

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

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

AUDREY E. LANE
(312) 252-1518
alane@fletcher-sippel.com

February 28, 2022

304044

VIA ELECTRONIC FILING

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
February 28, 2022
Part of
Public Record

Re: **AB 1070 (Sub-No. 4X)**
Central Midland Railway Company — Discontinuance of
Service Exemption — In Franklin County, Missouri

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is a **Verified Notice of Exemption of Central Midland Railway Company Pursuant to 49 C.F.R. § 1152.50**. Payment of the applicable filing fee has been tendered electronically via Pay.gov.

The proposed action in this docket entails the discontinuance of common carrier rail service over the subject rail line, rather than abandonment of the line. Accordingly, no Environmental/Historic Report needs to be, or has been, prepared in support of the notice.

If you have any questions regarding this filing, please contact me at either alane@fletcher-sippel.com, or (312) 252-1518. Thank you for your assistance on this matter. Kind regards.

FILED
February 28, 2021
SURFACE
TRANSPORTATION BOARD

AEB:tl
Enclosures

Respectfully submitted,

Audrey E. Lane

Audrey E. Lane
Attorney for Central Midland Railway Company

FEE RECEIVED
February 28, 2022
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB 1070 (SUB-NO. 4X)

CENTRAL MIDLAND RAILWAY COMPANY
— DISCONTINUANCE OF SERVICE EXEMPTION —
IN FRANKLIN COUNTY, MISSOURI

**VERIFIED NOTICE OF EXEMPTION OF
CENTRAL MIDLAND RAILWAY COMPANY
PURSUANT TO 49 C.F.R. § 1152.50**

Thomas J. Litwiler
Audrey E. Lane
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR CENTRAL MIDLAND
RAILWAY COMPANY**

Dated: February 28, 2022

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB 1070 (SUB-NO. 4X)

CENTRAL MIDLAND RAILWAY COMPANY
--- DISCONTINUANCE OF SERVICE EXEMPTION ---
IN FRANKLIN COUNTY, MISSOURI.

**VERIFIED NOTICE OF EXEMPTION OF
CENTRAL MIDLAND RAILWAY COMPANY.
PURSUANT TO 49 C.F.R. § 1152.50**

Central Midland Railway Company (“CMRC”) hereby submits this notice of exemption pursuant to 49 C.F.R. § 1152.50 to discontinue its lease of and common carrier rail service over approximately 9.71 miles of rail line between Milepost 61.89 at Union and Milepost 71.6 at Beaufort, all within Franklin County, Missouri (“the Line”).

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

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

CMRC qualifies to invoke the Board’s discontinuance of service class exemption procedures at 49 C.F.R. § 1152.50. No local CMRC traffic has moved over the Line for at least 2 years;¹ overhead traffic (to the extent any exists) can be rerouted over other lines; and no formal complaint filed by a user of rail service on the Line regarding cessation of CMRC service either is

¹ CMRC has used the Line for car storage for off-line shippers during the past two years. Such usage and associated movements do not constitute traffic for purposes of qualification for the class exemption under 49 C.F.R. § 1152.50(b). *See Union Pacific Railroad Company – Abandonment Exemption – In Ada County, ID*, Docket No. AB 33 (Sub-No. 137X) (STB served Aug. 6, 1999) (“It is well settled that use of a rail line to store rail cars for the convenience of off-line shippers or the railroad is not traffic originating or terminating on the line within the meaning of 49 CFR 1152.50(b).”)

pending with the Board; a U.S. District Court; or has been decided in favor of the complainant within the past 2 years. See Certification and Verification of Lon Van Gemert attached as Exhibit A.

Additional Information Required (49 C.F.R. §§ 1152.22(a)(1)-(4), (7)-(8) and (e)(4)):

Exact name of applicant (49 C.F.R. § 1152.22(a)(1)):

Central Midland Railway Company.

Whether applicant is a common carrier by railroad (49 C.F.R. § 1152.22(a)(2)):

CMRC is a Class III rail common carrier and a wholly-owned subsidiary of Progressive Rail Inc. *See Progressive Rail Inc. – Acquisition of Control Exemption – Central Midland Railway Company*, Docket No. FD 35051 (STB served July 5, 2007).²

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

CMRC seeks authorization through the Board’s class exemption procedures to discontinue its lease of and common carrier rail service over the Line, extending approximately 9.71 miles between Milepost 61.89 at Union and Milepost 71.6 at Beaufort, all within Franklin County, Missouri (“the Line”).

CMRC leases the Line from V and S Railway, LLC (“V&S”), which acquired the Line from its prior owner in 2014 subject to CMRC’s lease. *See Central Midland Railway Company – Operation Exemption – Lines of Missouri Central Railroad Company*, Docket No. FD 33988 (STB served Jan. 29, 2001) (identifying a segment of railroad between Vigus, Missouri and Pleasant Hill, Missouri, of which the Line is a portion); *Central Midland Railway Company –*

² CMRC reincorporated as a Minnesota corporation in 2012. *See Central Midland Railway Company and Progressive Rail Inc. – Intra-Corporate Family Transaction Exemption*, Docket No. 35616 (STB served May 4, 2012).

Lease and Operation Exemption – Missouri Central Railroad Company, Docket No. FD 34363 (STB served Feb. 11, 2004); *V and S Railway, LLC – Acquisition Exemption – Line of Missouri Central Railroad Company*, Docket No. FD 35868 (STB served Nov. 28, 2014). At the time of the 2014 acquisition by V&S, CMRC discontinued service over, and the prior owner abandoned, the trackage beyond Milepost 71.6 at Beaufort. *Central Midland Railway Company – Discontinuance of Service Exemption – In Cass, Pettis, Benton, Morgan, Miller, Cole, Osage, Maries, Gasconade and Franklin Counties, Mo.*, Docket No. AB 1070 (Sub-No. 3X) (STB served Dec. 8, 2014) (embracing Docket No. AB 1068 (Sub-No. 3X)).³

Map (49 C.F.R. § 1152.22(a)(4)):

A map depicting the location of the Line is attached as Exhibit B.

CMRC’s representative (49 C.F.R. § 1152.22(a)(7)):

CMRC’s representative to whom correspondence regarding this discontinuance should be sent is:

Audrey E. Lane
Fletcher & Sippel LLC
29 N. Wacker Drive
Suite 800
Chicago, IL 60606-3208
312-252-1500

ZIP codes traversed (49 C.F.R. § 1152.22(a)(8)):

The Line traverses United States Postal Service ZIP Codes territory 63013 and 63084.

³ CMRC’s operations east of Milepost 61.89 at Union have recently been assumed by Missouri Eastern Railroad, LLC pursuant to a change of operator transaction. *See Missouri Eastern Railroad, LLC – Acquisition and Change of Operator Exemption – V and S Railway, LLC and Central Midland Railway Company*, Docket No. FD 36550 (STB served Nov. 10, 2021).

Suitability for other public purposes (49 C.F.R. § 1152.22(e)(4)):

The informational requirement of 49 C.F.R. § 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. Nevertheless, CMRC is unaware of any alternative public use for which the Line might be suitable.

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

CMRC will consummate the discontinuance after April 19, 2022.

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

The interests of affected railroad employees, if any, will be protected by the conditions discussed in *Oregon Short Line R.R. – Abandonment – Goshen*, 360 I.C.C. 91 (1979). CMRC does not anticipate that any employees will be adversely affected by the proposed discontinuance.

Certifications (49 C.F.R. § 1152.50(d)(1)):

A certificate of compliance with the newspaper publication and advance notice requirements set forth at 49 C.F.R. §§ 1105.12 and 1152.50(d)(1), respectively, is 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/ Historic Reports) is inapplicable here.

Environmental/Historic Report (49 C.F.R. §§ 1105.7 and 1105.8):

A notice of exemption to discontinue service over (rather than to abandon) a line of railroad under the class exemption does not require the preparation or submission of an Environmental/Historic Report.⁴

Respectfully submitted,

By: Audrey E. Lane

Thomas J. Litwiler

Audrey E. Lane

Fletcher & Sippel LLC

29 North Wacker Drive

Suite 800

Chicago, Illinois 60606-3208

(312) 252-1500

**ATTORNEYS FOR CENTRAL MIDLAND
RAILWAY COMPANY**

Dated: February 28, 2022

⁴ See, e.g., *Indiana Harbor Belt Railroad Company – Discontinuance of Trackage Rights Exemption – In Lake County, Ind.*, Docket No. AB 317 (Sub-No. 6X) (STB served Mar. 30, 2010) at 2, n.3 (“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”).

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB 1070 (SUB-NO. 4X)

CENTRAL MIDLAND RAILWAY COMPANY
— DISCONTINUANCE OF SERVICE EXEMPTION —
IN FRANKLIN, COUNTY, MISSOURI

EXHIBIT A

**CERTIFICATION PURSUANT TO
49 C.F.R. § 1152.50(b) AND
VERIFICATION**

CERTIFICATION AND VERIFICATION

I, Lon VanGemert, under penalty of perjury, states and certifies as follows:

1. Central Midland Railway Company ("CMRC") has handled no local traffic over the approximately 9.71 miles of rail line between Milepost 61.89 at Union and Milepost 71.6 at Beaufort, all within Franklin County, Missouri ("the Line") within the past 2 years and any overhead traffic on the Line could be rerouted over other lines; and

2. No formal complaint filed by a user of rail service (or a state or local government entity acting on behalf of such user) regarding CMRC's 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 2 years.

3. 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 CMRC.

Dated:

2/28/22


NAME Lon Van Gemert
Title CEO
Business Address 21778 HIGHVIEW AVE
LAKEVILLE, MN 55044

BEFORE THE
SURFACE TRANSPORTATION BOARD

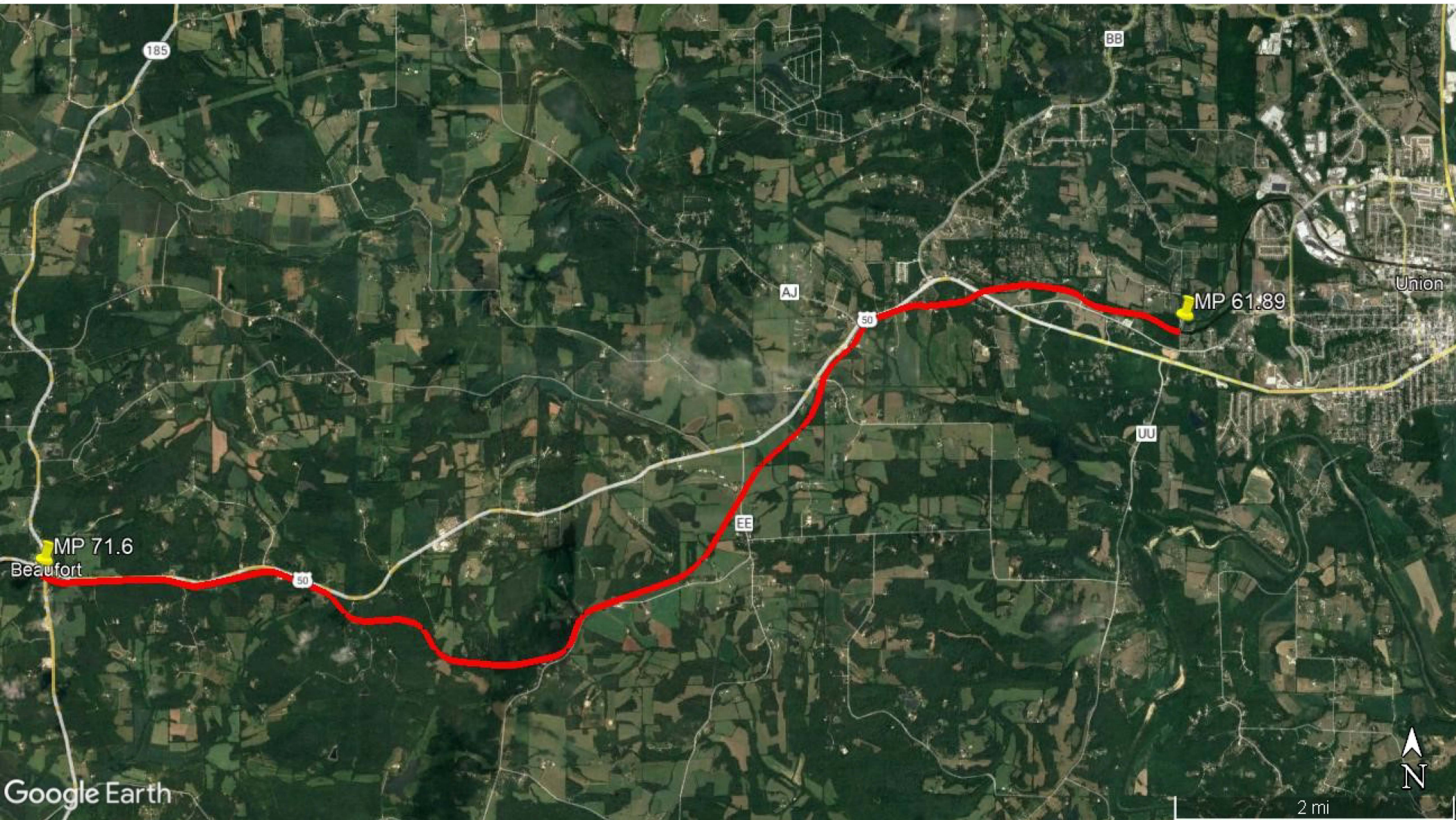
DOCKET NO. AB 1070 (SUB-NO. 4X)

CENTRAL MIDLAND RAILWAY COMPANY
— DISCONTINUANCE OF SERVICE EXEMPTION —
IN FRANKLIN COUNTY, MISSOURI.

EXHIBIT B

MAP

**Docket No. AB 1070 (Sub-No. 4X) Central Midland Railway Company
Discontinuance of Service Exemption - in Franklin County, Missouri**



BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB 1070 (SUB-NO. 4X)

CENTRAL MIDLAND RAILWAY COMPANY
— DISCONTINUANCE OF SERVICE EXEMPTION —
IN FRANKLIN COUNTY, MISSOURI

EXHIBIT C

**CERTIFICATE OF
SERVICE/PUBLICATION**

CERTIFICATE OF SERVICE AND PUBLICATION

I, Audrey E. Lane, an attorney for Central Midland Railway Company, for the proceeding before the Surface Transportation Board known as Docket No. AB 1070 (Sub No. 4X), Central Midland Railway Company. — *Discontinuance of Service Exemption — In Franklin County, Missouri.*, hereby certify that:

(1) The advance notice requirements of 49 C.F.R. § 1152.50(d)(1) have been satisfied, to wit: on February 14, 2022, written notice of the proposed discontinuance of rail service was mailed to the (a) United States Department of Defense, MSDDC-TEA, Attn: Railroads for National Defense; (b) U.S. Department of Agriculture, Chief of the Forest Service; (c) National Park Service, Chief of Conservation and Outdoor Recreation; (d) the Missouri Department of Transportation. Copies of the correspondence indicating the method of transmission and addresses for these agencies are attached hereto; and

(2) A newspaper notice was published on February 19-20, 2022 in The Washington Missourian, a newspaper of general circulation Franklin County, Missouri.

Audrey E. Lane

Audrey E. Lane
Attorney for Central Midland Railway Company

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AUDREY L. BRODRICK

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

February 14, 2022

Military Surface Deployment & Distribution Command
Transportation Engineering Agency
Attn: SDTE-SA (Railroads for National Defense)
1 Soldier Way, Bldg. 1900W
Scott AFB, IL 62225-50067

Re: **Docket No. AB 1070 (Sub-No. 4X)**
Central Midland Railway Company – Discontinuance of Service Exemption
– in Franklin County, Missouri

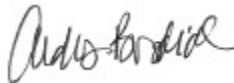
Dear Sir or Madam:

On or after February 28, 2022, the Central Midland Railway Company (“CMRC”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption 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 9.71 miles of rail line between Milepost 61.89 at Union, Missouri to Milepost 71.6 at Beaufort, all within Franklin County, Missouri (“the Line”). The Line traverses United States Postal Service ZIP Code(s) 63013 and 63084. The proceeding will be docketed as STB Docket No. AB 1070 (Sub-No. 4X). A map depicting the Line is enclosed herewith.

This proceeding involves CMRC’s discontinuance of common carrier service over the Line, and not its abandonment. CMRC understands 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 the railroad’s possession will be made available promptly to those requesting it.

If you have any questions about the notice of exemption that CMRC plans soon to file, please review the applicable regulations or contact me at 312-252-1518 or the Surface Transportation Board, 395 E Street SW Washington, DC 20423-0001; TEL: (202) 245-0230.

Very truly yours,



Audrey L. Brodrick
Attorney for Central Midland Railway Company

ALB/eg
Enclosure

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

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

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

February 14, 2022

Mr. Randy Moore
Chief, Forest Service
U.S. Department of Agriculture
1400 Independence Avenue S.W.
Washington, DC 20250-1111
Email: randy.moore@usda.gov

Re: **Docket No. AB 1070 (Sub-No. 4X)**
Central Midland Railway Company – Discontinuance of Service Exemption
– in Franklin County, Missouri

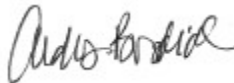
Dear Chief Moore:

On or after February 28, 2022, the Central Midland Railway Company (“CMRC”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption 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 9.71 miles of rail line between Milepost 61.89 at Union, Missouri to Milepost 71.6 at Beaufort, all within Franklin County, Missouri (“the Line”). The Line traverses United States Postal Service ZIP Code(s) 63013 and 63084. The proceeding will be docketed as STB Docket No. AB 1070 (Sub-No. 4X). A map depicting the Line is enclosed herewith.

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Very truly yours,



Audrey L. Brodrick
Attorney for Central Midland Railway Company

ALB/eg
Enclosure

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AUDREY L. BRODRICK

(312) 252-1518
abrodick@fletcher-sippel.com

February 14, 2022

Mr. Bob Ratcliffe
Division Chief, Conservation and Outdoor Recreation
National Park Service
1849 C Street NW
Washington, DC 20240-0001
Email: Bob_Ratcliffe@nps.gov

Re: **Docket No. AB 1070 (Sub-No. 4X)**
Central Midland Railway Company – Discontinuance of Service Exemption
– in Franklin County, Missouri

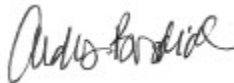
Dear Chief Ratcliffe:

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Very truly yours,



Audrey L. Brodrick
Attorney for Central Midland Railway Company

ALB/eg
Enclosure

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

February 14, 2022

Missouri Department of Transportation
Multimodal Division
105 W. Capitol Ave.
Jefferson City, MO 65102

Re: **Docket No. AB 1070 (Sub-No. 4X)**
Central Midland Railway Company – Discontinuance of Service Exemption
– in Franklin County, Missouri

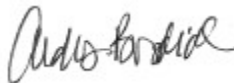
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Very truly yours,



Audrey L. Brodrick
Attorney for Central Midland Railway Company

ALB/eg
Enclosure

AFFIDAVIT OF PUBLICATION

Date:

(Space above for recording information)

STATE OF MISSOURI)
COUNTY OF Franklin) ss.

I, William L Miller Jr, being duly sworn according to law, state that I am the Publisher/Editor of The Washington Missourian, a weekly/daily newspaper of general circulation in the County of Franklin, State of Missouri, where located; which newspaper has been admitted to the Post Office as periodical class matter in the City of Washington, Missouri, the city of publication; which newspaper has been published regularly and consecutively for a period of three years and has a list of bona fide subscribers, voluntarily engaged as such who have paid or agreed to pay a stated price for a subscription for a definite period of time, and that such newspaper has complied with the provisions of Section 493.050, Revised Statutes of Missouri 2000, and Section 59.310, Revised Statutes of Missouri 2000. The affixed notice appeared in said newspaper in the following consecutive issues:

1st Insertion: Vol. 161 No. 101, 19-20 day of Feb 2022

2nd Insertion: Vol. _____ No. _____, _____ day of _____ 20____

3rd Insertion: Vol. _____ No. _____, _____ day of _____ 20____

4th Insertion: Vol. _____ No. _____, _____ day of _____ 20____

William L Miller Jr, Co-Publisher

Subscribed and sworn to before me on this 23rd day of

February, 2022
Jeanine L York
Notary Public

JEANINE L. YORK
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
MY COMMISSION EXPIRES OCTOBER 14, 2024
FRANKLIN COUNTY
COMMISSION #12541766

NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE — CENTRAL MIDLAND RAILWAY COMPANY

Central Midland Railway Company (CMRC) gives notice that on or about February 28, 2022, it intends to file with the Surface Transportation Board, Washington, DC 20423 (the "Board"), a notice of exemption under 49 C.F.R. part 1152 Subpart F - *Exempt Abandonments and Discontinuances of Service and Trackage Rights*, permitting the discontinuance of CMRC's common carrier service over approximately 9.71 miles of rail line between Milepost 61.89 at Union, Missouri to Milepost 71.6 at Beaufort, all within Franklin County, Missouri ("the Line"). The Line traverses United States Postal Service ZIP Code(s) 63013 and 63084. The proceeding will be docketed as STB Docket No. AB 1070 (Sub-No. 4X).

The proposed discontinuance is exempt from the Board's environmental and historic reporting requirements. 49 C.F.R. 1105.6(c) and 1105.8(b). Interested persons may make inquiries regarding environmental matters by writing to the Office of Environmental Analysis, Surface Transportation Board, Washington, DC 20423 or by calling that office at 202-245-0291. Offers of financial assis-

Affidavit of Publication
Continuation Page 2

All attached to this sheet holds the same bonds as on page one of this document.

As published in
The Washington Missourian.

tance to continue rail service (if appropriate) can be filed with the Board. Public use conditions and rail banking/trails use are not available in proceedings involving only a discontinuance and not an abandonment. Any pleading that raises matters other than environmental issues (such as offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E. Street, S.W., Washington, DC 20423-0001 [see 49 C.F.R. 1104], and one copy must be served on CMRC's representative [see 49 C.F.R. 1104.12(a)]. Questions regarding offers of financial assistance or the Board's discontinuance procedures may be directed to the Board's Office of Public Assistance, Governmental Affairs & Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on CMRC's representative at the following address: Audrey L. Brodrick, Esq., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, Illinois 60606-3208 (phone: 312-252-1500; fax: 312-252-2400).

Publish in the Weekend Missourian February 19-20, 2022.