

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
FILED BY IDAHO FOREST INDUSTRIES FOR)
AN EXEMPTION FROM THE COMMISSION'S)
RAILROAD CLEARANCE RULES, IDAPA)
31.71.01.000 ET SEQ.)
CASE NO. BNR-R-99-2
ORDER NO. 27992

In November 1998, the Commission received a request from Idaho Forest Industries (IFI) seeking a waiver or an exemption from the Commission's Railroad Clearance Rules, IDAPA 31.71.01.000 *et seq.* The Company constructed netting platforms along the side and above the Railroad's industrial spur track at IFI's Atlas plant near Coeur d'Alene. As constructed, the platforms do not comply with the Commission's side and overhead clearance standards found in Clearance Rules 201, 204 and 301. On March 11, 1999, the Commission issued Order No. 27962 seeking comments regarding IFI's request for an exemption. The Commission Staff was the only party to file comments in response to the Commission's Order.

THE APPLICATION

As set out in the Commission's Order No. 27962, the platforms were constructed on each side of the chip loading track and are 60 feet in length and approximately 3 feet in width. The platforms are approximately 12 feet from the top of the rails. The inside edges of the platform and their initial support structures are 7 feet 7-1/4 inches from the center line of the track. The Commission's Side Clearance Rule 301 requires a side setback from the center line of tracks of 8 feet 6 inches. IDAPA 31.71.01.301.

At the rear of each platform is a structure that supports a 120-foot tethering cable. The cable runs from the rear of the platform to the chip loading structure. Wearing an OSHA mandated safety harness, IFI workers connect themselves to the cable. This supporting structure is 23 feet 4 inches above the top of the rails. The Commission's Rule 201.02 requires an overhead clearance of 23 feet 6 inches. Finally, the chip loading "hood" apparatus also intrudes into the "arch" overhead clearance zone required by Rule 204.

The chip loading facility and rail spur were installed in 1986 but have seen limited service until recently. The spur line in question terminates on IFI's property no further than 150 feet beyond the chip car loader. There are no other rail users that are affected by these impaired clearances.

STAFF COMMENTS

In its comments, the Staff recommended that the Commission grant the exemptions requested by IFI conditioned upon the installation of "impaired clearance signs" on both sides of the track approaching the platforms. The purpose of the signs would be to advise railroad and IFI employees that there are impaired clearances ahead. The Staff recommended that the signs have a white reflectorized background and black lettering of at least 3 inches in height. The Staff proposed that the signs read "IMPAIRED SIDE AND OVERHEAD CLEARANCES AHEAD" and that these signs be placed 10 feet from the center line to comply with Clearance Rule 301.

DISCUSSION

Clearance Rule 8 provides that the Commission may grant exemptions from its Clearance Rules "upon proper application or notice from the carriers, industries, or other interested persons." IDAPA 31.71.01.008. The Commission is empowered to grant exemptions but such exemptions "shall be limited to the particular case covered by the Application." *Id.* The Application must be accompanied by a full statement of the conditions existing and the reasons why an exemption is requested.

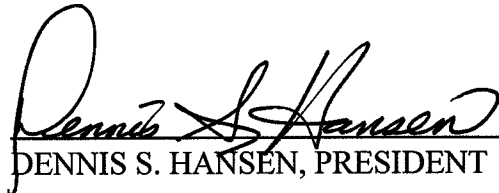
After reviewing the Application and the Staff's comments, we find that it is reasonable to grant IFI exemptions from our Railroad Clearance Rules conditioned upon the installation of the "impaired clearance" signs. As the Staff noted in its comments, the netting platforms were constructed to rectify safety concerns when employees place cargo nets over the loaded chip cars. We find that the signs will afford appropriate warnings to persons riding on the side or top of the rail cars that overhead and side clearances are impaired at the chip loading facility.

ORDER

IT IS HEREBY ORDERED that the exemptions requested by IFI be granted conditioned upon the installation of the impaired clearance signs discussed in the body of this Order.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. BNR-R-99-2 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 or in interlocutory Orders previously issued in this Case No. BNR-R-99-2. 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 7th day of April 1999.


DENNIS S. HANSEN, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


PAUL KJELLANDER, COMMISSIONER

ATTEST:


Myrna J. Walters
Commission Secretary

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