

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-564

CAMAS PRAIRIE RAILNET, INC.--ABANDONMENT--IN LEWIS, NEZ PERCE, AND
IDAHO COUNTIES, ID
(BETWEEN SPALDING AND GRANGEVILLE, ID)

Decided: June 28, 2000

On May 26, 2000, Camas Prairie RailNet, Inc. (Camas Prairie or applicant) filed an application for authority under 49 U.S.C. 10903 to abandon its line of railroad known as the 2nd Subdivision or Grangeville Line extending from milepost 0.00 near Spalding, ID, to milepost 66.8 (end of track) near Grangeville, ID, a distance of 66.8 miles, in Lewis, Nez Perce, and Idaho Counties, ID.

In a decision served June 9, 2000, the Board's Director of the Office of Proceedings denied requests for an oral hearing.¹ The Director's decision concluded that an oral hearing had not been shown to be necessary to resolve material issues of fact in this case.

On June 19, 2000, Idaho PUC and SCPRC jointly filed an appeal to the Director's decision. Appellants contend that reversal of the Director's decision is necessary to prevent manifest injustice. Appellants argue that cross examination of witnesses is essential because the application presents a number of unique technical issues and is strongly protested by the affected members of the public or their representatives. Appellants contend that applicant's reply to their oral hearing request suggests the true reason for the denial -- oral hearings no longer are available in abandonment cases despite a Board regulation that provides for requests for oral hearings. The Board owes it to the public, appellants assert, to acknowledge that oral hearings are no longer available, if that is the case, rather than simply routinely denying oral hearing requests. Additionally, the United Transportation Union urged the Board to reconsider the Director's decision to deny oral hearing.

¹ The decision addressed requests filed by United States Senators Larry Craig and Mike Crapo (jointly), the Idaho Public Utilities Commission (Idaho PUC), Save The Camas Prairie Railroad Committee (SCPRC), Idaho State Representative Charles D. Cuddy, the Board of Lewis County Commissioners, the Idaho Farm Bureau Federation, and U.S. Timber Co., and observed that a joint letter by Senators Craig and Crapo, United States Congresswoman Helen Chenoweth-Hage, and United States Congressman Mike Simpson submitted before the abandonment application was filed had also expressed support for oral hearing.

The appeal will be denied. Appellants are incorrect in surmising that oral hearings no longer are available in abandonment proceedings. There is in fact no Board policy against holding oral hearings in abandonment proceedings. While it is difficult for the Board to hold oral hearings,² it is not impossible, and we can and will hold them in appropriate circumstances. We agree with the Director that this proceeding does not present those circumstances. Contrary to appellants' claims, no one has cited any unique technical issues here that cannot be resolved on the basis of a written record. And vigorous public opposition can be expressed in writing, as it is clear that it will be in this proceeding. We believe that a full and fair treatment of the issues in this proceeding can and will be had on the basis of a written record.

The Board has received a number of oral hearing requests that were not previously considered in the Director's decision. Some of these requests were late-filed.³ Others were timely filed but were misrouted or delayed in reaching the Director before the decision served on June 9, 2000, was reached, because they were not addressed to the Secretary (49 CFR 1152.25(c)(2) and 1104.1) or because they were not accompanied by 10 copies (49 CFR 1152.25(c)(2) and 1104.3(a)). Those whose requests have not previously been addressed are listed in the attached appendix. We have considered these requests (as well as applicant's reply, which also reached the Director after the decision had been made), and we do not find that they warrant a reversal of the Director's decision.

This action will not significantly effect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The requests for oral hearing in this proceeding are denied.
2. The joint appeal is denied.

² It is normally necessary for the Board to make arrangements for the services of an administrative law judge (ALJ) when oral hearings are scheduled in Board proceedings because the Board does not employ any ALJs on a permanent basis.

³ Oral hearing requests were due June 5, 2000, 10 days after the application was filed. See 49 CFR 1152.25(d)(6).

3. This decision is effective on its service date.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams
Secretary

APPENDIX

The following organizations or persons have submitted requests for an oral hearing that were not considered in the prior Board decision (served on June 9, 2000).

Idaho Department of Commerce
City of Winchester, ID
Nez Perce Tribal Executive Committee
Grangeville, ID, Chamber of Commerce
Grangeville Economic Management Team
Clearwater Economic Development Association
Idaho County Light & Power Cooperative Association, Inc.
Idaho County Farm Bureau
Cenex Harvest States, Lewiston Grain Growers Division
Columbia Grain International, Inc.
Ilo-Vollmer Historical Society
Clearwater-Snake Lewis & Clark Bicentennial Committee
North Central Idaho Travel Association
Vern Driver
Richard Southern
Janice Watson
Shearer Lumber Products
City of Grangeville, ID
Bob Jesse
Idaho Transportation Department
Governor Dirk Kempthorne
Idaho Grain Producers Association
Nez Perce County Board of Commissioners
City of Cottonwood, ID
Ellen Cash
Catherine Bross
Mary Lou Hatstrup
Vincent Hatstrup