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SERVICE DATE – JANUARY 7, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35458]

Gabriel D. Hall—Corporate Family Transaction Exemption—U S Rail New York, LLC  
and U S Rail Corporation

Gabriel D. Hall (Applicant), an individual, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) for a transaction within a corporate family. The transaction involves the creation of U S Rail New York (USR-NY) and the acquisition by USR-NY of the leasehold rights, and construction and operation rights of U S Rail Corporation (U S Rail) related to the Brookhaven Rail Terminal.<sup>1</sup>

Applicant controls U S Rail, a Class III carrier, which operates in Ohio, Indiana, and New York, and U S Rail New Jersey, also a Class III carrier, which operates in New Jersey. As a result of this transaction, U S Rail will assign its construction and operation authority involving the Brookhaven Rail Terminal, together with the leasehold interest in the underlying property, to USR-NY. USR-NY will facilitate financing for the approved construction and subsequent carrier operations, while Applicant remains in control of both entities.

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<sup>1</sup> In U S Rail Corporation—Construction and Operation Exemption—Brookhaven Rail Terminal, FD 35141 (STB served Sept. 9, 2010), the Board granted U S Rail's construction exemption, which would connect U S Rail with the Long Island Railroad.

The exemption will be effective on January 21, 2011 (30 days after the exemption was filed).

This is a transaction within a corporate family of the type exempted from prior review and approval under 49 C.F.R. § 1180.2(d)(3). Applicant states that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III rail carriers.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay will be due no later than January 14 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings, referring to Docket No. FD 35458 must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Applicant's representative, Eric M. Hocky, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

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Decided: January 3, 2011.

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