

DECISION MEMORANDUM

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

FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL

DATE: JULY 24, 2008

SUBJECT: ABANDONMENT OF UNION PACIFIC RAILROAD'S COEUR D'ALENE INDUSTRIAL LEAD IN KOOTENAI COUNTY (STB DOCKET NO. AB-33 (SUB NO. 272X), CASE NO. UPR-R-08-01

On July 3, 2008, Union Pacific Railroad notified the Commission that it intends to file a petition with the Surface Transportation Board (STB) to abandon another portion of the Coeur d'Alene Industrial Lead from Milepost (MP) 7.5 near Gibbs to the end of the line at MP 8.79 in Coeur d'Alene. The STB is the entity within the U.S. Department of Transportation with the authority to approve or deny rail line abandonment. The line proposed for abandonment is generally located between the Spokane River and Northwest Boulevard in Coeur d'Alene.

The Coeur d'Alene Industrial Lead generally runs in a northwest-southeast direction from the Union Pacific mainline between Spokane and Athol. This line was originally constructed in 1910 by the Spokane International Railroad Company. In 2004, Union Pacific abandoned 5.29 miles of track from the "middle" portion of the Coeur d'Alene Industrial Lead. The present abandonment pertains to the eastern "end" of the line that was isolated by the previous abandonment. The line runs parallel to Northwest Boulevard. Union Pacific has not identified a specific date when it intends to file the abandonment petition.

THE COMMISSION'S ROLE IN ABANDONMENTS


As previously mentioned, 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.

Union Pacific indicates that it will likely file its 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.

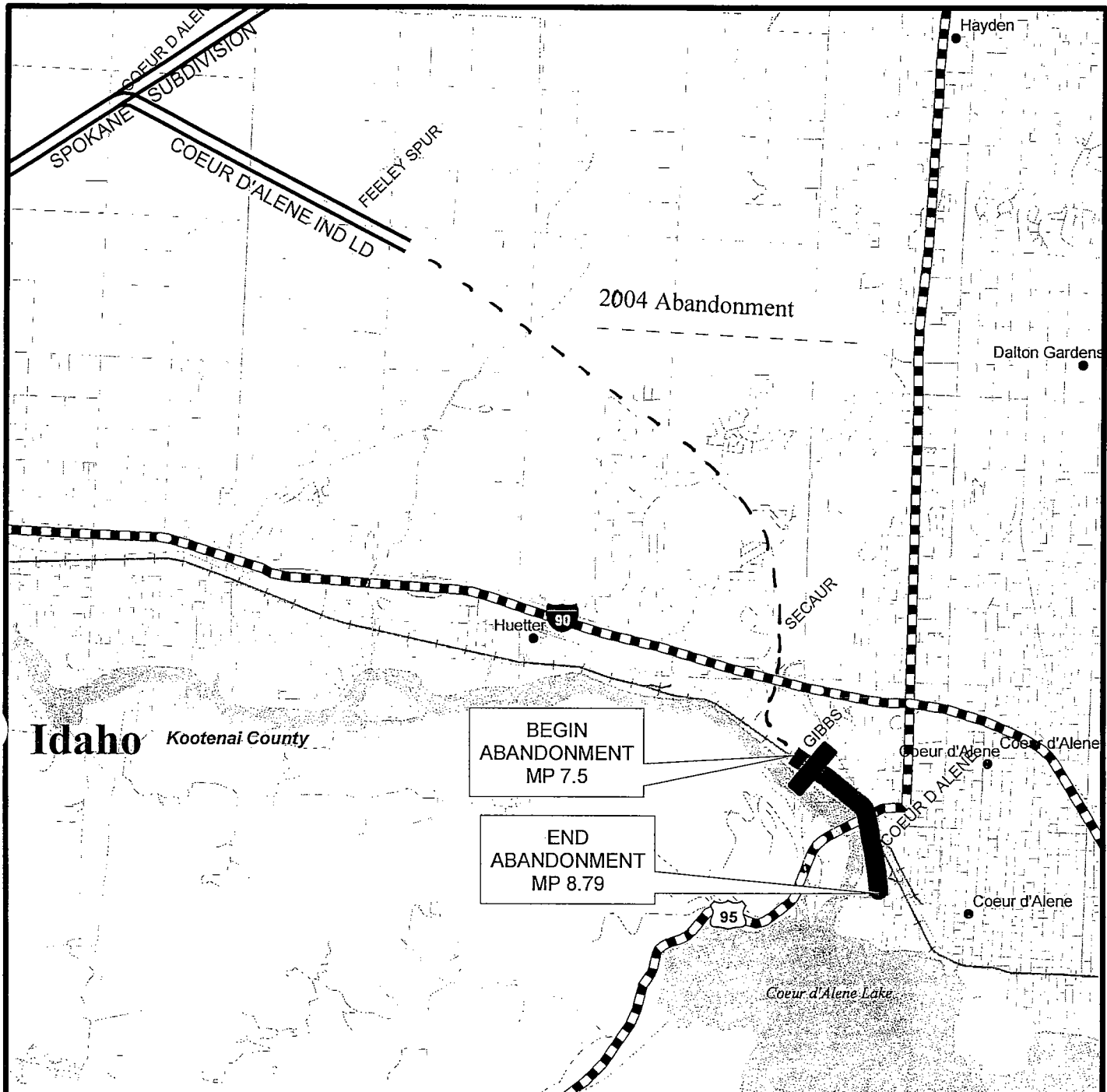
COMMISSION DECISION

1. Does the Commission wish to issue a Notice of Proposed Abandonment?
2. Given the Commission’s workload and previously scheduled activities, how does the Commission wish to conduct its hearing: use a hearing officer, a single Commissioner, or a telephonic hearing?
3. Anything else?



Don Howell
Deputy Attorney General

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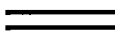
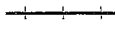





BEGIN
ABANDONMENT
MP 7.5

END
ABANDONMENT
MP 8.79

BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
7.67	1-SPAN TIMBER PILE TRESTLE - OPEN DECK	11'	YNK

Legend

-  UPRR LINES TO BE ABANDONED
-  OTHER UPRR LINES
-  OTHER RAILROADS
-  PRINCIPAL HIGHWAYS
-  OTHER ROADS
-  50 + YEAR OLD STRUCTURES

COEUR D'ALENE INDUSTRIAL LEAD
 MP 7.50 TO MP 8.79
 TOTAL OF 1.29 MILES IN KOOTENAI COUNTY
 IN IDAHO
UNION PACIFIC RAILROAD CO.
COEUR D'ALENE INDUSTRIAL LEAD
IDAHO
 INCLUDING 50+ YEAR OLD STRUCTURES

