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OEA

SERVICE DATE – SEPTEMBER 12, 2011

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 1086X

**Pittsburgh & West Virginia Railroad – Abandonment Exemption –
In Allegheny County, Pa.**

Docket No. AB 227 (Sub-No. 12X)

**Wheeling & Lake Erie Railway Company –
Discontinuance of Service Exemption –
In Allegheny County, Pa.**

BACKGROUND

In this proceeding, the Pittsburgh & West Virginia Railroad (PWV) and the Wheeling & Lake Erie Railway Company (WLE) (jointly Applicants) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 for PWV to abandon and WLE to discontinue its sublease rights¹ over a portion of railroad located in Allegheny County, Pennsylvania. The West End Branch (the line) extends from Milepost .58, near Green Tree, Pennsylvania to Milepost 2.4, near McKees Rocks, Pennsylvania, a distance of 1.82 miles.

Applicants certify that no rail cars have used the line for at least 2 years and that any overhead traffic could be rerouted over other lines as a result of the abandonment or discontinuance of sublease rights. Following abandonment, Applicants indicate that the right-of-way may be used to support a Pennsylvania Department of Transportation (PennDOT) roadway project – the West End Improvement Project – which would improve vehicular traffic movement through the west end of Pittsburgh by realigning, reconstructing and replacing road and bridge infrastructure, retaining walls, drainage, guide rails, landscaping, highway lighting, traffic signals, signing, and pavement markings.

Based on information in the Applicants' possession, the line does not contain any federally granted right-of-way. The right-of-way traverses U.S. Postal Service Zip Code 15220

¹ WLE acquired its sublease rights to perform local and common carrier service from Norfolk and Western Railway Company pursuant to a 1990 agreement. Finance Docket 31591, Wheeling Acquisition Corp. – Acquisition and Operation Exemption – Lines of Norfolk & W. Ry. Co. (ICC served May 7, 1990).

and travels through urban land uses. Two maps depicting the line in relationship to the area served are appended to this Environmental Assessment (EA). If the notice becomes effective, PWV will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

Applicants submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. Applicants served the environmental report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].² The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

Applicants state that no local traffic has moved over the line for at least 2 years and no overhead traffic would be rerouted. Accordingly, the proposed abandonment and discontinuance would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or if necessary, via construction of new access points to the right-of-way. If the Board should approve this abandonment and discontinuance, PWV would salvage the rail, ties and track material, and remove the overhead structures along the right-of-way in support of the previously discussed PennDOT road improvement project. PWV does not anticipate any impacts on waterways, wetlands, or floodplain during salvage, and further indicates that any disturbance to the ground should be minimal.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

PennDOT, working with the U.S. Department of Transportation's Federal Highway

² The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 1086 (Sub-No. 0X).

Administration, previously assessed the environmental impacts of the planned roadway improvement project. Consequently, PennDOT raised no concerns regarding the potential environmental impacts of the proposed abandonment.

The U.S. Army Corps of Engineers (Corps) commented that it has jurisdiction over all waters of the United States, and that discharges of dredged or fill materials into these waters, including wetlands, requires prior authorization from the Corps under Section 404 of the Clean Water Act (33 U.S.C. §1344). It further stated that a permit may be required for the proposed abandonment, should there be such discharges. To ensure compliance with its regulations, OEA is recommending a condition that would require PWV to consult with the Corps prior to initiating salvage of the rail line, and that it comply with the Corps' reasonable requirements.

The Pennsylvania Department of Environmental Protection (PADEP), Southwest Regional Office, provided a comment letter that lists a number of issue areas that may be of concern during salvage operations. Specifically, PADEP notes that permits and/or additional reviews may be required if salvage activities associated with the proposed abandonment generate demolition waste; fugitive dust; contaminated soil; watershed disturbances; erosion and sedimentation; wastewater discharges; or concrete waste discharge. Further reviews would also be required if there are any associated water tanks, oil and gas wells, or water wells in the area of the proposed abandonment, or if there is a need to develop emergency response contingency plans. PADEP indicates that its Southwest Regional Office would coordinate the internal reviews to ensure efficient use of its resources. OEA is therefore recommending a condition that requires PWV to consult with PADEP's Southwest Regional Office prior to conducting salvage operations to determine what, if any, permits are needed prior to the salvage process.

The Allegheny County, Department of Public Works (DPW) commented that it has no facilities in the right-of-way of the proposed abandonment, and therefore no issues, and that it supports PennDOT's efforts to improve traffic circulation through the west end of Pittsburgh.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to the following agencies for review and comment: the U.S. Fish and Wildlife Service; the U.S. Environmental Protection Agency; the U.S. Army Corps of Engineers; the U.S. Natural Resources Conservation Service; the National Park Service; the National Geodetic Survey; the Pennsylvania Department of Transportation; the Pennsylvania Department of Environmental Protection; the Pennsylvania Historical and Museum Commission; the Allegheny County Department of Public Works; and the Pennsylvania Department of Health.

HISTORIC REVIEW

Applicants served the historic report on the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment and discontinuance of service would not affect any known historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). We

have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 C.F.R. § 800.5(c) and 36 C.F.R. § 800.8, we have determined that the proposed abandonment would not adversely affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify any federally recognized tribes that may have ancestral connections to the project.³ The database indicated that there are no federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the Area of Potential Effect).

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Prior to commencement of any salvage activities, the Pittsburgh & West Virginia Railroad (PWV) shall consult with the U.S. Army Corps of Engineers (Corps) regarding potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of the Corps.
2. Prior to commencement of any salvage activities, PWV shall consult with the Pennsylvania Department of Environmental Protection, Southwest Regional Office, to ensure that any concerns in the right-of-way are addressed regarding demolition waste; fugitive dust; contaminated soil; watershed disturbances; erosion and sedimentation; wastewater discharges; concrete waste discharge; water tanks; oil and gas wells; water wells; and emergency response contingency plans.

³ Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited August 25, 2011).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 1086X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: September 12, 2011.

Comment due date: September 27, 2011.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment