

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) ORDER NO. 30073
_____)**

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 finds that the abandonment of this rail line would not be adverse to Idaho shippers or the public interest.

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, approximately 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 terminating 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.

THE COMMISSION'S PUBLIC HEARING

The Commission convened a public hearing in this matter on June 14, 2006. The Commission Staff presented testimony of one witness. Neither BNSF, nor any shipper, nor any other party offered any testimony. The testimony of Staff's witness established that there is no visible track over the entire length of the proposed abandonment. A photograph was admitted into the record showing where the existing track ends, at MP 12.33. The testimony further stated that no shippers could be located along the abandoned route, that given the growth of the city it was nearly impossible to tell track ever existed down the right-of-way, and it would be nearly impossible to rebuild any track.

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. As stated in our Notice, 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).

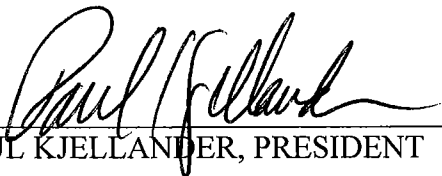
Based upon the record in this case including the testimony offered at the public hearing, the lack of any intervenors, and the lack of any objections, we find that Idaho shippers will not be adversely affected by the abandonment. The portion of the rail right-of-way proposed for abandonment has no active shippers and has not had any rail car shipments for more than two years. In fact, on the record before us, it appears the entire track in this section of right-of-way had long ago been removed. The Commission received no petitions to intervene in this matter, and is unaware of any complaints regarding the lack of rail service. Thus, we conclude the abandonment will not adversely affect the area, will not impair the access of shippers, and there is little likelihood that this line had the potential for profitability.

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 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. *See Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 16th day of June 2006.



PAUL KJELLANDER, PRESIDENT

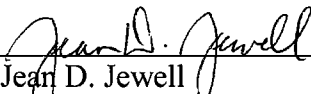


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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