BRAD PURDY

DEPUTY ATTORNEY GENERAL

IDAHO PUBLIC UTILITIES COMMISSION

472 WEST WASHINGTON STREET

PO BOX 83720

BOISE,  IDAHO  83720-0074

(208) 334-0357

Street Address for Express Mail:

472 W WASHINGTON

BOISE ID  83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF THE ABANDONMENT  OF RAIL LINE IN WHITMAN COUNTY, WASHINGTON, AND LATAH COUNTY, IDAHO,  BY BLUE MOUNTAIN RAILROAD, INC. | )))))) | CASE NO.  BMR-R-96-1COMMENTS OF THECOMMISSION STAFF |

COMES NOW the Staff of the Idaho Public Utilities Commission by and through its attorney, Brad Purdy, Deputy Attorney General, and in response to the Notice of Modified Procedure issued in this case by the Commission on November 21, 1996, submits the following comments.

On November 26, 1996, Staff visited the site of the proposed rail abandonment near Moscow.  Three potential shippers were identified, all within one developed area.  They are: Wilbur Ellis, Inc., Busch Distributing, and McGregor, Inc.  Employees of Wilbur Ellis said that they did not use the track, however, they receive supplies from McGregor, Inc. who does use the track.  Mr. Dick Sanchez of Busch Distributing said that his Company did not use the track either but that McGregor, Inc. did.  On November 27, 1996, Staff called McGregor, Inc. in Colfax, Washington in reference to the proposed abandonment.  Staff spoke with Mr. Clark Capwell, who is handling this situation for the corporation.  He said that the corporation was in favor of the abandonment and has been working with Blue Mountain Rail, Inc. in this endeavor.  Arrangements have been made with Blue Mountain to facilitate continued rail service.  Capwell explained that this would be  accomplished by BMR constructing a spur from a section of adjoining track that had been purchased from Burlington Northern that would service McGregor, Inc. at the Wilson siding location.  Mr. Capwell said that the only authorized shippers on the proposed abandonment that he was aware of were McGregor, Inc. and Washington State University.  Presently there are two railroad lines that run between Moscow, Idaho and Pullman, Washington.  The proposed abandonment would eliminate one of those lines while the other will remain intact to continue servicing the two communities.

Staff also spoke with Mr. Hudson Mann of the Division of Environmental Quality (DEQ) office in Lewiston, Idaho.  Mr. Mann indicated that DEQ was not opposed to the abandonment but did have some concerns that should be addressed.  He explained that the rail line in question was used to supply Moscow, Idaho with agricultural chemicals and petroleum products dating back to the 1920s. Shipments of hazardous materials were probably quite extensive since Moscow rail service was the only supply link for the region.  He said that his office feels that there may have been some unidentified hazardous material releases along this section of track, and, therefore, DEQ thinks it would be reasonable and prudent to develop a proposed mitigation contingency plan that would address actions to protect human health and the environment from unrecorded hazardous material releases that may be encountered during track and tie removal. DEQ’s suggested approach to environmental protection is to sample areas of stained soil, if encountered during track removal, and then determine the appropriate corrective action to be taken.

The Staff notes that the Petition for Exemption filed with the Surface Transportation Board by Blue Mountain Railroad contained letters from the Mayor of the City of Moscow and the Board of Commissioners of Latah County all supporting the proposed abandonment.

Based upon its investigation, Staff has not found anything to indicate that the proposed abandonment would adversely affect the area being served, impair the access of Idaho communities to vital goods and services nor has it found anything to indicate that the line has a real potential for profitability.

SUBMITTED this                   day of December, 1996.

Brad Purdy

Deputy Attorney General

Ron Law, Administrator

Regulated Carrier Division

bls/M-bmrr961.bp