RAILROAD COMPANY
-- DISCONTINUANCE EXEMPTION --
IN SANGAMON AND MONTGOMERY COUNTIES, ILLINOIS

DISCONTINUANCE PETITION FOR EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY

Pursuant to 49 U.S.C. § 10502 and the regulations of the Surface Transportation Board (the “Board”) at 49 C.F.R. §§ 1121 and 1152.60, Illinois Central Railroad Company (“IC”) hereby petitions the Board for an exemption from the prior approval requirements of 49 U.S.C. § 10903 to discontinue common carrier service over a line of railroad, referred to herein as the “Farmersville Segment,” extending from approximately milepost 207.25 (a point to the south of the Illinois & Midland Railroad, Inc. (“IMRR”) turnout and immediately north of IC’s at-grade crossing of Illinois Route 104) at Cimic, Sangamon County, IL, to the end of line at milepost 218.0 at Farmersville, Montgomery County, IL, a distance of approximately 10.75 route miles.¹ A map showing the location of the line over which discontinuance is sought is attached to this petition as Exhibit A. A draft *Federal Register* notice of this petition in the form prescribed by 49 C.F.R. § 1152.60(c) is attached hereto as Exhibit B.

¹ The Farmersville Segment is the southern end of a stub-ended line of railroad known as the Gilman Subdivision extending from Gilman, IL, to Farmersville, IL, via Gibson City, Clinton, and Springfield, IL. IMRR exercises trackage rights over a portion of the Gilman Subdivision between Springfield (approximately milepost 192.2) and Cimic (approximately milepost 207.3). IC has limited the proposed discontinuance to the portion of the Gilman Subdivision south of the Cimic turnout so that IMRR’s trackage rights operations would be unaffected.

Common carrier operations on the Farmersville Segment ceased in December of 2013, when the sole customer on the line, Springfield Coal Company, LLC (“Springfield Coal”), ended operations at its Crown 3 mine (“Crown 3”). IC is unaware of any near-term plans to reopen Crown 3, but IC could foresee circumstances under which Crown 3 might at some future date be reactivated, at which time the mine may produce sufficient carload traffic to warrant restoring rail service on the Farmersville Segment. A copy of this petition is being served on Springfield Coal. There are no other recent shippers on the Farmersville Segment, and although traffic opportunities aside from the possible future reopening of Crown 3 may emerge at some future date, such traffic possibilities are entirely speculative. IC is mindful of IMRR’s trackage rights operations to the north of the Farmersville Segment, and anticipates that the proposed discontinuance will not affect IMRR train service.

The proposed discontinuance will allow IC formally to suspend its common carrier obligations over an out-of-service line segment that has been devoid of freight traffic for over a year, but it also allows IC discretion to restore common carrier service to the line, should future circumstances warrant. Moreover, as discussed below, discontinuance of the Farmersville Segment plainly satisfies the exemption criteria of 49 U.S.C. § 10502, and, accordingly, this petition should be granted.

I. IDENTIFICATION OF PETITIONER

Petitioner IC is a Class I common carrier by rail which owns and operates approximately 2001 miles of rail line in six midwestern and south central states. IC’s principal route extends from Chicago, IL, through Memphis, TN, to New Orleans, LA. Secondary main lines reach to Springfield, Peoria and East St. Louis, IL; Baton Rouge, LA; and Mobile, AL. IC is an indirect, wholly-owned subsidiary of Canadian National Railway Company (“CN”), which

(through lines it owns and through subsidiaries like IC) operates an approximately 18,000-mile rail system in fifteen U.S. states and eight provinces in the Dominion of Canada. The Board approved CN's control of IC in Canadian National Railway Company, Grand Trunk Corporation and Grand Trunk Western Railroad Incorporated – Control – Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central & Pacific Railroad Company and Cedar River Railroad Company, Finance Docket No. 33556, Decision No. 37 (STB served May 25, 1999).

The complete name and address of IC is:

Illinois Central Railroad Company
17641 South Ashland Avenue
Homewood, IL 60430-1345

II. DESCRIPTION OF THE LINE THAT IS THE SUBJECT OF THIS PETITION

IC's Farmersville Segment is a roughly 10.75-mile, single-track, stub-ended line extending from approximately milepost 207.25 (south of the IC-IMRR turnout at Cimic and immediately north of the Farmersville Segment's at-grade crossing of Illinois Route 104), to the end of the line at milepost 218.0 at Farmersville, at which point, the line connects with what IC records dating back at least as far as 1987 indicate is a non-Board-regulated industrial track leading to Crown 3. The Farmersville Segment includes the stations of Farmersville and Cimic, although the latter station will remain open north of milepost 207.25. The Farmersville Segment traverses United States Postal Service ZIP Codes 62530, 62533, and 62690.

Although of questionable relevance here because the proposed action does not entail the abandonment of a rail line, IC nevertheless states as follows pursuant to 49 C.F.R. § 1152.60(d): IC has not undertaken a review of its files to determine whether any parcels may be subject to reversion in the event of an abandonment, but IC suspects that there could be parcels

within the subject right-of-way that may be subject to reversion upon consummation of abandonment authority were the line to be made the subject of an abandonment proceeding.

As indicated above, IC had utilized the Farmersville Segment to provide service to Crown 3, which IC accessed via an industry track at the end of the line at approximately milepost 218.0. Traffic was outbound coal until Crown 3 terminated operations in December of 2013. IC is unaware of any near-term plans to reactivate Crown 3. IC foresees circumstances under which the mine could resume production, or other commercial ventures could open that would be accessed from the rail line between Cimic and Farmersville, and under which it would be in the railroad's economic interest to reactivate the Farmersville Segment for the provision of rail common carrier service. In light of such strategic considerations, IC has decided to seek discontinuance authority, rather than to pursue outright abandonment of the line.

III. JURISDICTION AND STATUTORY STANDARDS

The Board has jurisdiction over the proposed discontinuance of service over IC's Farmersville Segment pursuant to 49 U.S.C. § 10903. Generally, a common carrier by rail such as IC must obtain authority from the Board under Section 10903 before discontinuing service over a line of railroad. However, 49 U.S.C. § 10502 requires the Board to exempt a person, transaction or service from the statutory and regulatory requirements otherwise applicable to a rail carrier when the Board determines that: (1) application of those requirements is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and (2) either (a) the transaction is of limited scope or (b) regulation is not needed to protect shippers from an abuse of market power.

IV. CRITERIA OF 49 U.S.C. § 10502

A. Detailed Scrutiny Under 49 U.S.C. § 10903 Is Not Necessary To Carry Out The Rail Transportation Policy Of 49 U.S.C. § 10101

Granting IC an exemption to discontinue service over the Farmersville Segment is consistent with the goals articulated in the national Rail Transportation Policy, 49 U.S.C.

§ 10101. By allowing IC to avoid the expense of maintaining a line that generates no traffic or revenue, the exemption will encourage the honest and effective management of railroads and promote the development of an economically sound and efficient transportation system. 49 U.S.C. §§ 10101(3), (4), (5) and (9). Exemption also will allow the State of Illinois to avoid unnecessary expenditures on inactive and out-of-service rail/highway crossings that have no rail traffic (such as the Illinois Route 104 crossing), and it would permit the state to reallocate crossing upgrade funds to other locations for which a genuine need exists.

The rail transportation policy also provides that the Board should minimize the need for federal regulatory control over the rail transportation system, expedite regulatory decisions and reduce barriers to exit. 49 U.S.C. §§ 10101(2), (7), and (15). The statutory exemption procedure of Section 10502 obviates the need for the expensive and time-consuming processes attendant to a formal application proceeding under Section 10903. Reliance on the adequate and expeditious individual exemption procedures would minimize Board regulation of this transaction and reduce the procedural burden on IC.

None of the other Rail Transportation Policy criteria will be adversely affected. No rail service of any kind has been provided on the Farmersville Segment for over a year. The only previously-active shipper on the line, Springfield Coal, has closed the Crown 3 mine and has ceased all rail shipments. Nevertheless, as indicated, copy of this petition is being served on Springfield Coal.

B. The Transaction Is Of Limited Scope

The transaction for which exemption is sought consists solely of the legal discontinuance of common carrier service over an unused, stub-ended line segment roughly eleven miles in length that formerly had been used to serve a single, now-inactive customer. No rail service has been provided on the line for over a year. As a matter of business strategy, IC has elected not to abandon the Farmersville Segment at this time, but rather only to seek discontinuance authority. Under these circumstances, the proposed discontinuance clearly is of limited scope.

C. Regulation Is Not Necessary To Protect Shippers From Market Power Abuse

Since this transaction is of limited scope, IC does not need to demonstrate that regulation is unnecessary to protect shippers from market power abuse. 49 U.S.C. § 10502(a)(2). Even so, it is clear that this transaction will not and cannot subject shippers to any market power abuse.

Springfield Coal has deactivated the Crown 3 mine and does not require rail service. IC would examine the possibility of resuming common carrier service if Crown 3 were to be reactivated or other traffic opportunities were to emerge sufficient to make service reactivation economically justifiable. Potential shippers in the area would have access to service from motor carriers and would retain access to rail service from IC at Cimic and on the northern portion of the Gilman Subdivision. Accordingly, regulation by the Board of this discontinuance is not and cannot be necessary to protect any shipper from an abuse of power.

V. LEVEL OF LABOR PROTECTION TO BE IMPOSED

IC anticipates no adverse impact on employment levels as a result of the proposed discontinuance. No operations have occurred on the Farmersville Segment for over a year.

Nevertheless, IC agrees that the appropriate level of employee protection to be imposed here is that established in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

VI. ENVIRONMENTAL IMPACT REVIEW, INTERIM TRAILS USE AND PUBLIC USE CONDITIONS

As a general rule, the Board does not require a carrier seeking to discontinue service over a rail line (as opposed to seeking to abandon it) to prepare and submit for review a combined environmental and historic report under 49 C.F.R. §§ 1105.6(c) and 1105.8(b).² IC submits that the Board’s general rule applies to this discontinuance proceeding, and so IC has dispensed with the preparation of a combined environmental and historic report. IC does not intend as a consequence of obtaining discontinuance authority to undertake salvage activity or to alter or destroy any historic structures that may exist along the line segment. Moreover, because the discontinuance applies to an inactive rail line, no rail-to-truck diversions will occur that would trigger potential air quality (emissions) impacts.

In addition, because this is a discontinuance proceeding and not an abandonment proceeding, interim trail use/rail banking and public use conditions are not appropriate.

WHEREFORE, IC respectfully requests that the Board exempt from the prior approval requirements of 49 U.S.C. § 10903 the discontinuance of the Farmersville Segment extending from approximately milepost 207.25 (south of the Illinois & Midland Railroad, Inc. (“IMRR”) turnout and immediately north of the Farmersville Segment’s crossing of Illinois

² See, e.g., Norfolk Southern Railway Company – Discontinuance of Service Exemption – in Isle of Wight, Southampton, Greensville, and Brunswick Counties, Va., Docket No. AB 290 (Sub-No. 359X), slip op. at 2 (STB served Dec. 16, 2013) (“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)”); Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) (same); Chillicothe-Brunswick Rail Maintenance Authority–Discontinuance Exemption–in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 (STB served Feb 23, 2007) (same).

Route 104) at Cimic, Sangamon County, IL, to the end of line at milepost 218.0 at Farmersville,
Montgomery County, IL

Respectfully submitted,

By: 

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 920
Chicago, IL 60606-2832
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Email: rwimbish@fletcher-sippel.com

**ATTORNEY FOR ILLINOIS CENTRAL
RAILROAD COMPANY**

Dated: March 13, 2015

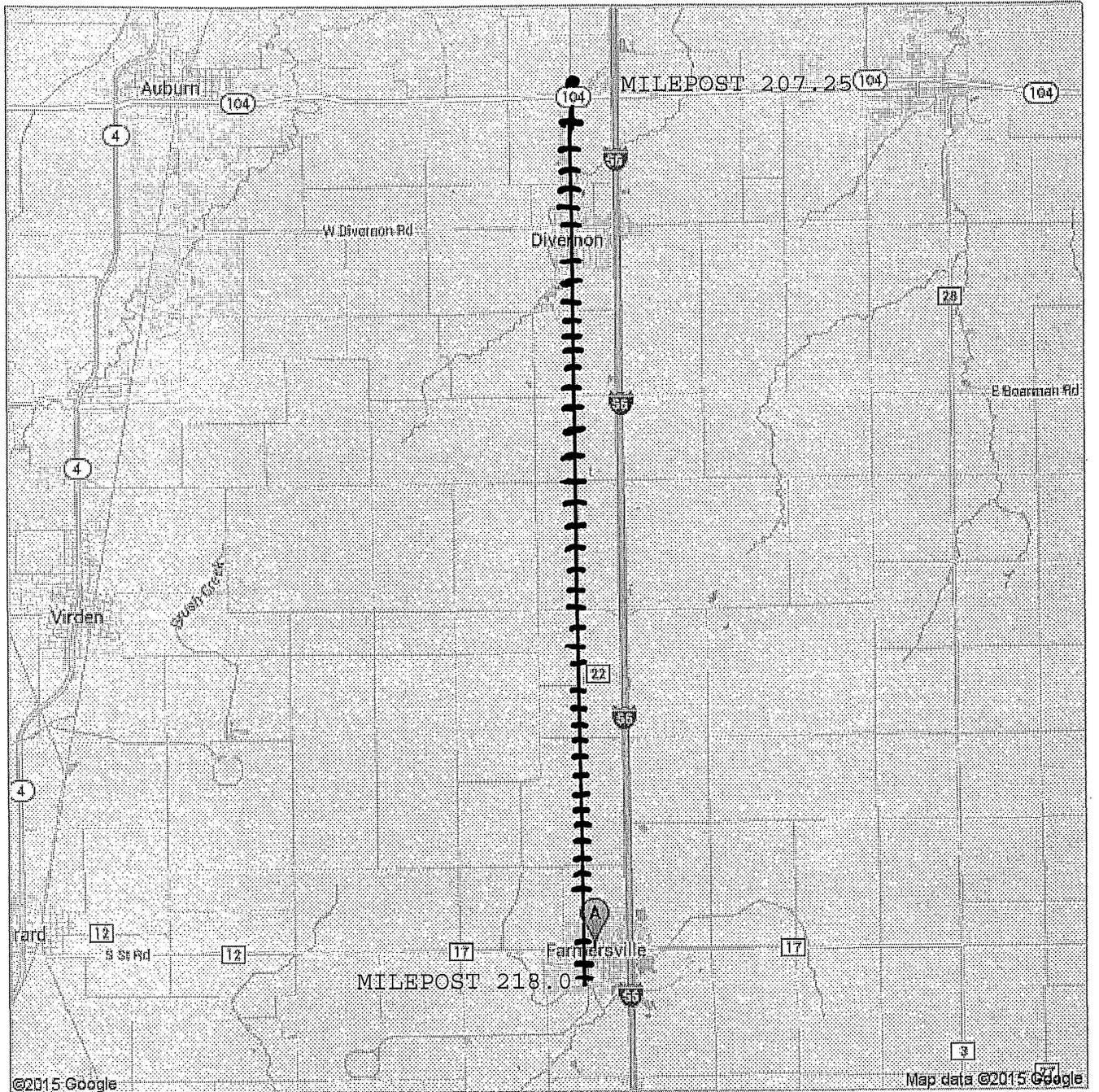
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. AB-43 (SUB-NO. 190X)

**ILLINOIS CENTRAL RAILROAD COMPANY
-- DISCONTINUANCE EXEMPTION --
IN SANGAMON AND MONTGOMERY COUNTIES, ILLINOIS**

EXHIBIT A

MAP



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. AB-43 (SUB-NO. 190X)

**ILLINOIS CENTRAL RAILROAD COMPANY
-- DISCONTINUANCE EXEMPTION --
IN SANGAMON AND MONTGOMERY COUNTIES, ILLINOIS**

EXHIBIT B

DRAFT FEDERAL REGISTER NOTICE

DO

FR-_____

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Docket No. AB 43 (Sub-No. 190X)

Illinois Central Railroad Company—Discontinuance of Service Exemption—in Sangamon and Montgomery Counties, Il.

On March 13, 2015, Illinois Central Railroad Company (IC) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10903 to discontinue service over approximately 10.75 miles of rail line, extending from approximately milepost 207.25 (south of the Illinois & Midland Railroad, Inc. (“IMRR”) turnout and immediately north of IC’s at-grade crossing of Illinois Route 104) at Cimic, Sangamon County, Il., to the end of line at milepost 218.0 at Farmersville, Montgomery County, Il. (the Line). The Line traverses United States Postal Service Zip Codes 62530, 62533, and 62690, and includes the stations of Farmersville and Cimic, although the latter station will remain open north of milepost 207.25. According to the petition, the Line is stub-ended and therefore not capable of handling overhead traffic.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by _____, 2015.

Because this is a discontinuance proceeding and not an abandonment proceeding, interim trail use/rail banking and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 C.F.R. §§ 1105.6(c)(2) and 1105.8(b).

Any offer of financial assistance under 49 C.F.R. § 1152.27(b)(2) to subsidize continued rail service will be due no later than _____, 2015, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Each offer must be accompanied by a \$1,600 filing fee. See 49 C.F.R. § 1002.2(f)(25).

All filings in response to this notice must refer to Docket No. AB 43 (Sub-No. 190X) and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832. Replies to the petition are due on or before _____, 2015.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 C.F.R. pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. [Assistance for the hearing impaired is available through Federal Information Relay Service (FIRS) at 1-800-877-8339.]

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: _____, 2015.

By the Board, _____, Office of Proceedings.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB-43 (SUB-NO. 190X)

**ILLINOIS CENTRAL RAILROAD COMPANY
-- DISCONTINUANCE OF SERVICE EXEMPTION --
IN SANGAMON AND MONTGOMERY COUNTIES, ILLINOIS**

EXHIBIT C

**CERTIFICATES OF SERVICE AND
PUBLICATION**

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2015, in keeping with the requirements of 49 C.F.R. § 1152.60(d), a copy of the foregoing Discontinuance of Service Petition for Exemption was served by first class mail, postage prepaid, upon the following parties:

Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

David Dorfman
SDDC TEA-Railroads for National Defense
709 Ward Dr., Bldg. 1990
Scott AFB, IL 62225

Charlie Stockman
National Park Service
Rivers & Trails Conservation Program
1201 Eye Street, NW, 9th Floor
(Org. Code 2220)
Washington, D.C. 20005

Thomas L. Tidwell, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024

Illinois Department of Transportation
Division of Public and Intermodal Transportation
2300 S. Dirksen Parkway
Springfield, IL 62764

In addition, I also hereby certify that on this date a copy of the foregoing Discontinuance of Service Petition for Exemption was served by first class mail, postage prepaid, upon the following past user of rail service on the subject rail line:

Springfield Coal Company, LLC
3008 Happy Landing Drive
Springfield, IL 62711

March 13, 2015



Robert A. Wimbish
Attorney for Illinois Central Railroad Company

CERTIFICATE OF NEWSPAPER PUBLICATION

I certify that a "Notice of Intent to Discontinue Rail Service" was published in the form prescribed by the Surface Transportation Board for a petition for exemption (49 C.F.R. § 1105.12). The notice was published one time in the *State Journal-Register* (February 28, 2015), a newspaper of general circulation in both Sangamon and Montgomery Counties, IL, where the subject rail line is located.

March 13, 2015



Robert A. Wimbish
Attorney for Illinois Central Railroad Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB-43 (SUB-NO. 190X)

**ILLINOIS CENTRAL RAILROAD COMPANY
-- DISCONTINUANCE OF SERVICE EXEMPTION --
IN SANGAMON AND MONTGOMERY COUNTIES, ILLINOIS**

VERIFICATION

VERIFICATION

State of Illinois)
)
County of Cook)

SS:

Brian Buchanan, being duly sworn, deposes and says that he is the Manager of Network Strategies for Illinois Central Railroad Company, that he has read the foregoing Discontinuance of Service Petition for Exemption, and knows the facts asserted therein, and verifies that the same are true as stated.



SUBSCRIBED AND SWORN TO
before me this 26th day
of February, 2015.



Notary Public
My Commission expires:

