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Office of Proceedings
September 12, 2024
Part of
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September 12, 2024

VIA E-FILINGCynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001Re: Flats Industrial Railroad Company – Abandonment Exemption –In
Cleveland, OH AB-1327X

Dear Ms. Brown:

On October 11, 2022, Flats Industrial Railroad Company (“FIR”) filed a verified petition for exemption pursuant to 49 C.F.R. Part 1152, Subpart F – Exempt Abandonments and Discontinuances to abandon rail service over an approximately 1.85 mile long rail line, extending from Milepost 10 to Milepost 11.85 (near West 41st Street) in the Cleveland, OH (the “Line”). Notice of the exemption was served and published in the Federal Register on October 31, 2022 (87 Fed. Reg. 65,640). A corrected notice of exemption was served on November 8, 2022 (87 Fed. Reg. 67,532).¹

The exemption was scheduled to become effective on November 30, 2022. On November 10, 2022, Werner G. Smith, Inc. (“WGS”) filed a formal expression of its intent to file and Offer of Financial Assistance (“OFA”). Subsequently, per WGS’s request, which FIR did not oppose, the Surface Transportation Board (the “Board”) tolled the OFA filing deadline until January 29, 2023, and first postponed the effective date of the exemption until February 8, 2023.² A complete description of the Board’s decisions and filings by FIR and WGS related to WGS’s OFA to subsidize service over a portion of the Line can be found in the Board’s September 14, 2023 Decision,³ which terminated WGS’s OFA and made the exemption effective on that date. The abandonment authority, however, was subject to two environmental conditions

¹ The original consummation deadline was October 31, 2023.

² See Flats Industrial Railroad Company – Abandonment Exemption –In Cleveland, OH AB-1327X, slip op. at 1-2 (STB served November 29, 2022).

³ See Flats Industrial, AB 1327X, slip op. at 1-2 (STB served September 14, 2023).

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and a public use condition,⁴ the former of which were removed on January 8, 2024, leaving FIR the option to consummate the abandonment upon expiration of the public use condition on March 12, 2024.⁵

In accordance with the provisions of 49 C.F.R. § 1152.29(e)(2) and the Board's September 14, 2023 decision, FIR hereby advises the Board that it has exercised the authority granted to it and has fully consummated abandonment of the Line. Should you have any questions concerning this notice of consummation, please contact the undersigned counsel for FIR.

Respectfully submitted,

/s/ William A. Mullins

William A. Mullins
Attorney for Flats Industrial Inc., a Delaware corporation
doing business as Flats Industrial Railroad Company

⁴ Id., slip op. at 2-4 (The Board instructed FIR to keep intact the right-of-way for a period of 180 days from the effective date of exemption, until March 12, 2024, to enable interested parties to negotiate the acquisition of the right-of-way for public use.)

⁵ See Flats Industrial, slip op. at 1-2 (STB served January 8, 2024)