

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: DONOVAN E. WALKER
DON HOWELL**

DATE: APRIL 6, 2006

**SUBJECT: BNSF RAILWAY COMPANY'S INTENT TO ABANDON 2.12 MILES OF
RAILROAD LINE IN COEUR D'ALENE – CASE NO. BNR-R-06-1**

Commission Staff has learned that BNSF Railway Company intends to file an application with the Surface Transportation Board (STB) to abandon 2.12 miles of railroad line in Coeur d'Alene. It is anticipated that the Company will seek to use the expedited "exemption" process to abandon this rail line. The exemption process may be used if no rail traffic has moved on the line for the past two years. Under STB procedures, once the exemption is filed, the STB will publish the notice in the Federal Register within 20 days. Unless stayed, the railroad may abandon the line 30 days after the notice is published in the Federal Register.

Although the authority to grant or deny rail abandonment rests with the STB under federal law, *Idaho Code* § 62-424 provides that the Commission "shall schedule a public hearing on the proposed abandonment." The purpose of this hearing is for the Commission to determine if 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 adversely affect the area being served and the line has the potential for profitability, then the Commission may represent the State of Idaho in the STB proceeding.

The section of track being proposed for abandonment generally runs in front of the Coeur d'Alene Resort, down Mullen Street, and to the Resort's golf course, which was once the site of a lumber mill. Staff's initial information about this section of track indicates that a majority of the track was removed in the 1980's and that there are no shippers on the line. The

railroad is in the process of preparing its Environmental Report which must be submitted to the STB 20 days before an Exemption Petition.

STAFF RECOMMENDATION

Staff recommends that the Commission issue a notice of the intended abandonment and schedule a public hearing as required by *Idaho Code* § 62-424. Because the Company intends to use the exemption process, the abandonment may be effective in as little as 30 days from the time the notice is published in the Federal Register. Staff believes the Company could file its petition with the STB as soon as May 18. Consequently, Staff recommends that the Commission consider scheduling the public hearing to take place during the last week of April or first week of May.

COMMISSION DECISION

Does the Commission wish to issue a notice of the proposed abandonment? Does the Commission wish to schedule a public hearing? If so when and where?

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