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SERVICE DATE – JANUARY 8, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1327X

FLATS INDUSTRIAL INC. D/B/A FLATS INDUSTRIAL RAILROAD COMPANY
—ABANDONMENT EXEMPTION—
IN CLEVELAND, OHIO

Decided: January 8, 2024

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 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 decision served September 14, 2023, the offer of financial assistance process was terminated, and the abandonment exemption became effective on that date, subject to two environmental conditions.¹ One of those conditions required FIR, pursuant the Coastal Zone Management Act (CMZA), 16 U.S.C. §§ 1451-1467, and the Board’s environmental regulations at 49 C.F.R. § 1105.9, to consult with the Ohio Department of Natural Resources (ODNR), Office of Coastal Management, and obtain state coastal management consistency certification, if necessary, and prohibited FIR from consummating abandonment or initiating salvage activities until it reported the results of those consultations to the Board’s Office of Environmental Analysis (OEA) and the Board removed the condition.

In a Supplemental Final Environmental Assessment served on December 15, 2023, OEA reports that on November 29, 2023, FIR filed a letter with the Board from ODNR concurring with FIR’s coastal zone consistency determination and stating that no further coordination is required. OEA further states that FIR requested that the Board remove the previously imposed CMZA condition so FIR has the option to consummate the abandonment upon expiration of the public use condition. According to OEA, the Board has satisfied its responsibilities under the CMZA and therefore recommends that the Board remove the CMZA condition.

Consistent with OEA’s recommendation, this proceeding will be reopened and the previously imposed CMZA condition will be removed.

¹ The decision also imposed a public use condition, which expires on March 12, 2024.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the CMZA condition imposed in the September 14, 2023, decision is removed.
3. This decision is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.