DECISION MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

MYRNA WALTERS

TONYA CLARK

DON HOWELL

GARY RICHARDSON

WORKING FILE (Pat)

FROM:SUSAN HAMLIN

RON LAW

DATE:JULY 30, 1996

RE:UP NOTICE OF INTENT TO ABANDON ONE-HALF MILE OF NEW MEADOWS BRANCH NEAR WEISER, UP-RR-96-1

On June 24, 1996, Union Pacific Railroad Company notified the Commission that it intends to abandon a half mile segment of the New Meadows Branch near Weiser in Washington County, Idaho.  At one time, this branch line ran all the way to Tamarack.  In 1993 this branch was sold to the Idaho Northern & Pacific Railroad Company.

In Case No. IN-RR-95-1, the Commission considered whether the abandonment of 83.1 miles of this branch line (identified as the Council branch) would adversely affect Idaho’s public interest. In Order No. 26016 issued May 1995, the Commission did not oppose Idaho Northern’s abandonment of this branch before the Interstate Commerce Commission (ICC)(footnote: 1). The branch at issue in this case is an additional half mile “stub” of the Council Branch owned by Union Pacific. Union Pacific intends to abandon the additional half mile “stub” on this branch.

Union Pacific asserts that there have been no freight shipments originating or terminating over this line for at least the last two years.  The Railroad further asserts that there are no shippers on this segment of the track to be abandoned and there is no foreseeable possibility of future rail traffic moving over this portion of the branch.  Consequently, the Railroad claims that retention of this segment of the branch is not cost justified.

Given the assertion that no rail traffic has moved over this branch in the last two years, the Railroad’s STB Application qualifies as an “exemption” application.  In an exemption proceeding, abandonment will normally be granted by the STB thirty days after publication in the Federal Register.  The STB has issued notice that the effective date will be August 28, 1996, unless an objection is filed.

STAFF’S INVESTIGATION

On June 25, 1996, to investigate the potential impact the proposed abandonment would have on the area and local shippers, Staff traveled to the City of Weiser to identify the trackage and talk to local businesses. This segment has few adjacent businesses, being mostly bordered by residential and undeveloped property. Staff attempted to locate any possible shippers using this portion of the railroad. None were found.  Staff contacted the U.S. Forest Ranger Station, which is located near the intersection of the US Highway 95 and the trackage proposed for abandonment.  Employees at the Ranger Station stated that they were unaware of anyone using this portion of the railroad and that to their knowledge it had not been used for several years.  They were enthusiastic about the possibility of the tracks being removed that cross Highway 95 because they claim the crossing is in poor repair.  Finally, Staff contacted Mr. Jack McDaniel of McDaniel Construction whose business is located adjacent to the tracks at Milepost 0.5. Although he is not a shipper, Mr. McDaniel stated that to his knowledge the tracks have not been used for shipping for at least two years.

Staff also contacted community officials concerning the proposed abandonment.  Mr. John Walker, the Weiser City Clerk, informed Staff that the City did not oppose the abandonment and that the City was going to contact the Railroad about obtaining the property after the tracks are removed. Staff also contacted Mr. Roy Mink, chairman of the Washington County Commission, who told the Staff that it was a city rather than a county issue, and recommended that the City of Weiser should look at a recreational use of the right-a-way if the abandonment is allowed.  His only concern was the possible loss of  taxes to the county from rail car storage on that section of track in the future.

Staff contacted state officials about the impact of the proposed abandonment.  Mr. Ron Kerr, a state rail planner for the Idaho Transportation Department, indicated that the Department is working on an US 95 Weiser bypass project that will expand part of US 95 near this proposed abandonment.  Mr. Kerr stated that he could not see any adverse effects to the highway project by the proposed abandonment and that most likely it could benefit the project because a rail crossing will be eliminated.  The Historical Society informed Staff that the branch is not eligible for the National Register of Historic Places, but is recommending that a professional archaeologist inspect the site for potential effects of abandonment on archaeological properties.

Finally, Staff contacted Idaho Northern and Pacific Railroad about the proposed abandonment.  Idaho Northern informed Staff that it did not use this half mile stretch and therefore do not oppose the abandonment.

Conclusion

Idaho Code § 62-424 states that whenever any railroad proposes to abandon any branch line or main line now in operation within the state of Idaho, the Commission must determine whether [1] it would adversely affect the area then being served, [2] the closure would impair the access of Idaho communities to vital goods and services and market access to those communities, and [3] the line has potential for profitability.  Staff concludes that abandonment of this half mile stub of the line will have no adverse effect on the communities originally served by the lines, nor will it impair access to the community of vital goods and services. Union Pacific asserts that retention of this segment is not cost justified because there is no foreseeable use for this half mile branch in the future, thus there is no potential for profitability.  Finally, Staff is aware of no parties who oppose the abandonment and could not find any shippers that would be affected by the proposed abandonment.

STAFF’S RECOMMENDATION

Staff has concluded that the criteria for Idaho Code§ 62-424 have not been met, therefore, recommends that the Commission not oppose this abandonment before the Surface Transportation Board.

COMMISSION DECISION

Does the Commission wish to adopt Staff’s recommendation and issue a final Order for this case? Does the Commission have another suggestion?

Susan Hamlin

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**FOOTNOTES**

1:

The rail abandonment duties formally exercised by Interstate Commerce Commission (ICC) were reassigned to the Surface Transportation Board (STB) in the ICC Termination Act of 1995, Public Law 104-88.  This Law abolished the ICC and established the STB within the U.S. Department of Transportation.  Regulations previously issued by the ICC were continued pursuant to 61 Fed.Reg. 1842 (January 24, 1996).