

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF PALOUSE RIVER & COULEE CITY) CASE NO. PRC-R-09-01
RAILROAD FOR APPROVAL TO)
ABANDON A THREE-MILE SECTION OF)
ITS RAIL LINE IN MOSCOW, IDAHO) ORDER NO. 30909
)

INTRODUCTION

On May 22, 2009, the Commission received correspondence from the Idaho Department of Environmental Quality (“IDEQ”) regarding Palouse River & Coulee City Railroad’s (“PRCCR” or “the Company”) proposal to abandon a three-mile section of its rail line in Moscow, Idaho, adjacent to Paradise Creek. On June 29, 2009, PRCCR submitted Environmental and Historic Reports describing the environmental and historical effects accompanying the proposed abandonment. The Company also submitted a map of the affected area.

The exemption process allows railroads to abandon rail lines if the abandonment is of limited scope and does not adversely affect national rail policy. 49 U.S.C. §§ 10502 and 10101. Under STB procedures, once the exemption is filed, the STB must then publish a notice in the Federal Register within 20 days. Unless stayed, the railroad may then abandon the rail line 30 days after the notice is published in the Federal Register.

On July 10, 2009, PRCCR notified the Commission of its intent to file, on or shortly after July 20, 2009, a Notice of Exemption with the Surface Transportation Board (STB). On July 22, 2009, PRCCR petitioned the STB for an abandonment exemption for the three-mile section of its rail line described herein. *See* STB Docket No. AB-570 (Sub-No. 3X). On August 11, 2009, the STB issued a Notice of Exemption in the Federal Register in the aforementioned case. On September 1, 2009, the Commission issued a Notice of Proposed Abandonment and Notice of Telephonic Hearing to be held on September 15, 2009 in the Commission’s Hearing Room.

THE PROPOSED ABANDONMENT

PRCCR stated that the rail lines subject to abandonment “are in poor condition and in need of substantial rehabilitation.” PRCCR Environmental Report at 2. The Company stated that the rail lines subject to abandonment:

are located between (1) milepost 84.0 at the Washington-Idaho State Line and milepost 85.91, in Moscow, ID; (2) milepost 86.11 and milepost 86.9, in Moscow; and (3) milepost 85.5 and the end of the line at the intersection of A Street and Almon Street, in Moscow. The Lines traverse Zip Code 83843.

Id. at 1. Upon receiving authority for abandonment, PRCCR intends to “remove the rail, track material and ties.” *Id.* The Company states that there is one small bridge located on the rail line. *Id.* Local entities have expressed an interest in “rail-banking all or most of the Lines.” *Id.* The bridge and ballast will not be removed. *Id.* at 1, 7.

PRCCR claims that the “proposed abandonment of the rail lines will have no adverse effect on regional or local transportation systems and patterns” because “no local or overhead traffic has been handled on the Lines in over two years.” *Id.* at 2. “There is little or no likelihood that the rail corridors are needed for a transit or highway corridor.” *Id.* at 3.

PUBLIC HEARING AND COMMENTS

The Commission held a telephonic public hearing on September 15, 2009. The Commission took the testimony of Jeffrey Lannigan. *See* Tr. at 6-8. Mr. Lannigan identified himself as a “railroad advocate” and a local Moscow, Idaho area resident. *Id.* at 7. Mr. Lannigan commented on the proposed abandonment by stating that “there was almost a mile of that line that was completely rebuilt a year ago. . . .” *Id.* at 8. Mr. Lannigan was unaware as to whether any shippers were currently being served by the portion of the Line subject to the abandonment. *Id.*

The Commission also received written comments from John Cardwell, IDEQ Regional Administrator, identifying specific water quality and environmental concerns pertaining to the proposed abandonment and addressed to the Section of Environmental Analysis (“SEA”) of the STB. These concerns were forwarded to the SEA in accordance with *Idaho Code* § 64-424, Idaho Executive Order No. 98-08 and pursuant to the Commission’s approval of IDEQ’s comments. *Id.* at 1-2.

DISCUSSION AND FINDINGS

Although the authority to grant or deny abandonment rests with the STB and is governed by federal law, the Commission has an obligation under state law to hold a public hearing regarding the abandonment, and to represent the State in STB abandonment proceedings if deemed necessary. *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 a 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).

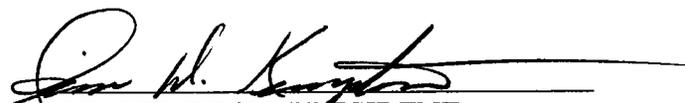
As noted during the hearing, the date for issuing comments concerning the STB’s decision regarding the proposed abandonment has passed. *See* Tr. at 2; *see also* STB Docket No. AB-70 (Sub-No. 3X), Notice of Exemption, Service Date - August 11, 2009, at 2. Further, after reviewing the entire record in this proceeding, including the Company’s Petition for Exemption, Environmental Materials, IDEQ comments and public testimony, the Commission finds that issuing comments to the STB is not warranted. The Commission is satisfied that the concerns offered by IDEQ to the SEA have been adequately addressed by the STB and incorporated into the STB’s Order approving PRCCR’s proposed abandonment. *See* STB Decision, Docket No. AB-70 (Sub-No. 3X), at 3 (ordering PRCCR to “develop a hazardous waste contingency plan and consult with Idaho DEQ regarding salvaging and abandonment procedures, and report the results of the consultations in writing to SEA prior to the onset of salvage operations.”)

ORDER

IT IS HEREBY ORDERED that this case be closed. The Commission will not file comments with the STB regarding this abandonment.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *Idaho Code* §§ 61-626.

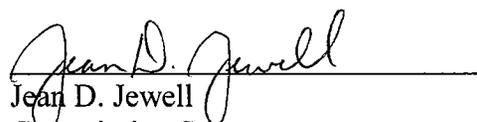
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29th
day of September 2009.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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