

DECISION MEMORANDUM

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

FROM: DON HOWELL

DATE: DECEMBER 8, 2004

**RE: UNION PACIFIC'S INTENT TO ABANDON AND SELL A PORTION OF
THE DRY VALLEY LINE, CASE NO. UPR-R-04-2**

On November 10, 2004, Union Pacific Railroad filed its Combined Environmental and Historical Report for the partial abandonment of the Dry Valley line. In its Report, Union Pacific indicated that it will likely file a Notice of Exemption seeking to abandon a short stretch of track approximately 0.21 miles in length known as the Dry Valley Subdivision located in Caribou County, Idaho. Union Pacific indicated that it will file its Notice seeking an abandonment exemption with the STB on or after December 29, 2004.

The quarter mile of track in question is used to serve a single shipper which ships phosphate ore from a mining operation in Dry Valley. There are no other shippers in the area and there is no overhead rail traffic. In its Combined Report, Union Pacific states that the sole reason for the proposed abandonment is to reclassify the line and sell it to the mining shipper, Agrium (formerly known as Astaris). Selling this short portion of track to Agrium will provide more track space so that Agrium can assemble larger, dedicated unit trains. Consequently, abandonment and reclassification of the line will not result in a loss of rail service to Agrium.

Once a railroad notifies the Commission that it intends to abandon a rail line, *Idaho Code* § 62-424 requires that the Commission 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 abandonment proceeding.

STAFF RECOMMENDATION

Rather than schedule a public hearing to consider the “abandonment,” the Staff believes that the facts of this case support the Commission’s use of Modified Procedure instead of convening a formal hearing. As set out above, Union Pacific is utilizing the abandonment process merely to “reclassify” this portion of line so that it may sell it to the sole shipper, Agrium. Union Pacific anticipates no discontinuance of service to Agrium. Selling this short portion of track to Agrium would provide more track space so that the shipper can assemble larger, dedicated unit trains.

Given this unique set of facts, the Staff recommends that this case be processed under Modified Procedure, rather than convene a formal public hearing.

COMMISSION DECISION

Does the Commission find based upon this unique set of facts that Modified Procedure is the appropriate way to process this abandonment case?



Don Howell

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