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SERVICE DATE – NOVEMBER 13, 2013

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB 88 (Sub-No. 13X)

BESSEMER AND LAKE ERIE RAILROAD COMPANY—ABANDONMENT  
EXEMPTION—IN ALLEGHENY COUNTY, PA.

Decided: November 12, 2013

Bessemer and Lake Erie Railroad Company (B & LE)<sup>1</sup> filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.79-mile rail line between mileposts 0.31 (east of Pearl Ave.) and milepost 1.10 (at the western edge of Pillow Ave.), near Harwick, Allegheny County, Pa. Notice of the exemption was served and published in the Federal Register on September 19, 2013 (78 FR 57,680). The exemption was scheduled to become effective on October 9, 2013. However, by decision served October 18, 2013, the Board determined that the abandonment authority in this proceeding would not become effective until completion of the environmental review process and further order of the Board.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on September 24, 2013. In the EA, OEA states that the U.S. Army Corps of Engineers (Corps) submitted comments stating that the railroad needed to determine the location of any jurisdictional streams or wetlands before the Corps can provide its opinion regarding impacts. Therefore, pursuant to the Section 404 of the Clean Water Act, 33 U.S.C. § 1344, OEA recommends that B & LE consult with the Corps prior to initiating salvage operations to determine if a Department of Army permit is needed.

Further, the Southwestern Regional Office of the Pennsylvania Department of Environmental Protection (DEQ) submitted comments discussing its concerns regarding waste management, including the remediation of any contaminated soils and abandoned gas and oil wells. It also advised that OEA ensure that B & LE contact the appropriate agencies regarding any potential effects of the proposed abandonment on environmental resources. OEA therefore recommends a condition requiring B & LE to consult with DEQ regarding its concerns.

Pursuant to the Board's October 18, 2013 decision, comments on the EA were due by October 24, 2013. No comments were received. Therefore, based on OEA's recommendations, the conditions proposed in the EA will be imposed.

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<sup>1</sup> B & LE is a wholly owned indirect subsidiary of Canadian National Railway Company.

This decision, and the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on September 19, 2013, exempting the abandonment of the line described above is subject to the conditions that: (1) prior to commencement of any salvage activities, B & LE shall consult with the Corps regarding potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of the Corps; and (2) prior to commencement of any salvage activities, B & LE shall consult with DEQ 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. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.