

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: BRANDON KARPEN
DEPUTY ATTORNEY GENERAL**

DATE: JUNE 7, 2018

**SUBJECT: PROPOSED ABANDONMENT OF A FIVE-MILE SECTION OF
EASTERN IDAHO RAILROAD'S RAIL LINE; CASE NO. EIR-R-18-01**

On May 7, 2018, the Commission received correspondence from Eastern Idaho Railroad LLC (EIRR) proposing to abandon a five-mile section of its rail line in Fremont County, Idaho. In its letter to the Commission, EIRR identified and elaborated upon the agency's "specific water quality and environmental project requirements and concerns" relating to the proposed abandonment.

The Company indicated in its correspondence with the Commission that it will seek to use the expedited exemption process to abandon this rail line. *See* 49 CFR 1152.50(d)(1). 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.

THE COMMISSION'S ROLE IN ABANDONMENTS

The STB is the federal entity with the authority to approve or deny railroad abandonments. However, *Idaho Code* § 62-424 provides that the Commission "shall schedule a public hearing on the proposed abandonment." The purpose of the state abandonment 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 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

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 has already filed its petition with the STB. Consequently, Staff recommends that the Commission schedule a telephonic public hearing to take place on June 28, 2018.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Proposed Abandonment and schedule a telephonic public hearing to take place on June 28, 2018?



Brandon Karpen
Deputy Attorney General

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