(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF UNION PACIFIC RAIL­ROAD COMPANY’S PROPOSED ABANDON­MENT OF THE TRACKAGE BETWEEN MILEPOST 7 AT MADDENS AND MILEPOST 24 AT EMMETT | ))))))) | CASE NO. UP-RR-95-2NOTICE OF HEARING ORDER NO.  26326 |

On December 6, 1995, the Union Pacific Railroad Company (Union Pacific) notified this Commission that it intended to submit formal application to the Surface Transportation Board,(footnote: 1)  to abandon 17 miles of the Maddens Branch located in Canyon and Gem Counties.   The portion of the track proposed for abandonment runs generally between the communities of Middleton and Emmett.  Rail service to Middleton would be discontinued. The Application stated that Union Pacific plans to abandon the trackage because it has not been used in the last two years and claimed this abandonment will have no affect on shippers.

On December 26, 1995, the Commission issued a Notice of Application and Notice of Modified Procedure seeking comments concerning potential affects of the abandonment on  shippers, customers and nearby communities.  The Commission received timely comments from the Commission Staff, Union Pacific, and United Transportation Union Idaho Legislative Board (Union Board).  The Union Board requested a public hearing in the matter.

On January 30, 1996, the Surface Transportation Board published notice in the Federal Register, that the proposed abandonment should be exempted from the normal abandonment process because no traffic has moved over this branch in the last two years.  Consequently, the abandonment will take effect on February 29, 1996 if no protests are filed.

The authority to grant or deny the abandonment rests solely with the Surface Transportation Board.  However, pursuant to Idaho Code § 62-424 this Commission conducts an independent review to determine whether the abandonment would adversely affect Idaho’s public interest.  More specifically, the Commission is required to determine whether the abandonment:  [1] would adversely affect the area then being served; [2] whether there is reason to believe that the closure would impair the access of Idaho communities to vital goods and services and market access to those communities, and; [3] whether the line has a potential for profitability.  If the Commission finds that the foregoing criteria have been met, then it may transmit a report of its findings to the Surface Transportation Board on behalf of the people of the state of Idaho.

  After consideration of the comments filed by the parties, the Commission shall set this matter for hearing. Because of the time line set by the Surface Transportation Board, the Commission finds that there is good cause to set this matter for hearing on less than fourteen (14) days notice as required by our Procedural Rule 241.  IDAPA 31.01.01.241.

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that the Commission will conduct a public hearing in this matter commencing at2:00 P.M.ON TUESDAY FEBRUARY 20, 1996, AT THE EMMETT PUBLIC LIBRARY, 275 S. HAYES AVE., EMMETT, IDAHO.  At that time, the Commission will take testimony from the Staff, the railroad, shippers and other interested persons.  Testimony specifically directed to whether abandonment of this trackage would be adverse to the public interest is invited.  The Union Board and the Commission Staff are designated as parties to the case.

YOU ARE FURTHER NOTIFIED that a hearing examiner will be designated to conduct this hearing.  Idaho Code § 61-211 provides that any investigation, inquiry or hearing which the Commission has the power to undertake or held by or before any Commissioner or hearing examiner designated for that purpose by the Commission.

YOU ARE FURTHER NOTIFIED that other persons desiring to intervene in this case for the purpose of presenting evidence or cross-examining witnesses must file a Petition to Intervene with the Commission pursuant to Rule 72 and 73 of the Commission Rules of Procedure, IDAPA 31.01.01.000 et seq.  Given the expedited nature of this proceeding, Petitions to Intervene should be filed as soon as possible.  Intervention may be granted at the hearing.  Persons desiring to present their views without parties’ rights of participation and examination are not required to intervene and may present their comments without prior notification to the Commission or to other parties.

YOU ARE FURTHER NOTIFIED that all hearings in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act.  Persons needing the help of a sign language interpreter or other assistance of the kind that the Commission is obligated to provide under the Americans with Disabilities Act in order to participate in or to understand the testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing.  The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE, IDAHO  83720-0074

(208) 334-0338  (TELEPHONE)

(208) 334-3151  (TEXT TELEPHONE)

YOU ARE FURTHER NOTIFIED that the Commission has jurisdiction over this matter pursuant to Idaho Code § 62-424.  The Commission may issue Orders consistent with its authority under this section or under Title 61 or Title 62.

O R D E R

IT IS HEREBY ORDERED that the Union Board’s request for a public hearing is granted.  Given the expedited nature of this proceeding, there is good cause to set this matter for hearing on less than 14 days notice.

IT IS FURTHER ORDERED that the Union Board and the Commission Staff are designated as parties to this case.  The Commission also extends an invitation to Union Pacific and to Idaho Northern & Pacific Railroad Company to attend the hearing and provide evidence for the Commission’s consideration.

IT IS FURTHER ORDERED that a hearing examiner be designated to conduct this proceeding pursuant to Idaho Code § 61-211.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of February 1996.

                                                             RALPH NELSON, PRESIDENT

                  MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**FOOTNOTES**

1:

The Surface Transportation Board was formerly known as the Interstate Commerce Commission.  The ICC Termination Act of 1995, Pub. No.  104-88, 109 Stat.  803, became effective on January 1, 1996.  It abolished the ICC and transferred certain functions to the Surface Transportation Board.

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

February 7, 1996