

247375

**FLETCHER & SIPPEL LLC**

ATTORNEYS AT LAW

29 North Wacker Drive  
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BRADON J. SMITH  
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ENTERED  
Office of Proceedings  
April 1, 2019

Part of  
Public Record

Phone: (312) 252-1500  
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March 29, 2019

**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



AB 1247 (Sub-No. 1X)  
Re: **Docket No. ~~AB-1247X~~**  
**Illinois Railway LLC — Discontinuance of Service**  
**Exemption — In Ogle County, Ill.**

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of a **Verified Discontinuance of Service Notice of Exemption of Illinois Railway, LLC** pursuant to 49 C.F.R. § 1152.50. An electronic version of the Notice has been copied to the enclosed disc. A check for the filing fee of \$4,200.00 is also enclosed.

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 or Historic Report has been prepared as part of this proceeding.

If you have any questions regarding this filing, please feel free to contact me at either [bsmith@fletcher-sippel.com](mailto:bsmith@fletcher-sippel.com) or (312) 252-1516. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,

Bradon J. Smith  
Attorney for Illinois Railway, LLC

FEE RECEIVED  
April 1, 2019  
SURFACE  
TRANSPORTATION BOARD

BJS:dg  
Enclosures

FILED  
April 1, 2019  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

AB 1247 (Sub-No. 1X)  
DOCKET NO. ~~AB 1247X~~

ILLINOIS RAILWAY, LLC  
– DISCONTINUANCE OF SERVICE EXEMPTION –  
IN OGLE COUNTY, ILL.



**VERIFIED NOTICE OF EXEMPTION OF  
ILLINOIS RAILWAY, LLC  
PURSUANT TO 49 C.F.R. § 1152.50**

Bradon J. Smith  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 920  
Chicago, Illinois 60606-2832  
(312) 252-1500

**ATTORNEY FOR ILLINOIS RAILWAY, LLC**

Dated: March 29, 2019

BEFORE THE  
SURFACE TRANSPORTATION BOARD

AB 1247 (Sub-No. 1X)  
DOCKET NO. ~~AB 1247X~~

ILLINOIS RAILWAY, LLC  
– DISCONTINUANCE OF SERVICE EXEMPTION –  
IN OGLE COUNTY, ILL.



**VERIFIED NOTICE OF EXEMPTION OF  
ILLINOIS RAILWAY, LLC  
PURSUANT TO 49 C.F.R. § 1152.50**

Illinois Railway, L.L.C. (“IR”) hereby submits this Verified Notice of Exemption (“the Notice”) pursuant to 49 C.F.R. § 1152.50 to discontinue common carrier service over approximately 11 miles of railroad between milepost 11.31 at Davis Junction (excluding the junction point with Soo Line Railroad Company, which will remain open for traffic originating and terminating at points on IR north of Davis Junction) and milepost 0.29 at Flagg Center, all in Ogle County, Ill. (“the Line”).

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

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

IR qualifies to invoke the Board’s discontinuance of service class exemption at 49 C.F.R. § 1152.50 in order to terminate its common carrier status and obligations the Line, as there has been no local traffic that has moved over the Line for 2 years; overhead traffic can be rerouted over other lines and no formal complaint filed by a user of rail service on the line regarding cessation of service is either pending with the Board or a U.S. District Court, nor has a

complaint been decided in favor of the complainant within 2 years. See Certification and Verification, attached hereto and made part hereof 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):**

Illinois Railway, LLC

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

IR is a common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV. The Line was acquired by Illinois Railnet, Inc. ("IRN") in 1999 from the Burlington Northern and Santa Fe Railway Company. Illinois Railnet, Inc. — Acquisition and Operation Exemption — The Burlington Northern and Santa Fe Railway Company, Docket No. FD 33706 (STB served Feb. 25, 1999). IRN subsequently changed its corporate name to Illinois Railway, Inc., in 2005. See Patrick D. Broe and BNS Holdings — Acquisition of Control Exemption — Nebraska, Kansas & Colorado Railnet, Inc. Illinois Railnet, Inc., and Georgia & Florida Railnet, Inc., Docket No. 34687, 2, n.2 (STB served May 16, 2005). Illinois Railway, Inc., has converted its corporate form to that of a limited liability company, and it is now known as Illinois Railway, LLC, effective as of Oct. 1, 2011.

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

IR seeks to discontinue common carrier service over the Line, consisting of approximately 11 miles of railroad between milepost 11.31 at Davis Junction (excluding the junction point with Soo Line Railroad Company, which will remain open for traffic originating and terminating at points on IR north of Davis Junction) and milepost 0.29 at Flagg Center

**Map (49 C.F.R. § 1152.22(a)(4)):**

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

**IR's representative (49 C.F.R. § 1152.22(a)(7)):**

IR's representative to whom correspondence regarding this discontinuance should be sent to:

Bradon J. Smith  
Fletcher & Sippel LLC  
29 N. Wacker Drive  
Suite 800  
Chicago, IL 60606  
312-252-1500

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

The Line traverses United States Postal Service ZIP Code territories 61068 and 61020.

**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.<sup>1</sup> Nevertheless IR is unaware of any alternative public use for which the Line might be suitable.

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

IR will consummate the discontinuance no earlier than May 20, 2019.

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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”).

**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.R. — Abandonment — Goshen, 360 I.C.C. 91 (1979). No IR employees will be adversely affected by the proposed discontinuance.

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

A certificate that the newspaper publication and advance notice provisions of 49 C.F.R. §§ 1105.12 and 1152.50(d)(1), respectively, have been satisfied 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 and Historic Reports) is inapplicable here.

**Environmental and 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.<sup>2</sup>

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<sup>2</sup> See, e.g., Indiana Harbor Belt Railroad Co. — Discontinuance of Trackage Rights Exemption — In Lake County, Ind. (STB served Mar. 30, 2010) Docket No. AB-317 (Sub. No. 6) 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.”).

Respectfully submitted,

A handwritten signature in blue ink that reads "Bradon J. Smith". The signature is written in a cursive style with a large, stylized 'B' and 'S'.

Bradon J. Smith  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606  
(312) 252-1500

**ATTORNEY FOR ILLINOIS RAILWAY, LLC**

Dated: March 29, 2019

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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AB 1247 (Sub-No. 1X)  
DOCKET NO. ~~AB-1247X~~

ILLINOIS RAILWAY, LLC  
– DISCONTINUANCE OF SERVICE EXEMPTION –  
IN OGLE COUNTY, ILL.

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**EXHIBIT A**

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

**DOCKET NO. ~~AB-1247X~~**

**ILLINOIS RAILWAY, LLC**

**– DISCONTINUANCE OF SERVICE EXEMPTION –  
IN OGLE COUNTY, ILL.**

**CERTIFICATION AND VERIFICATION**

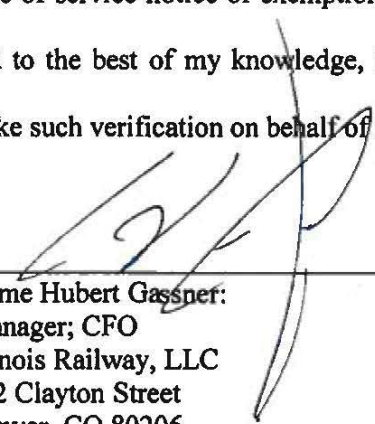
STATE OF COLORADO     )  
                                      ) ss  
COUNTY OF DENVER     )

Hubert Gassner, being duly sworn, deposes and says:

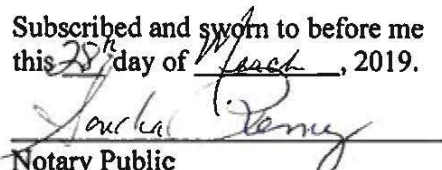
1. Illinois Railway, LLC (“IR”) seeks to discontinue common carrier service over approximately 11 miles of railroad between milepost 11.31 at Davis Junction (excluding the junction point with Soo Line Railroad Company, which will remain open for traffic originating and terminating at points on IR north of Davis Junction) and milepost 0.29 at Flagg Center, all in Ogle County, Ill. (“the Line”)
2. IR has handled no local traffic over the Line for at least two years, and there will be no effect on overhead traffic; 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 IR’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 two years.

4. I have read the foregoing discontinuance of service 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 IR .

Dated: 3-28-, 2019

  
Name Hubert Gassner:  
Manager; CFO  
Illinois Railway, LLC  
252 Clayton Street  
Denver, CO 80206

Subscribed and sworn to before me  
this 28<sup>th</sup> day of March, 2019.

  
Notary Public

SANDRA REMY  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20084004058  
MY COMMISSION EXPIRES FEBRUARY 6, 2020

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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AB 1247 (Sub-No. 1X)  
DOCKET NO. ~~AB-1247X~~

ILLINOIS RAILWAY, LLC  
– DISCONTINUANCE OF SERVICE EXEMPTION –  
IN OGLE COUNTY, ILL.

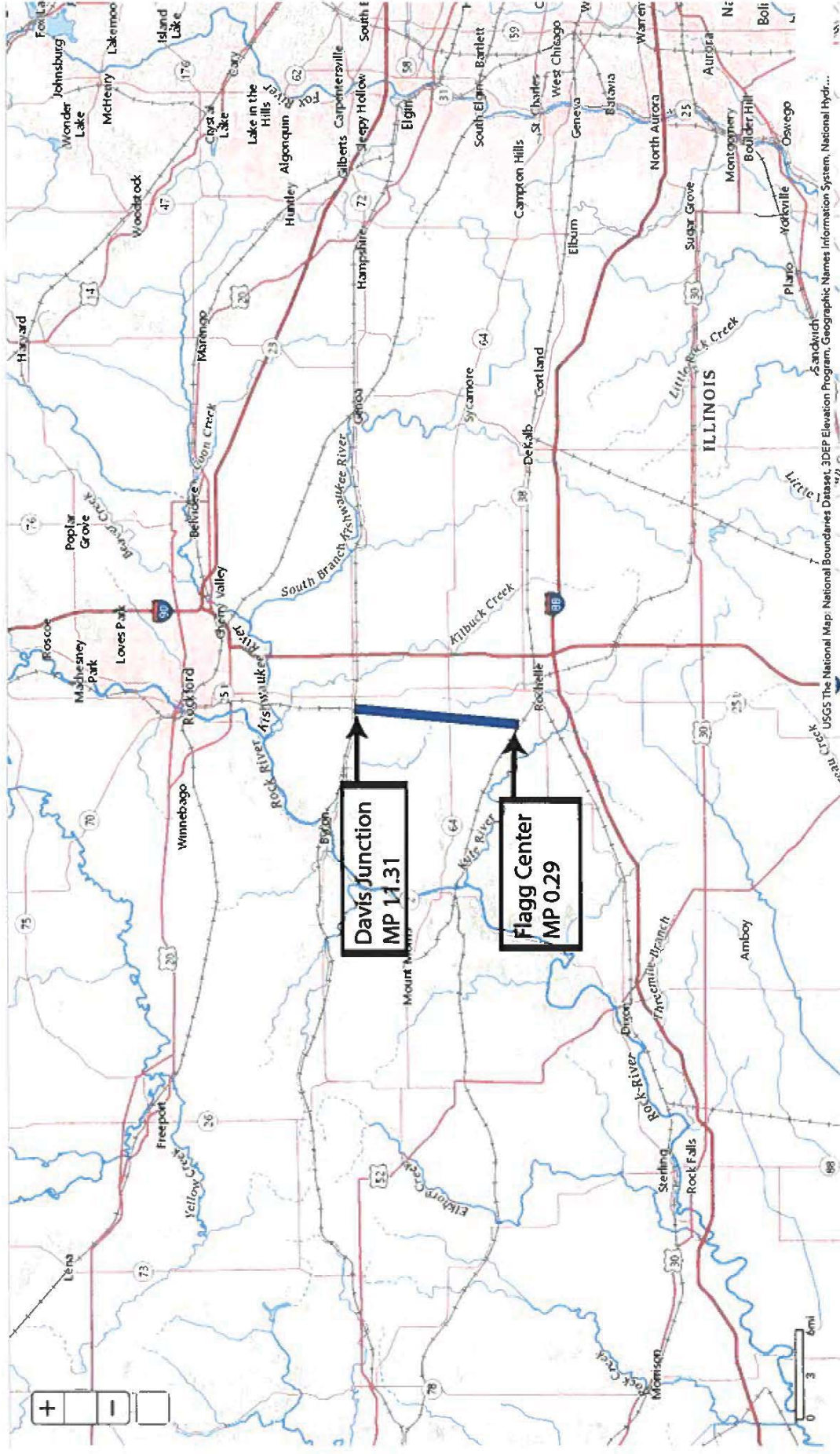
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**EXHIBIT B**

**MAP**

Docket No. **AB-1247X**  
Illinois Railway, LLC -  
Discontinuance of Service - In Ogle County, Illinois

Home ▾ National Rail Network Map



BEFORE THE  
SURFACE TRANSPORTATION BOARD

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AB 1247 (Sub-No. 1X)

DOCKET NO. ~~AB 1247X~~

ILLINOIS RAILWAY, LLC  
– DISCONTINUANCE OF SERVICE EXEMPTION –  
IN OGLE COUNTY, ILL.

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**EXHIBIT C**

**CERTIFICATES OF  
SERVICE/PUBLICATION**

AB 1247 (Sub-No. 1X)

**DOCKET NO. ~~AB-1247X~~**  
**ILLINOIS RAILWAY, LLC**  
**- DISCONTINUANCE OF SERVICE EXEMPTION -**  
**IN OGLE COUNTY, ILL.**

**CERTIFICATE OF SERVICE AND PUBLICATION**

I, Bradon J. Smith, an attorney for Illinois Railway LLC, hereby certify that, for the proceeding before the Surface Transportation Board known as Docket No. AB-1247X, Illinois Railway, LLC — Discontinuance of Service Exemption — In Ogle County, Ill.:

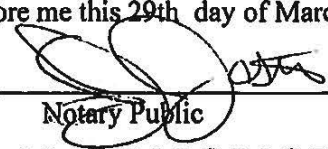
(1) The advance notice requirements of 49 C.F.R. § 1152.50(d)(1) have been satisfied, to wit: On March 12, 2018, written notice of the proposed discontinuance of rail service was mailed to the (a) United States Department of Defense, MSDDC-TEA, Attn: Railroads for National Defense; (b) U.S. Department of Agriculture, Chief of the Forest Service; (c) National Center for Recreation and Conservation, National Park Service; and (d) the Illinois Commerce Commission.

(2) A newspaper notice was published on March 18 2019, in *The Ogle County Life*, a newspaper of general circulation in Ogle County, Illinois.

Dated this 29th day of March, 2019

  
Bradon J. Smith  
Attorney for Illinois Railway, LLC

SUBSCRIBED AND SWORN to  
before me this 29th day of March, 2019

By: 

Notary Public

JAMIE JASTER  
Official Seal  
Notary Public - State of Illinois  
My Commission Expires Mar 1, 2022