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SERVICE DATE – DECEMBER 31, 2008

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[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 (US Rail), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by lease and to operate approximately 58.89 miles of rail lines<sup>1</sup> owned by Winamac Southern Railway Company (WSRY) and Kokomo Grain Co., Inc., located in Indiana: (1) the Bringhurst Line, between milepost 50.1 at Bringhurst and milepost 71.5 at Van Jct. (Logansport); (2) the Kokomo Line, between milepost 74.5 at Eighteenth St. Yard (Logansport) and milepost 97.9 at Kokomo; (3) the Kokomo Belt Line, between milepost 0.0 at E. Markland Ave. (Kokomo) and milepost 1.5 at S. Union St. (Kokomo); and (4) the Amboy Line, between milepost 147.07 at Amboy and milepost 134.48± at Marion.<sup>2</sup>

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<sup>1</sup> Central Railroad Company of Indianapolis (CERA) currently operates the lines, but will no longer after December 31, 2008.

<sup>2</sup> A notice in this docket was originally filed on December 5, 2008. On December 17, 2008, U S Rail's representative filed a notice styled a "corrected" notice containing a number of revisions to the original notice. In response, the Board halted publication of the original notice scheduled for December 19, 2008. Because the sought revisions are not de minimis in nature, the corrected notice is being served and published as a new notice today.

Pursuant to the lease agreement, US Rail will also obtain incidental trackage rights over 3.0 miles of rail line owned by Toledo, Peoria & Western Railway Corp. (TPW), between milepost 71.5 at Van Jct. (Logansport) and milepost 74.5 at Eighteenth St. Yard (Logansport).<sup>3</sup> US Rail will interchange traffic with: (1) NSR at Marion Goodman Yard and Clymers; (2) TPW at Logansport; and (3) CERA at Kokomo.

US Rail certifies that its projected annual revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier and further certifies that its projected annual revenues will not exceed \$5 million.

The earliest this transaction may be consummated is January 16, 2009, the effective date of the exemption (30 days after the corrected notice exemption was filed).

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

If the verified 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

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<sup>3</sup> In Winamac Southern Railway Company—Trackage Rights Exemption—A. & R. Line, Inc., STB Finance Docket No. 35208 (STB served Dec. 24, 2008), WSRY obtained authority to operate pursuant to these same trackage rights to correct an earlier oversight.

effectiveness of the exemption. Petitions for stay must be filed no later than January 9, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35205, 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 Eric M. Hocky, One Commerce Square, 2005 Market Street, Suite 1910, Philadelphia, PA 19103.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: December 22, 2008.

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

Anne K. Quinlan

Acting Secretary