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June 15, 2023

## 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

|                                                                                                                                 |                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| <br><b>GRANTED</b><br>Office of<br>Proceedings | DECISION ID NO.: 51788                                                                                          |
|                                                                                                                                 | DECIDED DATE: 7/11/2023                                                                                         |
|                                                                                                                                 | SERVED DATE: 7/11/2023                                                                                          |
|                                                                                                                                 | APPROVED: <i>MacDail</i>                                                                                        |
|                                                                                                                                 | In abeyance until further order.<br>status report to be filed by <input checked="" type="checkbox"/> 6/30/2024. |

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

## Status Report

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. Shortly 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, February 18, 2022, and July 6, 2022, the Board granted four 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.

Over the past year, POET has continued discussions with Union Pacific Railroad Company (“UP”) aimed at reaching an appropriate commercial solution. These negotiations resulted in a commercial solution that as of today satisfies POET’s short-term needs. Pursuant to the arrangement, POET has agreed to postpone its build-out in exchange for certain contractual concessions by UP, while UP and POET continue to collaborate on a long-term solution.

POET appreciates the Board’s strong preference that parties make every effort to reach a commercial solution whenever possible, and POET is trying to do exactly that here but needs to

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Cynthia T. Brown

June 15, 2023

Page 2

keep the abeyance in place to allow for the completion of that process. The Board plays an important role in fostering and encouraging the reaching of appropriate commercial solutions by the railroads and their shippers. POET is committed to encouraging the same. In fact, earlier this year, Mr. Ben Sweat, Chief Operating Officer of POET Biofuels and POET Pure, volunteered and was appointed to the Board's Rail Energy Transportation Advisory Committee ("RETAC") to serve as the renewable energy sources representative.

Given that POET has already committed substantial monies (over \$100,000.00) to the project and is yet to have an adequate long-term solution in place, POET respectfully requests that the Board afford it the time necessary to explore all options before proceeding with the build-out.<sup>1</sup> Accordingly, Poet respectfully requests that the Board hold the proceeding in abeyance for another 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, 2024.

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](mailto: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

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<sup>1</sup> 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.