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OEA

SERVICE DATE -NOVEMBER 23, 2022

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

FINAL ENVIRONMENTAL ASSESSMENT

Docket No. AB 1327X

**Flats Industrial Railroad Company – Abandonment Exemption –
in Cleveland, Ohio**

ABANDONMENT TYPE

The time for comments on the Draft Environmental Assessment (Draft EA) has expired in this:

☒ Notice of Exemption ☐ Petition for Exemption ☐ Regulated Abandonment

☐ **NO NEW COMMENTS WERE RECEIVED**

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In this proceeding, Flats Industrial Railroad Company (FIR) filed a notice of exemption with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.50 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Cleveland, Ohio. The rail line proposed for abandonment extends approximately 1.85 miles from Milepost 10 to Milepost 11.85 near West 41st Street (the Line). The Office of Environmental Analysis (OEA) served a Draft EA for this proceeding on Oct. 24, 2022, for public review and comment. In the Draft EA, OEA recommended two environmental conditions and concluded that, as conditioned, the proposed action would not significantly impact the quality of the human environment.

Comments on the Draft EA

OEA received comments on the proposed abandonment from Ohio History Connection (the State Historic Preservation Officer or SHPO). The SHPO states that a review of its records confirms that the rail line travels through portions of the Cleveland Centre Historic District (Ref. 13001117), which is listed on the National Register of Historic Places (National Register), and near many historic properties, but that the removal of track and track materials would not impact the significance or integrity of any historic properties in a way that would alter their National Register status. Therefore, the SHPO states that the proposed abandonment would have no effect on historic properties. OEA has reviewed the available information and we concur with the SHPO's comments.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or

eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of FIR's historic report, all relevant correspondence, and this Draft EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.stb.gov. Guidance regarding the Board's historic preservation review process is available on the Board's website at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

OEA reached out to 20 federally recognized tribes with associations to the area of the proposed abandonment and has received one response from the Miami Tribe of Oklahoma (Miami Tribe). The response states that the Miami Tribe offers no objection to the proposed abandonment at this time, but given the Miami Tribe's deep and enduring relationship to its historic lands and cultural property within present-day Ohio, if any human remains or Native American cultural items falling under the Native American Graves Protection and Repatriation Act or archaeological evidence is discovered during any phase of this project, the Miami Tribe requests immediate consultation with the entity of jurisdiction for the location of discovery.

Modifications to the Draft EA

Upon further review and based on the comments summarized above, OEA believes that the Section 106 previously recommended in the Draft EA is unnecessary and no longer recommends that the Board impose that condition. Based on consultation with the Miami Tribe, OEA is recommending that the Board impose a condition requiring FIR to stop work and notify OEA, the Miami Tribe, the SHPO, and other Section 106 consulting parties, if any, of unanticipated discoveries of archaeological sites, human remains, funerary items or associated artifacts are discovered during abandonment-related salvage activities.

Conclusions

The Draft EA comment period has ended. Accordingly, OEA recommends that the following conditions should be imposed upon any decision granting abandonment authority:¹

1. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451-1467) and the Board's environmental regulations at 49 C.F.R. § 1105.9, Flats Industrial Railroad (FIR) shall consult with the Ohio Department of Natural Resources, Office of Coastal Management and obtain state coastal management consistency certification, if necessary. FIR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed the condition.

¹ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with these conditions is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

2. In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during abandonment-related salvage activities, Flats Industrial Railroad Company (FIR) shall immediately cease all work and notify the Office of Environmental Analysis (OEA), the Miami Tribe of Oklahoma (Miami Tribe), other interested federally recognized tribes, and Ohio History Connection (the State Historic Preservation Office or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, the Miami Tribe, other interested federally recognized tribes, FIR, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

If the above conditions are imposed, OEA believes that the proposed action will not significantly affect the quality of the human environment

By the Board, Danielle Gosselin, Director, Office of Environmental Analysis.