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SERVICE DATE – DECEMBER 24, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35208]

Winamac Southern Railway Company—Trackage Rights Exemption—A. & R. Line, Inc.

Pursuant to a written trackage rights agreement,¹ A. & R. Line, Inc. (A&R) has agreed to grant overhead trackage rights to Winamac Southern Railway Company (WSRY) between milepost 71.5 at or near Van and milepost 74.5 at or near Logansport, a distance of approximately 3.0 miles in Cass County, IN.²

The earliest this transaction may be consummated is January 10, 2009, the effective date of the exemption (30 days after the exemption was filed).

¹ A redacted version of the trackage rights agreement was filed with the notice of exemption.

² The involved line was acquired by A&R from WSRY in A. & R. Line, Inc.—Acquisition Exemption—Winamac Southern Railway Company, Finance Docket No. 32694 (ICC served July 6, 1995). However, WSRY continued to operate the line, as well as its connecting lines. Although WSRY and A&R entered into a trackage rights agreement for WSRY to conduct operations over the line, through oversight no Interstate Commerce Commission or Surface Transportation Board approval of the trackage rights was ever sought. According to WSRY, WSRY's operations under the trackage rights agreement have continued for 13 years and, in the interim, Central Railroad Company of Indianapolis took over the operations of WSRY, as WSRY's agent, and A&R was taken over by Toledo, Peoria & Western Railway Corporation. WSRY states that this filing was made to remedy the prior oversight.

In a revised notice of exemption filed on December 17, 2008 in STB Finance Docket No. 35205, U S Rail Corporation—Lease and Operation Exemption—Winamac Southern Railway Company and Kokomo Grain Co., Inc., U S Rail Corporation seeks to acquire the trackage rights involved in this transaction.

The purpose of the trackage rights is to achieve operating economies and to improve rail service by making operations by WSRV more efficient.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by January 2, 2009 (at least 7 days before the exemption becomes effective).

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

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35208, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604.

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Decided: December 18, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary