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SERVICE DATE – OCTOBER 6, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1086X<sup>1</sup>

PITTSBURGH & WEST VIRGINIA RAILROAD—ABANDONMENT EXEMPTION—  
IN ALLEGHENY COUNTY, PA.

Decided: October 5, 2011

This decision reopens this proceeding to impose environmental conditions on the abandonment exemption.

Pittsburgh & West Virginia Railroad (PWV) and Wheeling & Lake Erie Railway Company (WLE) filed a joint notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuance of Service, for PWV to abandon, and for WLE to discontinue its sublease rights over, approximately 1.82 miles of railroad (the West End Branch) between milepost .58, near Green Tree, and milepost 2.4, near McKees Rocks, in Allegheny County, Pa. Notice of the exemption was served and published in the Federal Register on September 7, 2011 (76 Fed. Reg. 55,471). The exemption is schedule to become effective on October 7, 2011.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on September 12, 2011. In the EA, OEA states that the United States Army Corps of Engineers (Corps) commented that discharges of dredged or fill materials into the waterways, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act, 33 U.S.C. § 1344, and that a permit may be required for the proposed abandonment should there be such discharges. Accordingly, OEA recommends a condition requiring that, prior to commencement of any salvage activities, PWV consult with the Corps regarding potential impacts to waters of the United States, including wetlands, and comply with the Corps' reasonable requirements.

In the EA, OEA also states that the Pennsylvania Department of Environmental Protection, Southwest Regional Office (PADEP), submitted comments that listed a number of areas in the right-of-way that may be of concern during salvage operation. Specifically, PADEP indicated 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

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<sup>1</sup> The notice served and published on September 7, 2011, embraced Docket No. AB 227 (Sub-No. 12X), Wheeling & Lake Erie Railway Company—Discontinuance of Service Exemption—in Allegheny County, Pa.

discharge. PADEP also indicated that further reviews will 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. Accordingly, OEA recommends a condition that PWV be required to consult with PADEP prior to commencement of any salvage activities, to determine what, if any, permits are needed prior to the salvage process.

Comments to the EA were due by September 27, 2011. No comments were received. Accordingly, the conditions recommended by OEA in the EA will be imposed.

As conditioned, this decision 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 7, 2011, exempting the abandonment of the line described above, is subject to the conditions that PWV be required to: (1) consult with the Corps prior to commencement of any salvage activities regarding the potential impact to waters of the United States, including wetlands, and comply with the Corps' reasonable requirements; and (2) consult with PADEP prior to commencement of any salvage activities to ensure that any concerns in the vicinity 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, or the need to develop emergency response contingency plans.

3. This decision is effective on its service date.

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