

# FLETCHER & SIPPEL LLC

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August 1, 2019

248275

## 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  
August 1, 2019  
Part of  
Public Record

Re: **Docket No. AB-1288** ~~(Sub. No. 1X)~~  
**Cedar River Railroad Company — Discontinuance of Service  
Exemption — In Freeborn County, Minnesota**

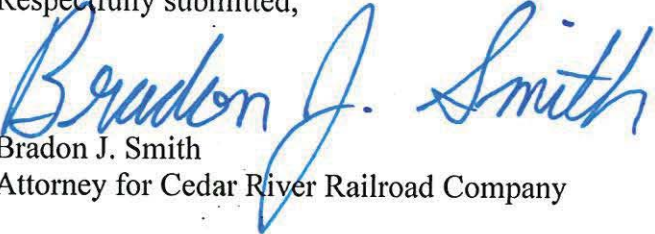
Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is a **Verified Discontinuance of Service Notice of Exemption of the Cedar River Railroad Company** pursuant to 49 C.F.R. § 1152.50. Payment of the applicable filing fee of \$4,200.00 has been tendered electronically contemporaneous with this filing.

The proposed action entails the discontinuance of common carrier rail service over the subject rail line, rather than abandonment of the line. Accordingly, no combined Environmental and 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 [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 Cedar River Railroad Company

Attachment

FILED  
August 1, 2019  
SURFACE  
TRANSPORTATION BOARD

FEE RECEIVED  
August 1, 2019  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-1288~~(SUB NO. 1X)~~

CEDAR RIVER RAILROAD COMPANY  
— DISCONTINUANCE OF SERVICE EXEMPTION —  
IN FREEBORN COUNTY, MINN.

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**VERIFIED NOTICE OF EXEMPTION OF  
CEDAR RIVER RAILROAD COMPANY  
PURSUANT TO 49 C.F.R. § 1152.50**

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

**ATTORNEY FOR CEDAR RIVER  
RAILROAD COMPANY**

Dated: August 1, 2019

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-1288X (~~SUB. NO. 1X~~)

CEDAR RIVER RAILROAD COMPANY  
— DISCONTINUANCE OF SERVICE EXEMPTION —  
IN FREEBORN COUNTY, MINN.

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**VERIFIED NOTICE OF EXEMPTION OF  
CEDAR RIVER RAILROAD COMPANY  
PURSUANT TO 49 C.F.R. § 1152.50**

Cedar River Railroad Company (“CEDR”) hereby submits this Verified Notice of Exemption (the “Notice”) pursuant to 49 C.F.R. § 1152.50 to discontinue common carrier rail service over approximately 9.3 miles of railroad between milepost 85.0 in London Township (at the southwestern quadrant of the intersection of County Road 107 and Township Road 264) to milepost 94.32 at Glenville (“the Line”), all points in Freeborn County, Minnesota.

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

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

CEDR qualifies to invoke the Board’s discontinuance of service class exemption procedures at 49 C.F.R. § 1152.50. No local traffic has moved over the Line for 2 years; overhead traffic (to the extent any exists) can be rerouted over other lines; and neither a 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 of Brian Buchanan 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):**

Cedar River Railroad Company

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

CEDR is a common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV, Chapter 105.

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

CEDR seeks to secure authorization through the Board's class exemption procedures to discontinue common carrier rail service over approximately 9.3 miles of railroad between milepost 85.0 in London Township (at the southwestern quadrant of the intersection of County Road 107 and Township Road 264) to milepost 94.32 at Glenville ("the Line") all within Freeborn County, Minnesota.

**Map (49 C.F.R. § 1152.22(a)(4)):**

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

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

CEDR'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 lies within United States Postal Service ZIP Code territory 56036.

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

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

CEDR will consummate the discontinuance on or after September 1, 2019.

**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

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<sup>1</sup> See, e.g., Columbus and Greenville Railway Company – Discontinuance of Service Exemption – In Greenwood, Miss., Docket No. AB-297 (Sub-No. 103X) (STB served Jul. 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”).

(1979). CEDR 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):**

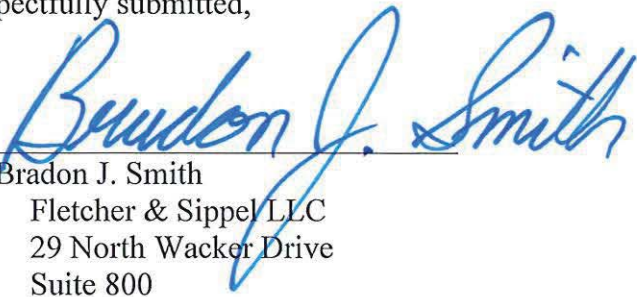
A notice of exemption to discontinue service over (rather than to abandon) a line of railroad under the class exemption does not require the preparation or submission of an Environmental/Historic Report.<sup>2</sup>

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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,

By:

  
Bradon J. Smith

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

**ATTORNEY FOR CEDAR RIVER RAILROAD  
COMPANY**

Dated: August 1, 2019

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-1288~~(SUB NO. 1X)~~

CEDAR RIVER RAILROAD COMPANY  
— DISCONTINUANCE OF SERVICE EXEMPTION —  
IN FREEBORN COUNTY, MINN.

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## **EXHIBIT A**

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

**DOCKET NO. AB-1288X (~~SUB. NO. 1X~~)**

**CEDAR RIVER RAILROAD COMPANY  
— DISCONTINUANCE OF SERVICE EXEMPTION —  
IN FREEBORN COUNTY, MINN.**

**CERTIFICATION AND VERIFICATION**

STATE OF ILLINOIS        )  
                                      ) ss  
COUNTY OF COOK        )

Brian Buchanan, being duly sworn, deposes and says:

1. Cedar River Railroad Company (“CEDR”) seeks to discontinue common carrier service over approximately 9.3 miles of railroad between milepost 85.0 in London Township (at the southwestern quadrant of the intersection of County Road 107 and Township Road 264) to milepost 94.32 at Glenville (“the Line”) all within Freeborn County, Minnesota

2. CEDR 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 CEDR’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 CEDR.

Dated: August 1, 2019



Brian Buchanan  
Manager, Business Development  
Cedar River Railroad Company  
17641 S. Ashland Ave.  
Homewood, IL 60430

Subscribed and sworn to before me  
this 1 day of August, 2019.

Rebecca S. Stewart  
Notary Public



BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-1288(~~SUB NO. 1X~~)

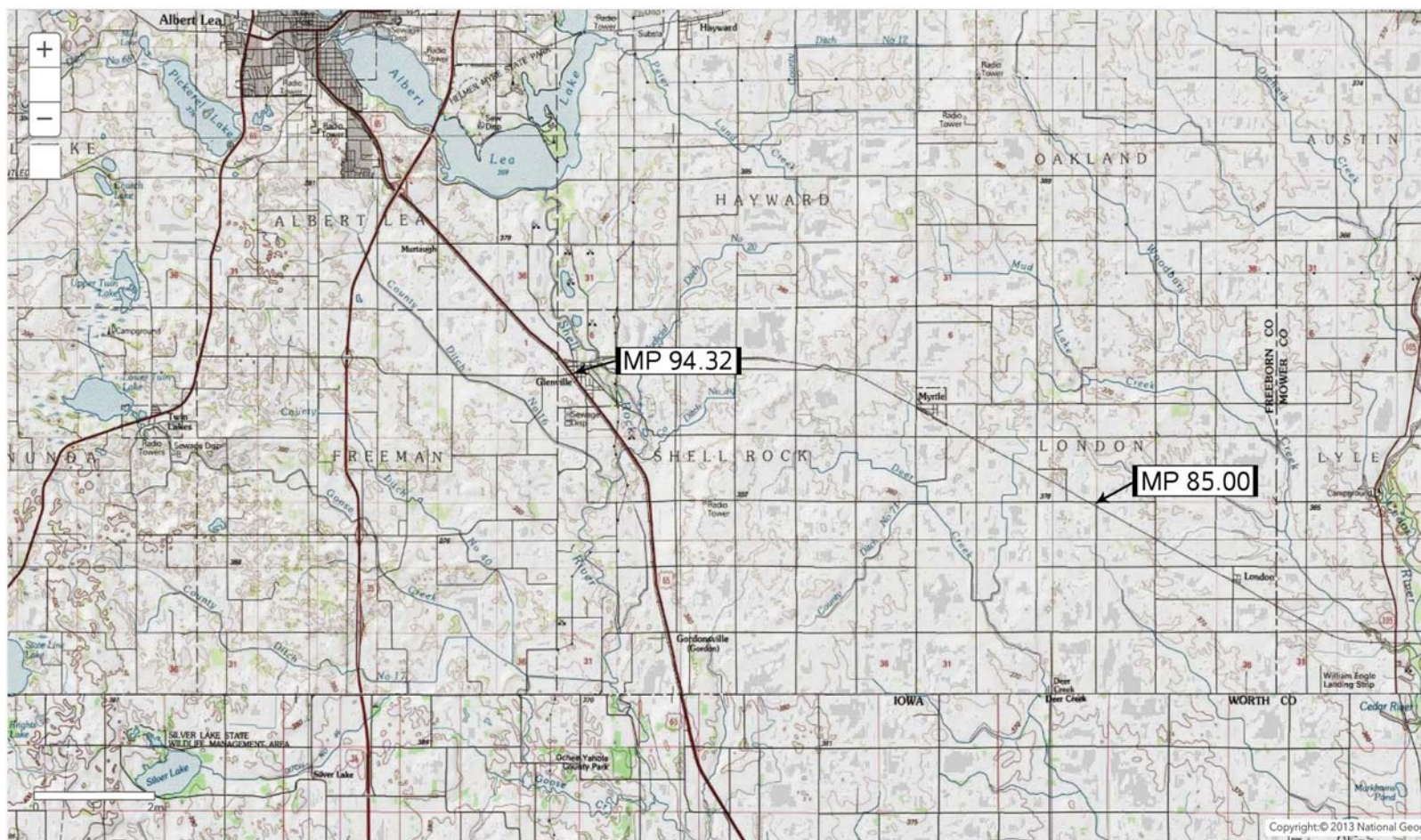
CEDAR RIVER RAILROAD COMPANY  
— DISCONTINUANCE OF SERVICE EXEMPTION —  
IN FREEBORN COUNTY, MINN.

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**EXHIBIT B**

**MAP**

Docket No. AB – 1288 (Sub No. ~~1X~~)  
Cedar River Railroad Company –  
Discontinuance of Service Exemption –  
In Freeborn County, Minnesota



BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-1288(~~SUB NO. 1X~~)

CEDAR RIVER RAILROAD COMPANY  
— DISCONTINUANCE OF SERVICE EXEMPTION —  
IN FREEBORN COUNTY, MINN.

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**EXHIBIT C**

**CERTIFICATES OF  
SERVICE/PUBLICATION**

DOCKET NO. AB-1288<sup>X</sup> ~~(SUB. NO. 1X)~~

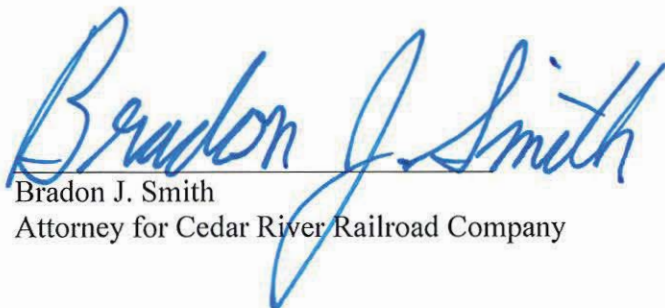
**CEDAR RIVER RAILROAD COMPANY  
— DISCONTINUANCE OF SERVICE EXEMPTION —  
IN FREEBORN COUNTY, MINN.**

**CERTIFICATE OF SERVICE AND PUBLICATION**

I, Bradon J. Smith, an attorney for Cedar River Railroad Company, hereby certify that, for the proceeding before the Surface Transportation Board known as Docket No. AB-1288 (Sub.-No. 1X), Cedar River Railroad Company — Discontinuance of Service Exemption — Freeborn County, Minn.:

(1) The advance notice requirements of 49 C.F.R. § 1152.50(d)(1) have been satisfied, to wit: On July 19, 2019, 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 Minnesota Department of Transportation; and

(2) A newspaper notice was published on July 24, 2019, in the *Albert Lea Times*, a newspaper of general circulation in Freeborn County, Minnesota.

  
Bradon J. Smith  
Attorney for Cedar River Railroad Company