(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 ONE-HALF MILE OF NEW MEADOWS BRANCH NEAR WEISER IN WASHINGTON COUNTY, IDAHO. | )  )  )  )  )  ) | CASE NO. UP-RR-96-1  ORDER NO.  26563 |

On June 24, 1996, Union Pacific Railroad Company (Union Pacific) notified this Commission that it intends to submit formal application to the Surface Transportation Board(footnote: 1) to abandon one-half mile segment of the New Meadows Branch, near Weiser, Idaho.  On July 8, 1996, the Commission issued a Notice of Application and Notice of Modified Procedure seeking comments concerning the potential effect of the abandonment on shippers, customers and nearby communities.  Commission Staff filed comments summarizing its investigation on the proposed abandonment.  No other parties filed comments.  Based on the review of the record, the Commission has determined not to protest the proposed abandonment before the Surface Transportation Board.

DISCUSSION

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.  Union Pacific claims the trackage proposed for abandonment is an end portion of the  rail line, located from milepost 0.5 to milepost 1.0 near Weiser. This trackage is known as the New Meadows Branch. (See attached map.)

Union Pacific claims there have been no freight shipments originating or terminating over this line for at least two years.  The Railroad further asserts there are no shippers on this segment of the track and no foreseeable possibility of future rail traffic moving over this portion of the branch.  Consequently, the Railroad claims retention of this segment of branch is not cost justified.   Union Pacific further asserts that the rail station at Weiser, located at milepost 0.0,  is not affected by this abandonment and rail service will continue at Weiser.

Commission Staff conducted an investigation to determine the potential impact the proposed abandonment would have on the area and local shippers.  On June 25, 1996, Staff traveled to the City of Weiser to identify the trackage and talk to local businesses. Staff found that this segment of trackage has few adjacent businesses, being mostly bordered by residential and undeveloped property. Staff could not find any shippers using this portion of the rail line. Staff contacted the U.S. Forest Ranger Station, which is located near the intersection of the U.S. 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 rail line and, to their knowledge, has not been used for several years.  Staff also contacted Mr. Jack McDaniel of McDaniel Construction whose business is located adjacent to the tracks. 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 and state officials concerning the proposed abandonment.  The City of Weiser and the Washington County Commissioners informed Staff that they did not oppose the abandonment.  Mr. Ron Kerr, a state rail planner for the Idaho Transportation Department (ITD), indicated that ITD is working on a U.S. 95 Weiser bypass project that will expand part of U.S. 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.

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

Staff concluded 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.  Staff is aware of no parties who oppose the abandonment and could not find any shippers that would be affected by the proposed abandonment.

F I N D I N G S

Authority to grant or deny abandonment rests solely with the Surface Transportation Board.  However, pursuant to Idaho Code § 62-424, this Commission conducts an independent review to determine whether abandonment would adversely affect Idaho’s public interest.  More specifically, the Commission is required pursuant to Idaho Code § 62-424, to determine whether the abandonment:

1.Would adversely affect the area 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 potential for profitability.

If the Commission finds that the following 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.

a.  Affect on area being served

Upon reviewing the comments provided by Union Pacific and Commission Staff, we find that service to the nearby community of Weiser will not be affected by the abandonment of this half mile stub.  Union Pacific indicated that the rail station at Weiser, located at milepost 0.0,  is not affected by this abandonment.  Union Pacific will continue service at Weiser through its main line.  Idaho Northern and Pacific Railroad indicated that they did not use this portion of the track and did not oppose the abandonment.  Based on our review of the record, we find that the abandonment would not adversely affect the area being served.

b.  Access to vital goods and services

The next issue we consider is whether the abandonment would impair access to vital goods and services.   Commission Staff could not find any shipper that would be affected by the abandonment and community members indicated they had not seen any use of these tracks for the last two years.  The City of Weiser and the Washington County Commissioners did not oppose the abandonment, nor filed a protest. We note the lack of protest from any parties including shippers. As mentioned above, rail service to Weiser is still available and the rail station at milepost 0.0 will not be affect by this abandonment.  Therefore, we find that the abandonment would not impair access to vital goods and services.

c.  Potential for profitability

The final issue we consider is if the track proposed to be abandoned has potential for profitability.  Union Pacific claims there have been no shippers or receivers of freight using this track for at least two years.  They further assert that lack of local usage would indicate that it is doubtful there would ever be future traffic sufficient to justify the cost necessary to sustain rail operations over this very short segment of track.  Commission Staff notes that currently the Idaho Department of Transportation is working on a bypass project to expand the highway near Weiser and the abandonment of this line will eliminate a road crossing over U.S. 95.  Commission Staff claims that by eliminating this rail crossing it may reduce the cost for the expansion of  the U.S. 95 bypass project near Weiser.  Given these facts, we conclude that this branch has little potential for profitability.

ULTIMATE FINDINGS OF FACTS AND CONCLUSIONS OF LAW

We find that criteria of Idaho Code § 62-424 have not been met.  Therefore, the Commission will not file an opposition to the proposed abandonment of the half mile segment of the New Meadows Branch near Weiser with the Surface Transportation Board.

O R D E R

IT IS HEREBY ORDERED that for the reasons set forth herein, the Commission will not oppose the abandonment of the half mile segment of the New Meadows Branch near Weiser.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. UP-RR-96-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. UP-RR-96-1.  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of August 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 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).

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

August 14, 1996