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OEA

SERVICE DATE – LATE RELEASE SEPTEMBER 14, 2015

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**DOCKET NO. AB 1128X**

**Energy Solutions, LLC, d.b.a. Heritage Railroad Corporation**  
**Abandonment Exemption**  
**Anderson and Roane Counties, Tennessee**

**BACKGROUND**

In this proceeding, Energy Solutions, LLC (ES), d.b.a. Heritage Railroad Corporation, filed a petition of exemption from the formal application and approval requirements of 49 U.S.C. § 10903 for abandonment 10 miles of its rail line that extends between a point of connection to Norfolk Southern Railway Company (NS) at or near Blair, TN (Milepost 0.0) and the end of track at East Tennessee Technology Center at or near Oak Ridge, TN (Milepost 7.0), including approximately three miles of spur tracks in Anderson and Roane Counties, TN (the Line). ES seeks abandonment authority rather than discontinuance of rail service because ES proposes to convert the rail line from a regulated common carrier line to a private rail line. A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA).

**ENVIRONMENTAL REVIEW**

ES submitted an Environmental Report that concludes that the quality of the human environment would not be affected significantly as a result of the abandonment. ES served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR § 1105.7(b)].<sup>1</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

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<sup>1</sup> The railroad's Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 1128X.

### *Diversion of Traffic*

ES uses the Line to transport low-level radioactive materials and wastes for itself and, as a rail common carrier, for other shippers such as Olin Corporation and Greenfield Logistics. ES reported traffic from the following shippers in 2014 (in carloads per year): Olin Corporation (245), Energy Solutions (127), Greenfield Logistics (8), Southern Appalachia Railway Museum (4), BNSF Logistics (3), and Oak Ridge National Lab (2). According to ES, because they would continue to convey existing traffic as a contract carrier, the proposed abandonment, if approved, would not adversely impact the development, use, and transportation of energy resources, recyclable commodities, or ozone-depleting materials, nor would it result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

### *Salvage Activities*

According to ES, the Line generally extends through rural terrain, including forested areas, and the right-of-way is generally 100 feet wide. The Line is owned by the Department of Energy (DOE) and ES operates over the Line pursuant to a railroad operating easement granted by DOE in 2002 to Heritage Railroad Corporation, Inc. (Heritage) that was subsequently assigned by Heritage to ES in 2009. ES does not propose to cease providing rail service over the Line. Instead, ES proposes to discontinue operations over the Line as a rail common carrier regulated by the Board. ES proposes to continue rail operations over the Line as a private carrier, transporting commodities pursuant to contracts with shippers.

Typically, in an exempt abandonment, if a notice of exemption becomes effective, the railroad would be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.<sup>2</sup> ES states that because the proposed action is a discontinuance of its operation over the line as a rail common carrier, ES would continue to provide rail service over the Line as a private carrier, contracting with shippers for rail transportation and if the abandonment is granted the track materials on the Line would remain in place undisturbed.

After consulting with DOE staff in the Oak Ridge Office of Environmental Management (OREM), OEA understands that if ES were to contemplate salvage activities at a future date, the terms of the easement agreements with DOE as well as the property transfer documentation between DOE and Heritage Railroad Corporation would require DOE consultation and approval at that time.

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<sup>2</sup> Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and re-grading of the right-of-way by the railroad that owns the track material. Salvage may be performed by the line owner within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

However, in the event that salvage activities are conducted subsequent to the proposed abandonment of the Line, OEA has considered the potential environmental impacts that could arise. A number of agencies responding to ES's request for comments on the abandonment indicated that the proposed abandonment would have no impact to resources under their jurisdiction. The National Geodetic Survey submitted comments stating that no geodetic station marks would be affected by approval of the proposed abandonment. The Natural Resources Conservation Service (NRCS) evaluated the area of the proposed project as required by the Farmland Protection Policy Act (FPPA) and has submitted comments stating that approval of this abandonment would create no adverse impacts to important farmland soils or other resources within its jurisdiction. The U.S. Army Corps of Engineers (Corps) submitted comment that based on available information, the proposed abandonment would not occur within navigable waters of the U.S. and would not involve a discharge of fill material into any waters of the U.S.; therefore, a Department of the Army permit under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required.

OEA's initial consultation with the U.S. Fish and Wildlife Service (FWS) found that 23 endangered, threatened, or candidate species may be present within the proposed project area: 16 endangered clam species, the threatened Spotfin Chub, the threatened Virginia spiraea, three endangered bat species (the gray bat, Indiana bat, and northern long-eared bat), and the endangered Anthony's riversnail. Of these species, two endangered clam species (the Purple bean and Rough rabbitsfoot) and the Spotfin Chub have critical habitat within the project area. In this proceeding, because ES states that it does not contemplate any salvage work, OEA has determined that none of these species will be affected by the current undertaking. However, if any physical alterations to the right-of-way are undertaken as part of this abandonment, ES shall consult with FWS prior to undertaking any salvage activities.

According to ES, approximately 250 carloads of potassium hydroxide solutions and sodium hydroxide solutions are transported over the Line per year, approximately five times a week; other low-level radioactive and hazardous materials are transported as well. ES states that there are no chemicals present that, if mixed, could react to form more hazardous compounds, and that its Heritage Rail Safety Plan documents safety practices and contingency planning to deal with any accidental spills. According to ES, there have been no derailments, accidents, or spills in the six years of its operation of the Line. ES contemplates continuing to ship these materials as a private carrier, if authorization to abandon the line is granted; therefore, a decision granting abandonment authority would have no impact to the transportation of these materials and associated hazards.

In 1989, Oak Ridge Reservation (EPA ID: TN1890090003) was placed on the National Priorities List (NPL), the list of the most hazardous sites across the U.S. and its territories. Currently listed as a Final NPL site, DOE has been conducting ongoing removal and remediation efforts for decades: available documentation shows more than 80 contaminants of concern, including trichloroethylene; americium-241; arsenic,

benzene, chromium, mercury, PCBs, plutonium, radium, and uranium. According to the Environmental Protection Agency (EPA) Superfund Information System, human exposures of hazardous chemicals of concern are under control; however, migration of contaminated ground water is not. After initial consultation with DOE, OREM, and EPA, OEA has determined that any future salvage activities that may occur in the right-of-way if the proposed abandonment is authorized would not adversely affect cleanup efforts associated with the Oak Ridge Reservation Superfund site.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and are unlikely to have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to the following groups and agencies: OREM and EPA.

## **HISTORIC REVIEW**

ES submitted an Historic Report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Tennessee Historical Commission (State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c). According to ES, the Line was originally constructed by the Corps in 1943 from the point of connection to Norfolk Southern Railway Company at Blair approximately seven miles south to the Manhattan Project site of the K-25 uranium enrichment complex near Oak Ridge, TN, including numerous spur tracks extending from that Line, and there are four bridges that are more than 50 years old.

The Manhattan Project was the massive American, British, and Canadian operation that developed the atomic bomb. Through the World War II years and beyond, thousands of carloads of materials were moved to and from the project site, currently owned by DOE. The National Park Service and DOE are in the process of establishing the Manhattan Project National Historical Park to tell the project's story in a three sites: Oak Ridge, Tennessee; Hanford, Washington; and Los Alamos, New Mexico. The Oak Ridge Historic District is listed on the National Register of Historic Places, and spans much of the original Manhattan Project townsite.

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, we have determined that the proposed abandonment would not adversely affect properties that are eligible for listing in the National Register. OEA contacted the SHPO on July 14, 2015. The SHPO concurred with the Board's determination of no adverse effect in its letter to ES on July 15.

The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists

of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's web site at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally recognized tribes who may have ancestral connections to the project area.<sup>3</sup> OEA identified one such tribe, the Eastern Band of Cherokee Indians of North Carolina, who has been added to the service list for this environmental assessment.

## **CONDITIONS**

We recommend that the following condition be imposed on any decision granting abandonment authority:

- 1. Prior to commencement of any salvage activities, Energy Solutions, LLC, shall consult with the U.S. Fish and Wildlife Service regarding potential impacts from salvaging activities to federally listed threatened and endangered species that may occur in the vicinity of the line. ES shall report the results of these consultations in writing to the Board's Office of Environmental Analysis prior to the onset of salvage operations.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

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<sup>3</sup> Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited May 11, 2015).

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Adam Assenza, who prepared this EA. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 1128X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Adam Assenza, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at [adam.assenza@stb.dot.gov](mailto:adam.assenza@stb.dot.gov).

Date made available to the public: September 14, 2015.

**Comment due date: October 14, 2015.**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment