

## DECISION MEMORANDUM

**TO:** COMMISSIONER KEMPTON  
COMMISSIONER SMITH  
COMMISSIONER REDFORD  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL

**FROM:** NEIL PRICE  
DEPUTY ATTORNEY GENERAL

**DATE:** JUNE 18, 2009

**SUBJECT:** PROPOSED ABANDONMENT OF A THREE-MILE SECTION OF  
PALOUSE & COULEE CITY RAILROAD'S RAIL LINE, CASE NO. PRC-  
R-09-01

On May 22, 2009, the Commission received correspondence from the Idaho Department of Environmental Quality (IDEQ) regarding Palouse & Coulee City Railroad's (PCCR) proposal to abandon a three-mile section of its rail line in Moscow, Idaho, adjacent to Paradise Creek. PCCR requested assistance from IDEQ in "identifying possible water quality issues" pertaining to the proposed abandonment. In its letter to the Commission, IDEQ identified and elaborated upon the agency's "specific water quality and environmental project requirements and concerns" relating to the proposed abandonment.

IDEQ states that its correspondence with the Commission is "pursuant to Executive Order 94-01 that provides that the IPUC must approve all state agencies comments submitted to the Surface Transportation Board (STB) prior to submittal." IDEQ requests that the Commission advise the agency as to whether their "comments are appropriate and should be submitted to the STB."

### THE COMMISSION'S ROLE IN ABANDONMENTS

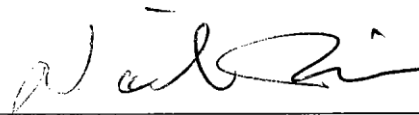
The STB is the federal entity with the authority to approve or deny railroad abandonments. However, *Idaho Code* § 62-424 provides that the Commission "shall schedule a public hearing on the proposed abandonment." The purpose of the state abandonment hearing is for the Commission to determine whether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

IDEQ indicates in its letter to the Commission that PCCR has filed a petition seeking an abandonment exemption with the STB. Unlike the traditional abandonment process, the exemption process allows a railroad to abandon a rail line in as few as 30 days. Under the exemption process, there is no requirement to file a notice of intent to abandon or an annual system diagram map showing rail lines in jeopardy. To be eligible to file a petition for exemption, a railroad must 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 on the line. Under the exemption procedure, the STB will publish a notice in the Federal Register within 20 days after the petition for exemption is filed. 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.

#### **COMMISSION DECISION**

Does the Commission wish to issue a Notice of Proposed Abandonment?

A handwritten signature in black ink, appearing to read 'Neil Price', is written over a horizontal line.

Neil Price  
Deputy Attorney General

M:PRC-R-09-01\_np