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SERVICE DATE – AUGUST 13, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35397]

ABC & D Recycling, Inc.—Lease and Operation Exemption—a Line of Railroad in Ware, Mass.

ABC & D Recycling, Inc. (ABC & D), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to lease from O’Riley Family Trust (O’Riley), and to operate, 773 feet of rail line located at milepost 12.8, in Ware, Mass.¹ The line is currently operated by the Massachusetts Central Railroad Corporation.²

ABC & D states that it has been engaged in handling construction and demolition debris, having obtained all required state and local permits, and intends to continue handling these materials. ABC & D further states its understanding that, if it wishes to handle solid waste as defined in the Clean Railroads Act of 2008, Pub. L. No. 110-432, div. A, title VI, 122 Stat. 4900, it must: 1) obtain all state and local permits necessary in order to handle such solid waste; or 2) obtain a land-use exemption from the Board for any permits that it is unable to obtain from the state or local government.

¹ ABC & D earlier filed a verified notice of exemption concerning lease and operation of this trackage in FD 35356, ABC & D Recycling, Inc.—Lease and Operation Exemption—a Line of Railroad in Ware, Massachusetts (STB served Mar. 12, 2010), which ABC & D later withdrew. See id. (STB served Apr. 1, 2010) (dismissing ABC & D’s notice of exemption without prejudice).

² According to ABC & D, an agreement has been reached with O’Riley to lease and operate the railroad trackage owned by O’Riley.

ABC & D certifies that its projected annual revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier, and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction is expected to be consummated on August 27, 2010, the effective date of the exemption (30 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 20, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35397, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Leonard M. Singer, Office of Leonard M. Singer, 101 Arch Street, Ninth Floor, Boston, MA 02110.

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Decided: August 9, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.