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SERVICE DATE – SEPTEMBER 3, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35288]

Energy Solutions, LLC, d.b.a. Heritage Railroad Corporation—Acquisition and
Operation Exemption—Heritage Railroad Corporation

Energy Solutions, LLC, d.b.a. Heritage Railroad Corporation (ES), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the United States Department of Energy (DOE), and to operate a rail line approximately 7 miles long between milepost 0.0, at a point of connection with a rail line of Norfolk Southern Railway Company, at Blair, TN, and the end of the line at milepost 7.0, at or near Oak Ridge, TN.¹ This line also includes approximately 3 miles of spur tracks.²

The transaction is expected to be consummated on or after September 17, 2009 (30 days after the exemption was filed).

ES certifies that its projected annual revenues as a result of this transaction will not result in ES becoming a Class II or Class I rail carrier. ES further certifies that its projected annual revenues upon becoming a Class III carrier will not exceed \$5 million.

¹ Heritage Railroad Corporation, a wholly owned subsidiary of Community Reuse Organization of East Tennessee, currently operates the line pursuant to a perpetual easement for a railroad right-of-way granted by the DOE. See Heritage Railroad Corporation—Lease and Operation Exemption—Rail Line of United States Department of Energy, STB Finance Docket No. 34372 (STB served July 23, 2003).

² On August 21, 2009, ES filed a corrected verified notice of exemption stating that there are approximately 3 miles of spur tracks more or less, rather than 7.5 miles as erroneously stated.

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, §193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

If the 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 to stay must be filed no later than September 10, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35288, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: August 28, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary