

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE NOTICE OF )  
EASTERN IDAHO RAILROAD LLC FOR ) CASE NO. EIR-R-20-01  
APPROVAL TO ABANDON A 0.76-MILE )  
SECTION OF ITS RAIL LINE IN )  
BONNEVILLE COUNTY, IDAHO ) ORDER NO. 34599  
\_\_\_\_\_ )**

On February 14, 2020, Eastern Idaho Railroad LLC (“EIRR” or “Company”) notified the Commission that the Company would file a notice of exemption with the Surface and Transportation Board (“STB”) to permit the abandonment of a portion of its railroad line (the “Line”) in Idaho.

On February 27, 2020, the Commission issued Notice of Proposed Abandonment and Notice of Telephonic Hearing. *See* Order No. 34565. On March 6, 2020, the Commission Staff (“Staff”) and the city of Idaho Falls (“City”) filed written comments.

On March 10, 2020, the Commission held a telephonic hearing in Boise, Idaho. After the telephonic hearing, the Commission closed the record. Having reviewed the record, the Commission now issues its Order finding that the proposed abandonment of the Line is not adverse to the public interest.

**THE COMPANY’S CORRESPONDENCE**

EIRR proposes to abandon a 0.76-mile segment of railroad known generally as the “Old Butte Main Line” in Idaho Falls, Bonneville County, Idaho (the “Line”). The Line traverses United States Postal Service ZIP Code 83402. The Company filed a Verified Notice of Exemption on February 24, 2020, with the STB, Docket No. AB-1252 (Sub-No. IX) seeking to employ the expedited exemption process to abandon the Line. *See* 49 C.F.R § 1152.50(d)(1).

The Company represents no local traffic has moved over the Line for at least two (2) years, and overhead traffic, if any, can be diverted to other routes. The Company also represents the Line does not contain federally granted rights-of-way and will be made available promptly to those requesting it.

**COMMENTS**

1. Staff Comments.

Staff has inspected the Line and confirmed the Company hasn’t used it for at least five (5) years. *Staff Comments* at 2. Staff notes the Line is in the downtown core of the City and originally served trades that no longer exist there. *Id.* Staff stated retail establishments, several

hotels, and a library are located along the Line. *Id.* Staff asserts the abandonment of the Line would also reduce the number of crossings by six, thus creating more open space. *Id.*

Based on its review, Staff believes abandonment of the Line would not adversely affect the area being served or impair the access of Idaho shippers to vital goods and markets. *Id.* Further, Staff asserts there is no evidence the Line has any potential for profitability based on its location and lack of use. Staff recommends the Commission not object to or participate in any proceedings before the STB regarding this matter.

## 2. City's Comments.

The City filed a copy of a letter with the Commission that it had previously filed with the STB. The City concurs with EIRR's Verified Notice of Exemption that the Line: 1) has had no users in the past two (2) years; 2) the Line is suitable for public use (a trail), and 3) the City is interested in acquiring the Line. The City thus supports the Company abandoning the Line.

### **COMMISSION DISCUSSION AND FINDINGS**

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 will publish a notice in the Federal Register within twenty (20) days. Unless stayed, the railroad may abandon the rail line thirty (30) days after the notice is published in the Federal Register.

Although the authority to grant or deny an 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. *Idaho Code* § 62-424. The Commission satisfied that requirement by holding a telephonic hearing on March 10, 2020. The Company and the City appeared by telephone through counsel. As stated in our Notice, the purpose of the hearing was 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).

We appreciate the Company's and the City's participation and appearance at the hearing. Based upon the record, we find that the Company's proposed abandonment of the Line is not adverse to the public interest. The Line has no active shippers and has had no rail activity for over two (2) years. We thus conclude that the abandonment would not adversely affect the area or impair shipper access, and that the Line has little potential for profitability.

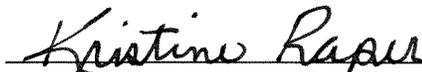
**ORDER**

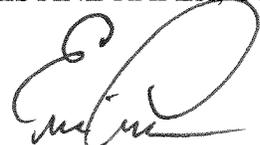
IT IS HEREBY ORDERED that this case be dismissed. The Commission will not file comments with the STB regarding this abandonment.

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 17<sup>th</sup> day of March 2020.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
\_\_\_\_\_  
ERIC ANDERSON, COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
Diane M. Hanian  
Commission Secretary

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