

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF BNSF RAILWAY)
COMPANY'S INTENT TO ABANDON 2.12) CASE NO. BNR-R-06-1
MILES OF RAILROAD LINE IN COEUR)
D'ALENE, IDAHO) NOTICE OF HEARING
)
)
ORDER NO. 30062**

On April 13, 2006, the Commission issued a Notice that BNSF Railway Company intended to abandon 2.12 miles of railroad right-of-way in Coeur d'Alene, Idaho. The right-of-way generally runs from the Coeur d'Alene City Park over to East Mullan Avenue and terminates at the Coeur d'Alene Resort Golf Course. With this Order the Commission schedules a public hearing pursuant to *Idaho Code* § 62-424.

THE PROPOSED ABANDONMENT

The rail right-of-way in question runs between Milepost (MP) 12.33 and MP 14.45 within the city limits of Coeur d'Alene. The section of right-of-way being proposed for abandonment generally runs from the Coeur d'Alene City Park adjacent to Northwest Boulevard, across the front of the Coeur d'Alene Resort, down East Front Avenue, over to East Mullan Avenue, and terminates at the Coeur d'Alene Resort Golf Course. The majority of track from the affected right-of-way was removed in the 1980s, and consequently, there were no reported shippers on the line. Notice at 1.

The Railroad indicated it will utilize the "exemption" abandonment proceeding with the Surface Transportation Board (STB). To be eligible to file a Notice for Exemption, the Railroad must usually certify that no rail traffic has moved on the line for the past two years and there are no outstanding complaints about the lack of rail service. At least 20 days prior to the filing of a Notice of Exemption, the Railroad must serve its Environmental Report on the PUC, the City of Coeur d'Alene and Kootenai County. 49 C.F.R. § 1105.7(b).

BNSF filed its Environmental and Historic Report on May 30, 2006. According to the Environmental and Historic Report the right-of-way varies from 20 to 55 feet in width with no bridges or structures and has had no traffic on the line for over two years with no overhead traffic to be rerouted.

The Railroad has indicated that it intends to file its Notice of Exemption with the STB on or about June 13, 2006. Once the Notice of Exemption is filed, the STB will publish a

notice in the Federal Register within 20 days. Thirty (30) days after the notice is published in the Federal Register, the Railroad is permitted to abandon the rail line unless the STB stays the abandonment.

DISCUSSION

Although the authority to grant or deny an abandonment rests with the STB and is governed by federal law, the Commission does have an obligation under state law to hold a public hearing regarding the abandonment. *Idaho Code* § 62-424 provides that the “Commission shall schedule a public hearing on the proposed abandonment.” The purpose of the hearing is for the Commission to determine whether the abandonment would: (1) adversely affect the area being served; (2) impair the access of Idaho shippers to vital goods and markets; and (3) whether the rail line has the potential for profitability. If the Commission finds that the abandonment would be adverse to the public interest, then it may represent the state in the STB abandonment proceeding. *Idaho Code* § 62-424(2).

The Commission’s Notice established a deadline for intervention. Parties desiring to intervene were directed to do so no later than April 26, 2006. Although the Commission received two written comments, there were no petitions for intervention. Because no person petitioned to intervene in this matter, and because there are no shippers on the line, we find it reasonable to conduct our public hearing at the Commission’s Hearing Room in Boise. The Commission Staff has examined the right-of-way and is prepared to offer testimony at the hearing. Persons wishing to offer testimony at the hearing may do so, either by appearing in person or by calling the toll free telephone number provided by the Commission in this Notice at the time and date set out below.

Because of the expedited nature of “exemption” abandonment process at the STB and the lack of any interveners, we find that the public necessity requires the hearing to be held on less than 14 days notice. IDAPA 31.01.01.241.

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that the Commission has scheduled a public hearing in this matter to commence at **10:00 A.M. ON WEDNESDAY, JUNE 14, 2006, IN THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO (334-0330)**. Persons wishing to offer testimony telephonically or to listen to the proceedings may dial **1-888-830-6260 and enter Participant Code 779963**. (This is a toll free

call.) The purpose of the hearing is to take public testimony as to whether the abandonment of the 2.12 miles of rail right-of-way in Coeur d'Alene would be adverse to Idaho's public interest. The Railroad, any shipper, local government leaders, and any other interested persons are encouraged to testify.

YOU ARE FURTHER NOTIFIED that all hearings will be conducted in accordance with the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

YOU ARE FURTHER NOTIFIED that the Railroad's Environmental and Historic Report together with any attachments has been filed with the Commission and is available for public inspection during regular business hours at the Commission offices. The Report is also available on the Commission's Website at www.puc.idaho.gov by clicking on the "File Room" icon, then "Rail Cases." The Environmental and Historic Report describes any expected environmental and historic effects of the proposed abandonment.

YOU ARE FURTHER NOTIFIED that all workshops and hearings in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0338 (Telephone)
(208) 334-3762 (FAX)
E-Mail: secretary@puc.idaho.gov

YOU ARE FURTHER NOTIFIED that the Commission has jurisdiction over this matter pursuant to *Idaho Code* § 62-424.

ORDER

IT IS HEREBY ORDERED that the Commission shall convene a public hearing in this matter at set out above.

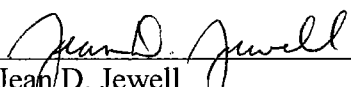
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 1st
day of June 2006.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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