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July 1, 2022

Via E-Filing

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, S.W.
Washington, DC 20006

 GRANTED Office of Proceedings	DECISION ID NO.: <u>51332</u>
	DECIDED DATE: <u>7/5/2022</u>
	SERVED DATE: <u>7/6/2022</u>
	APPROVED: <u><i>M. Zorbaugh</i></u>
	In abeyance until further order. Status report to be filed by ☒ 6/30/2023.

Re: Flint Hill Resources Railroad, LLC - Construction and Operation
Exemption – Hardin County, Iowa, FD 36439

Update to June 17, 2022 Request for Extended Abeyance

Dear Ms. Brown:

On February 1, 2021, Flint Hill Resources Railroad, LLC (“FHRR”) petitioned the Board for authorization to construct and operate an approximately 2.3-mile rail line (the “Line”) in Hardin County, Iowa. A few months thereafter, POET, the world’s largest producer of biofuels, acquired via stock purchase all the bioethanol assets of Flint Hills Resources, including FHRR and the Flint Hill Resources Iowa Falls, LLC plant the railroad was seeking construction authority to serve. Per stamp decisions served on July 9, 2021, September 30, 2021, and February 18, 2022, the Board granted three requests by POET to hold the proceeding in abeyance, while POET explored its competitive transportation options and evaluated the project and its alignment with POET’s long-term objectives. POET is writing to update the Board on the status of its efforts.

As explained in my June 17, 2022 letter, over the past year, POET has been in continuous discussions with Union Pacific Railroad Company (“UP”) aimed at reaching an appropriate commercial solution. In December 2021, POET proposed a commercial solution to UP. Since then, POET and UP have engaged in productive discussions and exchanged counterproposals. The parties are close to reaching an agreement on a short-term solution. Pursuant to the yet-to-be finalized solution, POET would agree to postpone the build-out for three years in exchange for certain contractual concessions by UP. During those three years, UP and POET would collaborate on a long-term solution. POET appreciates the Board’s strong preference that parties

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take every effort to reach a commercial solution whenever possible, and POET is trying to do exactly that here but needs to continue to keep the abeyance in place to allow for the completion of that process.

As of today, POET continues to evaluate the project, explore commercial negotiations with UP and adjacent landowners, and determine the alignment of the Project with the POET's long-term objectives. Given that POET has already committed substantial monies (over \$100,000.00) to the project and is yet to have an adequate solution in place, POET respectfully requests that the Board afford it the time necessary to explore all options prior to proceeding with the build-out. To allow these conversations and developments to progress, POET respectfully requests that the Board hold the proceeding in abeyance for a year. While it is unclear whether things will be fully resolved by then, POET agrees to submit a status report on where things stand on June 30, 2023.

To be clear, POET is not making this request lightly. POET remains optimistic that if it were afforded the time necessary a commercial solution could possibly be reached that considers the interests of all involved parties.¹

If there are any questions about this matter, please contact me directly by phone at (202) 663-7831 or by e-mail at czorbaugh@bakerandmiller.com.

Sincerely,

/s/ *Crystal M. Zorbaugh*

Crystal M. Zorbaugh
Attorney for POET (owner of Flint Hill Resources
Railroad, LLC)

cc: Ben Sweat (POET)
Jamie Hendrickson (POET)
Danielle Gosselin (STB-Acting Director Office of Environmental Analysis)
Parties of Record

¹ Should negotiations with UP fall apart, POET wishes to reserve the right to lift the abeyance at any time during the duration of the abeyance.