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Attorney for Commission Staff

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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

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COMES NOW the Commission Staff ("Staff") of the Idaho Public Utilities Commission, by and through its attorney of record, John R. Hammond Jr., Deputy Attorney General, submits the following comments on Eastern Idaho Railroad LLC's ("EIRR") proposed notice of intent to abandon a rail line in Idaho Falls, Idaho.

### BACKGROUND

On February 14, 2020, EIRR filed correspondence with the Commission providing notice of its intent to abandon a portion of its railroad line in Idaho. Specifically, EIRR proposes to abandon approximately 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, and is more specifically described as:

Extending from milepost 184.14 (immediately southeast of the grade crossing with the Yellowstone Highway), to milepost 184.90 (north of the grade crossing with W. Broadway Street).

EIRR Correspondence at 1. EIRR represents that 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. *Id.* EIRR

represents the Line does not contain federally granted rights-of-way and will be made available promptly to those requesting it. *Id.* On February 24, 2020, EIRR filed a Verified Notice of Exemption 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).

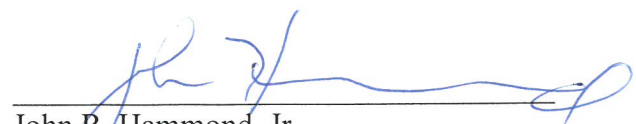
#### STAFF COMMENTS

Although the authority to grant or deny abandonment rests with the Surface Transportation Board (“STB”) and is governed by federal law, the Commission has an obligation under state law to hold a public hearing regarding the abandonment and to represent the State in STB abandonment proceedings if deemed necessary. *Idaho Code* § 62-424 provides that the “commission shall schedule a public hearing on the proposed abandonment.” 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 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).

Staff has inspected the Line and confirmed it hasn’t been used for at least five (5) years or more by EIRR. The Line is located squarely in the downtown core of Idaho Falls, Idaho as shown in the image attached hereto as **Exhibit A**. The Line originally served trades that no longer exist there. Currently, retail establishments, several hotels, and a library are situated next to the Line. The abandonment of the Line would also reduce the number of crossings by six, thus creating more open space.

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

RESPECTFULLY submitted this 6<sup>th</sup> day of March, 2020.

  
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John R. Hammond, Jr.  
Deputy Attorney General

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 6th DAY OF MARCH 2020, SERVED THE FOREGOING **STAFF COMMENTS** IN CASE NO. EIR-R-20-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID TO THE FOLLOWING:

ROBERT A WIMBISH  
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CHICAGO IL 60606-3208

Keri J. Hawker  
SECRETARY





**EXHIBIT "A"**