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ENTERED
Office of Proceedings
November 29, 2023
Part of
Public Record

William A. Mullins

Direct Dial: (202) 663-7823

November 29, 2023

Via E-filing

Danielle Gosselin
Director
Office of Environmental Analysis
Surface Transportation Board
395 E St. SW
Washington, DC 20423
E-mail: Danielle.Gosselin@stb.gov

Re: Flats Industrial Railroad Company – Abandonment Exemption – In
Cleveland, OH AB – 1327X

Dear Ms. Gosselin:

Flats Industrial Inc. d/b/a Flats Industrial Railroad Company (FIR) filed a notice of exemption under 49 C.F.R. part 1152, Subpart F—Exempt Abandonments and Discontinuances to abandon approximately 1.85 miles of rail line, extending from Milepost 10 to Milepost 11.85, near West 41st Street in Cleveland, Ohio (“the Line”), which constitutes FIR’s entire railroad system. Notice of the exemption was served and published in the Federal Register on October 31, 2022 (87 Fed. Reg. 65,640), and a corrected notice was served and published in the Federal Register on November 8, 2022 (87 Fed. Reg. 67,532).

In a subsequent decision served September 14, 2023, the Board issued a decision reopening the proceeding and permitting the abandonment to become effective, subject to a public use condition and a requirement that FIR comply with the Coastal Zone Management Act (CZMA). The CZMA condition required FIR to consult with the Ohio Department of Natural Resources (“ODNR”), Office of Coastal Management, and obtain state coastal management consistency certification, if necessary. The September 14 decision also noted that FIR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of the Line’s rail and salvageable track material such as tie plates, fasteners, crossties, and the upper layer of ballast) until it reports the results of these consultations in writing to the Office of Environmental Analysis and the Board has removed this condition.

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FIR is writing to inform the Board that it has completed consultations with the ODNR and per the letter dated November 29, 2023 (attached), Steven Holland, the Coastal Programs Administrator, has determined that “ODNR concurs with your Federal Consistency determination. No further coordination with this office regarding Federal Consistency for this project is required.” Accordingly, FIR asks that the Board to remove promptly the CZMA condition previously implemented so that FIR has the option to consummate its abandonment upon expiration of the public use condition period.

If you have any questions regarding this matter, please contact me directly, either by telephone: (202) 663-7823 or by email: wmullins@bakerandmiller.com. If I am unavailable, you may contact my colleague, Crystal M. Zorbaugh by telephone: (202) 663-7831 or by email: czorbaugh@bakerandmiller.com.

Sincerely,

/s/ William A. Mullins

William A. Mullins
Counsel for Flats Industrial Inc., a Delaware
corporation d/b/a Flats Industrial Railroad
Company

Attachment

cc: Parties of Record



Ohio Department of Natural Resources

MIKE DeWINE, GOVERNOR

MARY MERTZ, DIRECTOR

November 29, 2023

Crystal M. Zorbaugh
Senior Counsel
Baker and Miller PLLC
Suite 300
2401 Pennsylvania Ave, N.W.
Washington, D.C. 20037

RE: Federal Consistency review pursuant to the Coastal Zone Management Act of 1972 for Flats
Industrial Railroad Company railroad abandonment (AB-1327X)

Dear Crystal M. Zorbaugh:

This letter regards the above-referenced Federal Consistency determination received by the Ohio Department of Natural Resources (ODNR) Office of Coastal Management on October 30, 2023.

The Coastal Zone Management Act and its corresponding Federal Regulations provide that any federal agency activity affecting any coastal use or resource of a state's designated coastal zone must be conducted in a manner consistent to the maximum extent practicable with the enforceable policies of that state's approved coastal management program. ODNR is the designated state agency under the Ohio Coastal Management Program. As such, ODNR is responsible for concurring with or objecting to Federal Consistency determinations.

This letter is to inform you that ODNR concurs with your Federal Consistency determination. No further coordination with this office regarding Federal Consistency for this project is required.

If you have any questions, please contact me at steve.holland@dnr.ohio.gov or (419) 609-4104.

Sincerely,

Steve Holland

Steven J. Holland, M.P.A.
Coastal Programs Administrator

ec: Scudder D. Mackey, Ph.D., Chief, ODNR Office of Coastal Management
Lauren L. Edwards, Baker and Miller