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Office of Proceedings
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Part of
Public Record

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October 31, 2022

VIA E-FILING

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

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

Dear Ms. Brown:

On October 11, 2022, Flats Industrial Inc., a Delaware corporation doing business as Flats Industrial Railroad Company (“FIR”), filed a verified notice of exemption 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 Cleveland, OH (the “NOE”). Today, the Director of the Office of Proceedings published the Federal Register notice (the “Notice”). In the section dealing with labor protection, the Notice stated that the abandonment was subject to the condition that “any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Docket No. AB 1327X Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).” (known as “Oregon Short Line” conditions). Notice at 1-2. FIR believes the reference to Oregon Short Line was mistaken. In its NOE, FIR noted that it was undertaking an entire line abandonment. As such, consistent with ICC and Board precedent, no labor protection should be imposed. See NOE at 6, citing, Railway Labor Executives' Association v. ICC, 735 F.2d 691, 702-703 (2d Cir. 1984) (explaining that Congress did not intend to require the Commission to impose labor protection conditions in proceedings involving entire line abandonments. See also Wellsville, Addison & Galeton R. Corp.—Abandonment, 354 I.C.C. 744 (1978), Tennessee Central Ry. Corp. – Abandonment, 333 I.C.C. 443 (1968). Accordingly, FIR respectfully requests the Director to issue a corrected notice but without changing any of the effective dates.

Respectfully submitted,

/s/ William A. Mullins

William A. Mullins
Attorney for Flats Industrial Inc.

cc: Parties of Record