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RECEIVED  
MAR 9 2012  
MANAGEMENT

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March 8, 2012

231993

Ms. Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D. C. 20423

RE: Finance Docket No. 35605. *RailAmerica, Inc., Palm Beach Rail Holding, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC, and RR Acquisition Holding, LLC—Control Exemption—Wellsboro & Corning Railroad, LLC*

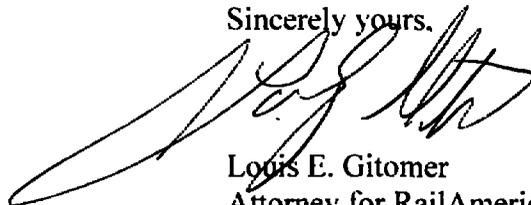
Dear Ms. Brown:

Enclosed for filing are the original and 10 copies of a Notice of Exemption by RailAmerica, Inc., Palm Beach Rail Holding, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC, and RR Acquisition Holding, LLC (the "Buyers") to acquire control of Wellsboro & Corning Railroad, LLC. Enclosed is a computer diskette containing the Notice in Word and pdf format. The color Exhibit is attached to the end of the Notice in Exhibit B. Also enclosed is a payments of \$1,300 for the notice of exemption.

Please time and date stamp the additional copy of this letter and the Notice and return them with our messenger. Thank you for your assistance.

If you have any questions please call or email me.

Sincerely yours,



Louis E. Gitomer  
Attorney for RailAmerica, Inc., Palm Beach Rail Holding, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC, and RR Acquisition Holding, LLC

Enclosures

**FILED**

MAR - 8 2012

**SURFACE  
TRANSPORTATION BOARD**

**FEE RECEIVED**

MAR - 8 2012

**SURFACE  
TRANSPORTATION BOARD**

ENTERED  
Office of Proceedings

MAR - 8 2012

Part of  
Public Record

BEFORE THE  
SURFACE TRANSPORTATION BOARD

231 993

Finance Docket No. 35605

RAILAMERICA, INC., PALM BEACH RAIL HOLDING, INC., RAILAMERICA  
TRANSPORTATION CORP., RAILTEX, INC., FORTRESS INVESTMENT GROUP, LLC,  
AND RR ACQUISITION HOLDING, LLC—CONTROL EXEMPTION—  
WELLSBORO & CORNING RAILROAD, LLC

VERIFIED NOTICE OF EXEMPTION

VOLUME I

**FILED**  
MAR - 8 2012  
SURFACE  
TRANSPORTATION BOARD

ENTERED  
Office of Proceedings  
MAR - 8 2012  
Part of  
Public Record

**FEE RECEIVED**  
MAR - 8 2012  
SURFACE  
TRANSPORTATION BOARD

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7411 Fullerton Street, Suite 300  
Jacksonville, FL 32256  
(904) 538-6329

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Melanie B. Yasbin, Esq.  
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(410) 296-2250  
Lou@lgrailaw.com

Attorneys for: RailAmerica, Inc.,  
Palm Beach Rail Holding, Inc.,  
RailAmerica Transportation Corp.,  
RailTex, Inc., Fortress Investment Group,  
LLC, and RR Acquisition Holding, LLC

Dated: March 8, 2012

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Finance Docket No. 35605

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RAILAMERICA, INC., PALM BEACH RAIL HOLDING, INC., RAILAMERICA  
TRANSPORTATION CORP., RAILTEX, INC., FORTRESS INVESTMENT GROUP, LLC,  
AND RR ACQUISITION HOLDING, LLC—CONTROL EXEMPTION—  
WELLSBORO & CORNING RAILROAD, LLC

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VERIFIED NOTICE OF EXEMPTION

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RailAmerica, Inc. (“RailAmerica”); Palm Beach Rail Holdings, Inc. (“Palm Beach”); RailAmerica Transportation Corp. (“RTC”); RailTex, Inc. (“RailTex”); Fortress Investment Group, LLC (“Fortress”) and RR Acquisition Holding, LLC (“RR Acquisition”) (collectively “RailAmerica et al.”), pursuant to 49 C.F.R. §§1180.2(d)(2) and 1180.4(g), file this Verified Notice of Exemption with the Surface Transportation Board (the “Board”) from the prior approval requirements of 49 U.S.C. §§11323-11325. This Verified Notice of Exemption is being filed to permit RailAmerica et al., to acquire indirect control of the Wellsboro & Corning Railroad, LLC (“W&C”), a Class III railroad, through the acquisition of control of TransRail Holdings, LLC, the parent of W&C by RailTex, Inc. (the “Proposed Transaction”).

W&C acquired the assets of the Wellsboro & Corning Railroad Co.<sup>1</sup> W&C owns and operates 35.5 miles of track between Wellsboro, PA, milepost 109.90, and Erwin, NY, milepost 74.70, in Tioga County, PA and Steuben County, NY. W&C interchanges traffic with the Norfolk Southern Railway Company and the Canadian Pacific Railway Company.

Under 49 C.F.R. §1180.2(d)(2), the Notice of Exemption procedures apply

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<sup>1</sup> *Wellsboro & Corning Railroad, LLC—Acquisition and Operation Exemption—Wellsboro & Corning Railroad Company*, STB FD 35595 (STB served February 22, 2012).

where (i) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a class I carrier.

RailAmerica et al. note that the W&C does not connect with any of RailAmerica's subsidiary railroads, the Proposed Transaction is not part of a series of anticipated transactions to connect W&C and any of RailAmerica's subsidiary railroads, and the Proposed Transaction does not involve a class I carrier.

The information required for the Notice of Exemption is provided below.

a. **1180.6(a)(1)(i)**. A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

RailTex entered a Unit Purchase Agreement dated January 31, 2012 (the "Agreement") (see the redacted copy in Exhibit A) with TransRail Holdings, LLC ("TransRail"), a non-carrier, Industrial Waste Group, LLC ("IWG"), a non-carrier, Wellsboro & Corning Railroad Co., A. Thomas Myles III, A. Thomas Myles IV, and William Myles (the "MG Principals"). The MG Principals own TransRail. TransRail owns W&C and the successor to IWG. RailTex will acquire 100% of the Class A Common Units of TransRail, giving RailTex a 70% ownership interest in TransRail and control of W&C through TransRail. The MG Principals will retain the Class B Common Units in TransRail, thereby retaining a 30% interest in TransRail, but they will not retain the control or power to control W&C.

RailAmerica et al. is a non-rail carrier that controls a number of rail carriers and has filed this Notice of Exemption because it is seeking to acquire indirect control of a W&C, a rail carrier.

Fortress's non-carrier affiliate, RR Acquisition Holding, LLC, currently owns about 60% of the publicly traded shares and controls the non-carrier RailAmerica which directly controls the non-carrier Palm Beach, which directly controls the non-carrier RTC.

RailAmerica controls the following railroads: Alabama & Gulf Coast Railway L.L.C., Arizona & California Railroad Company, Bauxite & Northern Railway Company, California Northern Railroad Company, Cascade and Columbia River Railroad Company, Central Oregon & Pacific Railroad, Inc., The Central Railroad Company of Indiana, Central Railroad Company of Indianapolis, Connecticut Southern Railroad, Inc., Conecuh Valley Railway, LLC, Dallas, Garland & Northeastern Railroad, Inc., Delphos Terminal Railroad Company, Inc., Eastern Alabama Railway, LLC, Huron & Eastern Railway Company, Inc., Indiana & Ohio Railway Company, Indiana Southern Railroad, LLC, Kiamichi Railroad Company, L.L.C., Kyle Railroad Company, The Massena Terminal Railroad Company, Mid-Michigan Railroad, Inc., Missouri & Northern Arkansas Railroad Company, Inc., New England Central Railroad, Inc., North Carolina & Virginia Railroad Company, LLC, Otter Tail Valley Railroad Company, Inc., Point Comfort & Northern Railway Company, Puget Sound & Pacific Railroad, Rockdale, Sandow & Southern Railroad Company, San Diego & Imperial Valley Railroad Company, Inc., San Joaquin Valley Railroad Co., South Carolina Central Railroad Company, LLC, Three Notch Railway, LLC, Toledo, Peoria & Western Railway Corporation, Ventura County Railroad Corp., and Wiregrass Central Railway, LLC (collectively the "RailAmerica Railroads").<sup>2</sup>

Further, Fortress on behalf of other certain equity funds, managed by it and its affiliates, directly controls the non-carrier FECR Rail LLC, which directly controls FEC Rail Corp., which

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<sup>2</sup> RailAmerica, et al., have sought exemption from the Board to acquire control of the Marquette Rail, LLC ("Marquette"). See *RailAmerica, Inc., Palm Beach Holding, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC, and RR Acquisition Holding, LLC—Control Exemption—Marquette Rail, LLC*, STB FD 35592 (STB served February 28, 2012). Marquette operates in the State of Michigan.

directly controls Florida East Coast Railway, L.L.C. ("FEC") operating in the State of Florida. FEC is a Class II railroad. All of the RailAmerica Railroads are Class III.

RailAmerica, Palm Beach, RTC, RailTex, Fortress, and RR Acquisition are all located at 7411 Fullerton Street, Jacksonville, FL, 32256, (904) 538-6329.

W&C is located at 256 Eagleview Boulevard, PMB 261, Exton, PA 19341.

Counsel to whom questions concerning the transaction can be addressed is: Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410) 296-2250, Lou@lgraillaw.com.

**b. 1180.6(a)(1)(ii).** The proposed time schedule for consummation of the proposed transaction.

RailAmerica et al. intends to acquire indirect control of W&C on or after April 7, 2012.

**c. 1180.6(a)(1)(iii).** The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

The owners of W&C have decided to sell W&C to RailAmerica et al. The management of RailAmerica et al. has over a century of experience successfully managing short line railroads. RailAmerica et al. intends to focus on rail operations and to use its management experience and expertise in operating short line railroads and its financial resources to provide rail freight service to communities and industries who wish to have additional transportation options. Additional benefits will be derived by future investments that will reduce the environmental impact of natural gas drilling operations in the Marcellus Shale region by delivering clean fresh water and transporting waste materials and residual brine water to the proper processing facilities.

**d. 1180.6(a)(5).** A list of the State(s) in which any part of the property of each applicant carrier is situated.

RailAmerica et al. control the following railroads operating in the states in parentheses:

Alabama & Gulf Coast Railway L.L.C. (Alabama, Florida, and Mississippi). Arizona & California Railroad Company (Arizona and California), Bauxite & Northern Railway Company (Arkansas), California Northern Railroad Company (California), Cascade and Columbia River Railroad Company (Washington). Central Oregon & Pacific Railroad, Inc. (California and Oregon), The Central Railroad Company of Indiana (Indiana and Ohio). Central Railroad Company of Indianapolis (Illinois, Indiana, and Ohio). Connecticut Southern Railroad, Inc. (Connecticut and Massachusetts), Conecuh Valley Railway, L.L.C. (Alabama), Dallas, Garland & Northeastern Railroad, Inc. (Texas). Delphos Terminal Company, Inc. (Ohio), Eastern Alabama Railway, LLC (Alabama), Huron and Eastern Railway Company, Inc. (Michigan), Indiana & Ohio Railway Company (Indiana, Michigan, and Ohio), Indiana Southern Railroad, LLC (Indiana), Kiamichi Railroad Company, L.L.C. (Arkansas, Oklahoma, and Kansas), Kyle Railroad Company (Colorado and Kansas), The Massena Terminal Railroad Company (New York), Mid-Michigan Railroad, Inc. (Michigan), Missouri & Northern Arkansas Railroad Company, Inc. (Arkansas, Kansas, and Missouri), New England Central Railroad, Inc. (Connecticut, Massachusetts, New Hampshire, and Vermont), North Carolina & Virginia Railroad Company, LLC (North Carolina and Virginia), Otter Tail Valley Railroad Company, Inc. (Minnesota and South Dakota), Point Comfort & Northern Railway Company (Texas), Puget Sound & Pacific Railroad (Washington), Rockdale, Sandow & Southern Railroad Company (Texas). San Diego & Imperial Valley Railroad Company, Inc. (California), San Joaquin Valley Railroad Co.(California). South Carolina Central Railroad Company, LLC (South Carolina), Three Notch Railway, LLC (Alabama). Toledo, Peoria & Western Railway Corp. (Illinois and Indiana), Ventura County Railroad Company (California), and Wiregrass Central

Railway, L.L.C. (Alabama) . Fortress on behalf of other certain equity funds, managed by it and its affiliates, controls Florida East Coast Railway, L.L.C. (Florida).

W&C operates in the states of New York and Pennsylvania.

e. **1180.6(a)(6). Map (Exhibit B).** Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.

*See* Exhibit B at the end of the pleading with colored maps.

f. **1180.6(a)(7)(ii). Agreement (Exhibit A).** Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.

*See* Exhibit A for a copy of the redacted Unit Purchase Agreement. An unredated version of the Unit Purchase Agreement has been filed under seal pursuant to a protective order.

**g. Labor Protection.**

RailAmerica et al. controls Class III carriers and Fortress controls one Class II carrier. Any employees affected by the Proposed Transaction will be entitled to labor protection under 49 U.S.C. §11326(b). Therefore, RailAmerica et al. respectfully requests the Board impose the labor protections under 49 U.S.C. §11326(b) and *Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad Co.*, 2 S.T.B. 218 (1997). *aff'd in relevant part sub nom. Association of American Railroads v. STB*, 162 F.3d 101 (D.C. Cir. 1998).

**h. Environmental and Historical documentation.**

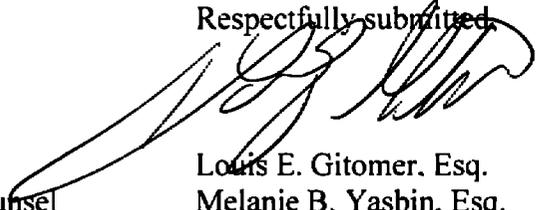
This transaction qualifies for classification under 49 C.F.R. §1105.6(c)(2) and thus neither an Environmental Report nor a Historic Report is required to be filed.

**i. Interchange Commitments.**

There are no interchange commitments or paper barriers in the Agreement.

Respectfully submitted,

Scott G. Williams Esq.  
Senior Vice President & General Counsel  
RailAmerica, Inc.  
7411 Fullerton Street, Suite 300  
Jacksonville, FL 32256  
(904) 538-6329

  
Louis E. Gitomer, Esq.  
Melanie B. Yasbin, Esq.  
Law Offices of Louis E. Gitomer  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou\_Gitomer@verizon.net

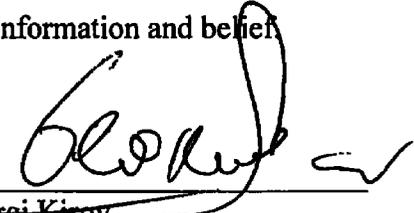
Attorneys for: RailAmerica, Inc.,  
Palm Beach Rail Holding, Inc.,  
RailAmerica Transportation Corp.,  
RailTex, Inc., Fortress Investment Group,  
LLC, and RR Acquisition Holding, LLC

Dated: March 8, 2012

**VERIFICATION**

State of Florida            )  
  ) ss  
County of Duval            )

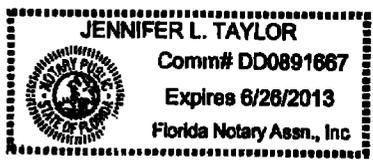
Georgi Kirov, being duly sworn, deposes and says that I am Vice President of RailTex, Inc., a Texas corporation, and that I have read the foregoing, know the contents thereof, and that the same are true as stated to the best of my knowledge, information and belief

  
\_\_\_\_\_  
Georgi Kirov

Subscribed and sworn to before me this 7<sup>th</sup> day of March 2012.

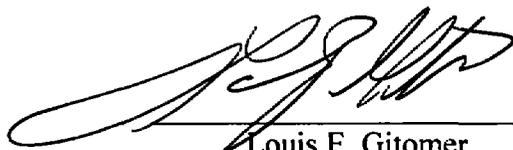
  
\_\_\_\_\_  
Notary Public

My Commission expires: 6/26/2013



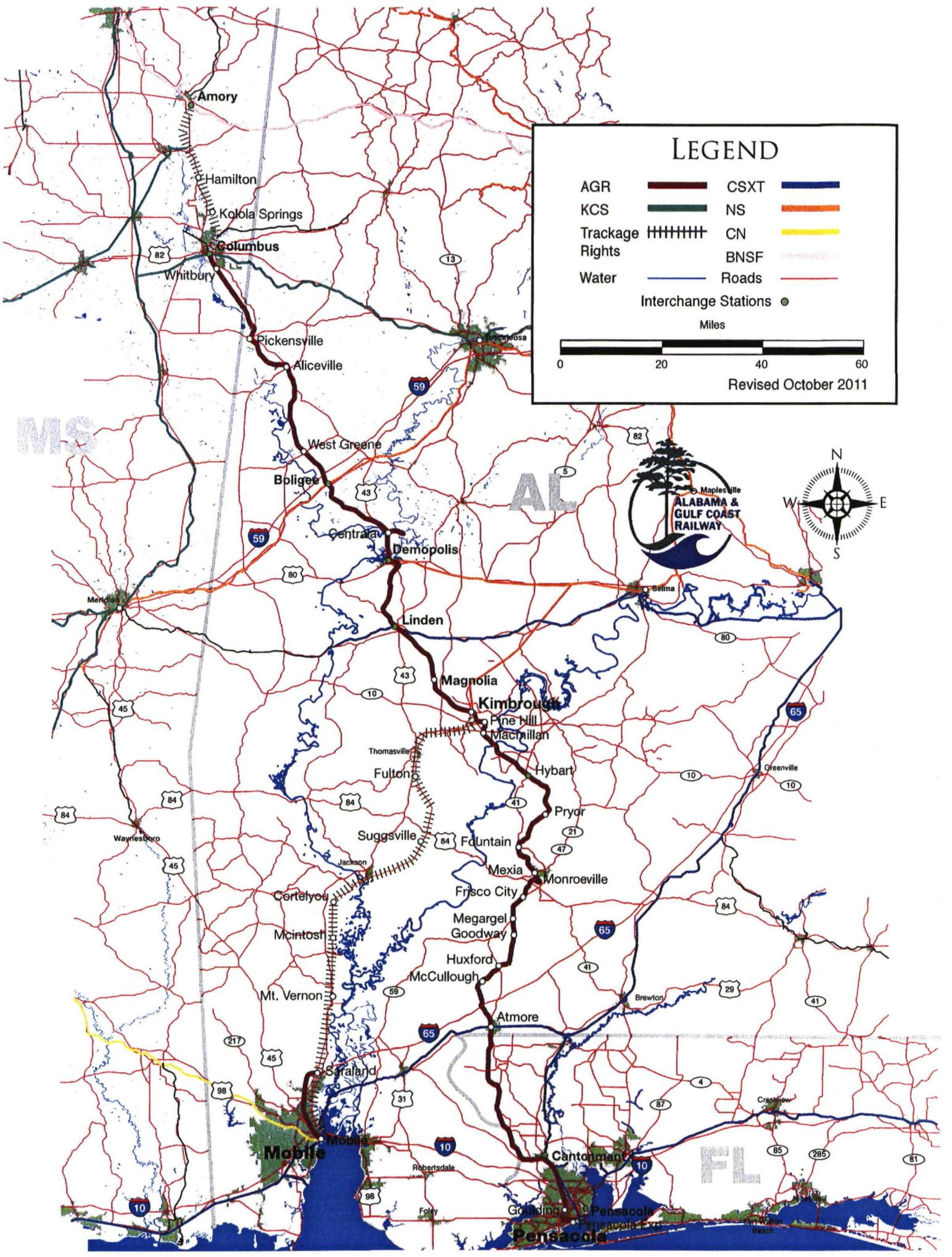
**CERTIFICATE OF SERVICE**

I hereby certify that I have caused the Verified Notice of Exemption in Finance Docket No. 35605, *RailAmerica, Inc., Palm Beach Rail Holding, Inc., RailAmerica Transportation Corp., RailTex, Inc., Fortress Investment Group, LLC and RR Acquisition Holding, LLC – Control Exemption—Wellsboro & Corning Railroad, LLC* to be served by first class mail, postage pre-paid on the Secretary of the United States Department of Transportation, the Attorney General of the United States, the Federal Trade Commission and on the Governor, Public Service Commission, and Department of Transportation of the States of Pennsylvania and New York.

  
\_\_\_\_\_  
Louis E. Gitomer  
March 8, 2012

**EXHIBIT A-AGREEMENT  
CONTAINED IN VOLUME II**

**EXHIBIT B–RAILAMERICA ET AL. MAPS**

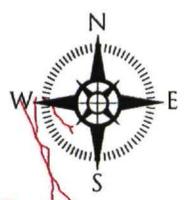


# LEGEND

- |                      |  |       |  |
|----------------------|--|-------|--|
| AGR                  |  | CSXT  |  |
| KCS                  |  | NS    |  |
| Trackage Rights      |  | CN    |  |
| Water                |  | BNSF  |  |
| Interchange Stations |  | Roads |  |



Revised October 2011

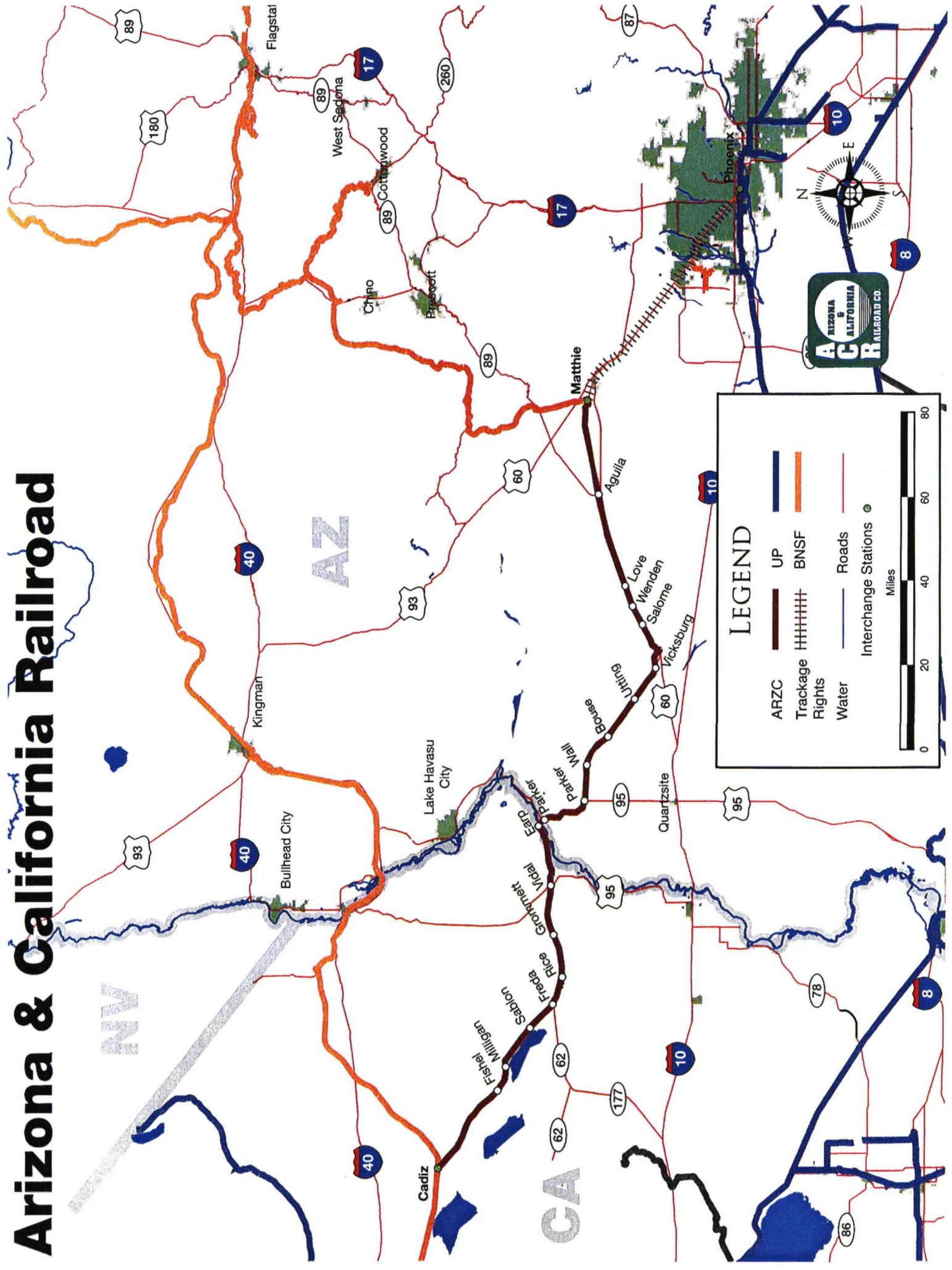


MS

AL

FL

# Arizona & California Railroad



**LEGEND**

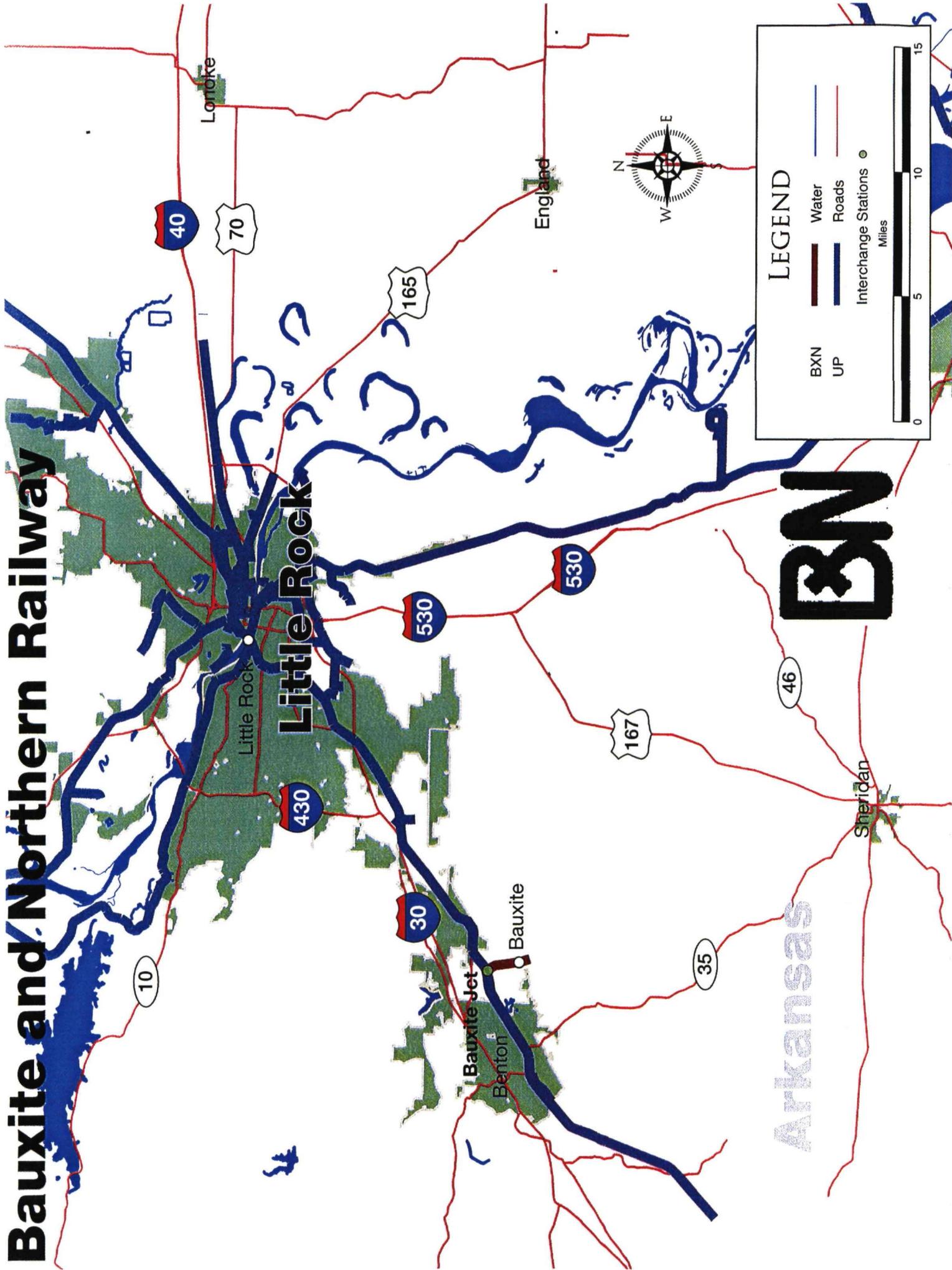
- ARZC
- UP
- Trackage
- BNSF
- Rights
- Water
- Roads
- Interchange Stations

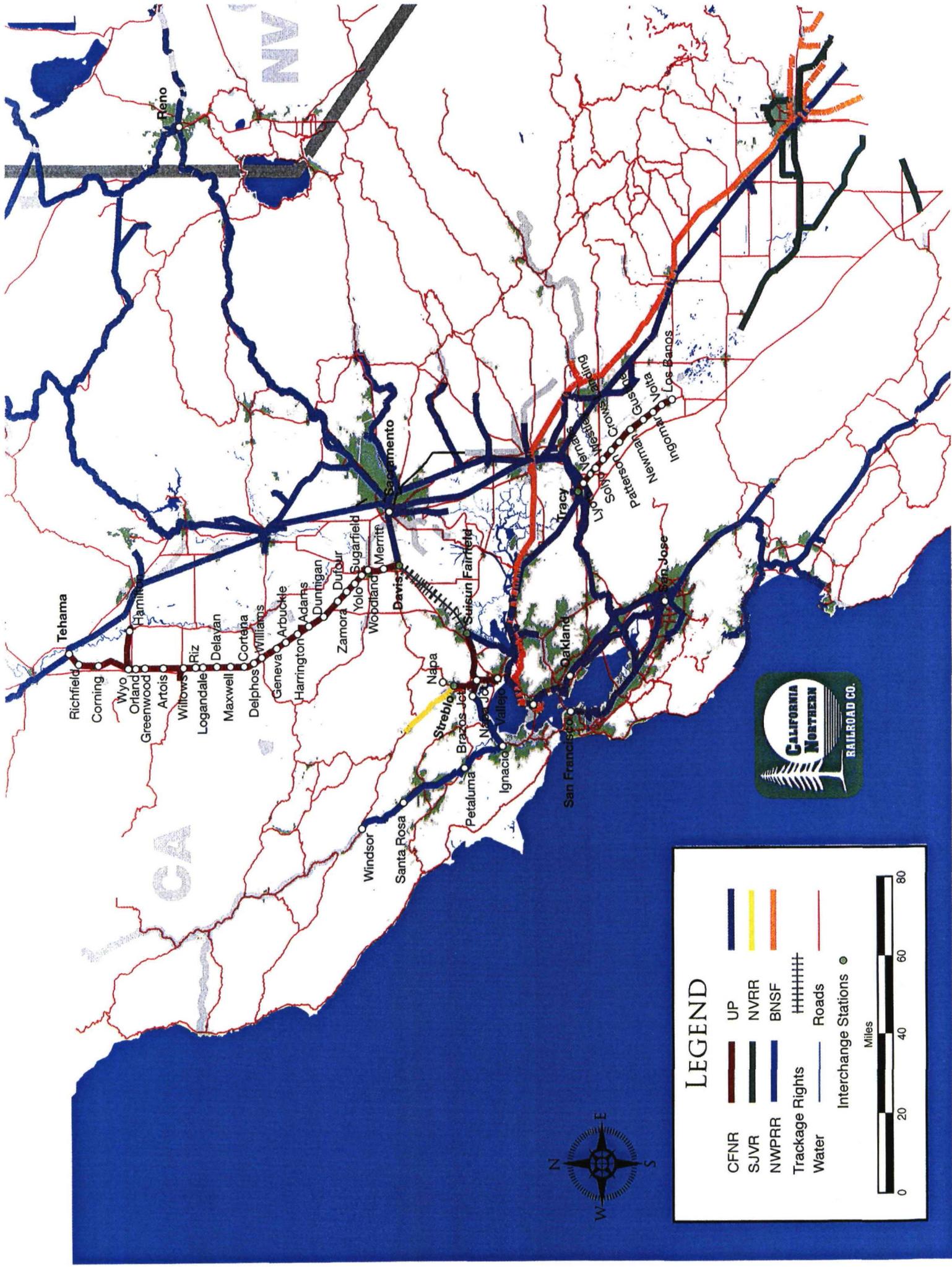
Miles

0 20 40 60 80



# Bauxite and Northern Railway





### LEGEND

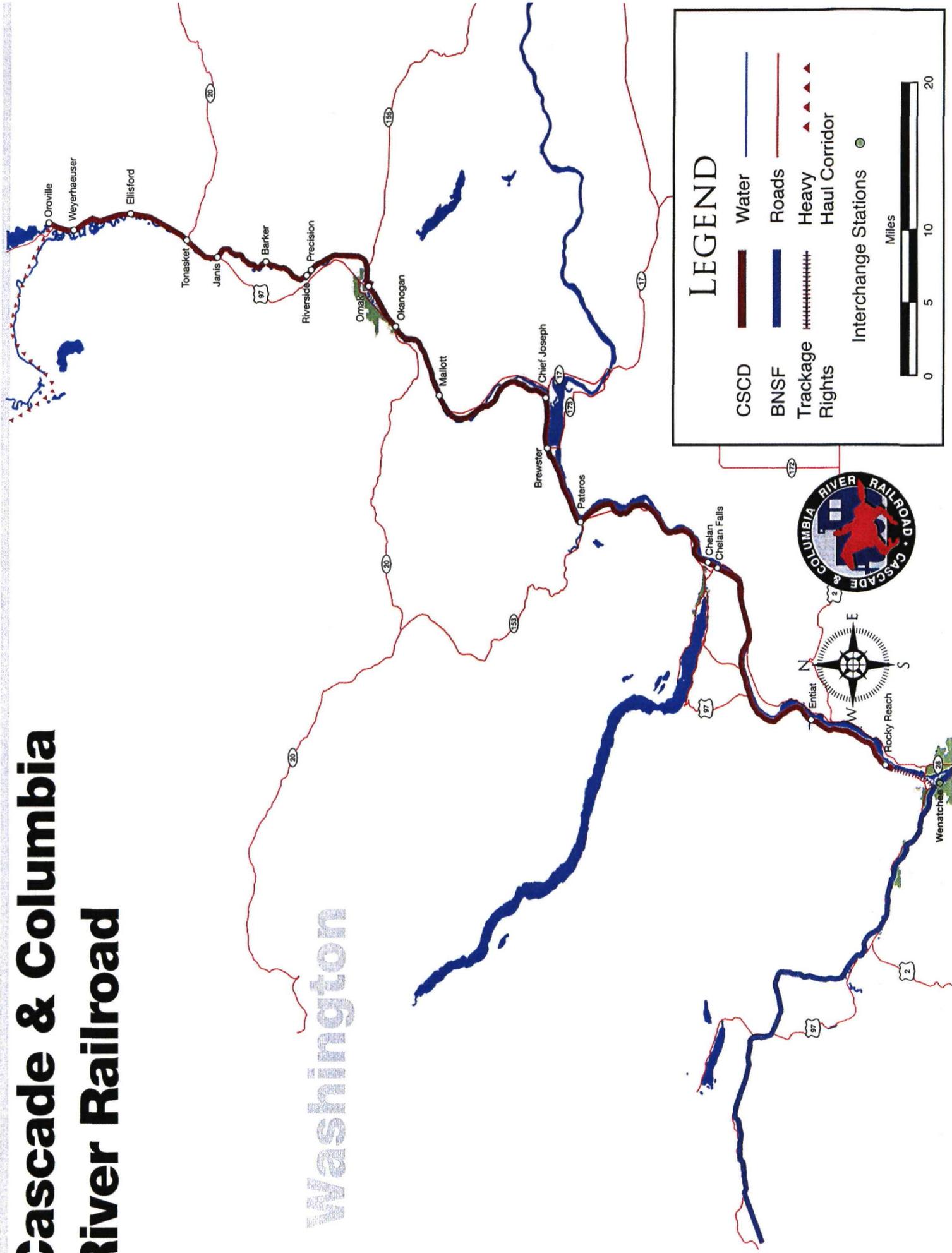
CFNR	UP
SJVR	NVRR
NWPRR	BNSF
Trackage Rights	HHHHHH
Water	Roads
Interchange Stations	●

Miles



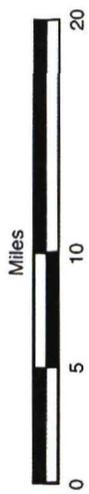
# Cascade & Columbia River Railroad

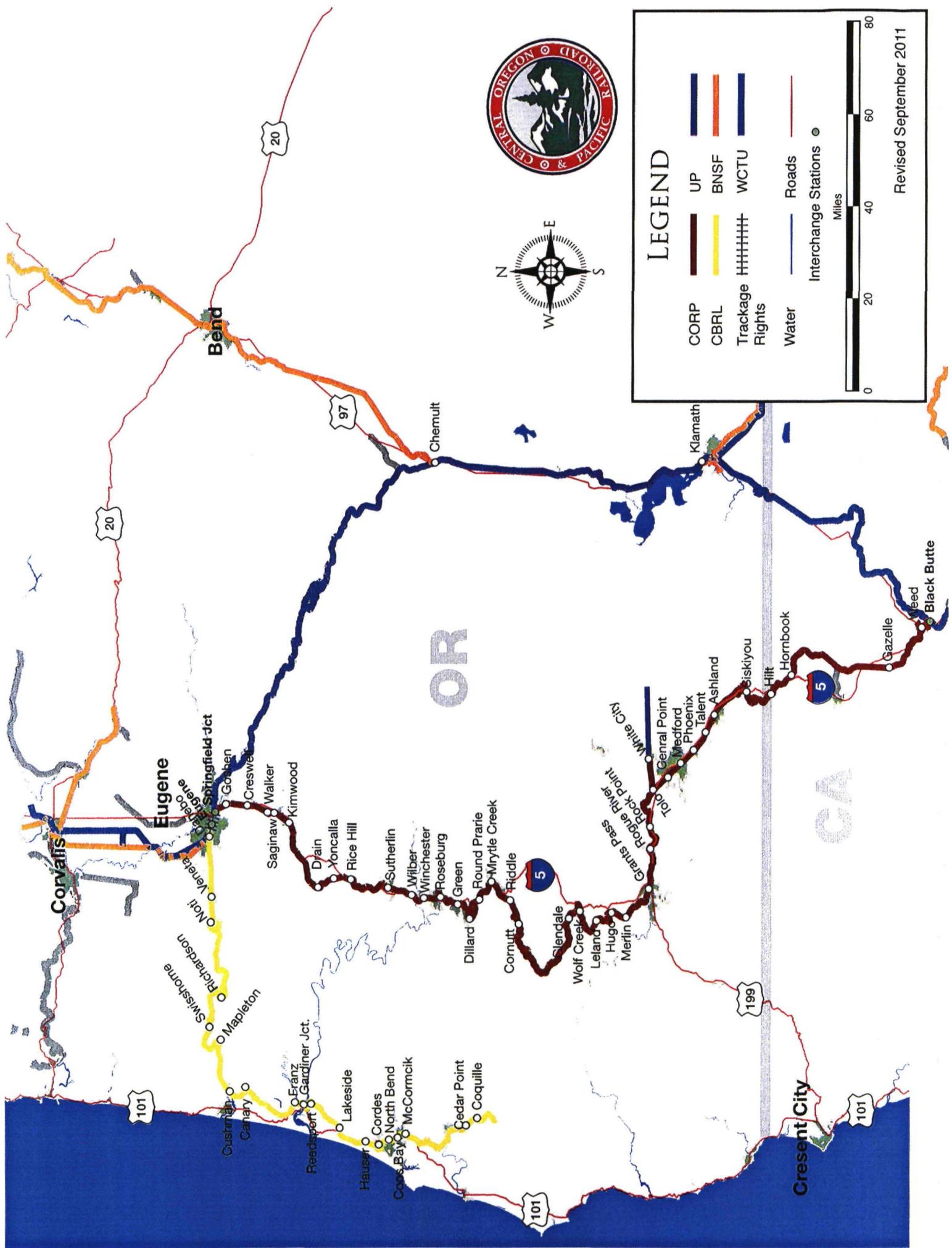
Washington



## LEGEND

- CSCD  Water
- BNSF  Roads
- Trackage  Heavy
- Rights  Haul Corridor
-  Interchange Stations





### LEGEND

CORP	UP	BNSF	WCTU
CBRL	Trackage Rights	Roads	Interchange Stations

Water

Miles

0 20 40 60 80

Revised September 2011

OR

CA

Corvallis

Eugene

Bend

Chemult

Klamath

Black Butte

Crescent City

101

20

97

20

5

199

101

Swishstone  
Richardson  
Noell  
Veneta  
Springfield Jct  
Gobhen  
Creswell  
Walker  
Kimwood

Saginaw  
DRAIN  
Xoncalla  
Rice Hill

Sutherlin  
Wilber  
Winchester  
Roseburg  
Green

Round Prairie  
Myrtle Creek  
Riddle

Dillard  
Cornutt  
Glendale  
Wolf Creek  
Leland  
Hug  
Merlin

Grants Pass  
Rock Point  
Tule  
White City

Central Point  
Medford  
Phoenix  
Talent  
Ashland

Siskiyou  
Hilt  
Hornbook

Gazelle  
Lead

Cushman  
Canary

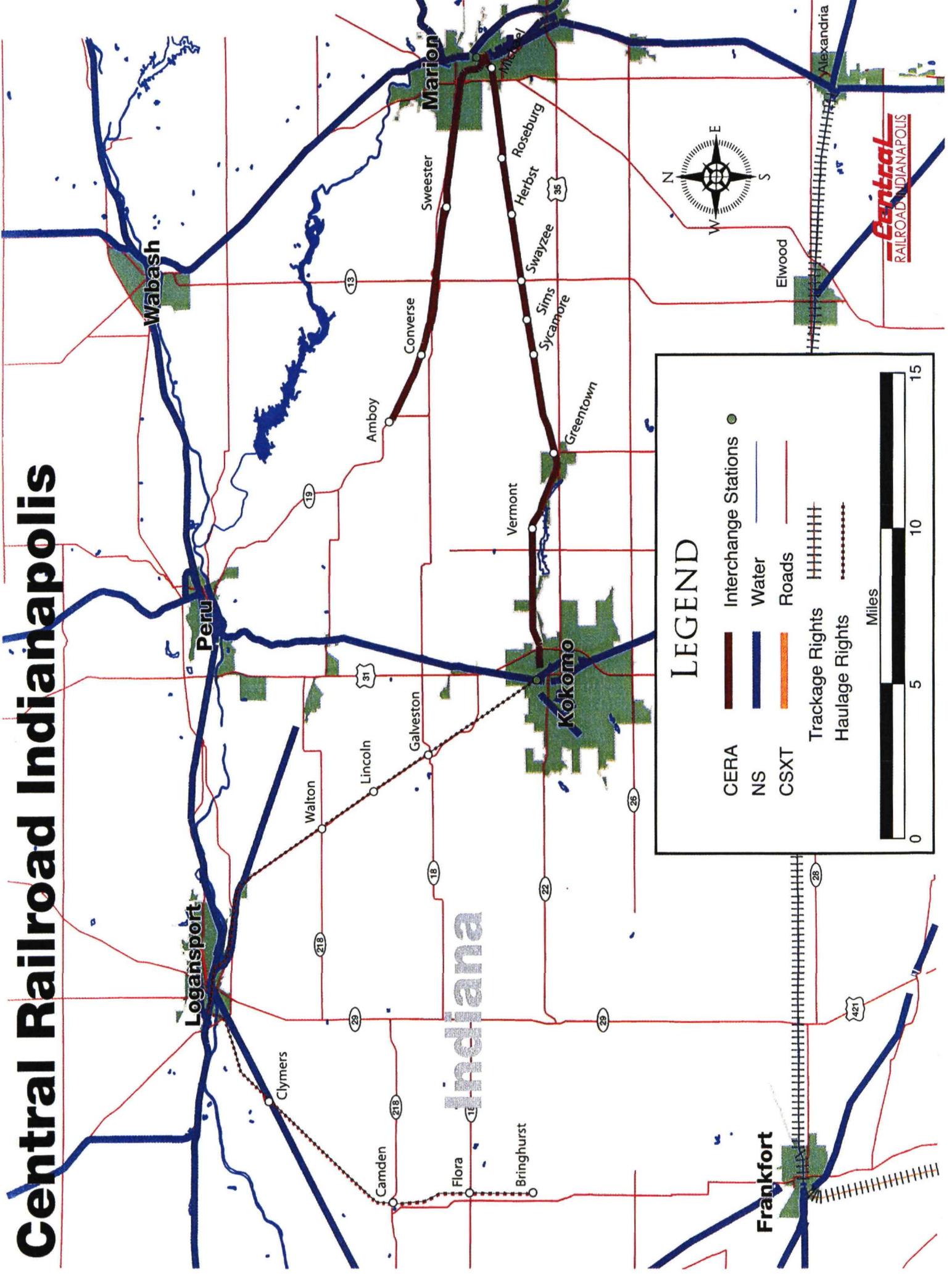
Eranz  
Gardiner Jct.  
Readsport  
Lakeside

Hauser  
Cordes  
North Bend  
Cross Bay  
McCormick

Cedar Point  
Coquille



# Central Railroad Indianapolis



**LEGEND**

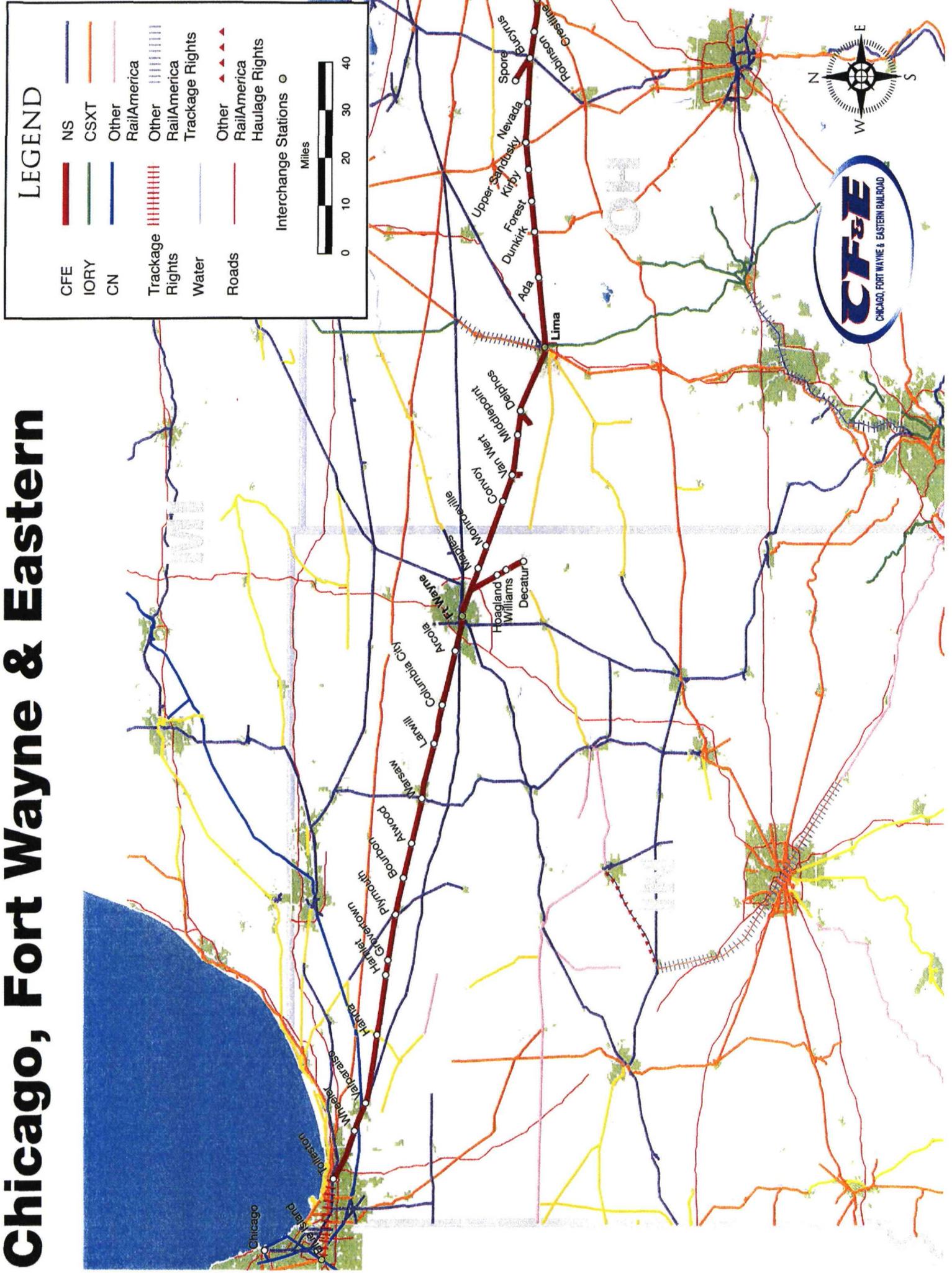
- CERA: Dark brown line
- NS: Blue line
- CSXT: Orange line
- Interchange Stations: Black dot
- Water: Blue wavy line
- Roads: Red line
- Trackage Rights: Hatched line
- Haulage Rights: Dotted line

Miles

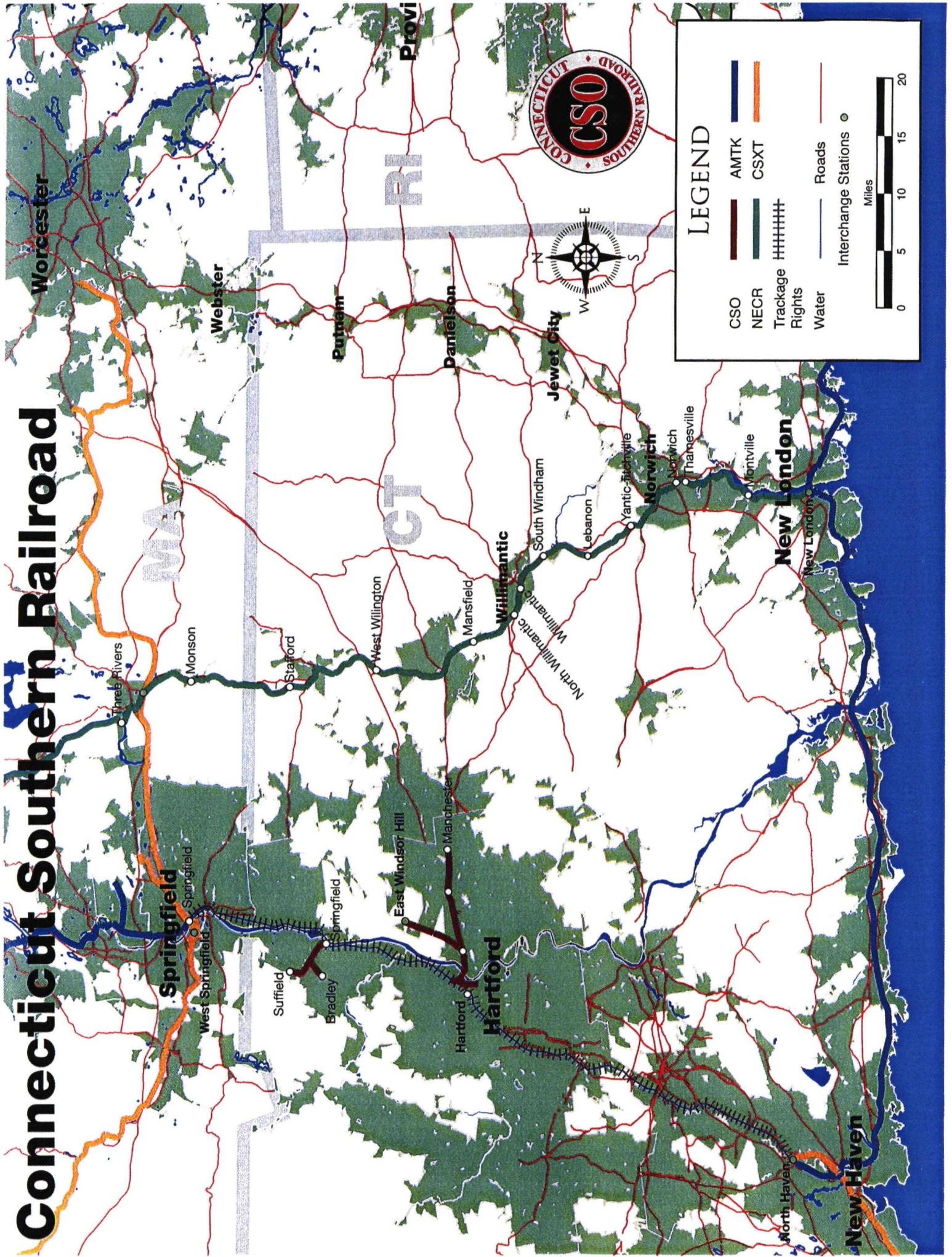
0 5 10 15

**Central**  
RAILROAD INDIANAPOLIS

# Chicago, Fort Wayne & Eastern



# Connecticut Southern Railroad



## LEGEND

- CSO
- AMTK
- CSXT
- NECR
- Trackage Rights
- Water
- Roads
- Interchange Stations



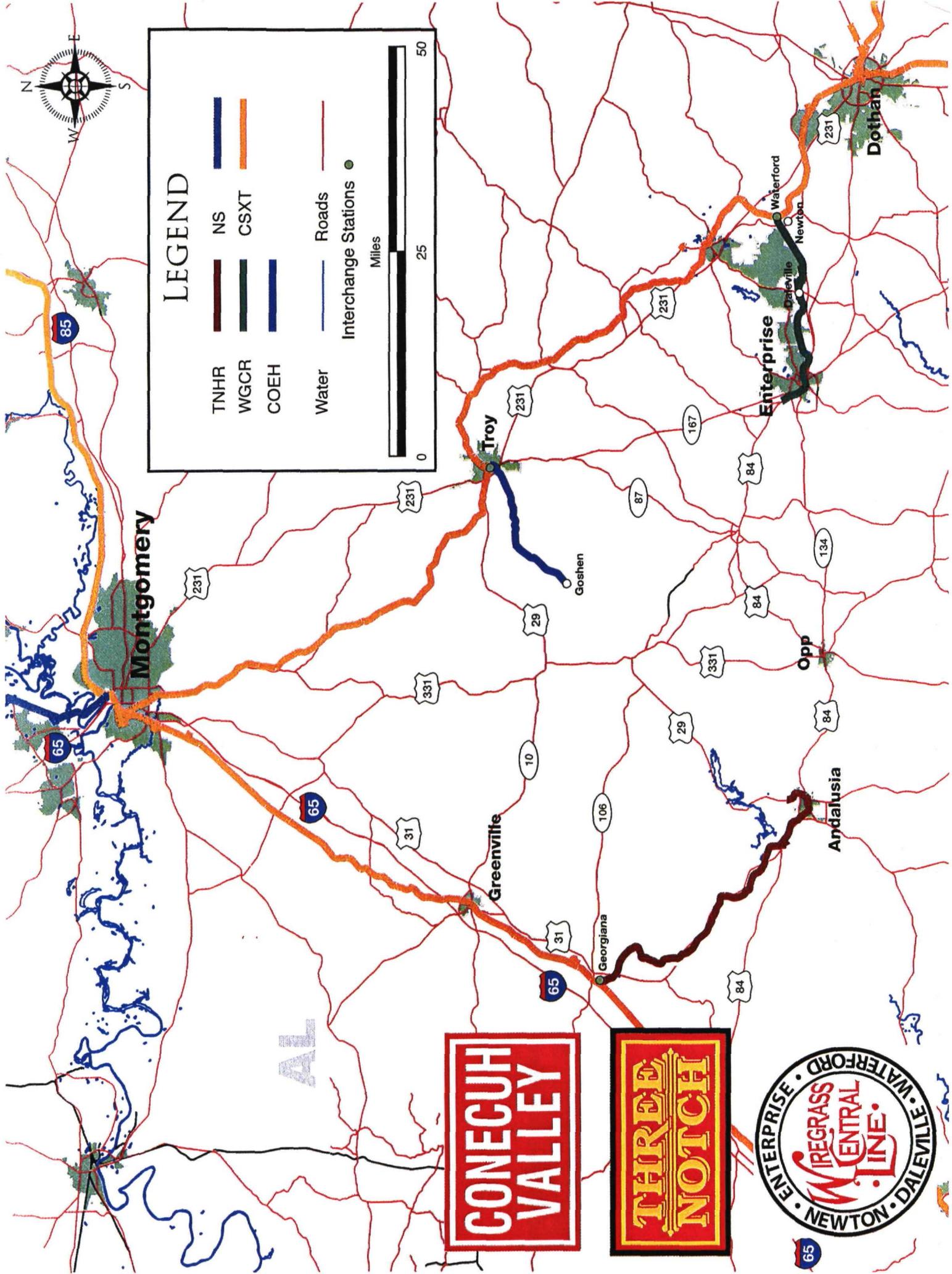


**LEGEND**

TNHR	NS	CSXT	Water	Roads	Interchange Stations
WGCR	COEH				

Miles

0 25 50



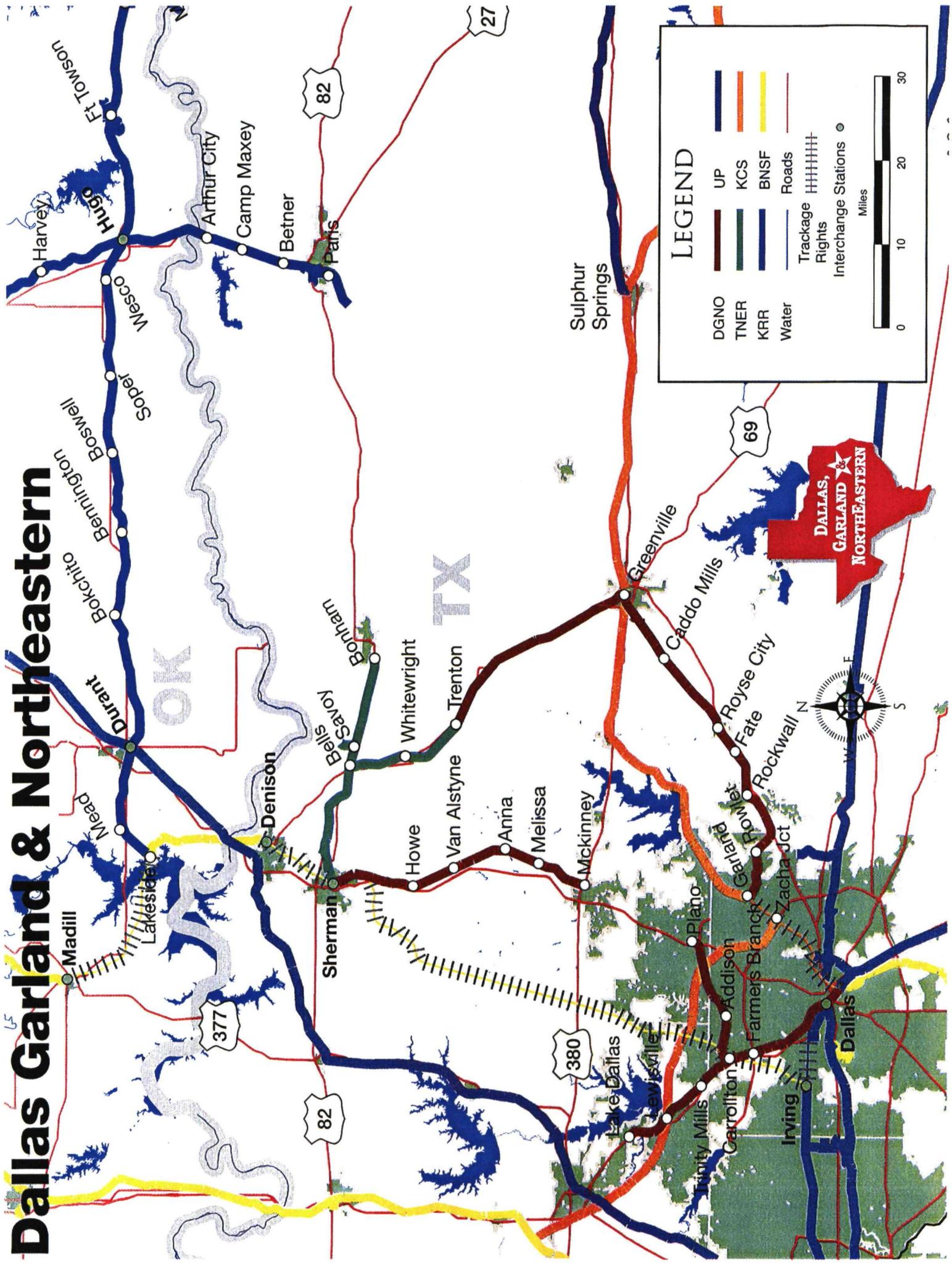
**AL**

**CONECUH VALLEY**

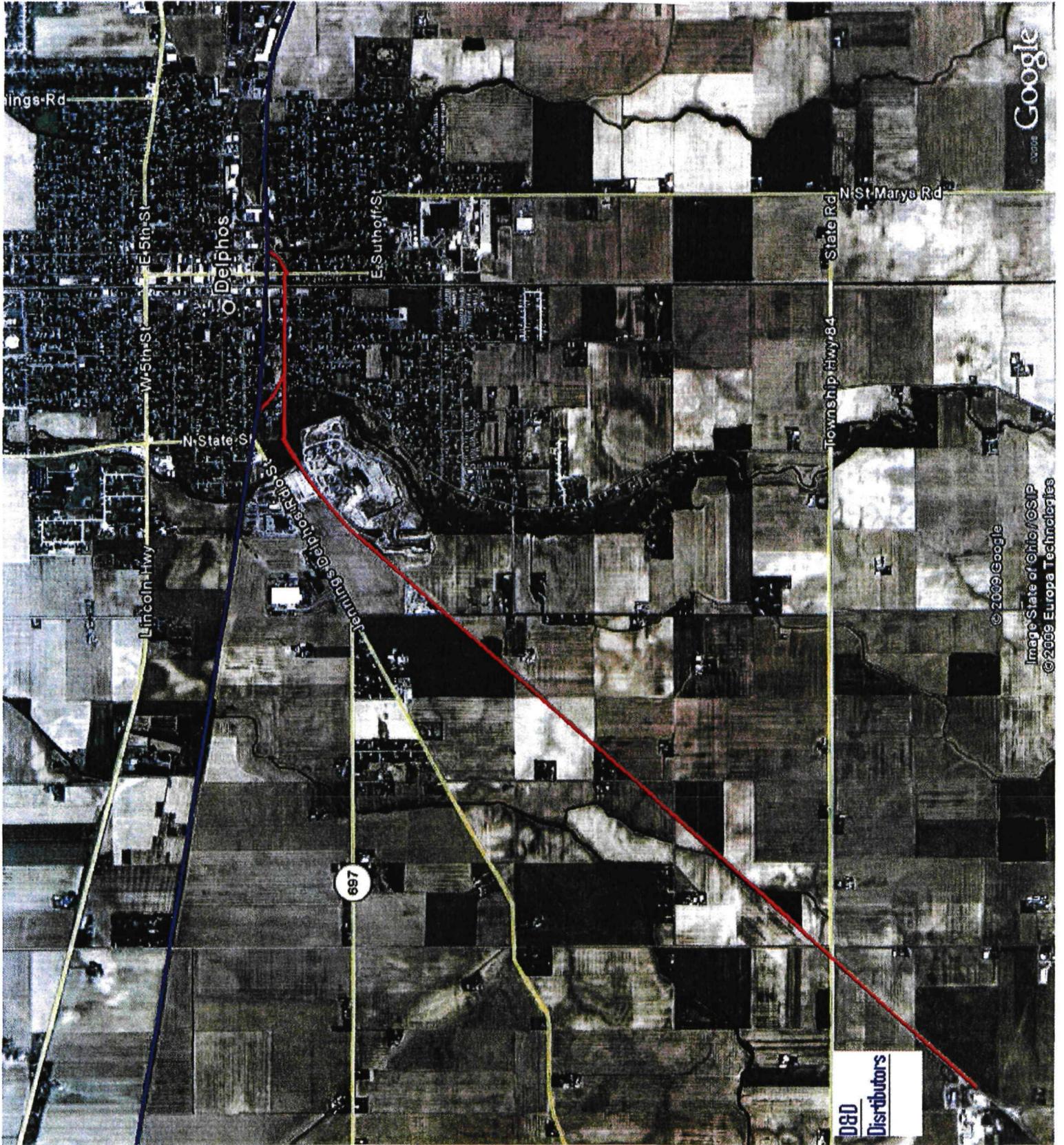
**THIRD NOTCH**



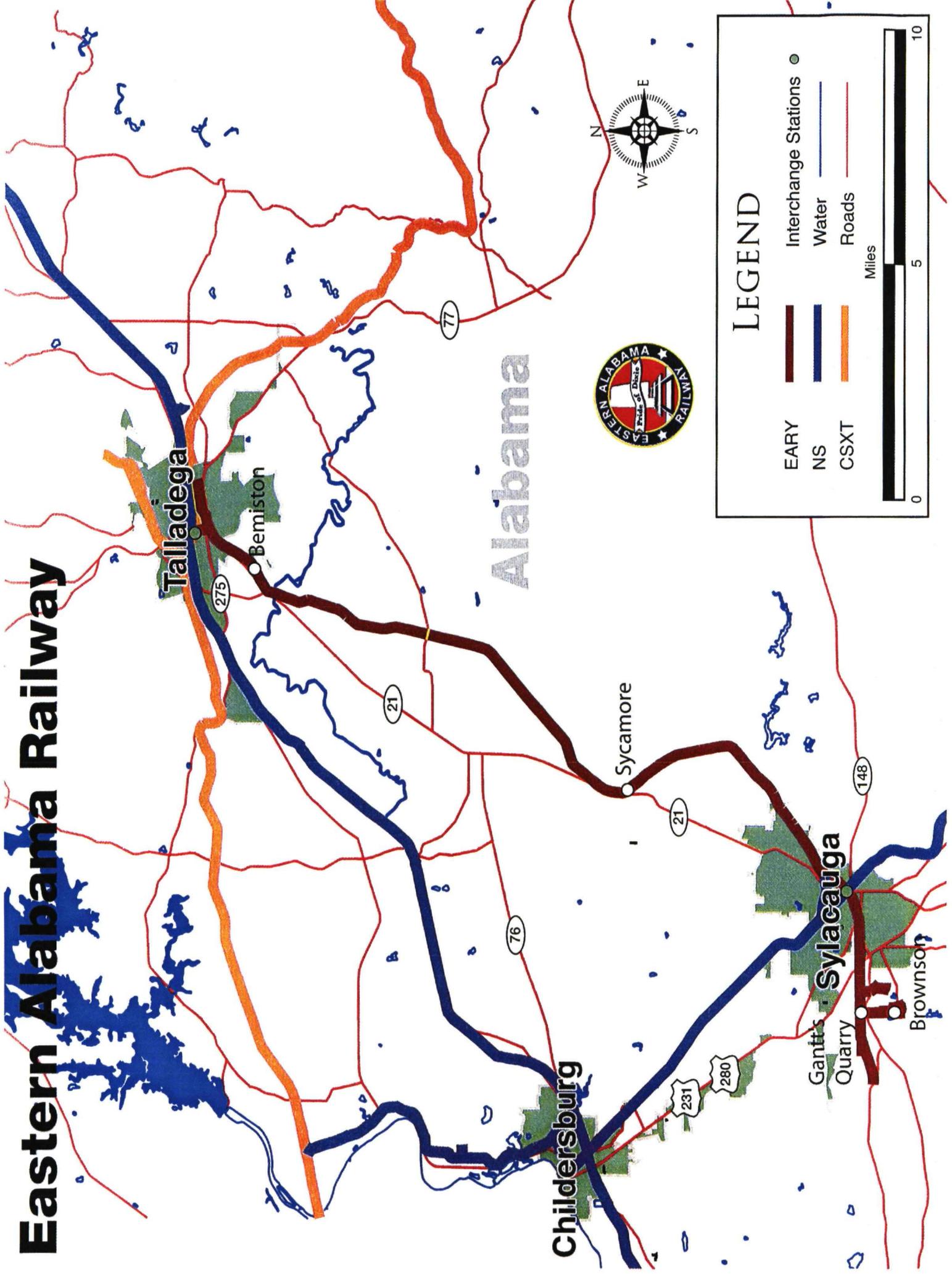
# Dallas Garland & Northeastern



DELPHOS TERMINAL RAILROAD  
COMPANY, INC.



# Eastern Alabama Railway



## LEGEND

- EARLY
  - NS
  - CSXT
  - Interchange Stations ●
  - Water
  - Roads
- Miles
- 0 5 10

# Huron and Eastern

Midland

Bay City

Saginaw

Flint

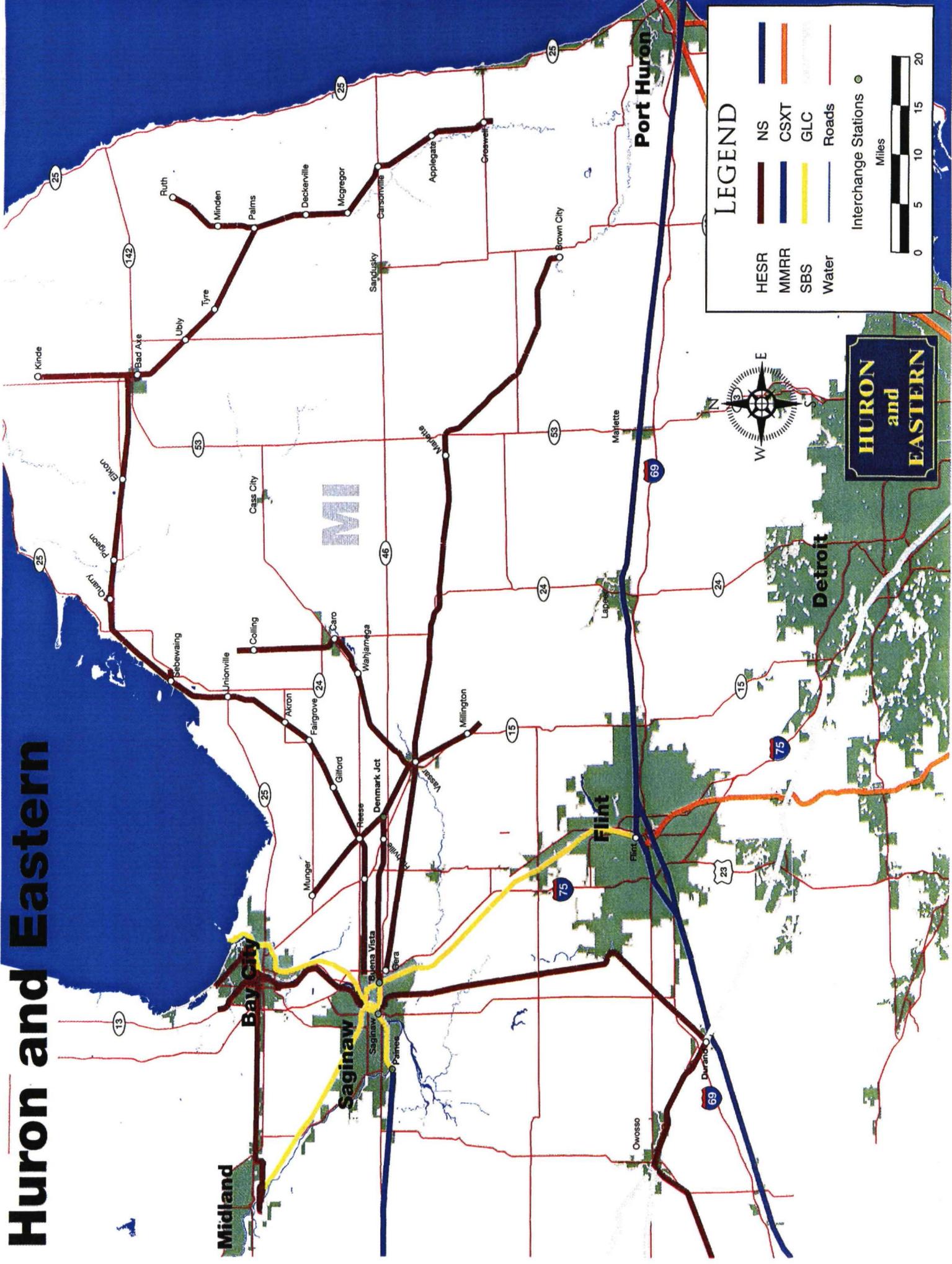
Detroit

Port Huron

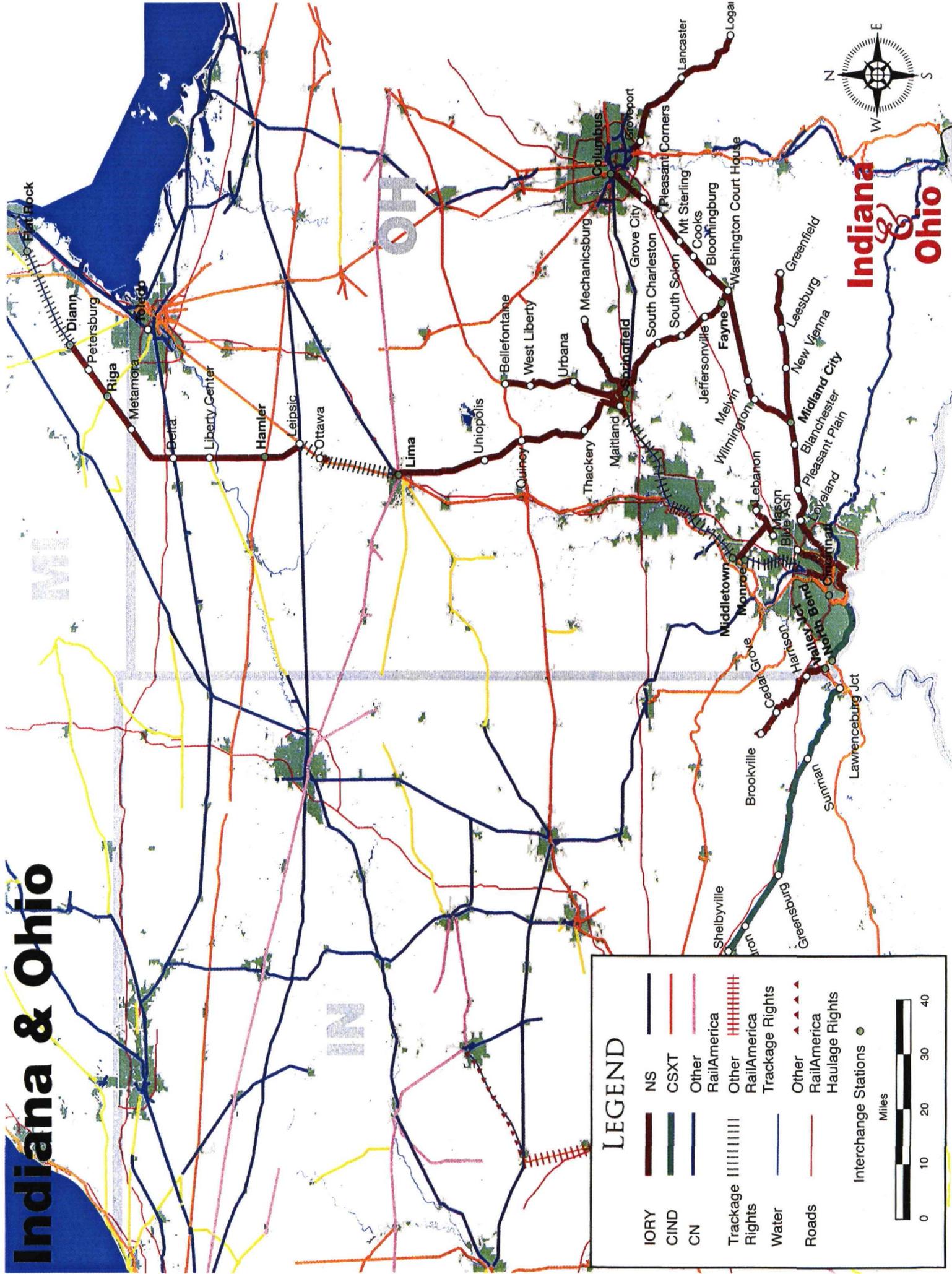


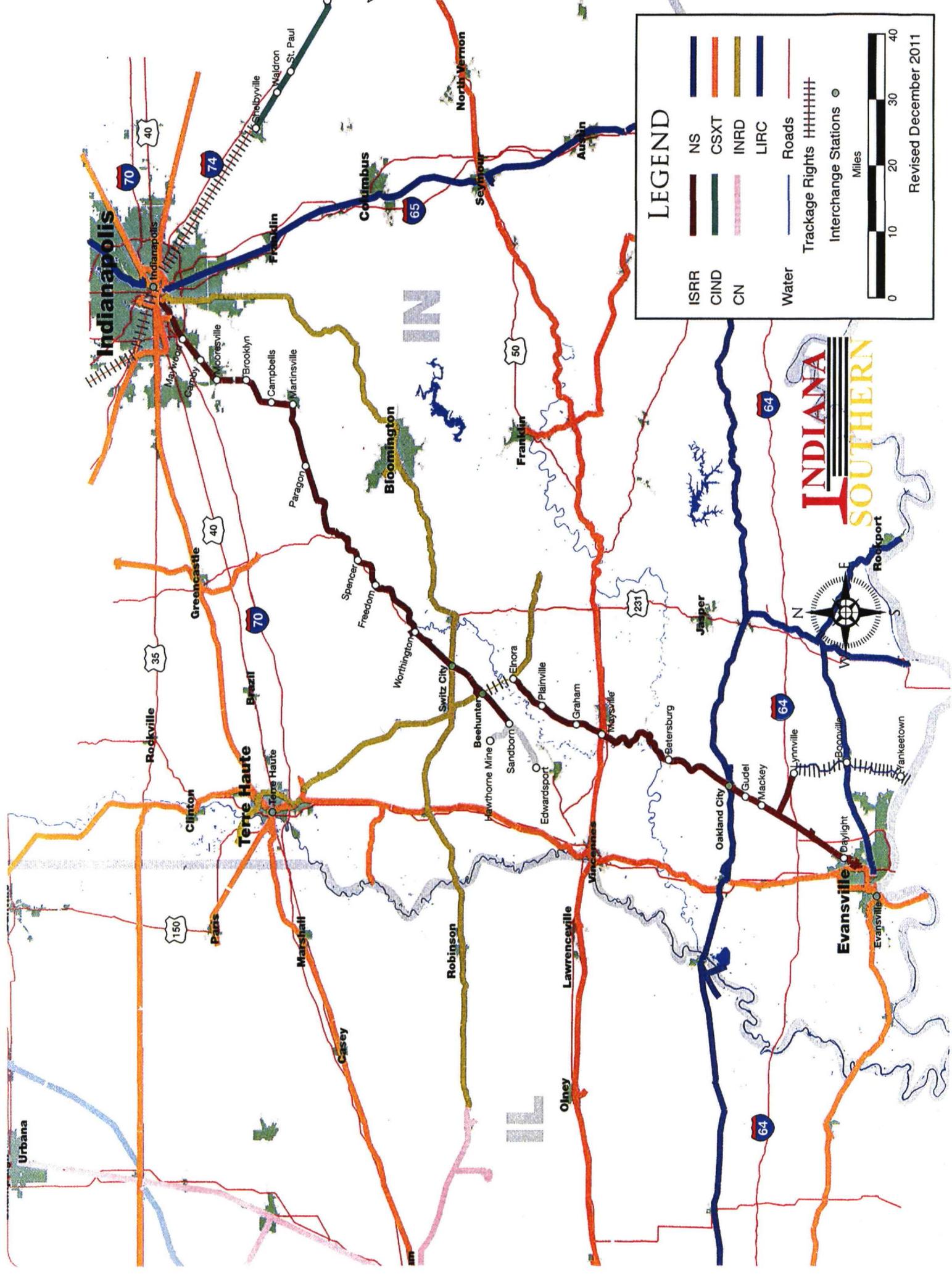
## LEGEND

- HESR (thick brown line)
  - MMRR (thick blue line)
  - SBS (thick yellow line)
  - Water (blue area)
  - NS (thin blue line)
  - CSXT (thin orange line)
  - GLC (thin yellow line)
  - Roads (thin red line)
  - Interchange Stations (circle with a dot)
- Miles
- 



# Indiana & Ohio





### LEGEND

ISRR	NS	CSXT	INRD	LIRC	Water	Trackage Rights	Interchange Stations
CIND	NS	CSXT	INRD	LIRC	Water	Trackage Rights	Interchange Stations
CN	NS	CSXT	INRD	LIRC	Water	Trackage Rights	Interchange Stations

Roads  
 Miles  
 0 10 20 30 40  
 Revised December 2011

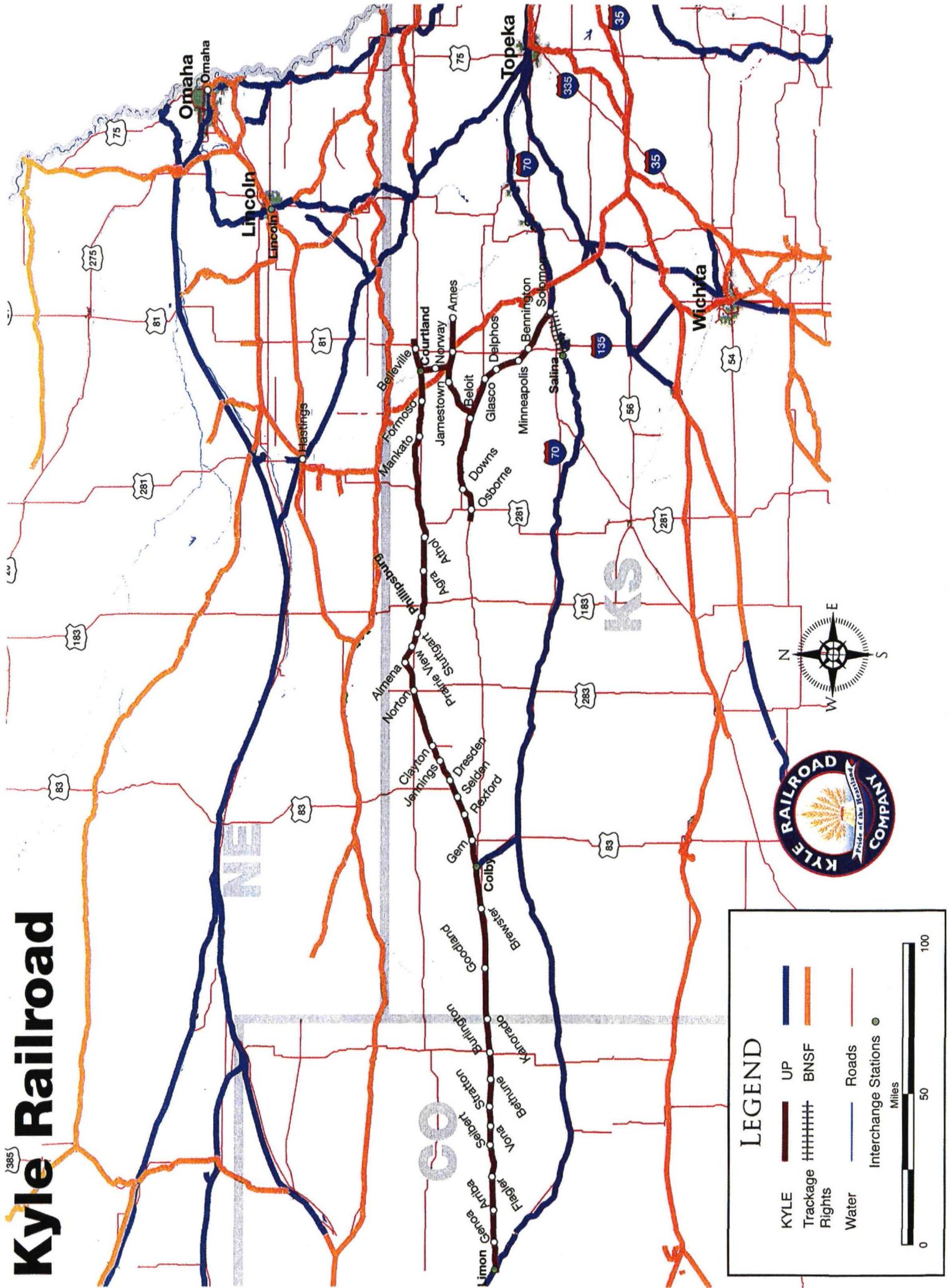
INDIANA

SOUTHERN





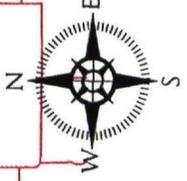
# Kyle Railroad



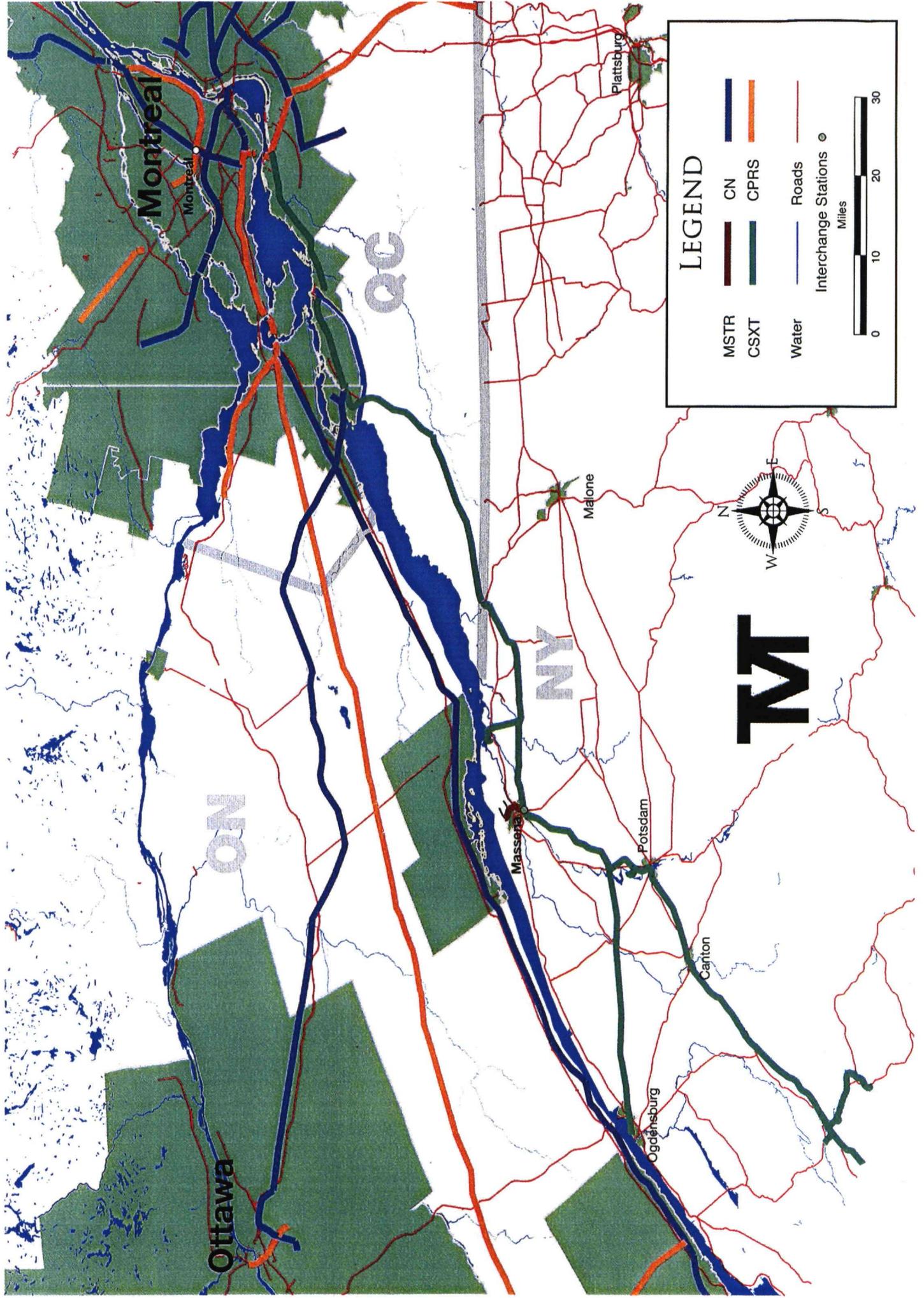
**LEGEND**

- KYLE — UP —
- Trackage Rights - - - - - BNSF
- Water —
- Roads —
- Interchange Stations ●

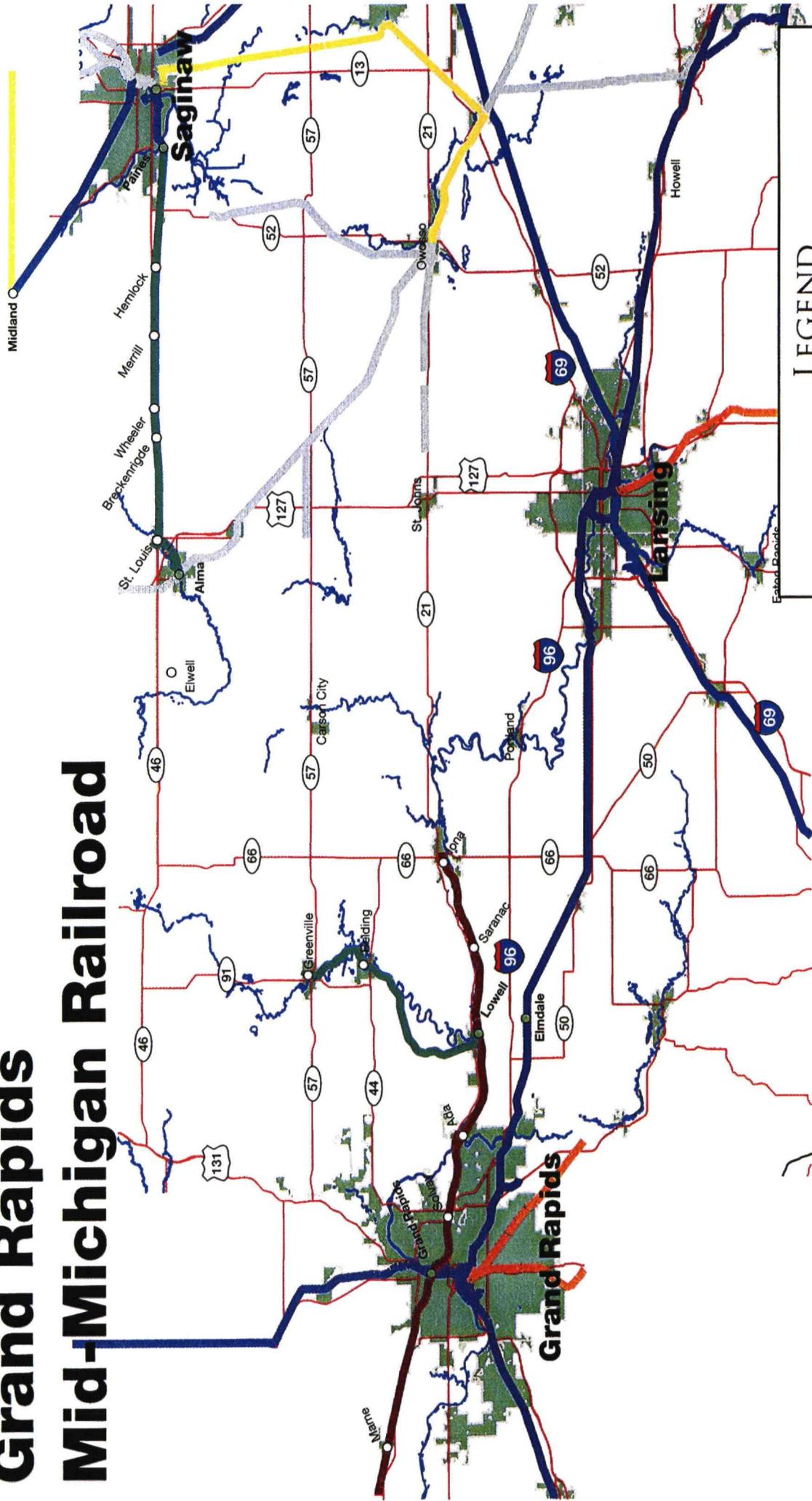
Miles  
0 50 100



# Massena Terminal Railroad



# Grand Rapids Mid-Michigan Railroad



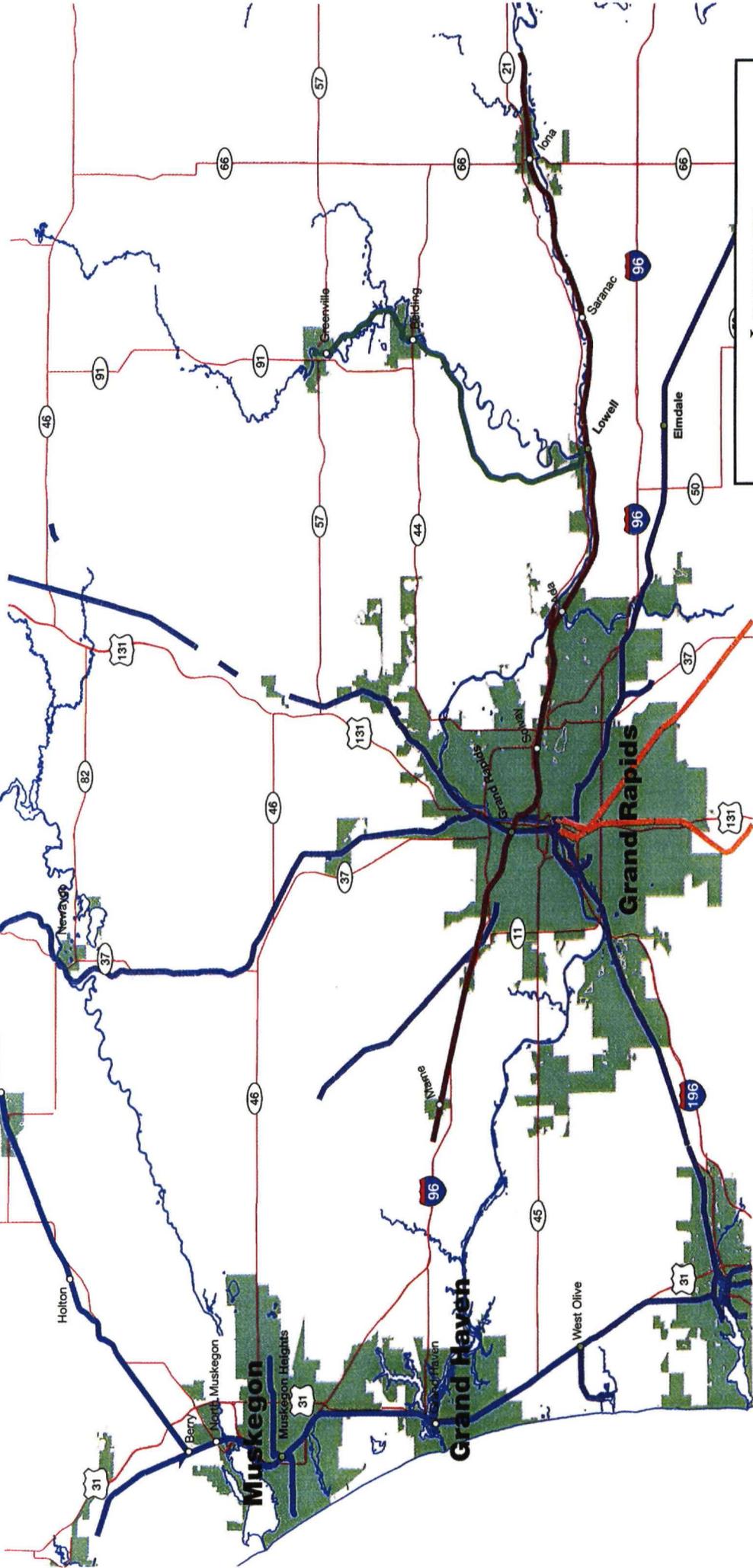
## LEGEND

- GR
- MMRR
- CN
- Water
- CSXT
- NS
- TSBY
- HESR
- Roads
- Interchange Stations



Michigan

# Grand Rapids, Michigan Shore Railroad



**LEGEND**

- GR
- MMRR
- MSR
- Water
- CSXT
- NS
- Roads
- Interchange Stations ●

Miles  
0 5 10 15



Michigan

Holland

Grand Rapids

Grand Haven

Muskegon

Holton

Freemont

West Olive

Buckley

Muskegon Heights

Berry

Newaygo

Grand Rapids

96

96

96

196

31

31

31

31

31

31

31

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31

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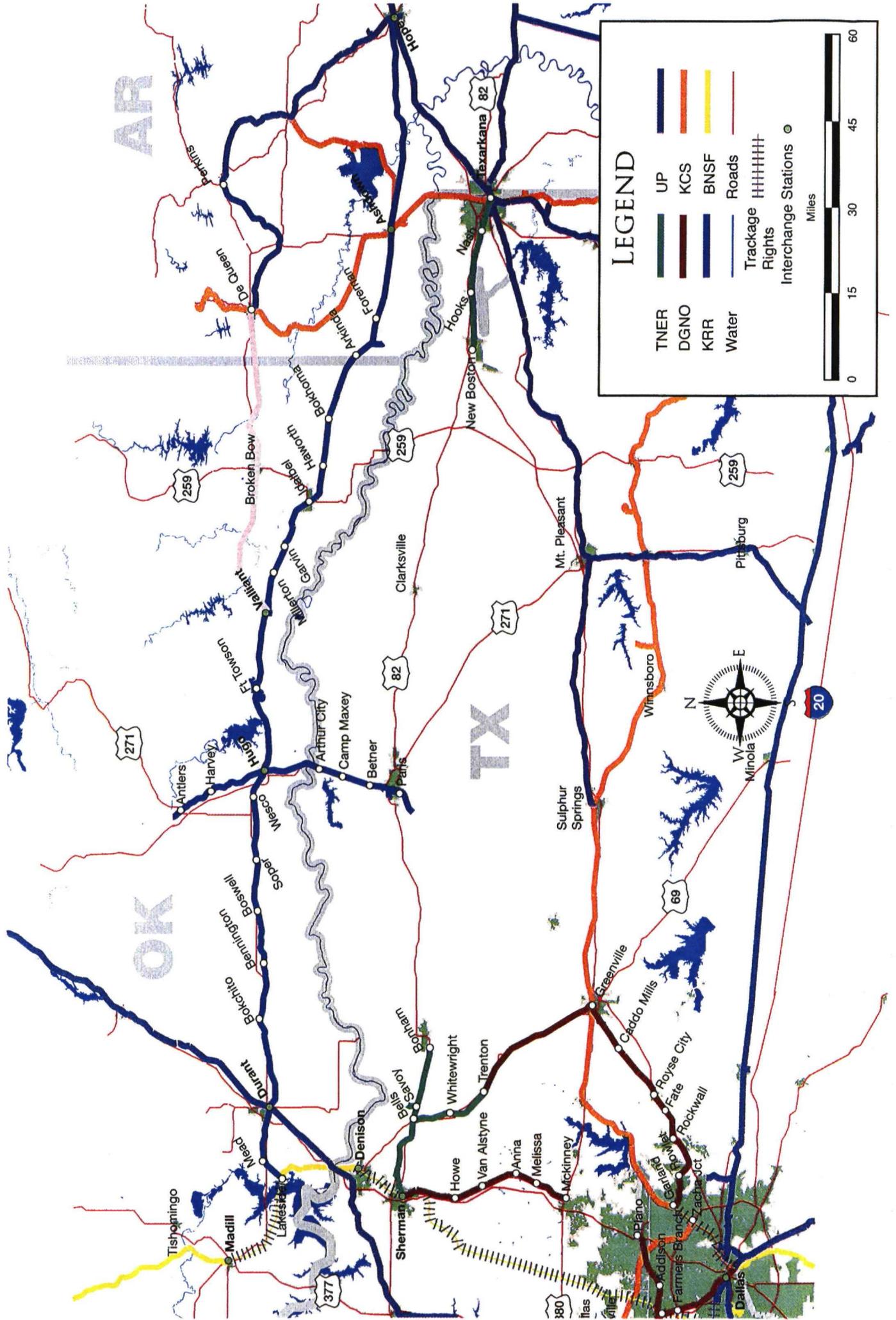
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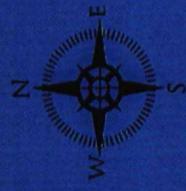
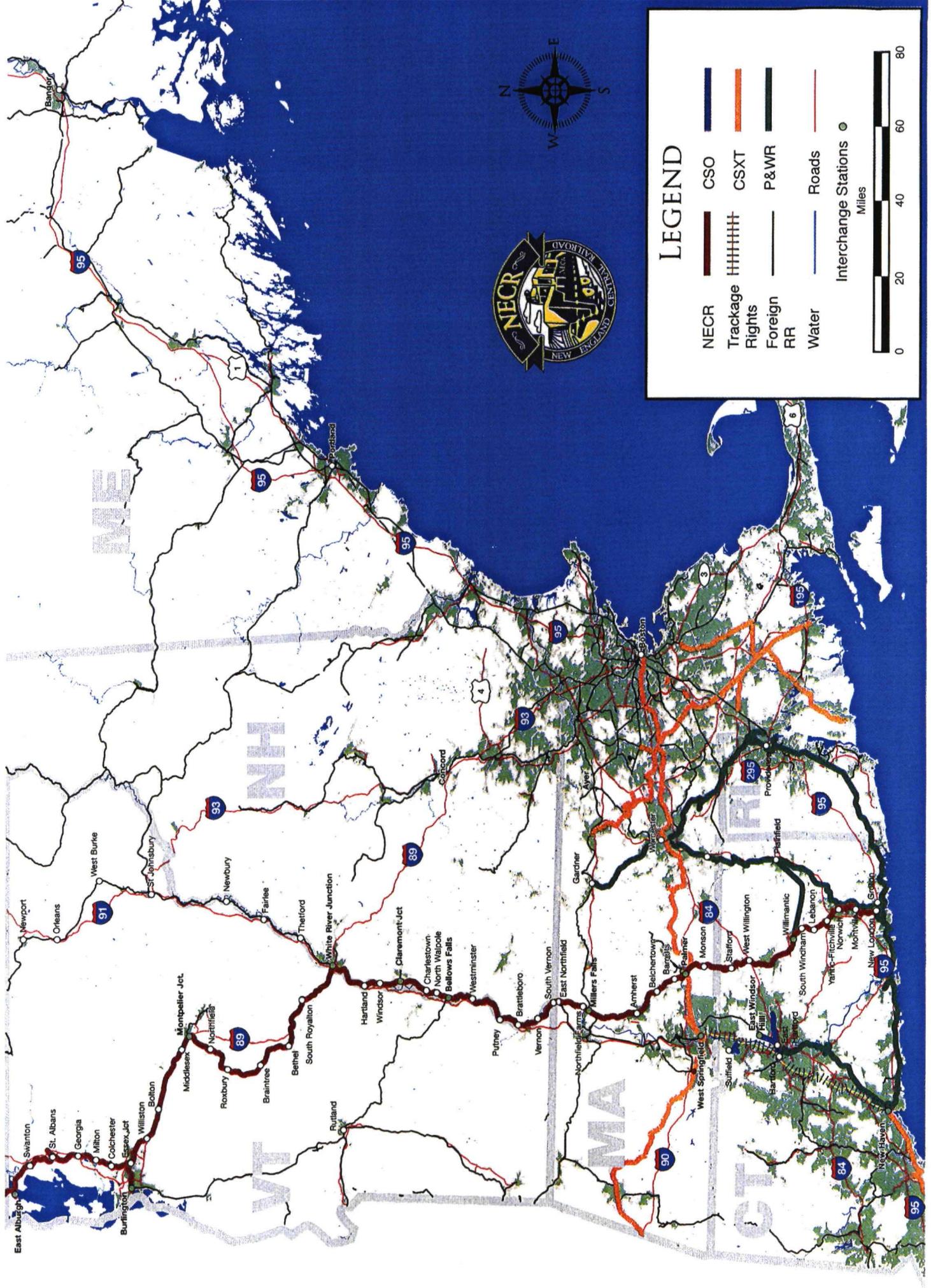
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# Texas Northeastern Railroad





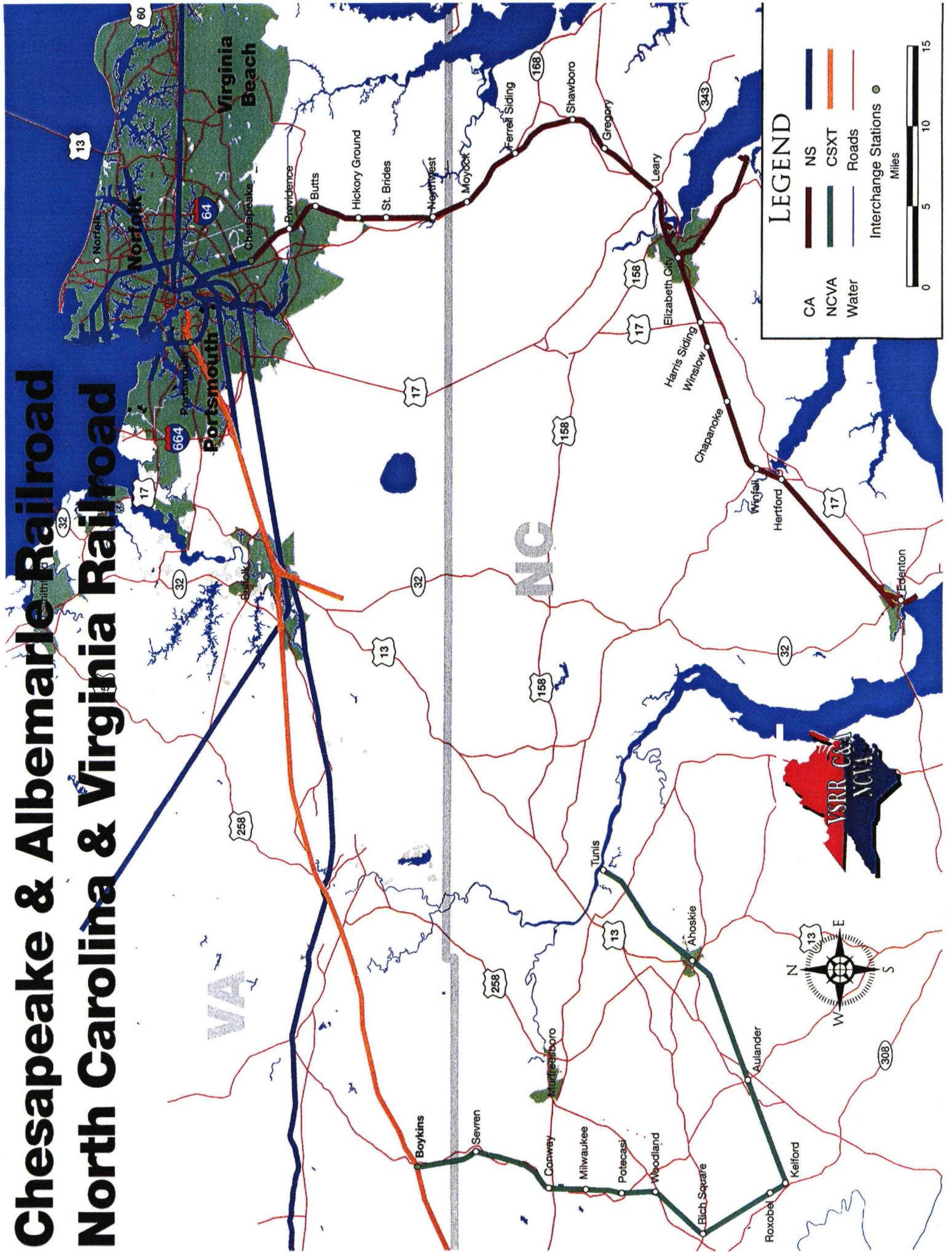


### LEGEND

- NECR
- Trackage
- Rights
- Foreign
- RR
- Water
- CSO
- CSXT
- P&WR
- Roads
- Interchange Stations



# Chesapeake & Albemarle Railroad North Carolina & Virginia Railroad

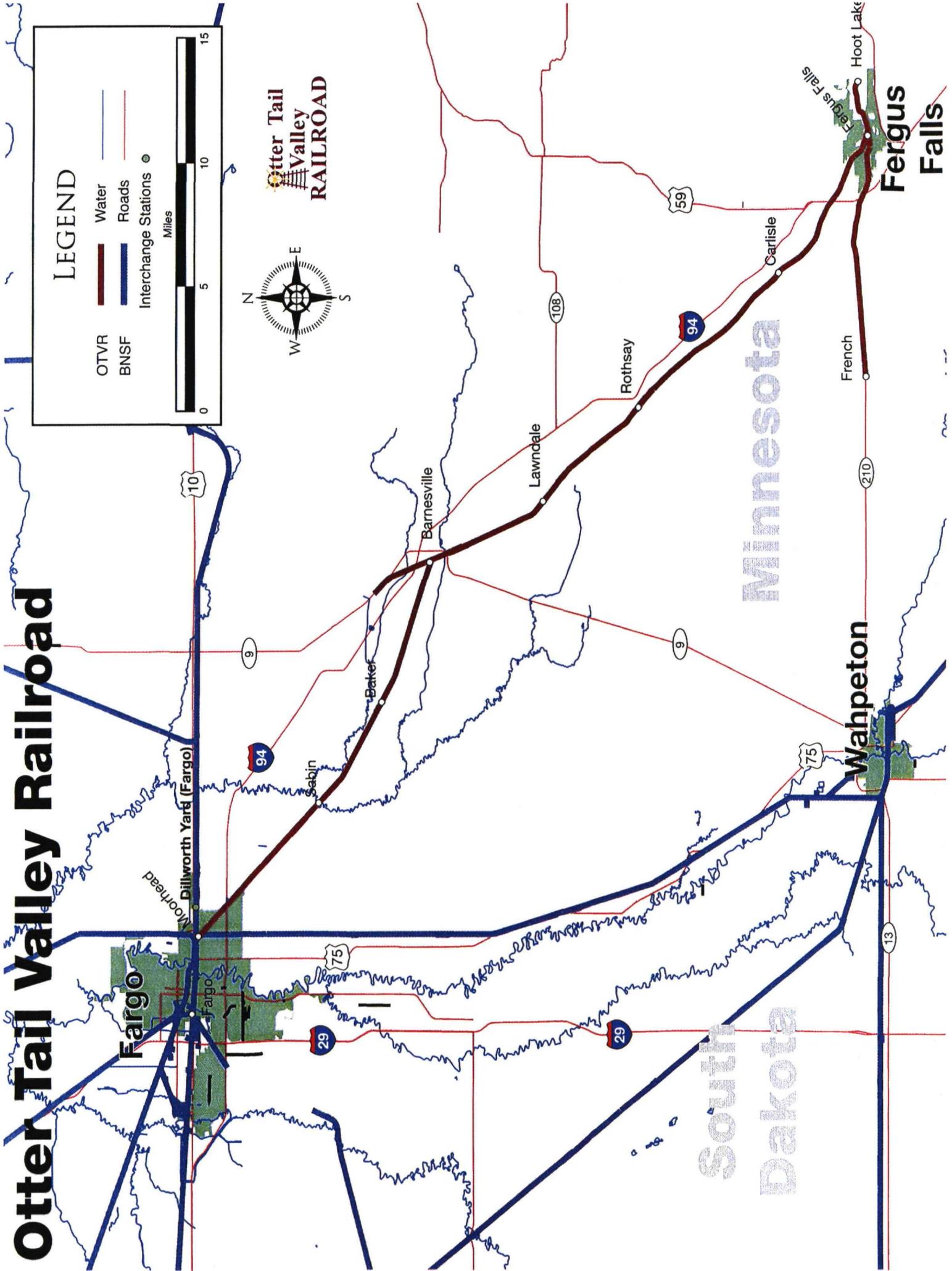


## LEGEND

- CA
- NS
- NCVA
- CSXT
- Water
- Roads
- Interchange Stations

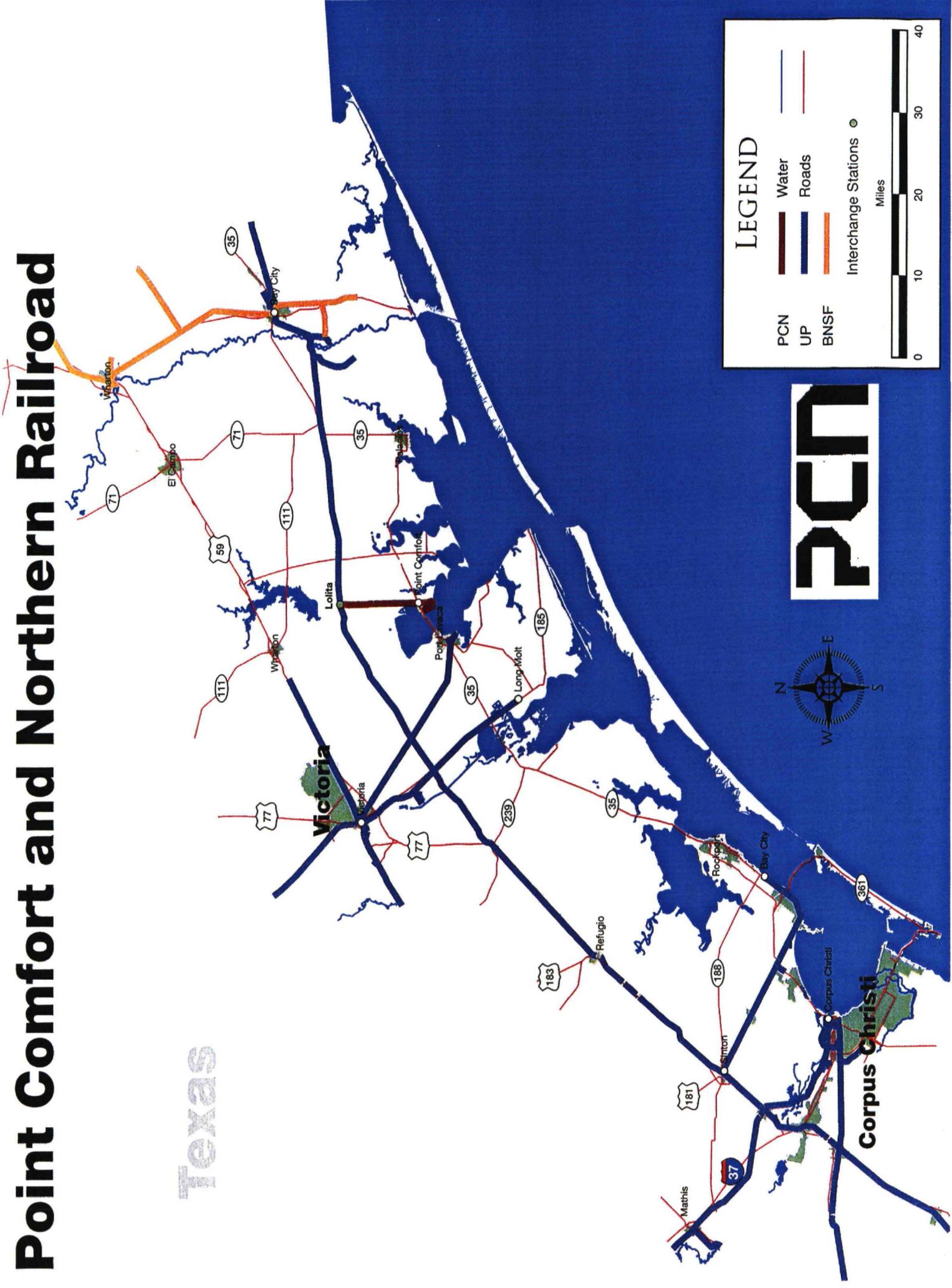


# Otter Tail Valley Railroad



# Point Comfort and Northern Railroad

Texas



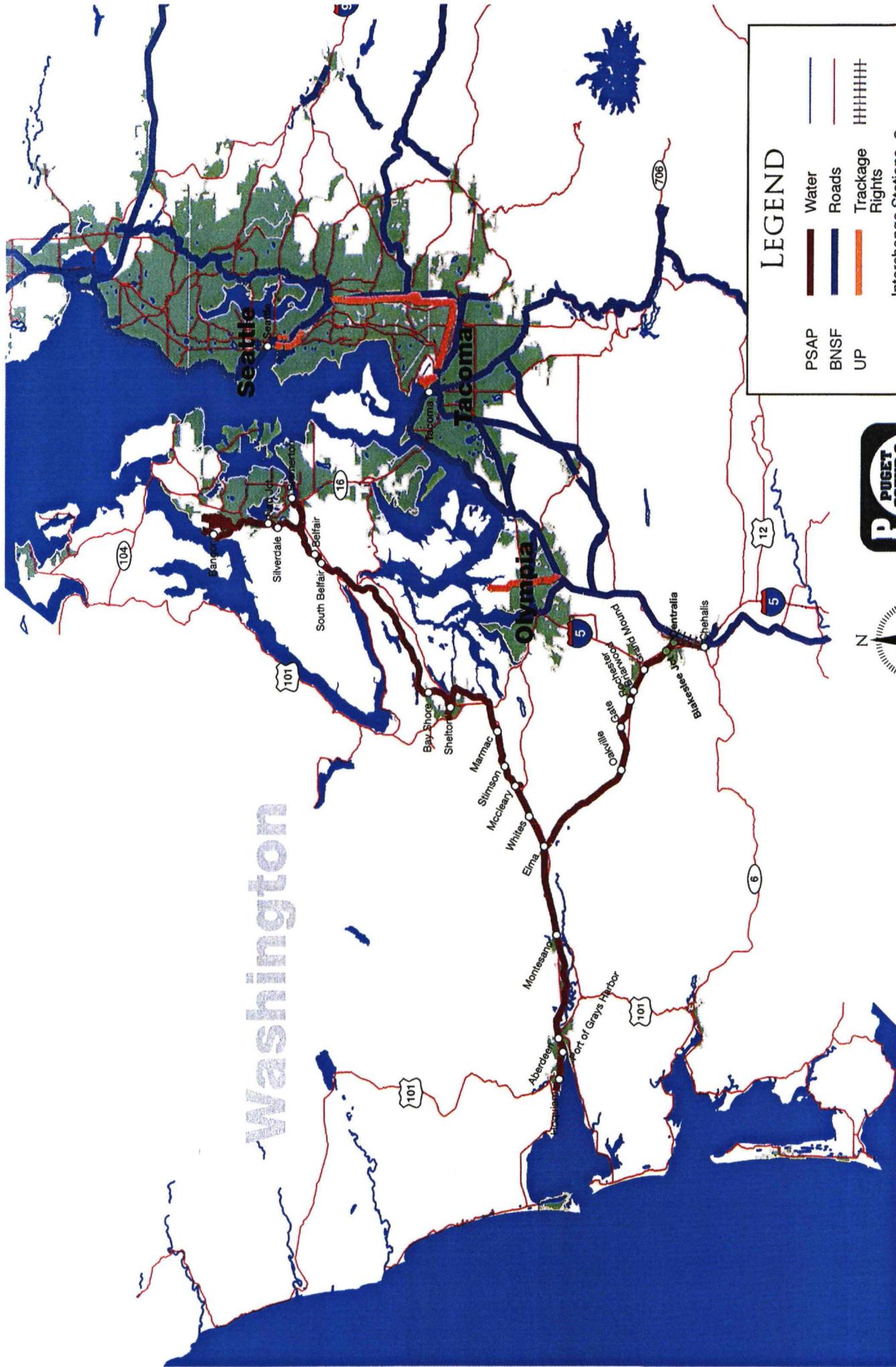
**LEGEND**

PCN	Water	—
UP	Roads	—
BNSF	Interchange Stations	●

Miles  
0 10 20 30 40



# Washington



### LEGEND

PSAP	Water
BNSF	Roads
UP	Trackage Rights
Interchange Stations	●

Miles

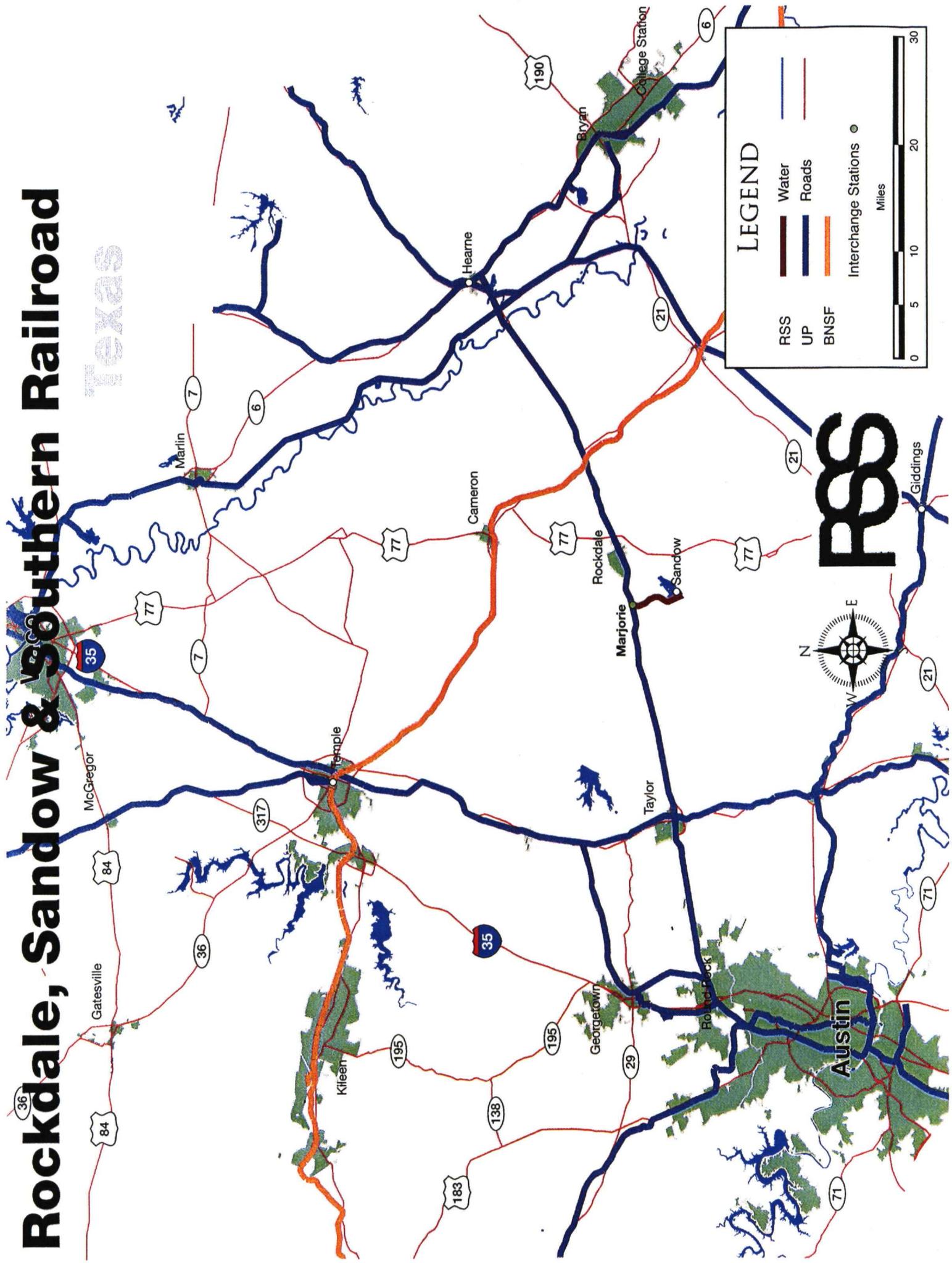
0 5 10 20 30

Revised September 2011



# Rockdale, Sandow & Southern Railroad

Texas



# San Diego Imperial Valley

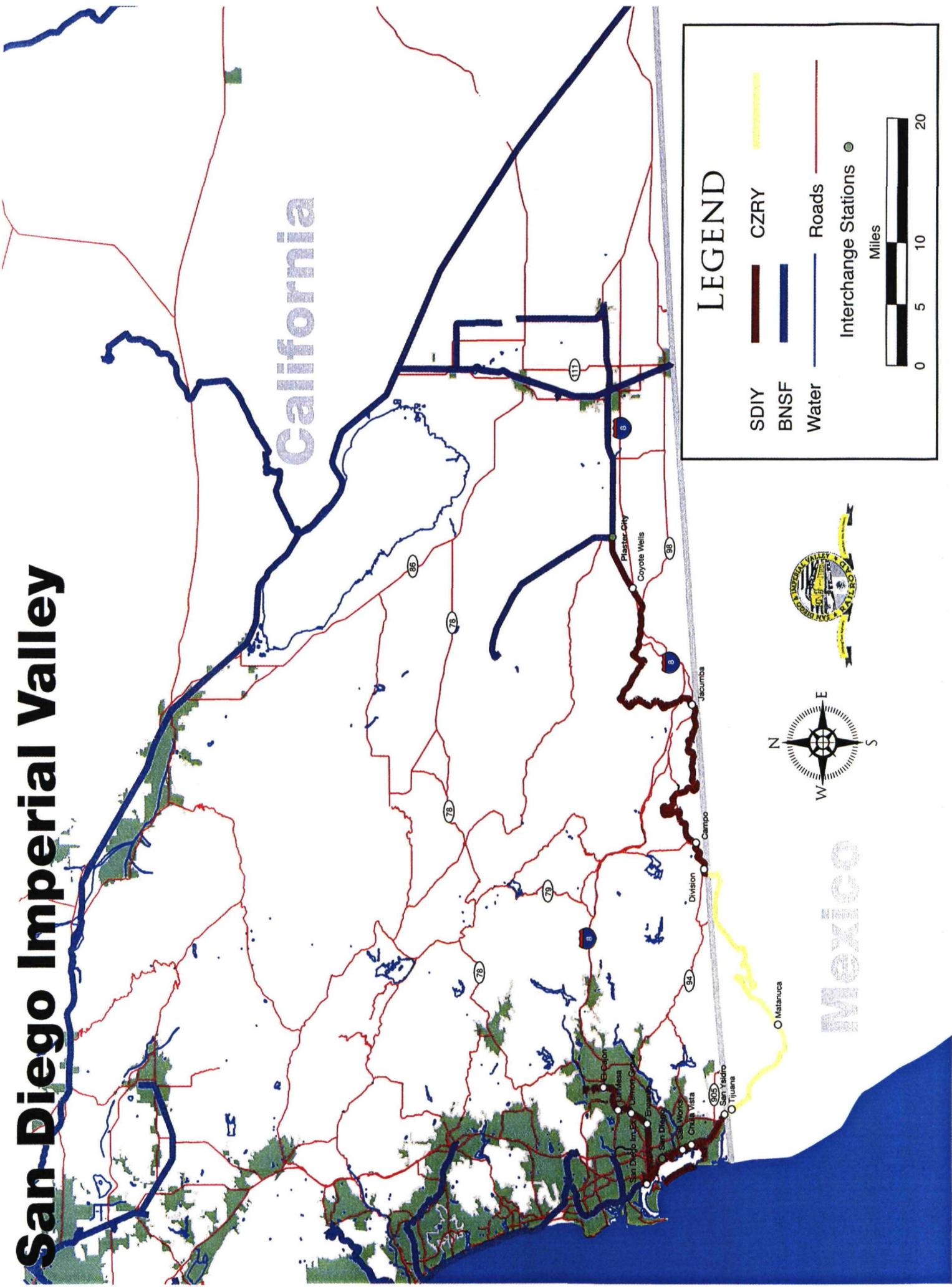
# California

# Mexico

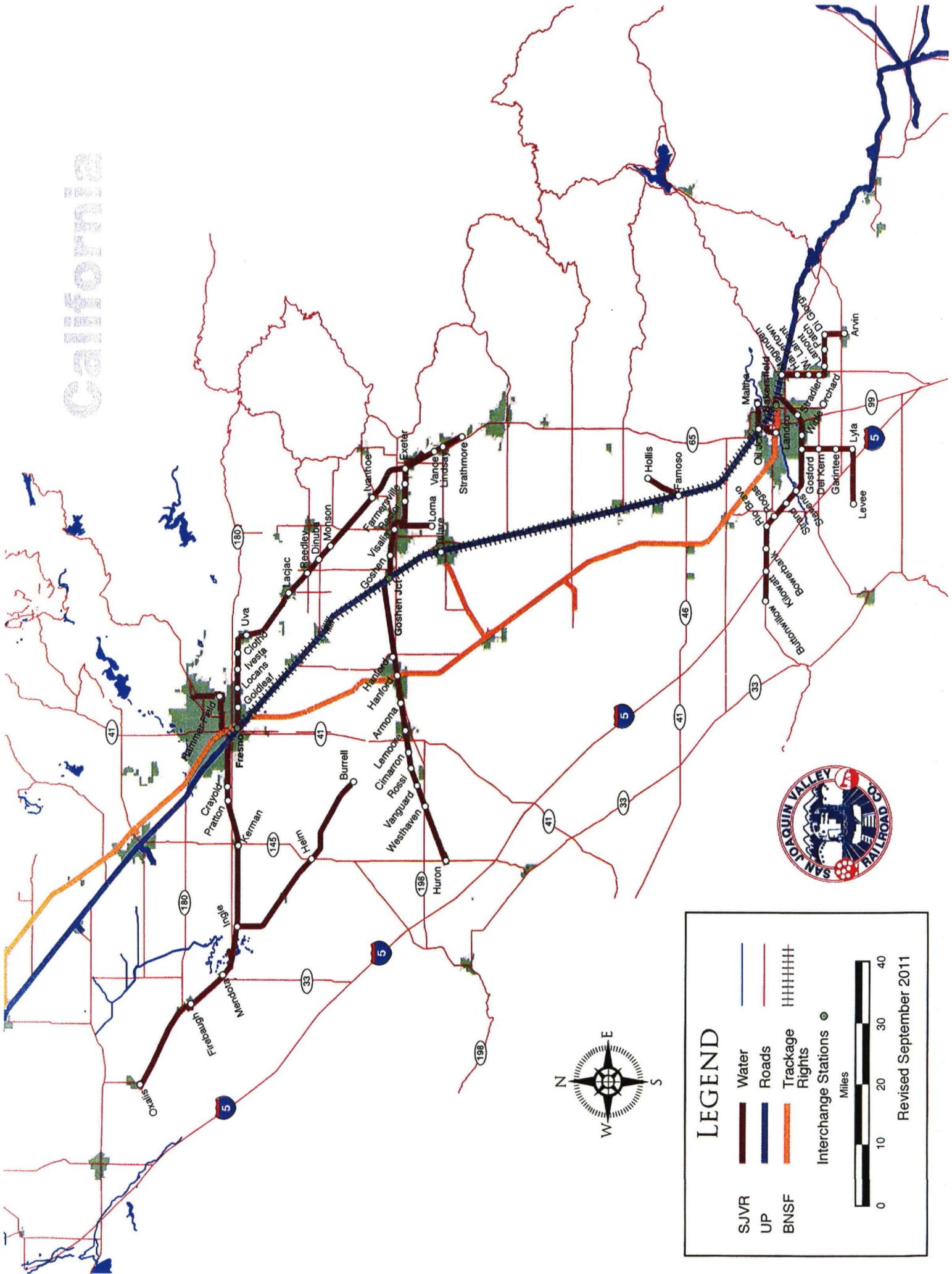
**LEGEND**

SDIY		CZRY	
BNSF		Roads	
Water		Interchange Stations	

Miles



# California

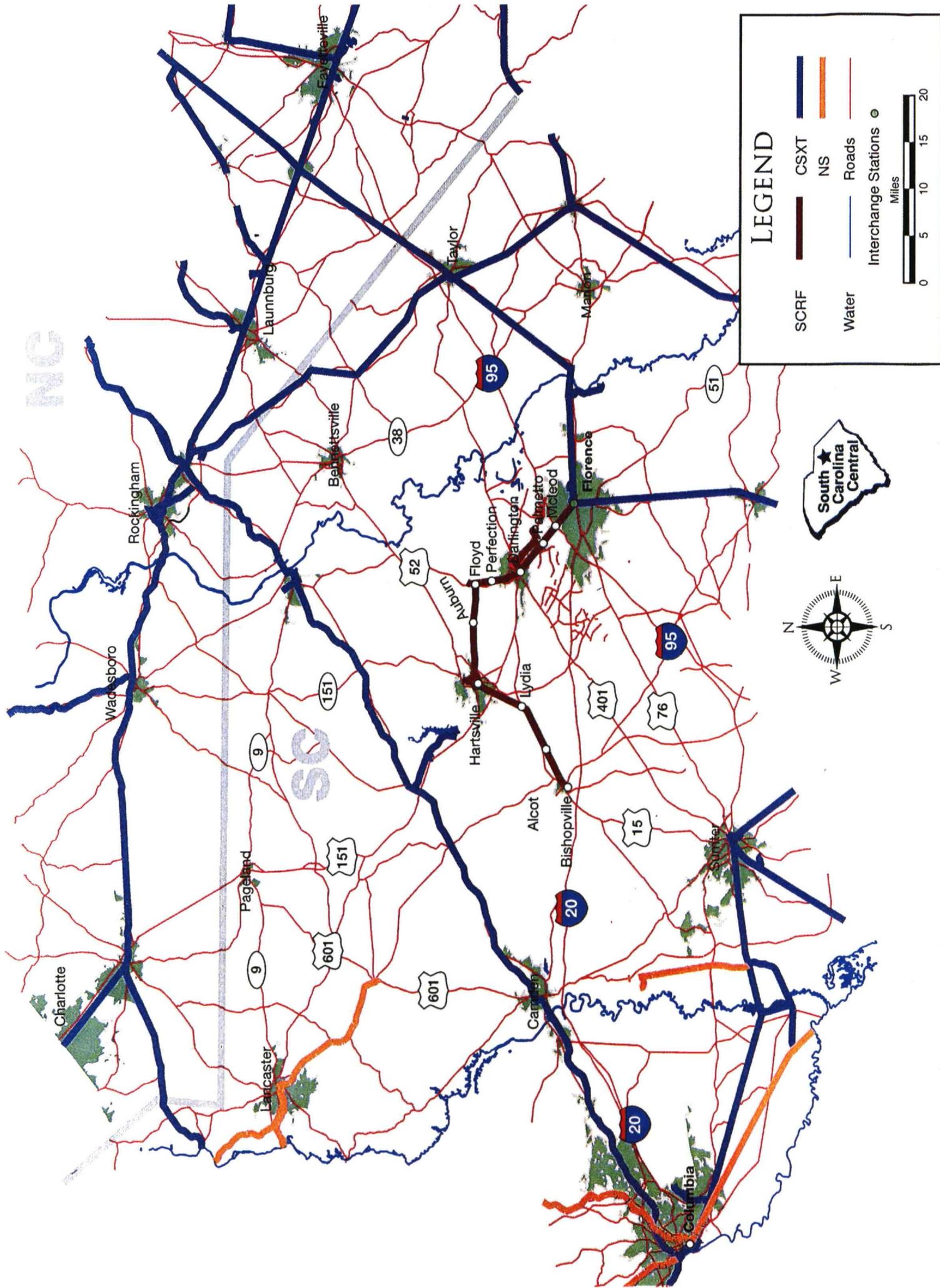


**LEGEND**

- SJVR
- UP
- BNSF
- Water
- Roads
- Trackage Rights
- Interchange Stations

Miles

Revised September 2011

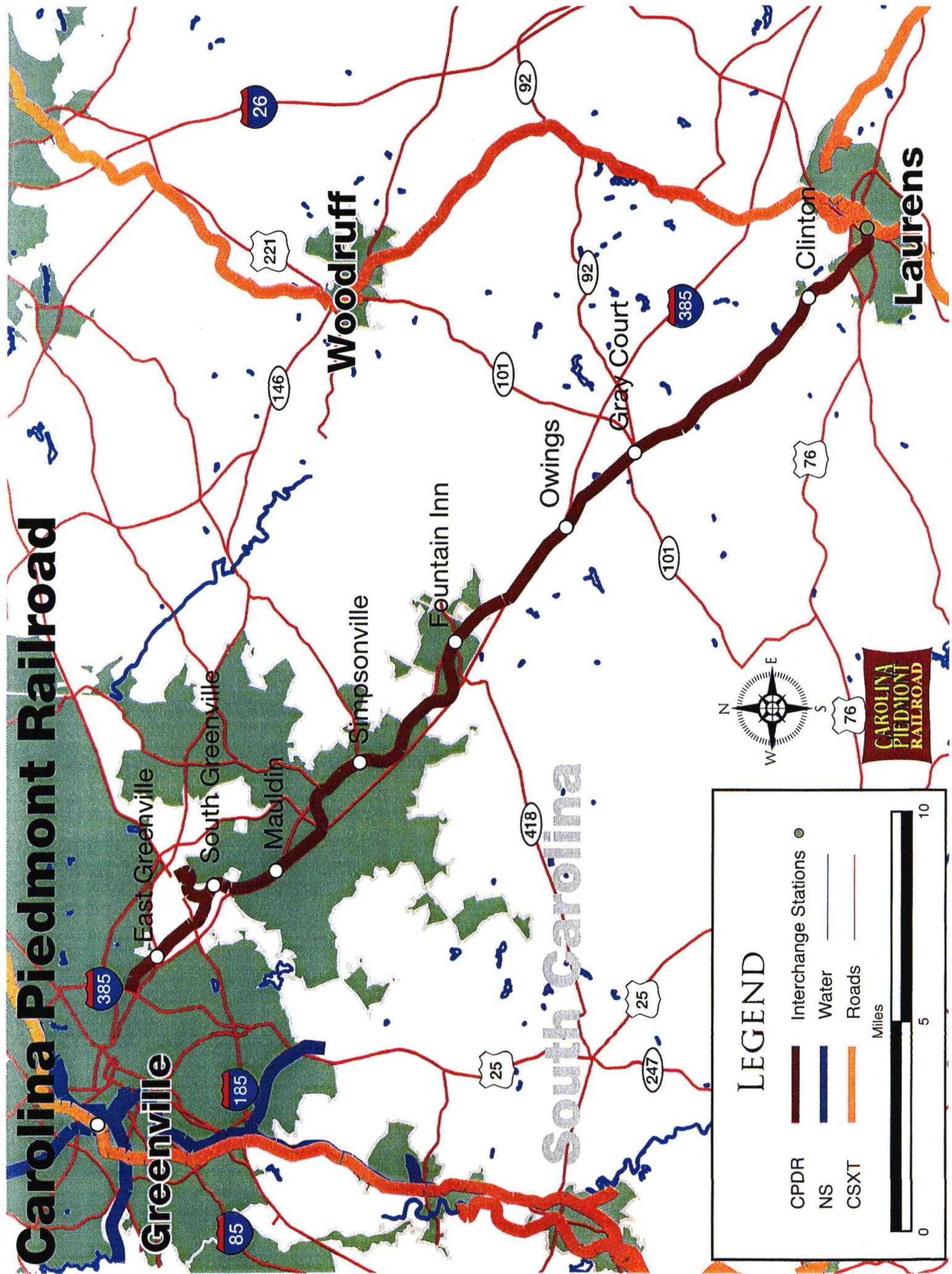


### LEGEND

- SCRF
- CSXT
- NS
- Roads
- Water
- Interchange Stations



# Carolina Piedmont Railroad



### LEGEND

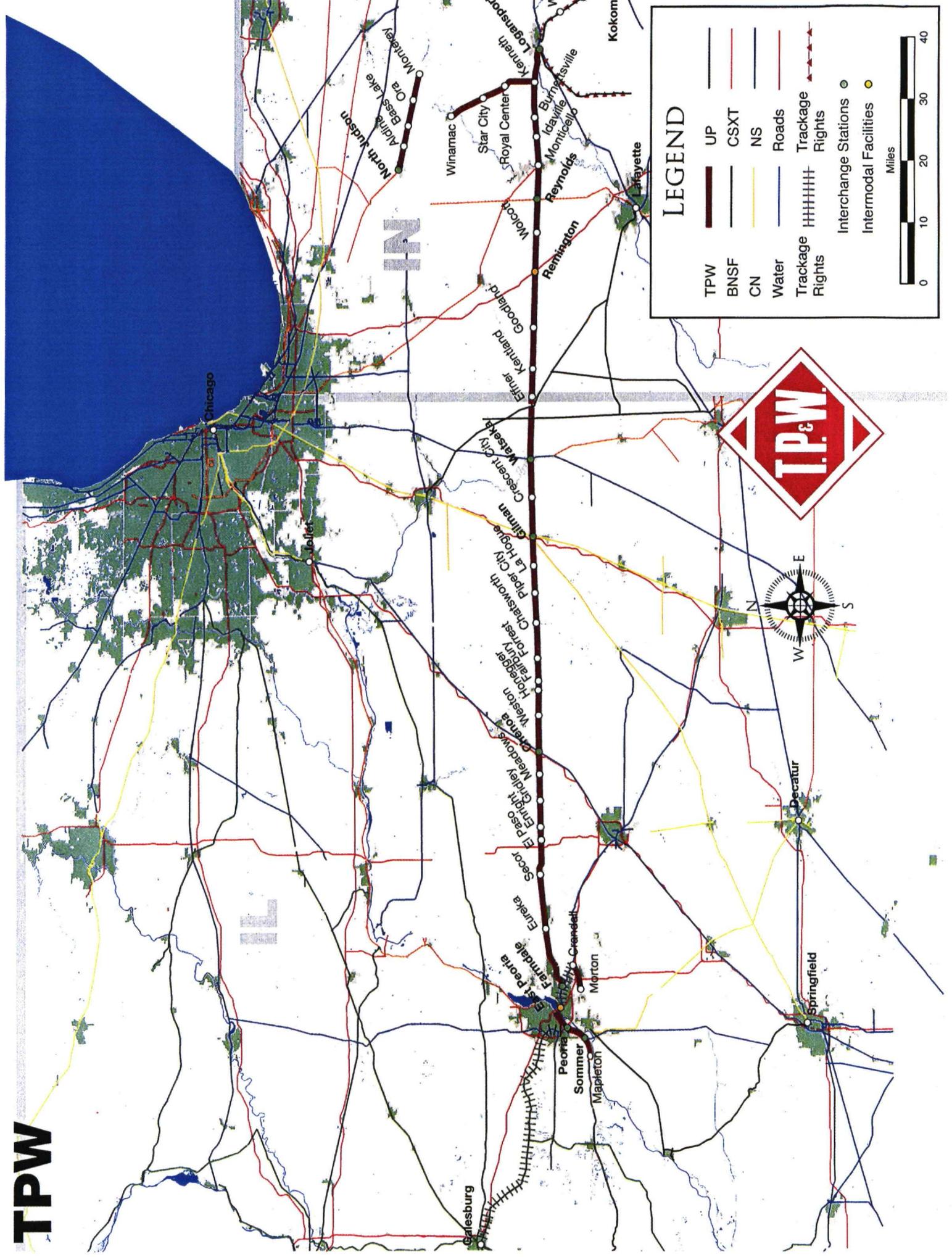
CPDR	Interchange Stations
NS	Water
CSXT	Roads

Miles

0 5 10



# TPW



### LEGEND

TPW	UP
BNSF	CSXT
CN	NS
Water	Roads
Trackage Rights	Trackage Rights
Interchange Stations	Intermodal Facilities

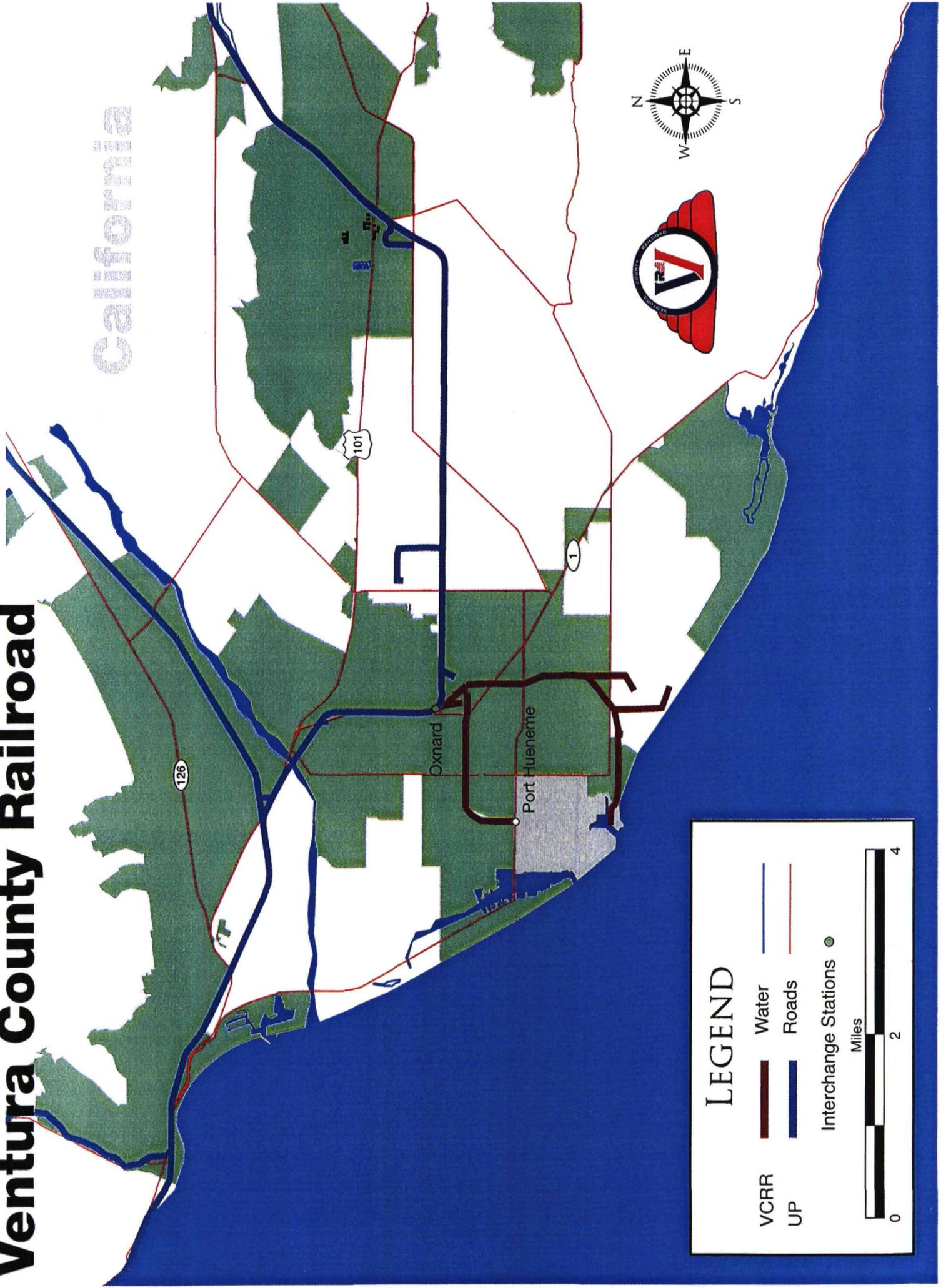
Miles

0 10 20 30 40



# Ventura County Railroad

California



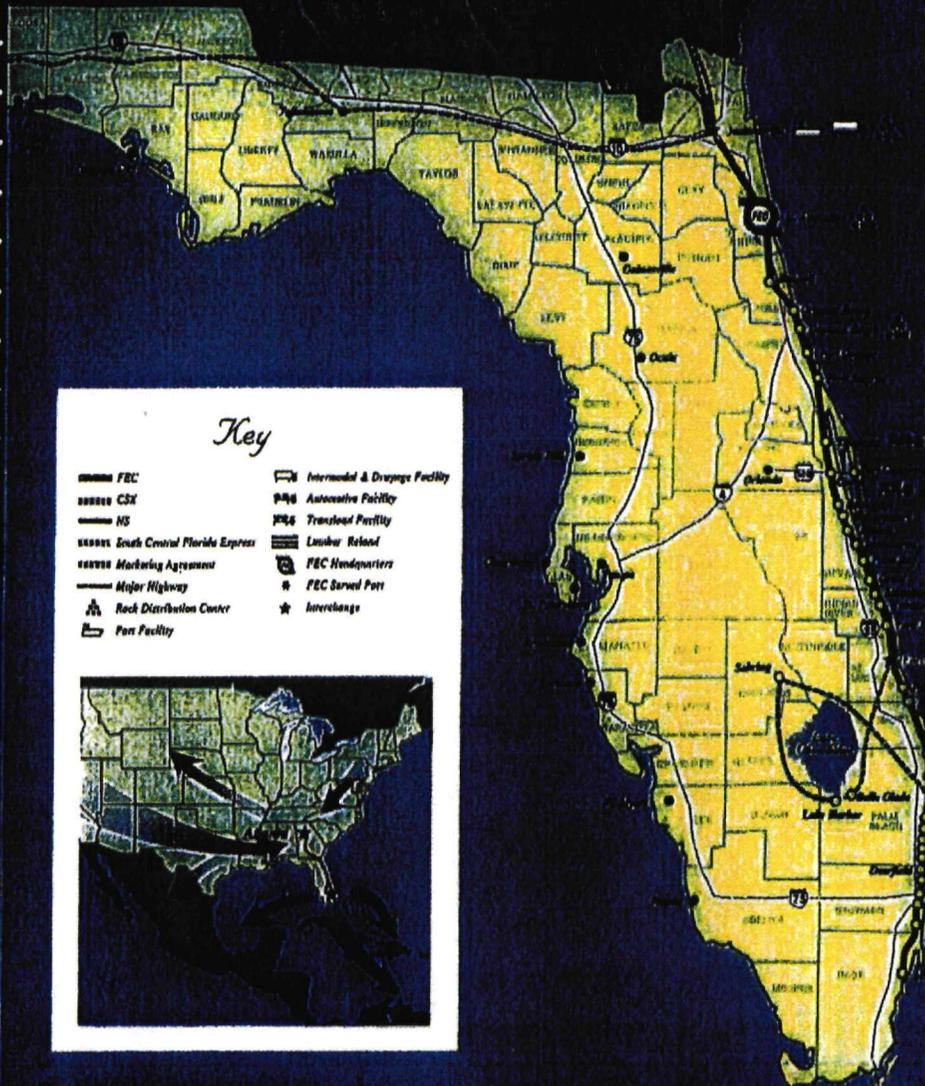
## LEGEND

- VCCR
  - UP
  - Water
  - Roads
  - Interchange Stations ●
- Miles
- 0 2 4

# Florida East Coast Railway



Atlantic  
Ocean

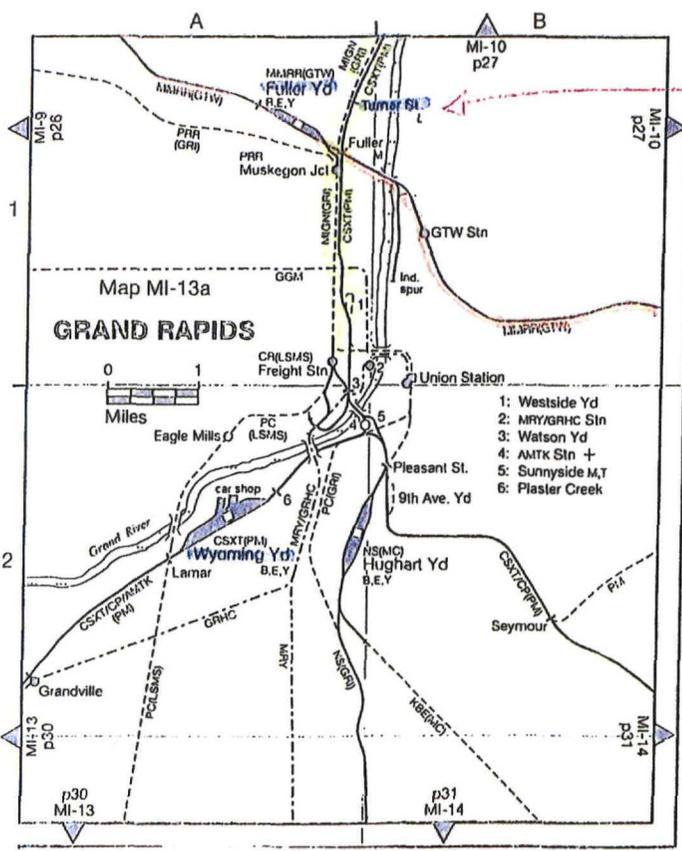
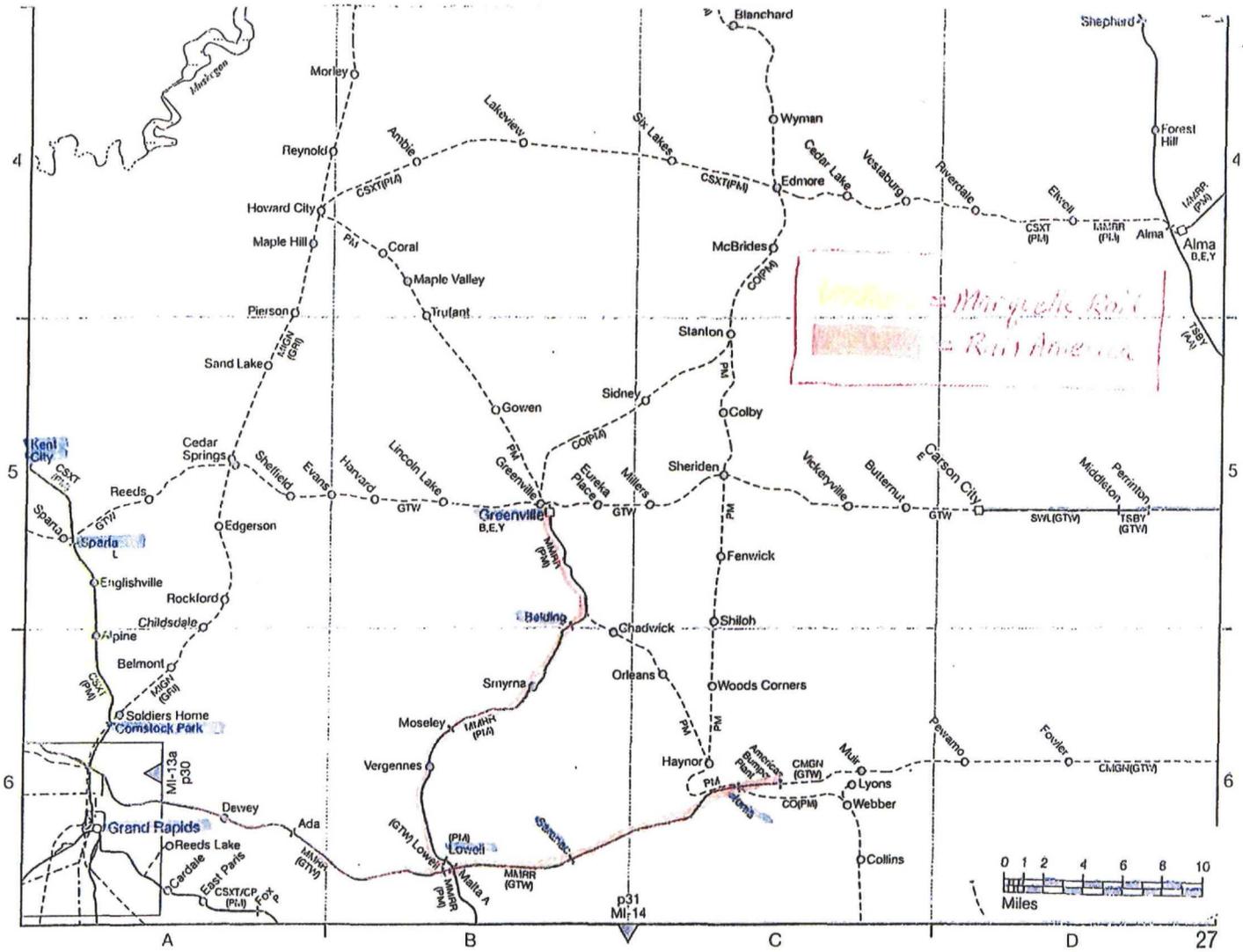


## Key

- |                               |                               |
|-------------------------------|-------------------------------|
| FEC                           | Intermodal & Drayage Facility |
| CSX                           | Automotive Facility           |
| NS                            | Transload Facility            |
| South Central Florida Express | Leasing Reload                |
| Marketing Agreement           | FEC Headquarters              |
| Major Highway                 | FEC Served Port               |
| Rock Distribution Center      | Interchange                   |
| Port Facility                 |                               |

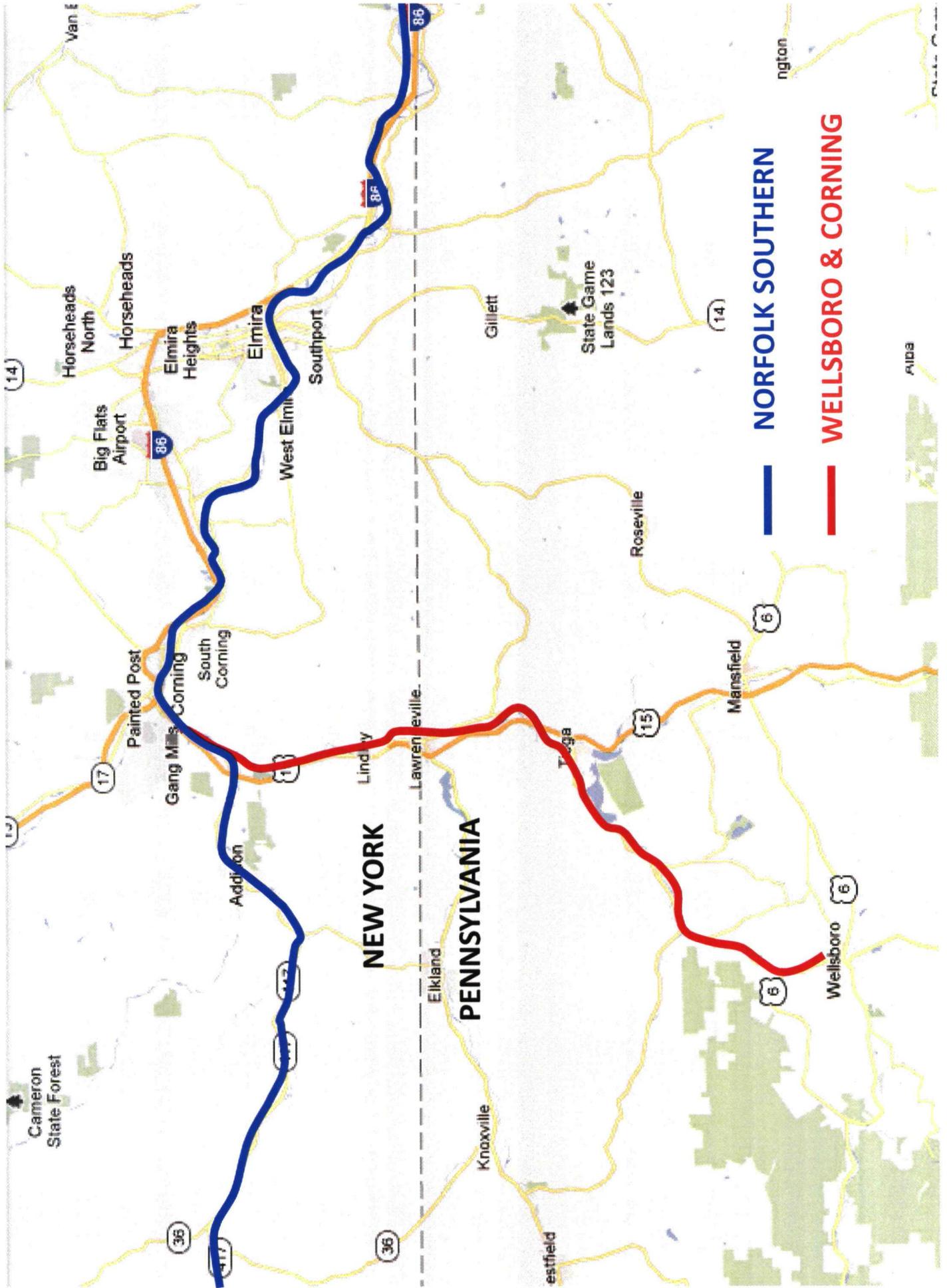






*MXT ends at Turner  
- gets to Wyoming Yrd  
on trackage*

**EXHIBIT B1 – WELLSBORO & CORNING RAILROAD, LLC MAP**



**NORFOLK SOUTHERN**

**WELLSBORO & CORNING**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

231993  
RECEIVED  
MAR 8 2012  
MANAGEMENT  
STB

Finance Docket No. 35605

RAILAMERICA, INC., PALM BEACH HOLDING, INC., RAILAMERCIA  
TRANSPORTATION CORP., RAILTEX, INC., FORTRESS INVESTMENT GROUP, LLC.  
AND RR ACQUISITION HOLDING, LLC—CONTROL EXEMPTION—  
WELLSBORO & CORNING RAILROAD, LLC

VERIFIED NOTICE OF EXEMPTION

**VOLUME II – EXHIBIT A  
REDACTED AGREEMENT**

ENTERED  
Office of Proceedings  
MAR - 8 2012  
Part of  
Public Record

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Palm Beach Holding, Inc.,  
RailAmericia Transportation Corp.,  
RailTex, Inc., Fortress Investment Group,  
LLC, and RR Acquisition Holding, LLC

Dated: March 8, 2012

RECEIVED  
MAY 9 2012  
MANAGEMENT  
53

**UNIT PURCHASE AGREEMENT**

**BY AND AMONG**

**INDUSTRIAL WASTE GROUP, LLC**

**AND**

**WELLSBORO & CORNING RAILROAD CO.**

**(“Seller”)**

**AND**

**RAILTEX, INC.**

**(“Purchaser”)**

**AND**

**TRANSRAIL HOLDINGS, LLC**

**(“Company”)**

**AND**

**A. THOMAS MYLES III, A. THOMAS MYLES IV, and**

**WILLIAM MYLES**

**(“MG Principals”)**

**JANUARY 31, 2012**

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## UNIT PURCHASE AGREEMENT

**THIS UNIT PURCHASE AGREEMENT** ("Agreement") is made effective as of the 31<sup>st</sup> day of January, 2012 (the "Effective Date") by and among TransRail Holdings, LLC, a Delaware limited liability company (the "Company"), Industrial Waste Group, LLC, a Delaware limited liability company ("IWG") and Wellsboro & Corning Railroad Co., a Pennsylvania corporation ("W&C", IWG and W&C are collectively referred to as the "Seller"), RailTex, Inc., a Texas corporation ("Purchaser") and A. Thomas Myles III, A. Thomas Myles IV and William Myles (collectively, the "MG Principals") (each individually, a "Party" and collectively, the "Parties").

### RECITALS:

**WHEREAS**, the MG Principals own beneficially and of record all of the interests in Seller;

**WHEREAS**, Seller shall consummate the Reorganization Transaction prior to closing, upon receipt of authorization or exemption by the Surface Transportation Board of the Reorganization Transaction;

**WHEREAS**, Seller currently owns beneficially and of record all of the Company's Class A Common Units (the "Class A Common Units") and Seller owns beneficially and of record all of the Company's Class B Common Units (the "Class B Common Units"); and

**WHEREAS**, Purchaser desires to purchase from the Seller, and the Seller desires to sell to Purchaser, all of the Company's issued and outstanding Class A Common Units upon the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual representations, covenants, agreements and warranties contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and received, the Parties agree as follows:

### ARTICLE I DEFINITIONS

**Section 1.1. Definitions.** When used in this Agreement, the following terms have the meanings set forth below:

"AAA" shall have the meaning set forth in Section 5.8(b).

"AAA Rules" shall have the meaning set forth in Section 5.8(b).

"Accounts Receivable" means (a) all trade accounts receivable and other rights to payment from customers, suppliers and others of the Company and its Subsidiaries and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of products sold or services rendered to

customers of the Company and its Subsidiaries and (b) any claim, remedy or other right related to any of the foregoing.

**“Acquisition Proposal”** means any inquiry, proposal or offer from any Person, other than the Purchaser or its Affiliates, concerning: (i) a merger, consolidation, liquidation, recapitalization, share exchange or other business combination transaction involving IWG or W&C, (ii) the issuance or acquisition of shares of capital stock or other equity securities of IWG or W&C or any Affiliates thereof; or (iii) the sale, lease, exchange, or other disposition of any significant portion of the Transloading Business or the Railroad Business

**“Adjustment Amount”** shall have the meaning set forth in Section 2.2(c).

**“Affiliate”** of any particular Person means any other Person controlling, controlled by, or under common control with such particular Person, where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, contract, or otherwise.

**“Aggregated Group”** shall have the meaning set forth in Section 3.1(p)(i)(A).

**“Agreement”** shall have the meaning set forth in the Preamble.

**“Amended and Restated Operating Agreement”** means the Company’s Amended and Restated Limited Liability Company Agreement in form and substance as set forth in Exhibit A.

**“Applicable Law(s)”** means all laws, statutes, rules, regulations, ordinances, judgments, orders, decrees, injunctions and writs of any Governmental Authority having jurisdiction over the Business or operations of the Company or its Subsidiaries, as may be in effect on the date of this Agreement.

**“Business”** means the Transloading Business and the Railroad Business and any other ancillary activities conducted by the Company and its Subsidiaries in connection therewith and related thereto.

**“Business Day”** or **“Business Days”** means any day other than (a) a Saturday, Sunday or federal holiday or (b) a day on which commercial banks in Jacksonville, Florida are authorized or required to be closed.

**“Cash”** means, with respect to the Company and its Subsidiaries, all cash in the bank less any outstanding checks plus checks which have been deposited in a Company bank account but not yet credited to the account’s cash balance.

**“Claim”** means a claim for indemnification by Purchaser or Seller (as applicable) or any other Indemnified Persons for Losses under ARTICLE V.

**“Class A Common Units”** shall have the meaning set forth in the Preamble.

**“Class B Common Units”** shall have the meaning set forth in the Preamble.

“Closing” shall have the meaning set forth in Section 2.8(a).

“Closing Balance Sheets” shall have the meaning set forth in Section 2.2(a).

“Closing Date” shall have the meaning set forth in Section 2.8(a).

“Code” means the Internal Revenue Code of 1986, as amended, and any reference to any particular Code section shall be interpreted to include any revision of or successor to that section regardless of how numbered or classified.

“Company” shall have the meaning set forth in the Preamble.

“Company Disclosure Schedule” or “Schedule” means a document, dated of even date with this Agreement, and which shall be updated from time to time by Seller prior to the Closing Date, which refers to certain representations and warranties, and certain exceptions to the representations and warranties, in ARTICLE III of this Agreement by section and title and which also contains certain additional information contemplated to be set forth in the Company Disclosure Schedule by this Agreement.

“Company Intellectual Property Rights” shall have the meaning set forth in Section 3.1(t)(ii).

“Company Permits” shall have the meaning set forth in Section 3.1(g).

“Consulting Agreement” means the consulting agreement between a Subsidiary of the Company and A. Thomas Myles III in the form and substance set forth in Exhibit B-2.

“Contested Claim” shall have the meaning set forth in Section 5.8(a).

“Debt” means, with respect to any Person at any date, without duplication: (i) all obligations of such Person for borrowed money or in respect of loans or advances and other third-party financing parties; (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments (including any seller notes issued in connection with any acquisition undertaken by the Company or its Subsidiaries); (iii) all obligations of such Person that are not characterized as short term Liabilities under GAAP; (iv) all obligations in respect of letters of credit, whether or not drawn, and bankers’ acceptances or similar credit transactions, whether or not then due, issued for the account of such Person; (v) all capitalized lease obligations of such Person; (vi) all interest rate protection agreements of such Person (valued on a market quotation basis); (vii) all obligations of such Person secured by a contractual lien; (viii) all guarantees of such Person in connection with any of the foregoing; (ix) any debt-like obligation or financing-type arrangement in respect of the deferred purchase price of property or property received as of the Closing with respect to which such Person is liable, contingently or otherwise, as obligor or otherwise; (x) all earn-out obligations of such Person; (xi) all obligations for underfunded employee pension benefit plans; (xii) any accrued interest, prepayment premiums or penalties or other costs or expenses related to any of the foregoing; and (xiii) all obligations of any other Person of the type referred to in clauses (i) through (xii) which are secured by any Lien on any property or asset of such Person.

“Effective Date” shall have the meaning set forth in the Preamble.

“Employee Benefit Plan” means any “employee benefit plan” within the meaning of Section 3(3) of ERISA and any bonus, deferred compensation, incentive compensation, unit ownership, unit purchase, unit option, phantom unit, vacation, severance, disability, death benefit, hospitalization, insurance or other benefit plan, program, policy or arrangement providing benefits to any present or former employee or contractor of the Company or any member of the Aggregated Group maintained by any such entity or with respect to which the Company or its Subsidiaries has any Liability.

“Employment Agreements” means the Employment Agreements with A. Thomas Myles IV and William Myles in form and substance as set forth in Exhibit B-1.

“Environmental Laws” means the Applicable Laws pertaining to the environment, natural resources and employee health and safety.

“Excess Cash Flow” shall have the meaning set forth in the Amended and Restated Operating Agreement.

“Expiration Date” shall have the meaning set forth in Section 5.1.

“Financial Statements” shall have the meaning set forth in Section 3.1(f).

“GAAP” means generally accepted accounting principles of the United States, applied on a consistent basis throughout the periods covered thereby.

“Governmental Authority” means any governmental department, commission, board, bureau, agency, court or other instrumentality, whether foreign or domestic, of any country, nation, republic, federation or similar entity or any state, county, parish or municipality, jurisdiction or other political subdivision thereof.

“Hazardous Substance” means any substance or material defined or regulated as a toxic or hazardous substance, waste, or material or a pollutant or contaminant or infectious waste by any Environmental Law, or subject to imposition of liability under any Environmental Law.

“Indemnified Party” shall have the meaning set forth in Section 5.6(a).

“Indemnified Persons” means the Purchaser Indemnified Persons or Seller Indemnified Persons, as the case may be.

“Indemnifying Party” shall have the meaning set forth in Section 5.6(a).

“Initial Adjustment Amount” shall have the meaning set forth in Section 2.2(c).

“Intellectual Property Rights” means and includes all domestic and foreign (a) patents, patent applications and patent disclosures; (b) trademarks, trade names, trade dress, service marks, corporate names, logos and slogans and Internet domain names, together with all goodwill associated therewith, and registrations and applications for registration for any of the

foregoing; (c) copyrights and copyrightable works, and registrations and applications for registration for any of the foregoing; (d) know how, trade secrets, franchisee and supplier lists and related information, formulae, processes, technology, innovations, inventions, manufacturing drawings, engineering drawings, product designs, and product patterns; (e) computer software (including source code, executable code, data, databases and documentation); and (f) all other intellectual property rights

“Knowledge” and terms of similar import mean, with respect to a Person, means the actual knowledge of such Person (and if such Person is an entity, this means the actual knowledge of the senior executive officers of such Person (which, in the case of the Company and its Subsidiaries shall mean the MG Principals)).

“Leases” shall have the meaning set forth in Section 3.1(u).

“Liability” means with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined or determinable, and whether or not the same is required to be accrued on the financial statements of such Person.

“Licenses” means all permits, licenses, franchises, certificates, approvals, consents and other authorizations of third parties or foreign, federal, state, or local governments or other similar rights.

“Liens” means any mortgage, pledge, security interest, encumbrance, lien, claim, community property interest, option, right of first refusal, deed of trust, or charge of any kind (including, without limitation, any conditional sale or other title retention agreement or lease in the nature thereof), any sale of receivables with recourse against the Company or its Subsidiaries, any filed financing statement as debtor under the Uniform Commercial Code or any similar statute other than to reflect ownership by a third party of property leased to the Company or its Subsidiaries under a lease which is not in the nature of a conditional sale or title retention agreement, or any subordination arrangement in favor of another Person (other than any subordination arising in the Ordinary Course of Business).

“Loss” and “Losses” means, with respect to any Person, any damage, Liability, demand, claim, action, cause of action, cost, damage, diminution in value, deficiency, tax, penalty, fine or other loss or expense, whether or not arising out of a third party claim, including all interest, penalties, reasonable attorneys’ fees and expenses and all amounts paid or incurred in connection with any action, demand, proceeding, investigation or claim by any third party (including any Governmental Authority) against or affecting such Person and the investigation, defense or settlement of any of the foregoing; provided, however, “Losses” shall not include attorney’s fees and expenses incurred by one Party in enforcing its rights against another Party pursuant to this Agreement.

“Material Adverse Change” means, when used with respect the Business, any event, change or occurrence which, individually or together with any other event, change or occurrence, has or would reasonably be expected to have a material adverse effect on the Transloading

Business or the Railroad Business including, but not limited to, (i) any changes in the condition of the transportation industry or market in which the Business currently operates; (ii) the enactment or repeal of any Law (or change in any Law or interpretation thereof); (iii) any change arising in connection with acts of war, sabotage, terrorism, military actions or escalations thereof, or (iv) the loss of revenue cause by the bankruptcy or accession of business operations by any vendor or customer of IWG, W&C, the Company or its Subsidiaries; provided, however a Material Adverse Change shall not be deemed to have occurred unless the Purchaser determines that such event, change or occurrence, individually or together with any other event set forth in (i) through (iv) above is reasonably expected to cause a reduction in the projected revenue of either the Transloading Business or the Railroad Business during the one year period following the Closing Date of more than ten percent (10%).

“Material Adverse Effect” means, with respect to the Company or the ability of the Company to consummate the transactions contemplated herein, any effect or change that is or would be reasonably likely to be materially adverse to the business, operations, customer relationships, liabilities, financial condition, or prospects of the Company, or on the ability of any Party to consummate timely the transactions contemplated hereby. The words “material,” “material adverse effect,” “material adverse change,” and similar terms that are used without being capitalized shall be construed and interpreted without any reference to this definition.

“Material Consents” shall have the meaning set forth in Section 2.8(d)(iii).

“Material Contract” means any of the following:

(a) each contract, license, sub-license, purchase order or agreement that is executory in whole or in part that involves expenditures or receipts of the Company or its Subsidiaries or for goods or services of an amount in excess of \$ \_\_\_\_\_ annually;

(b) each lease, rental or occupancy agreement, installment and conditional sale agreement, and any other contract or agreement executed by the Company or its Subsidiaries, in each case, affecting the ownership of, leasing of, title to or use of real property;

(c) each joint venture, partnership or any other contract or agreement involving a sharing of profits, Losses, costs or Liabilities by the Company or its Subsidiaries with any other Person;

(d) each contract or agreement containing covenants that in any way purport to restrict or prohibit the business activity of the Company or its Subsidiaries or limit the freedom of the Company or its Subsidiaries thereof to engage in any line of business or to compete with any Person in any business;

(e) each contract or agreement with any member, manager, director, officer or employee of the Company or its Subsidiaries; and

(f) each indenture, mortgage, promissory note or other agreement or commitment for the borrowing of money, for a line of credit or for any capital leases relating to the Company or its Subsidiaries.

**"MG Principals"** shall have the meaning set forth in the Preamble.

**"Minimum Loss"** shall have the meaning set forth in Section 5.5(a).

**"Minimum Working Capital"** means an amount equal to

**"Notice of Claim"** shall have the meaning set forth in Section 5.6(a).

**"Non-Payment Date"** shall have the meaning set forth in Section 5.8(c).

**"Ordinary Course of Business"** means actions taken in the ordinary course of the Company's and its Subsidiaries' Business that are consistent with past practice.

**"Party"** or **"Parties"** shall have the meaning set forth in the Preamble.

**"Permitted Debt"** means an amount equal to

**"Permitted Lien"** means (a) real estate taxes, assessments and other governmental fees or other charges levied with respect to the real property (i) not yet due and payable as of the Closing Date or (ii) being contested in good faith by appropriate proceedings and for which an adequate reserve has been provided; (b) mechanics and similar statutory liens arising or incurred in the Ordinary Course of Business for amounts which are (i) not delinquent or (ii) are being contested by appropriate proceedings and for which an adequate reserve has been provided; (c) zoning, entitlement, building and other land use and similar laws or regulations imposed by any Governmental Authority having jurisdiction over such parcel which are not violated by the current use and operation thereof, and (d) easements, covenants, conditions, restrictions and other similar matters of record affecting title to such Real Property which would not materially impair the use or occupancy of such parcel in the operation of the Company's business as a whole.

**"Person"** means and includes an individual, a partnership, a joint venture, a limited liability company, a corporation or trust, an unincorporated organization, a group, or a government or other department or agency thereof, or any other entity.

**"Personal Property Leases"** shall have the meaning set forth in Section 3.1(u).

**"Post-Closing Tax Year"** means any taxable year, or any stub period thereof, beginning with the date immediately following the Closing Date.

**"Pre-Closing Tax Period"** shall have the meaning set forth in Section 4.1.

**"Purchase Price"** shall have the meaning set forth in Section 2.1(b).

**"Purchaser Indemnification Claim"** shall have the meaning set forth in Section 5.3.

**"Purchaser Indemnified Persons"** shall have the meaning set forth in Section 5.3.

**"Railroad Business"** means the operation of the Wellsboro & Corning Railroad more fully described on Schedule A-2.

“Real Property” shall have the meaning set forth in Section 3.1(j).

“Real Property Leases” shall have the meaning set forth in Section 3.1(u).

“Reorganization Transactions” means the transactions in which (i) IWG contributes the Transloading Business, excluding the Retained Liabilities, to a newly formed Delaware limited liability company solely owned by IWG at all times prior to the transaction described in (iii) below (the “Transloading LLC”); (ii) W&C contributes the Railroad Business, excluding the Retained Liabilities, to a newly formed Delaware limited liability company solely owned by W&C at all times prior to the transaction described in (iii) below (the “Railroad LLC”); (iii) IWG contributes all of the membership interests in the Transloading LLC and W&C contributes all of the membership interests in the Railroad LLC to the Company in exchange for all of the Class A Common Units and all of the Class B Common Units issued by the Company.

“Retained Liabilities” shall have the meaning set forth in Section 5.1

“Securities Act” means the Securities Act of 1933, as amended, or any similar federal law then in force.

“Seller” shall have the meaning set forth in the Preamble.

“Seller Indemnification Claim” shall have the meaning set forth in Section 5.4.

“Seller Indemnified Persons” shall have the meaning set forth in Section 5.4.

“Set Off Notice” shall have the meaning set forth in Section 5.8(c).

“Statement of Minimum Working Capital and Debt” shall have the meaning set forth in Section 2.2(b).

“Straddle Period” shall have the meaning set forth in Section 4.2

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association, or other business entity of which (i) if a corporation, a majority of the total voting power of units entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof or (ii) if a limited liability company, partnership, association, or other business entity (other than a corporation), a majority of the partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof and for this purpose, a Person or Persons own a majority ownership interest in such a business entity (other than a corporation) if such Person or Persons shall be allocated a majority of such business entity’s gains or losses or shall be or control any managing director or general partner of such business entity (other than a corporation). The term “Subsidiary” shall include all Subsidiaries of such Subsidiary.

**“Surface Transportation Board”** means the Surface Transportation Board of the Department of Transportation or any successor federal agency with primary jurisdiction over the transactions that are subject of this Agreement.

**“Tangible Personal Property”** shall have the meaning set forth in Section 3.1(k).

**“Tax”** or **“Taxes”** means federal, state, county, local, foreign, or other income, gross receipts, ad valorem, franchise, profits, sales or use, transfer, registration, excise, utility, escheat, unclaimed property, environmental, communications, real or personal property, membership units, License, payroll, wage or other withholding, employment, social security, severance, stamp, occupation, alternative or add-on minimum, estimated, and other taxes of any kind whatsoever, whether computed on a separate or consolidated, unitary or combined basis or in any other manner (including, without limitation, deficiencies, penalties, additions to tax, and interest attributable thereto, and also including, without limitation, any Tax or Taxes of another Person for which the Company or its Subsidiaries is liable as a successor or as a transferee or by contract).

**“Tax Return”** means returns, declarations, reports, claims for refund, information returns or other documents (including any related or supporting schedules, statements, or information) filed or required to be filed in connection with the determination, assessment, or collection of Taxes of any Party or the administration of any laws, regulations, or administrative requirements relating to any Taxes.

**“Third Party Claim”** shall have the meaning set forth in Section 5.6(c).

**“Transaction Documents”** means this Agreement, and all other agreements, instruments, certificates, and other documents to be entered into or delivered by any Party in connection with the transactions contemplated to be consummated pursuant to this Agreement.

**“Transloading Business”** means the operation of transloading facilities more fully described on Schedule A-1.

**“Update”** shall have the meaning set forth in Section 2.7(a).

**“Working Capital”** means all of the current assets of the Company and its Subsidiaries (including inventory and cash and cash equivalents) less all of the current liabilities of the Company and its Subsidiaries, all as determined in accordance with GAAP, consistently applied.

**ARTICLE II  
THE TRANSACTION**

**Section 2.1. Purchase of Class A Common Units**

(a) Purchase and Sale of the Class A Common Units. At the Closing, the Seller shall sell to Purchaser and, subject to the terms and conditions set forth herein, Purchaser shall purchase from Seller one hundred percent of the Class A Common Units.

(b) Purchase Price. Purchaser agrees to pay to Seller for the Class A Common Units an aggregate amount equal to : (the "Purchase Price").

(c) Contribution or Distribution for Minimum Working Capital and Permitted Debt. If the amount of Working Capital of the Company and the Subsidiaries on the Closing Date exceeds the Minimum Working Capital, then immediately prior to the Closing, the Company shall distribute to Seller the amount of such excess. If the Working Capital of the Company and the Subsidiaries on the Closing Date is less than the Minimum Working Capital, then immediately prior to the Closing, the Seller shall contribute to the Company an amount in cash equal to such shortfall. If the amount of the Debt and other indebtedness of the Company and its Subsidiaries, exceeds the Permitted Debt, then immediately prior to the Closing the Seller shall contribute to the Company an amount in cash equal to such excess. The net amounts of any payment (the "Adjustment Amount") required pursuant to this Section 2.1(c) shall be made in accordance with a flow of funds memoranda to be mutually agreed upon prior to the Closing Date by Purchaser and Seller. Prior to the Closing Date, Seller shall provide to Purchaser a good faith written estimate (the "Initial Adjustment Amount") of the Adjustment Amount calculated in accordance with this Section 2.1(c). The Initial Adjustment Amount shall be subject to adjustment following the Closing in accordance with Section 2.2 below.

**Section 2.2. Adjustment Amount and Payment.**

(a) Within ten (10) Business Days of the Closing Date, the Company shall prepare and deliver to Purchaser and Seller (i) balance sheets setting forth the assets and liabilities of the Transloading Business and the Railroad Business as of the close of business on the Closing Date, which balance sheets shall be prepared in accordance with GAAP (the "Closing Balance Sheets") and (ii) a special report (the "Statement of Minimum Working Capital and Debt") setting forth the calculation of Working Capital and Debt as of the close of business on the Closing Date prepared in accordance with GAAP, including appropriate reserves for bad or uncollectible debt.

(b) Purchaser shall have a period of thirty (30) calendar days from receipt to review the Statement of Minimum Working Capital and Debt. In connection with such review, Purchaser shall have reasonable access to all relevant books and records and employees of Seller, the Company and its Subsidiaries and any accounting work papers prepared or used by the Company's outside accountants in preparation of such statement.

(c) Once the Statement of Minimum Working Capital and Debt becomes final in accordance with Section 2.2(d), the Adjustment Amount shall be recalculated using the final amounts of Working Capital and Debt as set forth in the Statement of Minimum Working Capital

and Debt. If such recalculated Adjustment Amount exceeds the Initial Adjustment Amount, the Purchaser shall pay Seller such excess within five (5) Business Days. If such recalculated Adjustment Amount is less than the Initial Adjustment Amount, Seller shall pay the Purchaser such shortfall within five (5) Business Days.

(d) Unless the Purchaser notifies Seller and the Company in writing, within thirty (30) calendar days after the Company's delivery of the Statement of Minimum Working Capital and Debt, of any objections thereto (specifying in reasonable detail the basis therefor), such statement shall be final and binding for purposes of this Section 2.2. If Purchaser timely notifies Seller and the Company of any such objection, Purchaser and Seller shall attempt in good faith to reach an agreement as to the matter(s) in dispute. If such parties shall fail to resolve any such dispute within ten (10) calendar days after receipt of timely notice of such objection, then any such disputed matter(s) shall be submitted to and determined by Ernst & Young, or such other accounting firm as may be designated by Purchaser (the "Independent Accounting Firm"). The Independent Accounting Firm shall be given reasonable access to all of the records of the Company to determine the Working Capital at Closing and Debt, which determination shall be submitted to Purchaser and Seller within twenty (20) calendar days. Seller and Purchaser will each bear fifty percent (50%) of the fees and costs of the Independent Accounting Firm for such determination. The Statement of Minimum Working Capital and Debt resulting from this Section 2.2 shall, after resolution of any dispute pursuant to this Section 2.2(d), be final, binding and conclusive on all parties hereto.

### **Section 2.3. Conditions Precedent to Purchaser's Obligations.**

The obligation of the Purchaser to consummate the Closing shall be subject to the satisfaction at or prior to the Closing of each of the following conditions (to the extent noncompliance is not waived in writing by the Purchaser):

(a) Representations and Warranties True at Closing. The representations and warranties made by the Company and the Seller in or pursuant to this Agreement shall be true and correct in all material respects at and as of the Closing Date with the same effect as though such representations and warranties had been made or given at and as of the Closing Date.

(b) Compliance With Agreement. The Company and the Seller shall have performed and complied with, in all material respects, all of their obligations under this Agreement to be performed or complied with by them on or prior to the Closing Date.

(c) Officer's Certificate. The Company and the MG Principals on behalf of the Seller shall have delivered to the Purchaser in writing, at and as of the Closing, a certificate, in form and substance reasonably satisfactory to the Purchaser, certifying that the conditions in each of Sections 2.3(a) and (b) have been satisfied.

(d) Summary of Accounts Receivable and Current Liabilities. The Seller shall have caused the Company to prepare and deliver to the Purchaser, a good faith estimate of accounts receivable of IWG and W&C immediately prior to the Reorganization Transaction and of the Company and its Subsidiaries as of the Effective Date, an estimate of collection on such

accounts by the Company and its Subsidiaries as of the Closing Date and an estimate of current liabilities of the Company and its Subsidiaries as of the Closing Date.

(e) No Restraining Order. There is no complaint seeking a restraining order or injunction to prohibit the transactions contemplated by this Agreement which has been filed or threatened and no restraining order or injunction which prohibits the transactions contemplated by this Agreement.

(f) Resignations of Managers and Officers. The Managers and officers of the Company set forth on Schedule 2.3(f) hereto shall have resigned their positions with the Company on or prior to the Closing Date.

(g) Reorganization Transactions. Seller shall have completed the Reorganization Transactions following the issuance of authorization or exemption for such transactions by the Surface Transportation Board.

(h) Consents and Authorizations. All consents, authorizations, orders and approvals of (or filings or registrations with) any third party or Governmental Authority required in connection with the execution, delivery or performance of this Agreement and the Reorganization Transactions shall have been obtained and be in full force and effect without the imposition of any condition (other than the imposition by the Surface Transportation Board of standard labor protective conditions), including, without limitation, the consents and authorizations listed in Schedule 2.3(h). Purchaser shall not be required to seek exemption or authorization from the Surface Transportation Board for the Closing of this transaction until such time as Seller shall have completed the Reorganization Transactions described in Section 2.3(g).

(i) Material Adverse Change. After the execution of this Agreement, there shall not have occurred any event, change or occurrence that, either individually or together with any other event, change or occurrence, would result in or would reasonably be expected to result in a Material Adverse Change with respect to either the Transloading Business or the Railroad Business

(j) Proceedings and Documents Satisfactory. All proceedings in connection with the transactions contemplated by this Agreement and all certificates and documents delivered to the Purchaser in connection with the transactions contemplated by this Agreement shall be satisfactory in all reasonable respects to the Purchaser and the Purchaser's counsel, and the Purchaser shall have received the originals or certified or other copies of all such records and documents as the Purchaser may reasonably request.

#### **Section 2.4. Conditions Precedent to Seller's Obligations.**

The obligation of the Seller to consummate the Closing shall be subject to the satisfaction, at or prior to the Closing, of each of the following conditions (to the extent noncompliance is not waived in writing by the MG Principals on behalf of the Seller).

(a) Representations and Warranties True at Closing. The representations and warranties made by the Purchaser in this Agreement shall be true and correct in all material

respects at and as of the Closing Date with the same effect as though made or given at and as of the Closing Date.

(b) Compliance with Agreement. The Purchaser shall have performed and complied with, in all material respects, all of its obligations under this Agreement that are to be performed or complied with by it at or prior to the Closing.

(c) Officer's Certificate. The Purchaser shall have delivered to the Seller in writing, at and as of the Closing, a certificate, in form and substance reasonably satisfactory to the MG Principals, to the effect that the conditions in each of Section 2.4(a) and (b) have been satisfied.

(d) No Restraining Order. There is no complaint seeking a restraining order or injunction to prohibit the transactions contemplated by this Agreement which has been filed or threatened and no restraining order or injunction which prohibits the transaction contemplated by this Agreement.

(e) Proceedings and Documents Satisfactory. All proceedings in connection with the transactions contemplated by this Agreement and all certificates and documents delivered to the Seller in connection with the transactions contemplated by this Agreement shall be satisfactory in all reasonable respects to the Seller and its counsel, and the Seller shall have received the originals or certified or other copies of all such records and documents as the Seller may reasonably request.

**Section 2.5. Affirmative Covenants of Seller**. Prior to the Closing, unless the Purchaser otherwise agrees in writing and except as expressly contemplated by this Agreement, the Seller will and will cause the Company to:

(a) obtain the consent of the Purchaser prior to making any capital expenditures or commitments for capital expenditures, that aggregate in excess of \$ \_\_\_\_\_,

(b) conduct the Railroad Business and the Transloading Business only in the Ordinary Course of Business;

(c) maintain the books, accounts and records of the Company in accordance with U.S. GAAP, consistently applied;

(d) continue to collect accounts receivable and pay accounts payable using normal procedures and without discounting or accelerating the collection of, or decelerating the payment of, such accounts;

(e) conduct its practices regarding the purchase of inventory and supplies and the making of repairs and the performance of maintenance of property, in each case in the Ordinary Course of Business;

(f) comply in all material respects with all applicable Laws;

(g) promptly inform the Purchaser in writing of any material variances from the representations and warranties contained in Article III hereof or any breach of any covenant hereunder by the Seller; and

(h) cooperate with the Purchaser and use commercially reasonable efforts to cause the conditions to the Purchaser's obligation to close to be satisfied.

**Section 2.6. Negative Covenants of the Seller.** Prior to the Closing, unless the Purchaser otherwise agrees in writing and except as expressly contemplated by this Agreement, the Seller will not and the Seller will cause the Company to not:

(a) take any action that would require disclosure under Section 3.1(u);

(b) make any loans, enter into any transaction with any officer, director, shareholder or affiliate of the Company or make or grant any increase in any employee's or officer's compensation (other than, in the case of non-officer employees, in the Ordinary Course of Business) or make or grant any increase in any employee benefit plan, incentive arrangement or other benefit covering any of the employees (including officers) of the Company;

(c) accept any prepayments with respect to any Material Contracts or defer the performance of the Company with respect to any Material Contracts;

(d) establish or, except in the Ordinary Course of Business, contribute to any pension, retirement, profit sharing or stock bonus plan or multiemployer plan covering the employees of the Company;

(e) grant any severance, retention or termination pay arrangement or amend any such existing agreement;

(f) acquire the business, capital stock, other equity interests or substantially all of the assets of another Person;

(g) enter into any Material Contract or transaction, other than in the Ordinary Course of Business with unaffiliated third parties, and in no event enter into any Material Contract or transaction which requires the Company to pay, in the aggregate, in excess of unless such Material Contract is terminable within 90 calendar days;

(h) amend the operating agreement of the Company;

(i) sell, assign, lease, mortgage, pledge, grant any right or interest in, or otherwise transfer or dispose of, all or any part of its real or personal property rights or operating rights, as applicable;

(j) grant, amend, modify, extend or terminate any trackage rights, haulage rights, joint facility agreement or other agreements affecting the operations of the Railroad Business or the Transloading Business;

(k) enter into or amend any agreements with shippers or receivers for the movement of traffic or transloading services, except for such agreements that are in the Ordinary Course of Business, that provide for a term not greater than twelve (12) months and that do not include any service obligation in excess of ordinary common carriage, penalty provision, car supply obligation or demurrage relief and that are arm's lengthy transaction with unaffiliated third parties;

(l) declare, pay, set aside, make or pay any dividend or distribution to Seller, or effectuate any redemptions, equity repurchases, or other transactions involving the membership interests in Company;

(m) solicit, initiate or encourage the submission of any proposal or offer from any third party or enter into or agree to enter into any transaction relating to any liquidation, dissolution or recapitalization of, merger or consolidation with or into, acquisition or purchase of assets of the Company (other than with respect to the sale of inventory and the purchase or replacement of equipment in the ordinary course of business), acquisition or purchase of the membership interest or any equity interest in the Company, or any similar transaction or business combination involving the Seller or the Company or participate in any negotiations regarding, furnish any information with respect to, or assist or participate in, any effort or attempt by any third party to do or seek any of the foregoing, but will immediately notify the Purchaser if any third party attempts to make any proposal to or initiate any discussion or negotiation with any of them concerning any of the foregoing;

(n) enter into, amend or terminate any collective bargaining agreement or other agreement with a labor organization; or

(o) make, revoke or change any material Tax election or material method of Tax accounting or procedure, file any amended Tax Return (unless required by Law), enter into any closing agreement relating to a material amount of Taxes, settle or compromise any material liability with respect to Taxes, or consent to any extension or waiver of the statute of limitations for any such claim or assessment.

#### **Section 2.7. Updating the Schedules.**

(a) Five (5) Business Days prior to the Closing Date, the Seller will deliver to the Purchaser one or more written updates or supplements to the Schedules to this Agreement (each, an "Update") to the extent necessary to reflect events, matters, items, or facts occurring after the date hereof and applicable to or requiring disclosure on such Schedules. No such Update shall be deemed to amend or otherwise modify the Schedules delivered on the date hereof, or the representations and warranties of the Seller contained herein, or otherwise have any effect on the satisfaction of the conditions to the Purchaser's obligation to close hereunder unless accepted in writing by Purchaser. Purchaser shall not unreasonably withhold its acceptance of any Update providing information inadvertently omitted from the Schedules as of the date hereof provided that the information in such Update does not materially adversely effect the veracity of the impacted representation hereunder. To the extent that such Update reflects events, matters, items or facts which have occurred after the date hereof and are accepted by Purchaser, then the

Schedules shall be deemed to be amended as of the Closing Date to include the information on such Update.

(b) The assets described on Schedule A-1 represent the parties' best estimate, as of the Effective Date, of the assets which comprise the Transloading Business and the assets described on Schedule A-2 represent the parties' best estimate, as of the Effective Date, of the assets which comprise the Railroad Business, it being the intention of the parties that Seller shall retain those assets and related personnel that are unrelated to the Transloading Business and the Railroad Business and retain all Retained Liabilities. Within five (5) Business Days following the execution of this Agreement, Seller shall provide to Purchaser a more detailed list of the assets and a list of the names of the employees that are to be transferred to the Railroad LLC and the Transloading LLC in connection with the Reorganization Transaction for Purchaser's review and approval. Within five (5) Business Days thereafter, Purchaser and Seller shall agree upon a revised Schedule A-1 and Schedule A-2. Prior to, but as close as reasonably practicable to, the Closing Date, if the transaction has not been terminated, Seller shall contribute any additional assets of IWG or W & C which have been identified by Purchaser as being part of the Transloading Business or Railroad Business which should have been contributed to the Transloading LLC or the Railroad LLC as part of the Reorganization Transaction and transfer of the assets described on Schedule A-1 and Schedule A-2 as revised.

(c) As part of the Reorganization Transaction, and prior to the Closing Date, all Owned Real Property will be transferred by quitclaim deed, all Leased Property will be transferred by novation or assignment, personalty will be transferred by bill of sale, all contracts, Material Contracts and permits shall be transferred by assignment, and Intellectual Property Rights will be transferred by assignment, bill of sale or licensed to the Transloading LLC or the Railroad LLC, as the case may be, and all of the books and records pertaining to the Transloading Business and Railroad Business shall be transferred to the Transloading LLC or the Railroad LLC by bill of sale. All of the foregoing transfer instruments shall be in form and substance acceptable to Purchaser. During the ten (10) day period following the execution of this Agreement, the Seller and Purchaser shall work together to develop mutually acceptable legal descriptions for the Owned Real Property to be conveyed.

#### Section 2.8. Closing.

(a) The closing of the purchase and sale of the Class A Common Units (the "Closing") is to take place at the offices of Purchaser at 10:00 a.m. EST on (i) April 2, 2012, so long as the conditions set forth in Sections 2.3 and 2.4 hereof have been satisfied or waived or (ii) the third (3<sup>rd</sup>) business day following the satisfaction or waiver of the conditions set forth in Sections 2.3 and 2.4 hereof, whichever first occurs (the "Closing Date").

(b) At Closing, Purchaser shall execute and deliver (or cause to be delivered) to Seller the following in accordance with the applicable provisions of this Agreement:

(i) a certificate validly executed on behalf of Purchaser by an appropriate officer certifying that the representations in Section 3.3 are true and correct in all material respects as of the Closing Date;

(ii) an opinion from Freeborn & Peters, LLP in form and substance reasonably acceptable to Seller's counsel, addressed to Seller, Company and the MG Principals and dated as of the Closing Date;

(iii) the Amended and Restated Operating Agreement;

(iv) payment to Seller of the Purchase Price in immediately available funds; and

(v) any other instruments or documents, as shall be expressly required under the terms of this Agreement.

(c) At Closing, Seller shall execute and deliver (or cause to be delivered) to Purchaser the following in accordance with the applicable provisions of this Agreement:

(i) a certificate validly executed on behalf of Seller by an appropriate officer certifying that the representations and warranties specified in Section 3.2 are true and correct in all material respects as of the Closing Date;

(ii) the Amended and Restated Operating Agreement; and

(iii) any other instruments or documents, as shall be expressly required under the terms of this Agreement.

(d) At Closing, the Company shall execute and/or deliver (or cause to be delivered) to Purchaser the following in accordance with the applicable provisions of this Agreement:

(i) a certificate validly executed on behalf of the Company by an appropriate officer certifying that the representations and warranties specified in Section 3.1 are true and correct in all material respects as of the Closing Date;

(ii) an opinion of MacElree Harvey, Ltd. in form and substance reasonably acceptable to Purchaser's counsel, addressed to Purchaser and dated as of the Closing Date;

(iii) the consents to the transactions contemplated hereby, to the extent required by such contract, from any party to a Material Contract which is set forth on Schedule 2.8(d)(iii) (the "Material Consents");

(iv) certified copies of the resolutions duly adopted by the Company's board of managers authorizing the execution, delivery and performance of this Agreement and each of the other agreements contemplated hereby and the consummation of all other transactions contemplated by this Agreement;

(v) certified copies of the Company's organizational documents, each as in effect at the Closing;

(vi) certificates of good standing for the Company and each of its Subsidiaries from the respective jurisdictions of their formation and from the jurisdictions in which the Company and its Subsidiaries are qualified to do business as foreign corporations; and

(vii) any other instruments or documents, as shall be expressly required under the terms of this Agreement.

### ARTICLE III REPRESENTATIONS AND WARRANTIES

**Section 3.1. Representations and Warranties of the Company and its Subsidiaries.** For the purposes of this Section 3.1, all references to the Company and its Subsidiaries shall also include any and all predecessor entities to the Company and its Subsidiaries, including the entities listed opposite the name of the Company and its Subsidiaries on Section 3.1 and shall be made as if the Reorganization Transactions shall have been completed as of the date hereof. Except as set forth on the Company Disclosure Schedule, as of the Closing Date, the Company and its Subsidiaries, jointly and severally, represent and warrant to Purchaser on the Closing Date as follows:

(a) **Organization: Good Standing and Other Matters.** The Company is duly organized, validly existing and in good standing under the laws of the State of Delaware, has all requisite limited liability company power and authority to own, lease and operate its properties and to carry on its Business as now being conducted, and is duly qualified to conduct business as a limited liability company in good standing in each jurisdiction in which the Business or the operation, ownership or leasing of its properties, makes such qualification necessary, other than in such jurisdictions where the failure to so qualify would not reasonably be expected to have a Material Adverse Effect. The Company has delivered to Purchaser correct and complete copies of the Company's and each Subsidiary's organizational documents which reflect all amendments made thereto at any time before the date hereof. Correct and complete copies of the minute books containing the records of meetings of the members and managers, and the membership interest records of the Company have been furnished to Purchaser. The Company is not in default under or in violation of any provision of its charter documents. The Reorganization Transactions have all been completed.

(b) **Capitalization of the Company.** As of the Closing and immediately thereafter, the authorized membership units of the Company shall consist of (a) 700 Class A Common Units (all of which shall be issued and outstanding), and (b) 300 Class B Common Units (all of which shall be issued and outstanding). As of the Closing, neither the Company nor any Subsidiary shall have outstanding any other membership units or other securities convertible or exchangeable for any membership units or containing any profit participation features, nor shall it have outstanding any rights or options to subscribe for or to purchase its membership units or any units or securities convertible into or exchangeable for its membership units. As of the Closing, all of the Company's membership units shall be validly issued, fully paid and non-assessable. There are no statutory or contractual unitholders' preemptive rights or rights of refusal with respect to the sale of the Class A Common Units hereunder. To the Company's Knowledge, the Company has not violated any applicable federal or state securities laws in connection with the offer, sale and issuance of any of its membership units, and the offer and

sale of the Class A Common Units hereunder do not require registration under the Securities Act or any securities laws of the State of Pennsylvania. There are no agreements between the Company's unitholders with respect to the voting or transfer of the Company's membership units or with respect to any other aspect of the Company's affairs, except as set forth in the Company's operating agreement

(c) Subsidiaries. Schedule 3.1(c) correctly sets forth the name of each Subsidiary, the jurisdiction of its formation and the Persons owning the outstanding membership units of such Subsidiary. Each Subsidiary is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, possesses all requisite company power and authority and, to the Company's Knowledge, all material licenses, permits and authorizations necessary to own its properties and to carry on the Business as now being conducted and as presently proposed to be conducted and is qualified to do business in every jurisdiction in which its ownership of property or the conduct of business requires it to qualify other than in such jurisdictions where the failure to so qualify would not reasonably be expected to have a Material Adverse Effect. All of the outstanding membership units of each Subsidiary are validly issued, full paid and non-assessable, and all such units are owned by the Company or another Subsidiary free and clear of any Lien and not subject to any option or right to purchase any such units. Neither the Company nor any Subsidiary owns or holds the right to acquire any units or any other security or interest in any other Person.

(d) Authority. The Company has all requisite limited liability company power and authority to execute and deliver the Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. The members and managers of the Company have duly approved the Transaction Documents to which the Company is a party and have duly authorized the execution and delivery of the Transaction Documents to which it is a party and the consummation of the transactions contemplated thereby. No other proceedings on the part of the Company or its Subsidiaries are necessary to approve and authorize the execution and delivery of the Transaction Documents to which it is a party and the consummation of the transactions contemplated thereby. The Transaction Documents to which the Company is a party have been, or upon execution and delivery will be, duly and validly executed and delivered by the Company, as applicable, and, assuming that the Transaction Documents constitute the valid and binding agreement of the other Parties thereto, constitute, or upon execution and delivery will constitute, the legal and binding obligation of the Company, enforceable against the Company in accordance with their respective terms and conditions, except that the enforcement hereof and thereof may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws now or hereafter in effect relating to creditors' rights generally and (ii) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity).

(e) No Conflicts. The execution, delivery, and performance of the Transaction Documents and the consummation of the transactions contemplated thereby by the Company do not and shall not, to the Company's Knowledge, (i) conflict with or result in any material breach of any of the terms, conditions, or provisions of, (ii) constitute a material default under, (iii) result in a material violation of, (iv) give any third party the right to modify, terminate, or accelerate any obligation under, (v) result in the creation of any Lien upon the Class A Common Units or Class B Common Units or assets of the Company or its Subsidiaries under, or (vi)

require any authorization, consent, approval, exemption, or other action by or notice or declaration to, or filing with, any Governmental Authority under the provisions of the limited liability company agreement of the Company, then in effect, or similar organizational document of the Company's Subsidiaries or any indenture, mortgage, lease, loan agreement, license agreement or other material agreement or instrument to which the Company or its Subsidiaries is bound, or any Applicable Law to which the Company or its Subsidiaries is subject.

(f) Financial Statements. Attached as Schedule 3.1(f) are copies of the unaudited balance sheets of the Sellers as of December 31, 2011, together with the unaudited statements of operations of the Transloading Business and the Railroad Business for the years then ended (collectively, the "Financial Statements"). The Financial Statements have been prepared in accordance with GAAP (except to the extent disclosed therein or required by changes in GAAP) and fairly present in all material respects the financial position of the Transloading Business and the Railroad Business at the dates thereof and the results of the operations for the respective periods indicated.

(g) Compliance with Applicable Laws. To the Knowledge of the Company, the Company and its Subsidiaries (i) have materially complied with, are in material compliance with and have operated their businesses and maintained their assets in material compliance with all Applicable Laws, and (ii) hold all material permits, Licenses, variances, exemptions, orders, franchises and approvals of all Governmental Authorities necessary for the lawful conduct of the Business (the "Company Permits"), as such Business is conducted as of the Effective Date, and are in material compliance therewith. To the Company's Knowledge, no investigation or review by any Governmental Authority with respect to the Company or its Subsidiaries is pending or threatened. Except as set forth on Schedule 3.1(g), no permit, consent, approval, or authorization of, or designation, declaration or filing with, any Person or any Governmental Authority on the part of the Company or Seller is required in connection with the execution or delivery of this Agreement or the consummation of the Reorganization Transaction or the transactions contemplated hereby.

(h) Absence of Litigation. Except as otherwise set forth in Schedule 3.1(h), there are no actions, suits, proceedings, orders, investigations or claims pending or, to the Company's Knowledge, threatened against or affecting the Company, any Subsidiary, the Transloading Business or the Railroad Business (or to the Company's Knowledge, pending or threatened against or affecting any of the officers, managers, directors or employees of the Company, including the MG Principals, and its Subsidiaries relating to the Business) at law or in equity, or before or by any Governmental Authority (including any actions, suit, proceedings or investigations with respect to the transactions contemplated by this Agreement); neither the Company nor any Subsidiary is subject to any arbitration proceedings under collective bargaining agreements or otherwise or any governmental investigations or inquiries. To the Company's Knowledge, the Company is not aware of facts which would lead a reasonable person to believe that any actions, suits, proceedings, orders, investigations, or claims may be asserted against the Company or its Subsidiaries in the future. Neither the Company nor any Subsidiary is subject to any judgment, order or decree of any court or other governmental agency, and neither the Company nor any Subsidiary has received, in the past two years, any opinion or memorandum or legal advice from legal counsel of the Company to the effect that it is

exposed, from a legal standpoint, to any Liability or disadvantage which is reasonably likely to be material to its Business.

(1) Insurance. Set forth on Schedule 3.1(i) is a true, correct and complete list of all workers' compensation, title, fire, general liability, fiduciary liability, directors' and officers' liability, malpractice liability, theft and other forms of property and casualty insurance currently held by the Company and its Subsidiaries and all fidelity bonds currently held by the Company and its Subsidiaries. All such insurance policies are in full force and effect. To the Company's Knowledge, neither the Company, nor its Subsidiaries, is currently in material default regarding the provisions of any such policy, including, failure to make timely payment of all premiums due thereon, and has not failed to file any notice or present any material claim thereunder in due and timely fashion. Neither the Company nor its Subsidiaries has been refused, or denied renewal of, any insurance coverage by insurance companies offering such insurance in connection with the ownership or use of the assets or the operation of the Business. To the Company's Knowledge, the Company has provided to the Purchaser correct and complete copies of all loss prevention reports, all claims made and loss history reports in respect of any insurance maintained by the Company or its Subsidiaries or any predecessor, including under any organized plan of self insurance, relating to the Business during the past two years. Except for policies that have been, or are scheduled to be, terminated in the Ordinary Course of Business and in accordance with the terms thereof, each of the insurance policies set forth on Schedule 3.1(i) is in full force and effect.

(j) Real Property. Schedule 3.1(j) sets forth the address of each parcel of real property and improvements thereon owned by the Company and the Subsidiaries as of the Effective Date (the "Real Property").

(i) With respect to each parcel of Real Property:

(A) except as set forth on Schedule 3.1(j), the Company's title to such Real Property is legal, valid, binding, enforceable and in full force and effect in all material respects;

(B) the Company's and each Subsidiary's possession and quiet enjoyment of the Real Property has not been disturbed and there are no disputes with respect to such Real Property;

(C) neither the Company nor any Subsidiary owe, nor will it owe in the future, any brokerage commissions or finder's fees with respect to such Real Property;

(D) neither the Company nor any Subsidiary has leased, licensed or otherwise granted any Person the right to use or occupy the Real Property or any portion thereof;

(E) to Company's Knowledge there are no Liens on the Real Property, other than Permitted Liens.

(ii) The Real Property identified in Schedule 3.1(j) comprises all of the real property owned by the Company; and neither the Company nor any Subsidiary is a party to any agreement or option to purchase any interest therein.

(iii) To the Company's Knowledge, the Real Property is in good condition and repair and sufficient for the operation of Business as currently conducted.

(iv) To the Company's Knowledge, there is no injunction, decree, order, writ or judgment outstanding, or any claim, litigation, administrative action or similar proceeding, pending or, to the Company's Knowledge, threatened, relating to the lease, use or occupancy of the Real Property or any portion thereof, or the operation of the Business as currently conducted thereon.

(v) To the Company's Knowledge, the Real Property is in compliance, in all material respects, with all material Applicable Laws, and, to the Company's Knowledge, the current use and occupancy of the Real Property and operation of Business thereon do not violate any Applicable Laws. Neither the Company nor any Subsidiary has received any notice of violation of any Applicable Law and, to the Company's Knowledge, there has been no threat of an issuance of any such notice or the taking of any action for such violation.

(k) Tangible Property. Schedule 3.1(k) sets forth a description of all of the tangible properties and assets (excluding Real Property) used in the Transloading Business and Railroad Business as conducted by the Sellers on December 31, 2011 (the "Tangible Personal Property"). Except as otherwise set forth on Schedule 3.1(k), the Company and its Subsidiaries, respectively, have good title to, or hold pursuant to valid and enforceable leases, all the Tangible Personal Property of the Company and its Subsidiaries, with only such exceptions as constitute Permitted Liens. To the Company's Knowledge, the Tangible Personal Property has been maintained in accordance with normal industry practice, are in good operating condition and repair (subject to normal wear and tear), and are suitable for the purposes for which they are presently used

(l) Liens. As of Closing, all of the assets of the Company and its Subsidiaries are free and clear of all Liens except Permitted Liens.

(m) Environmental Matters. To the Company's Knowledge, the Real Property and the operations of the Company and its Subsidiaries thereon comply with all applicable Environmental Laws in all material respects. To the Company's Knowledge, no judicial proceedings are pending or threatened against the Company or its Subsidiaries alleging the violation of any applicable Environmental Laws. To the Company's Knowledge, all permits, registrations, Licenses and authorizations required to be obtained or filed by the Company or its Subsidiaries under any applicable Environmental Laws in connection with the Company's or its Subsidiaries' operations, including those activities relating to the generation, use, storage, treatment, disposal, release or remediation of Hazardous Substances, have been duly obtained or filed, and the Company and its Subsidiaries are in compliance with the terms and conditions of all such permits, registrations, Licenses and authorizations in all material respects.

(n) Taxes.

(i) (A) All Tax Returns which are required to be filed by Seller or the Company or its Subsidiaries or any of their predecessors on or before the Closing Date have been or will be timely filed (taking into account all applicable extensions) and are true, correct and complete; (B) all Taxes which are due on or before the Closing Date (taking into account all applicable extensions) have been or will be timely paid in full (except to the extent contested in good faith and disclosed on Schedule 3.1(n)); and (C) all withholding Tax requirements imposed on or with respect to Seller, the Company or its Subsidiaries or any of their predecessors with respect to transactions occurring on or before the Closing Date have been or will be satisfied in full.

(ii) There is not in force (A) any extension of time with respect to the due date for the filing of any Tax Return by Seller, the Company or its Subsidiaries or any of their predecessors or (B) any waiver or agreement for any extension of time for the assessment or payment of any material Tax by Seller or the Company or its Subsidiaries or any of their predecessors.

(iii) All outstanding claims, assessments or deficiencies against Seller, the Company or its Subsidiaries or any of their predecessors for any Taxes has been asserted against the Seller, Company or its Subsidiaries in writing by any Government Authority have been resolved and there is no constituted deficiency proposed in writing against the Seller, Company or its Subsidiaries.

(iv) There is no existing Tax sharing agreement that may or will require that any payment be made by or to the Company or its Subsidiaries or any of their predecessors on or after the Closing Date.

(v) There is no contract, agreement, plan or arrangement covering any Person that, individually or in the aggregate, as a consequence of the transactions contemplated by this Agreement or otherwise, could give rise to the payment of any amount that would not be deductible by Seller or the Company or its Subsidiaries, as the case may be, by reason of Section 280G of the Code.

(vi) None of the Company or its Subsidiaries has elected to be taxed as an association taxable as a corporation pursuant to Income Tax Regulations Section 301.7701-3.

(o) Material Contracts. Set forth on Schedule 3.1(o) is a true, correct and complete list of all Material Contracts to which the Company or its Subsidiaries is a party or by which the Company or its Subsidiaries is otherwise bound. To the Company's Knowledge, a true, correct and complete copy of each Material Contract has been furnished or made available to Purchaser or its representatives. Each Material Contract (i) is in full force and effect and is a legal and binding obligation of the Company, enforceable in accordance with its terms and (ii) will continue to be in full force and effect and a legal and binding obligation of the Company following the consummation of the transactions contemplated hereby, except in each of (i) and (ii) above to the extent that the enforcement thereof may be limited by (A) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws

now or hereafter in effect relating to creditors' rights generally and (B) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity). To the Company's Knowledge, no party to a Material Contract has repudiated any provisions of any Material Contract. To the Company's Knowledge, neither the Company nor its Subsidiaries is in default in any material respect under any such Material Contract. To the Company's Knowledge, there has not occurred any event that (with the lapse of time or the giving of notice or both) would constitute a default in any material respect under any Material Contract by the Company or its Subsidiaries or any other party thereto.

(p) ERISA Compliance; Labor.

(i) Set forth on Schedule 3.1(p) is a list of all Employee Benefit Plans. To the Company's Knowledge:

(A) none of the Company, its Subsidiaries nor any other entity required to be aggregated with the Company under Section 414(b) or 414(c) of the Code (the "Aggregated Group") sponsors, and neither the Company nor any member of the Aggregated Group has any Liability with respect to, nor has sponsored a "defined benefit plan" as such term is defined in Section 3(35) of ERISA;

(B) no "prohibited transaction," as such term is described in Section 4975 of the Code, has occurred with respect to any of the Employee Benefit Plans that would subject the Company or any member of the Aggregated Group, any officer of the Company or its Subsidiaries or any of such plans or any trust to any material Tax or penalty on prohibited transactions imposed by Section 4975 of the Code;

(C) neither the Company nor any member of the Aggregated Group has contributed, has been obligated to contribute to or has any Liability with respect to any "multiemployer plan" as such term is defined in Section 3(37) or Section 4001(a)(3) of ERISA; and

(D) there exists no condition that would subject the Company or any member of the Aggregated Group to any Liability under the terms of the Employee Benefit Plans or Applicable Laws other than any payment of benefits in the normal course of plan operation. There exists no underfunding of any Employee Benefit Plan except to the extent accrued on, or reserved in, the Financial Statements.

(ii) True, correct and complete copies of each of the Employee Benefit Plans and related trust documents, summary plan descriptions and favorable determination letters, if applicable, have been furnished or made available to Purchaser or its representatives, along with the three most recent reports filed on Form 5500 with respect to each Employee Benefit Plan required to file a Form 5500. To the Company's Knowledge, all material reports and disclosures relating to the Employee Benefit Plans required to be filed with or furnished to Governmental Authorities or plan participants or beneficiaries have been filed or furnished in all material respects in accordance with Applicable Laws in a timely manner. No Employee Benefit Plan or other arrangement provides for post-employment welfare benefits (other than as required under Section 4980B of the Code or similar state laws). To the Company's Knowledge, each Employee

Benefit Plan has been maintained in compliance with its terms and Applicable Laws and each Employee Benefit Plan intended to meet the requirements of Section 401(a) of the Code meet such requirements. To the Company's Knowledge, there are no actions, suits or claims pending (other than routine claims for benefits) or threatened against, or with respect to, any of the Employee Benefit Plans. All contributions required to be made to the Employee Benefit Plans pursuant to their terms have been timely made. To the Knowledge of the Company, there is no matter pending with respect to any of the Employee Benefit Plans before the Internal Revenue Service, Department of Labor or other governmental agency.

(iii) Neither the Company nor its Subsidiaries is a party to any collective bargaining agreement. To the Company's Knowledge, the Company (A) is and has not engaged in any unfair labor practices, has any unfair labor practice charges or complaints before the National Labor Relations Board or the National Mediation Board pending or threatened against it or (B) has not received any written notice of any charges, complaints or proceedings pending or threatened against it before the Equal Employment Opportunity Commission, Department of Labor or any other Governmental Authority responsible for regulating employment practices.

(q) Certain Business Relationships with the Company. Except as set forth on Schedule 3.1(q), no MG Principal or any Affiliate thereof is a party to any oral or written agreement, contract, commitment or transaction with the Company or any Subsidiary or has any interest in any property owned or leased by the Company or any Subsidiary. No MG Principal owns or has otherwise retained any rights to use any assets (including any Intellectual Property Rights), rights or contractual benefits which are owned or leased by the Company or any Subsidiary in the Business.

(r) Accounts Receivable All Accounts Receivable that are reflected on the Closing Balance Sheets or on the accounting records of the Company or its Subsidiaries (if any) as of the Closing Date (other than Accounts Receivable for maintenance services to be performed following the Closing Date) are valid receivables subject to no setoffs or counterclaims, are current and collectible, subject only to the reserve for bad debts set forth on the face of the Closing Balance Sheet as adjusted for the passage of time through the Closing Date in the Ordinary Course of Business.

(s) Employees. To the Company's Knowledge, no executive, manager, key employee, or group of employees of the Company or its Subsidiaries (i) has any present intention to terminate his or her employment, or (ii) is a party to any confidentiality, non-competition, proprietary rights or other such agreement between such employee and any Person besides the Company or its Subsidiaries that would be material to the performance of such employee's employment duties, or the ability of the Company or its Subsidiaries to conduct the Business. Except as set forth on Schedule 3.1(s), there are no employment contracts or severance agreements with any employees of the Company or its Subsidiaries, and there are no written personnel policies, written rules, or written procedures applicable to employees of the Company or its Subsidiaries. Except as set forth on Schedule 3.1(s), the Company does not have any present or future obligation to provide any MG Principal any benefits or perquisites not otherwise generally provided to the Company's employees or otherwise expressly provided for in the Transaction Documents.

(t) Intellectual Property Rights

(i) The Company and its Subsidiaries own and possess all right, title and interest in and to the Intellectual Property Rights set forth in Schedule 3.1(t), has a valid and enforceable right to use pursuant to the agreements set forth in Schedule 3.1(t), and otherwise owns and possesses all right, title and interest in and to all other Intellectual Property Rights necessary for the operation of the Company's Business as currently conducted and contemplated to be conducted free and clear of all Liens (collectively, the "Company Intellectual Property Rights").

(ii) To the Company's Knowledge, the Company and its Subsidiaries have not infringed, misappropriated or otherwise violated, and the operation of the Company's Business as currently conducted does not infringe, misappropriate or otherwise violate, the Intellectual Property Rights of any third party. To the Company's Knowledge, the Company is not aware of any facts which indicate a reasonable likelihood of any of the foregoing and has not received any written claims or notices regarding any of the foregoing (including, without limitation, any demands or offers to license any Intellectual Property Rights from any third party). The Company has neither requested nor received any opinions of counsel related to the foregoing.

(u) Leases. Schedule 3.1(u) contains a list of all leases of real property (the "Real Property Leases") and leases of any item of personal property ("Personal Property Leases") (the Real Property Leases and Personal Property Leases are collectively referred to herein as the "Leases") to which the Company is a party. The Company has provided to the Purchaser true, correct and complete copies of the Leases. All Leases are in good standing and are valid and effective in accordance with their respective terms, and there are no existing defaults or, to the Knowledge of the Company, events of default or events or circumstances which with notice or lapse of time or both would constitute defaults, the consequences of which would permit the acceleration of payments due under, or the termination or modification of, any of the Leases. Except for any consents referred to in Section 3.1(g), the continuation, validity and effectiveness of all Leases will not be adversely affected by the consummation of the transactions contemplated by this Agreement. To the Knowledge of Company, except as set forth on Schedule 3.1(u), there is no pending or anticipated change in any Laws, including ordinances that may be applicable to the Premises or the use thereof or occupancy thereon that will have (individually or in the aggregate) a materially adverse effect on the ownership, lease, use or occupancy of any premises in the continued operation of the Transloading Business or the Railroad Business as currently conducted thereon.

(v) Broker's Commissions. The Company and its Subsidiaries have not, directly or indirectly, entered into any agreement with any Person that would obligate the Company or its Subsidiaries to pay any commission, brokerage fee or finder's fee in connection with the transactions contemplated herein.

(w) Absence of Certain Developments. Except as set forth on Schedule 3.1(w), since December 31, 2011, there has not been any event or series of events that would have a Material Adverse Effect with respect to the Transloading Business or the Railroad Business. Without limiting the generality of the foregoing, since that date:

(i) IWG, W&C, the Company and each Subsidiary have not sold, leased, transferred, or assigned any of the assets used in the Transloading Business or the Railroad Business;

(ii) IWG, W&C, the Company and each Subsidiary have not entered into any agreement, contract, lease, or license (or series of related agreements, contracts, leases, and licenses) involving more than :

(iii) IWG, W&C, the Company and each Subsidiary have not or, to the Company's Knowledge, any other party has accelerated, terminated, modified, or cancelled any material agreement, contract, lease, or license (or series of related material agreements, contracts, leases, and licenses) to which the Company or any Subsidiary is a party or by which any of them is bound;

(iv) IWG, W&C, the Company and each Subsidiary have not imposed or permitted to exist any Lien upon any of the assets of the Company or any Subsidiary (or any predecessor thereof) other than a Permitted Lien;

(v) IWG, W&C, the Company and each Subsidiary have not made any capital expenditure (or series of related capital expenditures) either involving more than

(vi) IWG, W&C, the Company and each Subsidiary have not made any capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person (or series of related capital investments, loans, and acquisitions);

(vii) IWG, W&C, the Company and each Subsidiary have not issued any note, bond, or other debt security or created, incurred, assumed, or guaranteed any indebtedness for borrowed money or capitalized lease obligation;

(viii) IWG, W&C, the Company and each Subsidiary have not cancelled, compromised, waived, or released any material right or claim (or series of related rights and claims);

(ix) IWG, W&C, the Company and each Subsidiary have not transferred, assigned, or granted any license or sublicense of any rights under or with respect to any Intellectual Property Rights;

(x) IWG, W&C, the Company and each Subsidiary have not experienced any damage, destruction, or loss (whether or not covered by insurance) to its property which has had or is reasonably expected to have a Material Adverse Effect;

(xi) IWG, W&C, the Company and each Subsidiary have not made any loan to, or entered into any other transaction with, any of its directors, officers and employees;

(xii) IWG, W&C, the Company and each have not entered into any employment contract or collective bargaining agreement, written or oral, or modified the terms of any existing such contract or agreement;

(xiii) Other than routine year-end bonuses and compensation adjustments made in the Ordinary Course of Business, IWG, W&C, the Company and each Subsidiary have not granted any increase in the base compensation of any of its directors, officers and employee;

(xiv) IWG, W&C, the Company and each Subsidiary have not adopted, amended, modified, or terminated any bonus, profit sharing, incentive, severance, or other plan, contract, or commitment for the benefit of any of its directors, officers and employees (or taken any such action with respect to any other Employee Benefit Plan), except as reasonably necessary or desirable to comply with legal or income tax qualification requirements;

(xv) The Company and each Subsidiary have not made any other change in employment terms for any of its directors, officers and key employees;

(xvi) IWG, W&C, the Company and each Subsidiary have not made or pledged to make any charitable or other capital contribution;

(xvii) IWG, W&C, the Company and each Subsidiary have not discharged any material Liability or Lien;

(xviii) IWG, W&C, the Company and each Subsidiary have not made any loans or advances of money; and

(xix) IWG, W&C, the Company and each Subsidiary have not committed to any of the foregoing.

(x) No Undisclosed Liabilities. To the Company's Knowledge, except as set forth on Schedule 3.1(x) or the Financial Statements, the Company and its Subsidiaries have no Liabilities, other than trade payables incurred in the Ordinary Course of Business, and has no liability which is a Liability resulting from, arising out of, relating to, in the nature of, or caused by any breach of contract, breach of warranty, tort, infringement, violation of law, environmental matter, claim or lawsuit.

(y) Review of Agreement by Senior Management. Each of the MG Principals have reviewed this Agreement (including, without limitation, this Section 3.1) and the Company Disclosure Schedules attached hereto.

**Section 3.2. Representations and Warranties of Seller.** As of the Closing Date, Seller represents to Purchaser as follows:

(a) Ownership of Class A Common Units. Seller owns the Class A Common Units free and clear of all Liens. The delivery or transfer to Purchaser of the Class A Common Units pursuant to the provisions of this Agreement will transfer to Purchaser valid title thereto, free and clear of all Liens.

(b) Authority. Seller has all requisite corporate power, capacity and authority to execute, deliver and perform the Transaction Documents to which it is a Party, and to consummate the transactions contemplated hereby and thereby. The Transaction Documents to which the Seller is a party have been, or upon execution and delivery will be, duly and validly

executed and delivered by the Seller, as applicable, and, assuming that the Transaction Documents constitute the valid and binding agreement of the other Parties thereto, constitute, or upon execution and delivery will constitute, the legal and binding obligation of the Seller, enforceable against the Seller in accordance with their respective terms and conditions, except that the enforcement hereof and thereof may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws now or hereafter in effect relating to creditors' rights generally and (ii) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity).

(c) No Conflicts. The execution, delivery, and performance of the Transaction Documents and the consummation of the transactions contemplated thereby by the Seller do not and shall not, to the Seller's Knowledge, (i) conflict with or result in any material breach of any of the terms, conditions, or provisions of, (ii) constitute a material default under, (iii) result in a material violation of, (iv) give any third party the right to modify, terminate, or accelerate any obligation under, (v) result in the creation of any Lien upon the assets of the Seller under, or (vi) require any authorization, consent, approval, exemption, or other action by or notice or declaration to, or filing with, any Governmental Authority under the provisions of the Seller's organizational documents or any indenture, mortgage, lease, loan agreement, license agreement or other material agreement or instrument to which the Seller is bound, or any Applicable Law to which the Seller is subject.

(d) No Brokers or Finders. Seller has not incurred any obligation or Liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with the transactions contemplated herein.

(e) Litigation. There is no action, suit or judicial or administrative proceeding pending or, to the Knowledge of Seller, threatened against Seller relating to the transactions contemplated by this Agreement or which, if adversely determined, would adversely affect the ability of Seller to perform its obligations and agreements under the Transaction Documents to which it is or will be a party and to consummate the transactions contemplated herein and therein.

**Section 3.3. Representations and Warranties of Purchaser**. As of the Closing Date, Purchaser represents and warrants to the Company and Seller as follows:

(a) Organization; Good Standing and Other Matters. Purchaser is a Texas corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of formation, has all requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted.

(b) Authority. Purchaser has all requisite corporate power and authority to execute and deliver the Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated herein and therein. The execution, delivery and performance of the Transaction Documents by Purchaser and the consummation of the transactions contemplated herein and therein have been duly and validly authorized by all necessary corporate or interest holder action on the part of Purchaser. No other proceedings on the part of Purchaser are necessary to authorize the Transaction Documents to

which Purchaser is a party, to perform Purchaser's obligations hereunder and thereunder or for Purchaser to consummate the transactions contemplated herein and therein. The Transaction Documents to which Purchaser is or will be a party have been, or upon execution and delivery will be, duly and validly executed and delivered by Purchaser, as applicable, and, assuming that the Transaction Documents constitute the valid and binding agreement of the other Parties thereto, constitute, or upon execution and delivery will constitute, the legal and binding obligation of Purchaser, enforceable against Purchaser in accordance with their respective terms and conditions, except that the enforcement hereof and thereof may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws now or hereafter in effect relating to creditors' rights generally and (ii) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity).

(c) No Conflict. The execution, delivery, and performance of the Transaction Documents and the consummation of the transactions contemplated thereby by the Purchaser do not and shall not, to Purchaser's Knowledge, (i) conflict with or result in any material breach of any of the terms, conditions, or provisions of, (ii) constitute a material default under, (iii) result in a material violation of, (iv) give any third party the right to modify, terminate, or accelerate any obligation under, (v) result in the creation of any Lien upon the assets of the Purchaser or upon the Class A Common Units under, or (vi) require any authorization, consent, approval, exemption, or other action by or notice or declaration to, or filing with, any Governmental Authority under the provisions of the Purchaser's organizational documents or any indenture, mortgage, lease, loan agreement, license agreement or other material agreement or instrument to which the Purchaser is bound, or any Applicable Law to which the Purchaser is subject.

(d) Litigation. There is no action, suit or judicial or administrative proceeding pending or, to the Knowledge of Purchaser, threatened against Purchaser relating to the transactions contemplated by this Agreement or which, if adversely determined, would adversely affect the ability of Purchaser to perform its obligations and agreements under the Transaction Documents to which it is or will be a party and to consummate the transactions contemplated herein and therein.

(e) Resale Restrictions. The Purchaser acknowledges that the Class A Common Units have not been, and will not be upon the Purchaser's purchase, registered or qualified under any securities laws, by reason of their transfer in a transaction exempt from the registration or qualification requirements of such laws, and the Class A Common Units must be held indefinitely unless a subsequent disposition thereof is registered or qualified under all applicable securities laws or is exempt from such registration or qualification.

(f) Investment Representation. The Purchaser acknowledges that none of the Class A Common Units are registered under securities laws of any jurisdiction and that it is acquiring the Class A Common Units for its own account, not as a nominee or agent, for investment, and not with a view to distribution thereof. The Purchaser represents that it is an "accredited investor" as such term is defined under the Securities Act and the rules and regulations promulgated thereunder

## ARTICLE IV TAXES

### Section 4.1. Tax Obligation.

(a) Seller and the MG Principals shall be liable and shall fully indemnify Purchaser for (i) all Taxes (or the non-payment thereof) owed by the Company and its Subsidiaries for all taxable periods ending on or before the Closing Date and the portion through the end of the Closing Date for any taxable period that includes (but does not end on) the Closing Date ("Pre-Closing Tax Period"); (ii) all Taxes of any member of an affiliated, consolidated, combined or unitary group of which the Company (or any predecessor of any of the foregoing) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulation §1.1502-6 or any analogous or similar state, local, or foreign law or regulation (including, for avoidance of doubt, Seller); and (iii) any and all Taxes of any Person (other than the Company) imposed on the Company as a transferee or successor, by contract or pursuant to any law, rule, or regulation, which Taxes relate to an event or transaction occurring on or before the Closing. Seller shall reimburse the Company for any Taxes of the Company which are the responsibility of Seller pursuant to this section within fifteen (15) Business Days after payment of such Taxes by the Company.

(b) The Company shall notify the Seller in writing within 10 Business Days after receipt by the Purchaser or the Company of any official inquiry, examination, audit or proceeding ("Audit") regarding any Tax Return or period with respect to which the Seller may have an indemnification obligation under this Section 4.1. The Purchaser and the Company shall cooperate with the Seller, as the Seller may reasonably request, in any such Audit.

(c) In the event that the Seller becomes liable to the Purchaser pursuant to the Seller's obligation to indemnify the Purchaser pursuant to this Section 4.1 (calculated after taking into account any estimated Tax payments or other Tax payments made by the Company prior to the Closing Date), the Seller shall pay such amounts as it is obligated to pay to the Purchaser no later than 15 calendar days after payment of any applicable Tax liability by the Purchaser.

**Section 4.2. Straddle Period.** In the case of any taxable period that includes (but does not end on) the Closing Date (a "Straddle Period"), the amount of any Taxes based on or measured by income, receipts or payments giving rise to any withholding obligation of the Company for the Pre-Closing Tax Period shall be determined based on an interim closing of the books as of the close of business on the Closing Date and the amount of other Taxes of the Company for a Straddle Period which relates to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction the numerator of which is the number of calendar days in the taxable period ending on the Closing Date and the denominator of which is the number of calendar days in such Straddle Period.

### Section 4.3. Tax Elections and Allocations.

(a) The Parties agree that the Company will make a Code Section 754 election on its Tax Return for its taxable year in which the Closing Date occurs.

(b) Within forty-five (45) calendar days after the Closing Date, Purchaser shall prepare in consultation with Seller and deliver to Seller an allocation of the Purchase Price (and any other relevant items) for all Tax purposes (including Code Section 755). The Parties agree to file all Tax Returns in accordance with such allocation and not to take any position inconsistent therewith, except as required by law.

## ARTICLE V INDEMNIFICATION

**Section 5.1. Retained Liabilities.** All Liabilities incurred or arising from events taking place or conditions existing prior to the Effective Date with respect to the Transloading Business and the Railroad Business, including, (i) Taxes; (ii) Employee Benefit Plans; (iii) collective bargaining agreements; (iv) any claim, cause of action, proceeding or litigation pending or threatened against Seller or the Company as of the Effective Date, or which is initiated at any time thereafter and is based, in whole or in part, on acts, facts, circumstances, events or conditions occurring or existing prior to the Effective Date, but only to the extent that the liability relating to any such claim arises out of acts, facts, circumstances, events or conditions occurring or existing prior to the Effective Date; or (v) any grievance proceeding, arbitration, administrative proceeding, or proceedings in any court, based upon any employment actions, inactions or omissions by Seller or the Company, involving any employees or former employees of Seller or the Company, or individuals who applied for employment with Seller or the Company, which relate in any way to decisions to hire or not hire such individuals, decisions to terminate, discharge or lay off such individuals, and decisions regarding payment of compensation and/or benefits to such individuals (collectively, "Retained Liabilities") shall be paid solely by the Sellers; provided, however, that the Company will assume any and all contractual performance obligations and commitments relating exclusively to the Transloading Business and the Railroad Business that exist as of the Closing Date, are to be performed on or after the Effective Date and that were incurred in the ordinary course of business consistent with prior practice and in accordance with the terms of this Agreement.

**Section 5.2. Survival of Representations, Warranties and Agreements.** The representations and warranties of Company and its Subsidiaries, Seller and Purchaser set forth in the Transaction Documents and in any certificate delivered in connection with the other Transaction Documents and the right of an Indemnified Person to assert any claim for

indemnification pursuant to this Article X shall survive the Closing until 5:00 p.m. on the 24 month anniversary following the Closing Date (the “Expiration Date”); provided, however, that for indemnification from and against Losses arising out of, resulting from or in connection with (i) (x) fraud or intentional misrepresentation by any party shall survive indefinitely, (y) the Retained Liabilities shall survive indefinitely or (z) any of the representations and warranties contained in Sections 3.1(a), through 3.1(d), 3.2(a), 3.2(b), 3.3(a), and 3.3(b), shall survive indefinitely, and (ii) the representations and warranties contained in Section 3.1(n) shall survive until the expiration of the applicable statute of limitations. The covenants and other agreements of Purchaser, Seller, the Company and its Subsidiaries set forth in the Transaction Documents shall survive the Closing Date until fully performed.

**Section 5.3. Indemnification of the Purchaser Indemnified Persons.** Subject to the limitations on recourse and recovery set forth in this Article V, Seller shall indemnify, defend and hold harmless Purchaser, its Affiliates and the Purchaser’s, officers, agents and partners (the “Purchaser Indemnified Persons”) from and against any and all Losses imposed upon or incurred by any Purchaser Indemnified Person after the Closing, in connection with, arising out of or resulting from (any of such Losses set forth below, a “Purchaser Indemnification Claim”):

(a) the inaccuracy or breach of any representation or warranty made by the Company and its Subsidiaries or Seller in Section 3.1 and Section 3.2 or by Seller or the Company and its Subsidiaries (as applicable) in any certificate delivered by or on behalf of the Company to Purchaser prior to the Closing in connection with this Agreement;

(b) any non-fulfillment or breach by Seller, the Company or its Subsidiaries, respectively, of any covenant or agreement made by Seller, the Company or its Subsidiaries under the Transaction Documents and which is required to be performed by Seller, the Company or its Subsidiaries (as applicable) prior to the Closing, and which has not been waived in writing by Purchaser; and

(c) the Retained Liabilities.

**Section 5.4. Indemnification of Seller Indemnified Persons.** From and after the Closing, Purchaser shall indemnify, defend and hold harmless Seller and its Affiliates, and any of their respective officers, directors, agents and interest holders (including any officer, director, manager, employee, agent and representative of the Company prior to the Closing Date) and the MG Principals (collectively, the “Seller Indemnified Persons”) from and against any and all Losses imposed upon or incurred by (any Seller Indemnified Person after the Closing in connection with, arising out of or resulting from any of such Losses, a “Seller Indemnification Claim”):

(a) the inaccuracy or breach of any representation or warranty made by Purchaser in Section 3.3, in any other Transaction Document, or in any certificate delivered by or on behalf of Purchaser to the Seller, the Company and its Affiliates in connection with the Transaction Documents; or

(b) any non-fulfillment or breach of any covenant or agreement (i) made by Purchaser under the Transaction Documents or (ii) made by the Company under the Transaction

Document and, in the case of this clause (ii), which is required to be performed at or after the Closing.

**Section 5.5. Limitations.**

(a) Minimum Loss Except for the claims of indemnification in respect of the Retained Liabilities or of breaches of Sections 3.1(a), through 3.1(d), 3.1(n), 3.2(a) and 3.2(b), the Purchaser Indemnified Persons shall not be entitled to be indemnified for Losses pursuant to Section 5.3(a) and Section 5.3(b) (in the absence of fraud or intentional misrepresentation) unless and until the aggregate amount of all such Losses exceeds (the "Minimum Loss"). After the Minimum Loss is exceeded, Purchaser Indemnified Persons shall be entitled to be paid the entire amount of any Losses pursuant to Section 5.3 relating back to the first dollar of Losses (if any).

(b) Limitation as to Time. No Indemnifying Person shall be liable for any Losses that are indemnifiable under Section 5.2 or Section 5.3 unless a Notice of Claim for indemnification under this Agreement is delivered by the Indemnified Person to the Indemnifying Person with respect thereto prior to the Expiration Date other than matters set forth in Section 5.1 that survive beyond the Expiration Date.

(c) Limitation of Loss Sole and Exclusive Remedy. Each of Purchaser, the Company and Seller acknowledges and agrees that, after the Closing, notwithstanding any other provision of this Agreement to the contrary, the sole and exclusive remedy of the Purchaser Indemnified Persons and Seller Indemnified Persons with respect to Claims for Losses or otherwise, including those set forth in Sections 5.2 and 5.3, in connection with, arising out of or resulting from the subject matter of the Transaction Documents and the transactions contemplated hereby (in the absence of fraud or intentional misrepresentation) and thereby shall be in accordance with, and limited solely to indemnification under, the provisions of this ARTICLE V.

(d) Obligations of the MG Principals. Notwithstanding anything in this Agreement to the contrary, in the event that the Seller becomes obligated to make payments pursuant to Section 5.3, each MG Principal shall be jointly and severally liable to the Purchaser Indemnified Persons for such Seller obligations; provided, however, that the cumulative indemnification obligations of the MG Principals shall in no event exceed

**Section 5.6. Notice of Claim and Third Party Claims.**

(a) The Seller or the Purchaser may give notice of a Claim under this Agreement, whether for its own Losses or for Losses incurred by any other Indemnified Persons, as the case may be (each, an "Indemnified Party"), and such Indemnified Party shall give such written notice of a Claim executed by an officer of such Indemnified Party (a "Notice of Claim") to the other Party from which indemnification under this Article V may be due (the "Indemnifying Party") promptly after the Indemnified Party becomes aware of the existence of any potential claim by any Indemnified Party for indemnification from the Indemnifying Party under this Article V.

(b) Notwithstanding anything contained herein to the contrary, any Claims for Losses specified in any Notice of Claim delivered to the Indemnifying Party prior to the Expiration Date with respect to facts and circumstances existing prior to the Expiration Date shall remain outstanding until such Claims for Losses have been resolved or satisfied, notwithstanding the Expiration Date. Until the Expiration Date, no delay on the part of the Indemnified Party in giving the Indemnifying Party a Notice of Claim shall relieve the Indemnifying Party from any of its obligations under this Article V unless (and then only to the extent that) the Indemnifying Party is prejudiced thereby.

(c) If an Indemnified Person gives a Notice of Claim in accordance with the requirements of Section 5.6(a) and Section 5.7 of the assertion of a Claim resulting from the assertion of a liability by third parties (a "Third Party Claim"), the Indemnifying Person shall have the right to commence legal proceedings. If such legal proceedings are commenced by the Indemnified Person, the Indemnifying Person shall be entitled to participate in and assume the defense of such Third Party Claim using counsel reasonably satisfactory to the Indemnified Person; provided, however, that the Indemnifying Person shall not be entitled to assume the defense of such Third Party Claim if (i) the Indemnifying Person is also a Person against whom the Third Party Claim is made and the Indemnified Person determines in good faith that (A) joint representation would be inappropriate, or present a conflict of interest, or (B) there are legal defenses available to the Indemnified Party that are different from or in addition to those available to the Indemnifying Person; (ii) the Indemnifying Person fails to provide reasonable assurance to the Indemnified Person of its financial capacity to defend such Third Party Claim and provide indemnification with respect to such Third Party Claim; (iii) the Third Party Claim seeks, or is reasonably likely to seek or result in, the imprisonment of, the imposition of a criminal penalty or fine against, or the imposition of an equitable remedy with respect to, the Indemnified Persons; or (iv) the damages sought in such Third Party Claim, taken together with the estimated costs of defense thereof and the amount claimed by the Indemnified Persons with respect to any unresolved claims for indemnification then pending, is greater than \$ .

Subject to the foregoing, after notice from the Indemnifying Person to the Indemnified Person of its election to assume the defense of such Third Party Claim, the Indemnifying Person shall, so long as it diligently conducts such defense, (i) not be liable to the Indemnified Person for any fees of other counsel or any other expenses with respect to the defense of such Third Party Claim subsequently incurred by the Indemnified Person in connection with the defense of such Third Party Claim and (ii) have full control over the conduct of such proceeding. If the Indemnifying Person assumes the defense of a Third Party Claim, (i) such assumption will conclusively establish for purposes of this Agreement that the claims made in that Third Party Claim are within the scope of and subject to indemnification obligations set forth in Section 5.3, and (ii) no compromise or settlement of such Third Party Claim may be effected by the Indemnifying Person without the Indemnified Person's written consent unless (A) there is no finding or admission of any violation of Law or any violation of the rights of any Person; (B) the sole relief provided is monetary damages that are paid in full by the Indemnifying Person; and (C) the Indemnified Person shall have no liability or obligation (including without limitation any obligation to take or to refrain from taking any action) with respect thereto. If notice is given to an Indemnifying Person of the assertion of any Third Party Claim and the Indemnifying Person does not, within ten (10) calendar days after such notice is given, give notice to the Indemnified Person of its election to assume the defense of such Third Party Claim, the Indemnifying Person will be deemed to have waived the right to defend such Third Party Claim and shall be bound by

any determination made in such Third Party Claim or any compromise or settlement effected by the Indemnified Person.

(d) Notwithstanding the foregoing provisions of Section 5.6(c), if an Indemnified Person determines in good faith that there is a reasonable probability that a Third Party Claim may adversely affect the Company, its Subsidiaries, the Indemnified Person or its Affiliates other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Person may, by notice to the Indemnifying Person, assume the exclusive right to defend, compromise or settle such Third Party Claim, but the Indemnifying Person will not be bound by any determination of any Third Party Claim so defended for the purposes of this Agreement or any compromise or settlement effected without its consent (which shall not be unreasonably withheld). In the event that the Company so elects to assume the exclusive right to defend the claim described on Schedule 3.1(h), the Company shall assume the legal fees and expenses related to the defense of such claim going forward, but the Indemnifying Party shall remain liable for the claim, subject to the provisions of this Section 5.6(d).

(e) With respect to any Third Party Claim subject to indemnification under this Section 5.6: (i) both the Indemnified Person and the Indemnifying Person, as the case may be, shall keep the other Person fully informed of the status of such Third Party Claim and any related proceedings at all stages thereof where such Person is not represented by its own counsel, (ii) the parties agree (each at its own expense) to render to each other such assistance as they may reasonably require of each other and to cooperate in good faith with each other in order to ensure the proper and adequate defense of any Third Party Claim and (iii) the parties agree to cooperate in such a manner as to preserve in full (to the extent possible) the confidentiality of all the attorney-client and work-product privileges.

**Section 5.7. Contents of Notice of Claim.** Each Notice of Claim by the Indemnified Party shall contain the following information:

(a) that the Indemnified Party has directly or indirectly incurred, paid or properly accrued or, in good faith, believes it shall have to directly or indirectly incur, pay or accrue. Losses in an aggregate stated amount arising from such Claim (which amount may be an estimated amount and may be the amount of Losses claimed by a third party in an action brought against any Indemnified Party based on alleged facts, which if true, would give rise to Liability for Losses to such Indemnified Party under this Article V); and

(b) a brief description, in reasonable detail (to the extent reasonably available to the Indemnified Party), of the facts, circumstances or events giving rise to the alleged Losses based on the Indemnified Party's good faith belief thereof, including the identity and address of any third-party claimant (to the extent reasonably available to the Indemnified Party) and copies of any formal demand or complaint, the amount of Losses (to the extent known), or the basis for such anticipated Liability, and the specific nature of the breach to which such item is related.

**Section 5.8. Resolution of Notice of Claim.** Each Notice of Claim given by the Indemnified Party shall be resolved as follows:

(a) If the Indemnifying Party gives the Indemnified Party written notice contesting all or any portion of a Notice of Claim (a "Contested Claim") within the twenty (20) Business Day period following the Indemnifying Party's receipt of the Notice of Claim, then the Indemnified Party and the Indemnifying Party shall attempt in good faith for twenty (20) Business Days after Indemnified Party's receipt of such notice to resolve such objection. If the Indemnified Party and the Indemnifying Party shall so agree, a memorandum setting forth such agreement shall be prepared and signed by both parties.

(b) If no such agreement can be reached during such twenty (20) Business Day period with respect to a Contested Claim, each party hereto agrees that the Contested Claim shall be submitted to binding arbitration before the American Arbitration Association ("AAA"). Arbitration shall be the sole and exclusive method for resolving any Contested Claim arising out of or relating to the rights and obligations of the Indemnifying Party and the Indemnified Party under the Transaction Documents, whether such claim arose or the facts on which such Contested Claim is based occurred prior to or after the execution and delivery of the Transaction Documents. With respect to any such arbitration, the Parties hereto agree that (i) the AAA Commercial Arbitration Rules (including the AAA Procedures for Large, Complex Commercial Disputes) in place at the commencement of the arbitration ("AAA Rules") shall govern; (ii) the arbitration will be conducted before a single arbitrator who shall be selected pursuant to the AAA Rules; (iii) the place of arbitration, including all meetings of the Parties and all hearings, is Jacksonville, Florida; (iv) the arbitration hearing shall be recorded and transcribed by a court reporter; (v) the arbitrator shall not have authority to award to a Party attorneys' fees and costs except as otherwise specifically contemplated in this Agreement; and (vi) all costs and expenses of the arbitration proceeding (such as filing fees, the arbitrator's fees, hearing expenses, and court reporter fees) shall be borne equally by the Indemnifying Party and the Indemnified Party. Judgment upon an arbitration award (including adjudication of a request to enforce the award) may be entered in a court. This agreement to arbitrate shall not preclude a Party from seeking provisional remedies from a court in aid of arbitration, including temporary and preliminary injunctive relief pending completion of the arbitration. For purposes of any lawsuit or other action arising under or related to this Agreement, each Party hereby expressly consents and agrees (i) to the personal jurisdiction and venue of the state and federal courts located in Duval County, Florida; (ii) that it will not contest jurisdiction or venue in the state and federal courts located in Duval County, Florida; (iii) that the state or federal courts located in Duval County, Florida shall be the exclusive forum for the enforcement of any such final judgment, award or determination of the arbitration or such other lawsuit or action arising under or related to this Agreement; (iv) to waive any objection on the ground of inconvenience of the Duval County, Florida forum; and (v) to service of process by registered mail or personal service.

(c) Set Off. In addition to any other rights or remedies available at law or in equity, if a Purchaser Indemnified Person has not been paid for any Losses for which such Purchaser Indemnified Person is entitled to indemnification under this Agreement by the later of (x) twenty (20) calendar days after the receipt of a Notice of Claim by Seller or (y) ten (10) calendar days after the resolution of a Contested Claim pursuant to Section 5.7 (the "Non-Payment Date"), such Purchaser Indemnified Person may request the Company to set off any indemnification to which the Purchaser Indemnified Person is entitled under this Agreement against any amount otherwise payable to the Seller from the Company pursuant to the terms of the Amended and Restated Operating Agreement by delivery to the Company of a set off notice

(the "Set Off Notice"). Upon receipt of the Set Off Notice, the Company hereby agrees to set off any amounts otherwise payable to Seller and promptly deliver such amount to Purchaser. The foregoing right of set off is a non-exclusive remedy for a Purchaser Indemnified Person and is in addition to, and not in lieu of, any other rights or remedies available to a Purchaser Indemnified Person under this Agreement or at law or in equity.

**Section 5.9. Damages.** Notwithstanding anything to the contrary contained herein, neither party shall be entitled to claim, and hereby expressly waives any right to, any and all punitive damages (regardless of legal theory) other than in connection with a claim by a third party.

**Section 5.10. Indemnification Payments.** Any indemnification payments made by the Seller pursuant to this Article V shall be treated by all Parties as an adjustment to the Purchase Price hereunder.

**Section 5.11. Taxes.** Notwithstanding anything to the contrary herein, Article IV shall remain independent of this Article V in all respects and shall not be limited in any way by the provisions of this Article V.

## **ARTICLE VI RESERVED**

## **ARTICLE VII TERMINATION**

**Section 7.1. Termination.** This Agreement may be terminated at any time prior to the Closing Date:

- (a) by mutual written consent of the Purchaser and the Seller;
- (b) by Purchaser or Seller if the Closing has not been consummated on or before April 30, 2012; provided, however, that such a Party shall not be entitled to terminate this Agreement pursuant to this Section 2.9 if that Party's knowing or willful breach of this Agreement has prevented or materially delayed the consummation of the transactions contemplated hereby (provided, further, that for purposes of this provision, the Seller collectively shall be treated as one Party);
- (c) by Purchaser if there has been a material violation or breach by a Seller of any covenant, agreement, representation or warranty contained in this Agreement that has prevented the satisfaction of any condition to the obligations of the Purchaser at the Closing as set forth in Section 2.3, and such violation or breach has not been waived by the Purchaser or, in the case of a covenant breach, cured by the breaching Party within ten (10) calendar days after written notice thereof from Purchaser;
- (d) by a Seller if there has been a material violation or breach by Purchaser of any covenant, agreement, representation or warranty contained in this Agreement that has

prevented the satisfaction of any condition to the obligations of the Seller at the Closing as set forth in Section 2.4, and such violation or breach has not been waived by Seller or, in the case of a covenant breach, cured by Purchaser within ten (10) calendar days after written notice thereof from a Seller;

(e) by either Purchaser or a Seller if any Governmental Authority shall have issued an order, decree or ruling or taken any other action permanently enjoining, materially restraining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement and such order, decree or ruling or other action shall have become final and nonappealable; and

(f) by Purchaser if the Surface Transportation Board shall fail to approve or exempt the transaction or shall impose conditions on the Purchaser in connection with the transaction other than standard labor protective conditions.

**Section 7.2. Effect of Termination.** Upon any termination of this Agreement by either the Purchaser or Seller as provided in Section 7.1, this Agreement shall become void and of no further force and effect and there shall be no liability or obligation under this Agreement on the part of Purchaser or Seller, or their respective officers, directors, partners, shareholders, employees, agents and representatives, if any, except with respect to Sections 7.2, and 8.6; provided, however, that nothing herein shall relieve any Party of its liability, if any, for any breach of this Agreement by such Party prior to its termination.

## **ARTICLE VIII GENERAL PROVISIONS**

**Section 8.1. Amendment and Modification.** This Agreement may be amended only by an instrument in writing signed by the Parties hereto, provided that such amendment has been authorized by action taken by their respective governing boards; provided, however, that no amendment shall be made which requires further approval by a Party's unitholders or interestholders under Applicable Law without such further approval

**Section 8.2. Waiver of Compliance.** Except as otherwise provided in Section 5.5(b), any failure of Purchaser on the one hand, or the Company or Seller, on the other hand, to comply with any obligation, covenant, agreement or condition contained herein may be waived only if set forth in an instrument in writing signed by the Party or Parties to be bound by such waiver (including, if such waiver is after the Closing, the third-party beneficiaries set forth in Section 5.5), but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any other failure.

**Section 8.3. Severability.** If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Applicable Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated herein is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Governmental Authority making

such determination is authorized and instructed to modify this Agreement so as to effect the original intent of the parties as closely as possible in order that the transactions contemplated herein are consummated as originally contemplated to the fullest extent possible.

**Section 8.4. Expenses and Obligations.** Except as otherwise expressly provided in this Agreement, all costs and expenses incurred by the Parties hereto in connection with the transactions contemplated by this Agreement shall be borne solely and entirely by the Party that has incurred such expenses. Neither Seller nor Purchaser has incurred any liability to any broker, finder, financial advisor or agent for any brokerage fees.

**Section 8.5. Parties in Interest.** This Agreement shall be binding upon and inure solely to the benefit of each Party hereto and its successors and permitted assigns. Nothing in this Agreement is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement except as expressly set forth herein. Notwithstanding the foregoing, from and after the Closing, as may be applicable, ARTICLE V is made for the benefit of (a) Seller, (b) any of the Company's, or its Subsidiaries, managers, officers, employees, agents and representatives and (c) the Purchaser and its Affiliates. From and after the Closing, all of the Persons identified in clauses (a), (b) and (c) in the immediately preceding sentence shall be entitled to enforce such provisions and to avail themselves of the benefits of any remedy for any breach of such provisions, all to the same extent as if such Persons were parties to this Agreement.

**Section 8.6. Notices.** All notices and other communications hereunder shall be in writing and shall be deemed given if delivered by hand, mailed by registered or certified mail (return receipt requested), sent by facsimile or sent by Federal Express or other recognized overnight courier to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

If to the Company, to:

c/o Myles Group, LLC  
256 Eagleview Blvd. - PMB 261  
Exton, PA 19341  
Attn: Tommy Myles

If to Seller, to:

c/o Myles Group, LLC  
256 Eagleview Blvd. - PMB 261  
Exton, PA 19341  
Attn: Tommy Myles

If to Purchaser, to:

RailTex, Inc.  
c/o RailAmerica  
7411 Fullerton Street, Suite 300  
Jacksonville, FL 32256  
Attn: Scott Williams

with a copy to:

Cynthia A. Bergmann  
Freeborn & Peters LLP  
311 S. Wacker Drive, Suite 3000  
Chicago, IL 60606-6683  
(312) 360-6652 (Phone)  
(312) 360-6598 (Fax)

Any of the above addresses may be changed at any time by notice given as provided above; provided, however, that any such notice of change of address shall be effective only upon receipt. All notices, requests or instructions given in accordance herewith shall be deemed received on the date of delivery, if hand delivered, on the date of receipt, if transmitted by facsimile, three (3) Business Days after the date of mailing, if mailed by registered or certified mail, return receipt requested and one (1) Business Day after the date of sending, if sent by Federal Express or other recognized overnight courier.

**Section 8.7. Counterparts.** This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart.

**Section 8.8. Time.** Time is of the essence in each and every provision of this Agreement.

**Section 8.9. Entire Agreement.** This Transaction Documents (which shall include the Exhibits and Schedules thereto and the other certificates, documents and instruments delivered thereunder) constitute the entire agreement of the Parties hereto and supersede all prior agreements, letters of intent and understandings, both written and oral, among the Parties with respect to the subject matter of the Transaction Documents. There are no representations or warranties, agreements or covenants other than those expressly set forth in the Transaction Documents.

**Section 8.10. Public Announcements.** Prior and after the Closing, no Party hereto shall issue any press release, make any public statement or provide any detail in any document or material filed with any governmental or other entity with respect to this Agreement or the transactions contemplated hereby without the prior written consent of Purchaser and the Seller, except that any Party may make any disclosure required by Applicable Law (including federal

securities laws) or by order of a court of competent jurisdiction if it determines in good faith that it is required to do so and, with respect to each such disclosure, provides the other Parties with prior notice describing in reasonable detail the proposed content of such disclosure and a reasonable opportunity to review and comment upon the form and substance of such disclosure and protect against any such disclosure.

**Section 8.11. Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of his, her or its rights, interests or obligations hereunder without the prior written approval of Purchaser, Seller and the Company.

**Section 8.12. Rules of Construction.**

(a) Each of the Parties acknowledges that it has been represented by independent counsel of its choice throughout all negotiations that have preceded the execution of this Agreement and that it has executed the same with consent and upon the advice of said independent counsel. Each Party and its counsel cooperated in the drafting and preparation of this Agreement and the documents referred to herein, and any and all drafts relating thereto shall be deemed the work product of the Parties and may not be construed against any Party by reason of its preparation. Accordingly, any rule of law or any legal decision that would require interpretation of any ambiguities in this Agreement against any Party that drafted it is of no application and is hereby expressly waived.

(b) The inclusion of any information in Company Disclosure Schedules shall not be deemed an admission or acknowledgment, in and of itself and solely by virtue of the inclusion of such information in Company Disclosure Schedules, that such information is required to be listed in Company Disclosure Schedules or that such items are material to the Company, Purchaser, or Seller as the case may be. The Company Disclosure Schedules have been arranged in sections and subsections corresponding to the numbered and lettered sections and subsections contained in this Agreement. With respect to any item, information or matter that is disclosed in any of the Company Disclosure Schedule, such item, information or matter shall be deemed to have been included in all other sections of the Company Disclosure Schedule where such disclosure is reasonably apparent on its face.

(c) The specification of any dollar amount in the representations and warranties or otherwise in this Agreement or in the Company Disclosure Schedules is not intended and shall not be deemed to be an admission or acknowledgment of the materiality of such amounts or items, nor shall the same be used in any dispute or controversy between the Parties to determine whether any obligation, item or matter (whether or not described herein or included in any schedule) is or is not material for purposes of this Agreement.

(d) All references in this Agreement to Exhibits, Schedules, Articles, Sections, subsections and other subdivisions refer to the corresponding Exhibits, Schedules, Articles, Sections, subsections and other subdivisions of this Agreement unless expressly provided otherwise. Titles appearing at the beginning of any Articles, Sections, subsections or other subdivisions of this Agreement are for convenience only, do not constitute any part of such Articles, Sections, subsections or other subdivisions, and shall be disregarded in construing the

language contained therein. The words "this Agreement," "herein," "hereby," "hereunder" and "hereof and words of similar import, refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The words "this Section," "this subsection" and words of similar import, refer only to the Sections or subsections hereof in which such words occur. The word "including" (in its various forms) means "including, without limitation." Pronouns in masculine, feminine or neuter genders shall be construed to state and include any other gender and words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise expressly requires. Unless the context otherwise requires, all defined terms contained herein shall include the singular and plural and the conjunctive and disjunctive forms of such defined terms. Unless the context otherwise requires, all references to a specific time shall refer to Jacksonville, Florida time.

**Section 8.13. GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, WITHOUT GIVING EFFECT TO ANY CONFLICTS OF LAW PROVISIONS.

**Section 8.14. WAIVER OF JURY TRIAL.** TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT IRREVOCABLY WAIVES AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON, OR IN CONNECTION WITH, THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 11.14 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

**Section 8.15. No Solicitation of Other Bids.**

(a) At all times during the period which begins on the Effective Date and ends on the date on which this Agreement is terminated in accordance with Article VII, the MG Principals shall not authorize or permit the Company, IWG or W&C, on any Affiliates of the Seller or the MG Principals to directly or indirectly, (i) encourage, solicit, initiate, or continue inquires regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, provide any information to any Person concerning a possible Acquisition Proposal or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. Seller and the MG Principals shall immediately cease and cause to be terminated, and shall cause all Affiliates of the Seller and the MG Principals to immediately cease and cause to be terminated, all existing discussions negotiations with any Persons with respect to, or that could lead to, an Acquisition Proposal.

(b) Seller and each MG Principal shall promptly advise Purchaser in writing of any Acquisition Proposal, any request for information with respect to any Acquisition Proposal, or any inquiry with respect to or which could reasonably be expected to result in an

Acquisition Proposal, the material terms and conditions of such request, Acquisition Proposal or inquiry and the identity of the Person making same.

**Section 8.16. Specific Performance.** Seller and the MG Principals agree that in addition to the rights and remedies set forth in this Agreement, the breach or threatened breach of this Agreement shall cause irreparable harm to the Purchaser and that money damages would not provide adequate remedy to the Purchaser and, in the event of such breach or threatened breach, the Purchaser may, at its sole election, seek to have a court of equity jurisdiction to have this Agreement specifically enforced.

[Remainder of the Page Intentionally Left Blank. Signature Page Follows ]

IN WITNESS WHEREOF, the Company, Purchaser, and Seller have caused this Agreement to be signed, all as of the date written above.

**The Company:**

**TransRail Holdings LLC,**  
a Delaware limited liability company

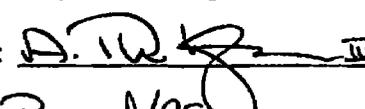
By:   
Its: President

**The Seller:**

**Industrial Waste Group, LLC, a**  
Delaware limited liability company

By:   
Its: Principal/CFO

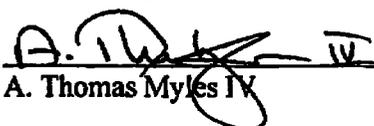
**Wellsboro & Corning Railroad Co.,**  
a Pennsylvania Corporation

By:   
Its: Principal/CFO

**The Purchaser:**  
**RailTex, Inc.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**MG Principals**

  
A. Thomas Myles IV

\_\_\_\_\_  
A. Thomas Myles III

\_\_\_\_\_  
William Myles

**IN WITNESS WHEREOF**, the Company, Purchaser, and Seller have caused this Agreement to be signed, all as of the date written above.

**The Company:**

**TransRail Holdings LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

**The Seller:**

**Industrial Waste Group, LLC, a**  
Delaware limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

**Wellsboro & Corning Railroad Co.,**  
a Pennsylvania Corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

**The Purchaser:**  
**RailTex, Inc.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**MG Principals**

\_\_\_\_\_  
A. Thomas Myles IV

\_\_\_\_\_  
A. Thomas Myles III

\_\_\_\_\_  
William Myles

**IN WITNESS WHEREOF**, the Company, Purchaser, and Seller have caused this Agreement to be signed, all as of the date written above.

**The Company:**

**TransRail Holdings LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

**The Seller:**

**Industrial Waste Group, LLC, a**  
Delaware limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

**Wellsboro & Corning Railroad Co.,**  
a Pennsylvania Corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

**The Purchaser:**  
**RailTex, Inc.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**MG Principals**

\_\_\_\_\_  
A. Thomas Myles IV

\_\_\_\_\_  
A. Thomas Myles III

  
\_\_\_\_\_  
William Myles

IN WITNESS WHEREOF, the Company, Purchaser, and Seller have caused this Agreement to be signed, all as of the date written above.

**The Company:**

**TransRail Holdings LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

**The Seller:**

**Industrial Waste Group, LLC, a**  
Delaware limited liability company

By: \_\_\_\_\_

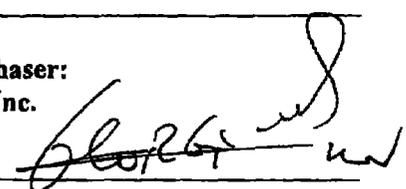
Its: \_\_\_\_\_

**Wellsboro & Corning Railroad Co.,**  
a Pennsylvania Corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

**The Purchaser:**  
**RailTex, Inc.**

By: \_\_\_\_\_ 

Its: VICE PRESIDENT

**MG Principals**

\_\_\_\_\_  
A. Thomas Myles IV

\_\_\_\_\_  
A. Thomas Myles III

\_\_\_\_\_  
William Myles

**Exhibit A**

**The Amended and Restated Limited Liability Company  
Agreement of TransRail Holdings, LLC**

**REDACTED**

**Exhibit B-1**  
**Form Employment Agreement**

**REDACTED**

**Exhibit B-2**  
**Form Consulting Agreement**

**REDACTED**

**Disclosure Schedule**  
to  
**Unit Purchase Agreement ("Agreement")**  
among  
**TransRail Holdings, LLC, Industrial Waste Group, LLC,  
Wellsboro & Corning Railroad Co., RailTex, Inc.,  
A. Thomas Myles III, A. Thomas Myles IV and William Myles**  
Dated January 31, 2012

This Disclosure Schedule is given pursuant to the Agreement and is arranged in section numbers corresponding to the lettered and numbered sections of the Agreement. Each section in this Disclosure Schedule qualifies the corresponding representation, warranty or covenant contained in the Agreement. The capitalized terms used herein but not otherwise defined in this Disclosure Schedule shall have the meanings ascribed to them in the Agreement. The headings contained in this Disclosure Schedule are for convenience of reference only and shall not be deemed to modify or influence the interpretation of the information contained in this Disclosure Schedule or the Agreement.

Certain agreements and other matters are listed in this Disclosure Schedule for informational purposes only, notwithstanding the fact that, because they do not rise above the applicable materiality thresholds or otherwise, they are not required to be listed herein by the terms of the Agreement. In no event shall the listing of such agreements or other matters in this Disclosure Schedule be deemed or interpreted to broaden or otherwise amplify the Purchaser's or Seller's or Seller's Principal's representations and warranties or covenants contained in the Agreement, and nothing in this Disclosure Schedule shall influence the construction or interpretation of any of the representations and warranties or covenants contained in the Agreement. Furthermore, the disclosure of a particular item of information in this Disclosure Schedule shall not be taken as an admission by the Purchaser or any Seller that such Disclosure is required to be made under the terms of any of such representations and warranties.

Any fact or item that is disclosed in any section of this Disclosure Schedule that is referenced to in any representation and warranty or other applicable section of the Agreement shall be deemed to be disclosed with regard to any other representation and warranty or other applicable section of the Agreement so long as it is reasonably apparent that such disclosure is applicable to such other representation and warranty or other section (by cross-reference or otherwise).

The statements and information contained in the attached schedules are true, correct and complete as of the date of the Agreement, and may be updated in accordance with terms of the Agreement.

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule 2.3(f) – TransRail Holdings, LLC Officers and Directors**

1. Thomas A. Myles, III – Board Member
2. Thomas A. Myles, IV – Board Member and President
3. William Myles – Board Member

**Disclosure Schedule**  
**to**  
**Unit Purchase Agreement**

**Schedule 2.8(d)(iii) – Consents to Material Contracts**

REDACTED

Disclosure Schedule  
to  
Unit Purchase Agreement

REDACTED

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule 3.1(c) – Subsidiaries and Owners**

*Currently none, but once the Reorganization Transaction occurs in accordance with the Agreement, then the following*

1. Wellsboro & Coming Railroad II, LLC, a Delaware limited liability company. The sole owner of which is Company.
2. TransRail North America, LLC, a Delaware limited liability company. The sole owner of which is Company.

**Disclosure Schedule**  
**to**  
**Unit Purchase Agreement**

**Schedule 3.1 (f) – Financial Statements**

See attached.

REDACTED

**Disclosure Schedule**  
**to**  
**Unit Purchase Agreement**

**Schedule 3.1 (g) – Required Permits and Consents**

1. Wellsboro & Corning Railroad Co. is the holder of Public Service Liquor License No. P 142, LID 60412 (the "Liquor License"). The Liquor License was issued on January 1, 2012 and expires December 31, 2012. Wellsboro & Corning Railroad Co. also holds a Wholesale Liquor License Permit, which expires December 31, 2012 (the "Liquor Purchase Permit"). The transfer of both the Liquor License and Liquor Purchase Permit will require the approval of the Pennsylvania Liquor Control Board. The transfer of the Liquor License and Liquor Purchase Permit are not conditions to Closing under the Agreement.

**Disclosure Schedule**  
**to**  
**Unit Purchase Agreement**

**Schedule 3.1 (h) – Litigation**

REDACTED

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule 3.1 (i) – Insurance Policies**

*Currently none, however, Wellsboro & Corning Railroad CO. and Industrial Waste Group, LLC maintain the insurances set forth below:*

**1. Arch Insurance Group**

***Insured: Wellsboro & Corning Railroad Company***

***Policy No. SLR0047876-00***

***Policy Period: 01/01/12 to 01/01/13***

***Annual Premium:***

***Limits and coverage: See certificate***

**2. Aspen Specialty Insurance Company**

***Insured: Industrial Waste Group, LLC***

***Policy No. ERA7GXL11***

***Policy Period: 09/10/11 to 09/10/12***

***Annual Premium:***

***Limits and coverage: See certificate***

**3. Commercial Auto Insurance Coverage**

**Progressive**

***Insured: Industrial Waste Group, LLC***

***Policy No. 05989264-4***

***Policy Period: 09/25/2011 to 09/25/2012***

***Annual Premium:***

***Limits and coverage: See declarations page***

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule 3.1 (j) – Real Property**

None. But following the Reorganization Transaction in accordance with the Agreement, the following disclosure shall apply:

Neither Company nor its Subsidiaries own Real Property. Wellsboro & Corning Railroad Co. entered into a Land Contract (further identified on Schedule 2.8(d)(iii)) for the purchase of certain land consisting of 22.3 acres located at the south end of North Dresser Road in Wellsboro, Pennsylvania from Eugene C. Witman and Bonnie J. Witman. The Land Contract calls for monthly payments, with the last payment due on April 15, 2012. Upon full payment of the purchase price, the sellers will deliver a general warranty deed to the subject property, free and clear of all encumbrances, to Wellsboro & Corning Railroad II, LLC.

**Disclosure Schedule**  
to  
**Unit Purchase Agreement**

**Schedule 3.1 (k) – Tangible Personal Property**

**(a) Wellsboro & Corning Railroad Co.**

WELLSBORO & CORNING	TITLE / BILL OF SALE LISTING			
ITEM	STATE	BILL OF SALE	TITLE	NOTES
1988 GMC BUCKET TRUCK	PA		39453030	ID#1GDJR34M1JJ509059
1988 MARK LINE GS-1048 OFFICE TRAILER	PA	YES - 2/9/2011		ID#7105383
1978 GMC HYRAIL TRUCK - M1	PA		41800238	ID#TPL3283502944
Alco S2 Loco#14				
RS-1 Loco #47				
RS-1 Loco #62				
RS-1 Loco #240				
RS-3u 508				
Coach #263				
Coach #285				
Open Air Coach #300				
Budd Coach #365				
CN Dinner #370				
PRR P-70 Coach				
Baggage/Power#410				
CN Hwt. Coach #500				
Boxcar #759				
PRR Hopper #671044				
Ene Box #71570				
Tank Car #18902				
Coach #212				
OBS Car #54				
Forklift				
Air Jacks				

**(b) Industrial Waste Group, LLC**

IWG	TITLE / BILL OF SALE LISTING				
ITEM	STATE	Date in Service	BILL OF SALE	TITLE	NOTES
1978 FORD TRUCK	OH			7600646587	ID#60DVBJ0764
1967 CHEVROLET CS5 TRUCK	OH			1500760349	ID#CS537F316341
31 Hoppers		01/01/2010			

**Disclosure Schedule  
to  
Unit Purchase Agreement**

Boxes		04/28/2010			
1998 GMC HYRAIL WELDING TRUCK	PA	Oct 10	YES - 10/22/2010	45906652	ID#1GDXC34F7W511493
Office Trailer		12/01/2010			
Crane SN 1373		07/15/2004			ID#CJC01373
Crane SN 1392		07/15/2004			ID#CJC01392
290 LC-V DAEWOO EXCAVATOR 7 PLATFORM	CH	08/17/2004	YES 8/17/2004		ID# 755
Crane SN 1951		12/30/2004			ID#CJC01951
Rail Equipments (200 Hoppers)		01/01/2005			
Caterpillar SN1952		01/03/2005			ID#CJC01952
Platform Equipment		04/20/2005			
40 Foot Elevator		06/22/2005			
Yard truck		06/23/2005			
Office Minerva		07/05/2005			
1978 FORD FLAT BED TRUCK	OH		YES - 7/7/2005	NON TITLED	YARD TRUCK
1979 Ford Pump Truck	PA	07/14/2005		28018739	ID#W80DVF01252
40 Yard Container		07/26/2005			
40 Yard Container		07/26/2005			
Chem Washer		08/10/2005			
1995 DODGE 3500 WELDING TRUCK	PA			41814391	ID#1B6MF36C355270032
Cutting Torches		09/21/2005			
Welding Equipment		10/17/2005			
2006 PRESSURE WASHER TRAILER	PA	11/10/2005	YES - 11/10/2005	43975226	ID#10004139
Hydro Max		11/09/2005			
Welding Truck		11/09/2005			
Computers Phones, faxes		11/09/2005			
Conveyor #8085		01/26/2006			
Ccnex Box		03/30/2006			
2003 DUMP TRAILER	OH		YES - 3/22/2006	4802888807	ID#M0478A255R041803
2003 DUMP TRAILER	OH		YES - 3/22/2006	4802888808	ID#M0480A255R041803
Versahandler		04/25/2006			
BOBCAT SKID STEER LOADER 763	OH	10/10/2006			ID#5122713
1987 KOBELCO K907D EXCAVATOR	OH	10/10/2006	YES - 10/10/2006		ID#YG00594
Trailer		12/08/2006			
Excavator Dift		01/01/2007			
Bobcat		03/23/2007			
Loader		04/04/2007			
200 Hoppers		08/31/2007			
2005 DODGE 1500 PICKUP	PA			40188009	ID#107HU18D55S286272
Caterpillar 315 D		10/07/2008			ID#CAT0315DCC/N00887
2001 INTERNATIONAL 22' BOX TRUCK	PA	12/15/2009	YES - 1/14/2010	AU976163 (MASS)	ID#1HT5CAAM51H363987
2758 MICHIGAN LOADER		03/30/2011	YES - 3/30/2011		ID#425B468

**Disclosure Schedule**  
to  
**Unit Purchase Agreement**

108 Gondolas (The Andersons leases)					
80 Tank Cars (GE Leases)					
Loco #6059 (SD40-3)					Invoice # 101711-01
Loco #6072 (SD40-3)					Invoice # 101711-01
Loco #6911 (SD40-3)					Invoice # 101711-01
Water Transload Improvements - Irwin					Building, pumps, misc equipment
Water Transload Improvements - Wellsboro					Buildings, pumps, misc equipment
Water Storage Tanks - Wellsboro					

**Disclosure Schedule**  
**to**  
**Unit Purchase Agreement**

**Schedule 3.1 (n) – Taxes Contested**

**None.**

**Disclosure Schedule**  
**to**  
**Unit Purchase Agreement**

**Schedule 3.1 (o) – Material Contracts**

**[See Schedule 2.8(d)(iii)]**

**REDACTED**

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule 3.1 (p) – Employee Benefit Plans**

Company does not have or maintain any Employee Benefit Plans, however, below are the Employee Benefit Plans for Wellsboro & Corning Railroad Co. and Industrial Waste Group, LLC:

**Dental:**

**Metlife**

**Group Number: 5982169**

**Plan renewal 3/1/12**

**Employer covers 100% currently**

**Medical:**

**Aetna (includes Vision)**

**Group Number for PPO Plan: 315069 (offered to Wellsboro employees due to lack of coverage by POS plan in the area)**

**Group Number for POS Plan: 0417747**

**Plan renewal is 3/1/12**

**Employer covers 100% currently**

**Short-term Disability/Long-Term Disability/Life Insurance:**

**Harleysville**

**Group Number: G4934**

**Plan renewal is 1/1/12**

**Employer covers 100% currently**

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule 3.1 (g) – Certain Business Relationships with the Company**

Following the Reorganization Transaction, Company will have a lease agreement with the 900 Group, LLC, which is owned by the MG Principals.

**Disclosure Schedule**  
**to**  
**Unit Purchase Agreement**

**Schedule 3.1 (s) – Employment Contracts**

None.

**Disclosure Schedule**  
**to**  
**Unit Purchase Agreement**

**Schedule 3.1 (t) – Intellectual Property**

Domain names:

[www.wellsboroandcomingrailroad.com](http://www.wellsboroandcomingrailroad.com)  
[www.mylesgroup.net](http://www.mylesgroup.net)  
[www.tiogacentral.com](http://www.tiogacentral.com)  
[www.industrialwastegroup.com](http://www.industrialwastegroup.com)  
[www.iwgllc.com](http://www.iwgllc.com)

Trade Names:

Tioga Central Railroad

**Disclosure Schedule**  
**to**  
**Unit Purchase Agreement**

**Schedule 3.1 (u) – Real and Personal Property Leases**

None, but following the Reorganization Transaction, then see Schedule 2.8(d)(iii), items 1, 2, 7, 8, 9, 10, 11, 13

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule 3.1 (w) – Material Adverse Change**

None.

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule 3.1 (x) – Undisclosed Liabilities**

REDACTED

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule A-1**  
**Assets which comprise the Transloading Business**

1. Items 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 17, and 18 from Schedule 2.8(d)(iii).
2. Items 2 and 3 on Schedule 3.1(i).
3. Items listed in under (b) on Schedule 3.1(k).
4. Items 1, 2, 5, 7, 9, 10 and 11 for Schedule 3.1(o).
5. Domains: [www.industrialwastegroup.com](http://www.industrialwastegroup.com) and [www.iwglc.com](http://www.iwglc.com)
6. Miscellaneous office equipment and furniture. Computers and cubicles. Phones

**The following assets are the only excluded assets:**

1. Land Brickyard
2. 2007 vehicle, purchased 12/01/07 (Land Rover)
3. 2007 vehicle, purchased 12/01/07 (Land Rover)
4. B&O #97
5. 2008 N549CP (the airplane)

**Disclosure Schedule**  
to  
Unit Purchase Agreement

**Schedule A-2**  
**Assets which comprise the Railroad Business**

1. Items 4, 12, 14, 15, 16, and 19 from Schedule 2.8(d)(iii).
2. Item 1 on Schedule 3.1(i).
3. Item 1 on Schedule 3.1(g).
4. Items listed under (a) on Schedule 3.1(k).
5. Items 3, 4 and 6 on Schedule 3.1(o).
6. Domains: [www.wellsboroandcorningrailroad.com](http://www.wellsboroandcorningrailroad.com), [www.tiogacentral.com](http://www.tiogacentral.com)
7. Trade Name: Tioga Central Railroad.