

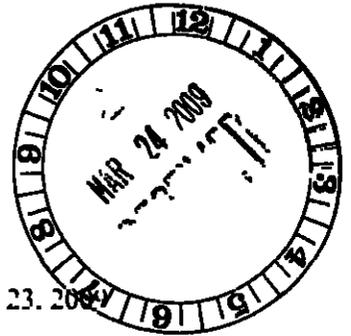


224740

Eric M Hocky
Direct Dia 215 640 8523
Email ehocky@thorpreed.com

ATTORNEYS AT LAW SINCE 1895

VIA OVERNIGHT DELIVERY



March 23, 2009

Hon Anne K Quinlan
Acting Secretary
Surface Transportation Board
395 L Street SW
Washington, DC 20024

Re Gabriel D Hall
- Corporate Family Transaction Exemption -
U S Rail Holdings, LLC and U S RAIL Corporation
STB Finance Docket No 35235

Dear Secretary Quinlan

Enclosed for filing please find the original and 10 copies of the Notice of Exemption of U S Rail Holdings, LLC Also enclosed is our check in the amount of \$1400 representing the filing fee for this Notice

Please time stamp the extra copy of the Notice to indicate receipt and return it to me in the self-addressed stamped envelope provided for your convenience

Please let know if there are any questions about the filing Thank you for your assistance

Respectfully,

Eric M Hocky
Eric M Hocky

Pittsburgh

Philadelphia

Princeton

Washington

EMH/c

Enclosures

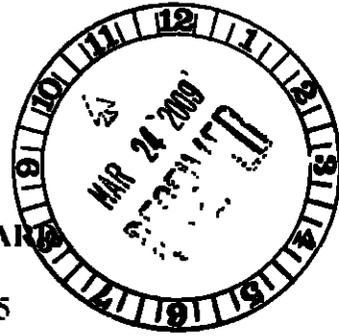
ENTERED
Office of Proceedings

MAR 24 2009

Part of
Public Record

Thorpe Reed & Armstrong LLP
One Commerce Square
2005 Market Street
Suite 1910
Philadelphia PA 19103
215 640 8500
215 640 8501 Fax

224740



BEFORE THE
SURFACE TRANSPORTATION BOARD
STB FINANCE DOCKET NO 35235

GABRIEL D. HALL

- CORPORATE FAMILY TRANSACTION EXEMPTION -

U S RAIL HOLDINGS, LLC AND U S RAIL CORPORATION

FEE RECEIVED
MAR 24 2009

SURFACE
TRANSPORTATION BOARD

VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1180.2(d)(2)

FILED

MAR 24 2009

SURFACE
TRANSPORTATION BOARD

ENTERED
Office of Proceedings
MAR 24 2009
Part of
Public Record

ERIC M HOCKY
THORP RILEY & ARMSTRONG, LLP
One Commerce Square
2005 Market Street, Suite 1910
Philadelphia, PA 19103
(215) 640-8500

Dated March 23, 2009

Attorneys for Gabriel D Hall

BEFORE THE
SURFACE TRANSPORTATION BOARD
STB FINANCE DOCKET NO 35235

GABRIEL D. HALL,
- CORPORATE FAMILY TRANSACTION EXEMPTION -
U S RAIL HOLDINGS, LLC AND U S RAIL CORPORATION

VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1180.2(d)(2)

Gabriel D Hall ("Hall" or "Applicant"), an individual, files this Notice of Exemption pursuant to 49 C F R §1180 2(d)(3) to exempt from the provisions of 49 U S C §11323, a transaction within the family of business entities in which he owns controlling interests The creation of U S Rail Holdings, LLC ("Holdings") and the ensuing transaction between Holdings and U S RAIL Corporation ("US RAIL"), will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family This Notice is related to the notice of exemption being filed today in *U S RAIL Holdings, LLC Lease and Operation Exemption Winamac Southern Railway Company and Kokomo Grain Co , Inc* , STB Finance Docket No 35234

Required Information

In accordance with the provisions of 49 C F R 1180 4(g), PNWR provides the following information as required by 49 C F R §1180 6(a)(1)(i)-(iii), (a)(5), (a)(6), and (a)(7)(ii)

(a)(1)(i) Hall owns a majority of the issued and outstanding shares of stock of U S RAIL Corporation, a Class III carrier with operating authority in Ohio and Indiana To facilitate financing, Hall has formed a new limited liability company called U S Rail Holdings, LLC in which he owns a majority of the issued and outstanding equity interests, to hold the Indiana leasehold interests Holdings has entered into a new ten year lease with the owners of the

Indiana rail lines¹ Once the new lease becomes effective, the existing lease between the owners and US RAIL will be terminated, and Holdings will immediately designate US RAIL as the operator of the rail lines, effectively transferring the operating authority back to US RAIL.² As a result of the transaction, Holdings will be the non-operating lessee (with residual common carrier obligations), and US RAIL will continue to be the operator of rail lines. Hall will remain in control of both entities. Because US RAIL is currently the lessee and operator of the rail lines, the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

The name, business address and telephone number of Applicant are Gabriel D Hall, 7846 Central Ave, Toledo, Ohio 43617, (419) 720-7588

The name, business address and telephone number of counsel to whom questions regarding the transaction can be addressed are Eric M Hocky, Thorp Reed & Armstrong, LLP, One Commerce Square, Suite 1910, Philadelphia, PA 19103, (215) 640-8500

(a)(1)(ii) Hall intends that the Holdings will designate US RAIL as the operator immediately when Holdings' new lease becomes effective in STB Finance Docket No. 35234. There will be no interruption in operations since US RAIL is currently the lessee and operator of the rail lines.

¹ The lease is the subject of a notice of exemption filed today in *US RAIL Holdings, LLC – Lease and Operation Exemption – Winamac Southern Railway Company and Kokomo Grain Co., Inc.*, STB Finance Docket No. 35234

² US RAIL was previously authorized to lease and operate the rail lines in Indiana *US RAIL Corporation – Lease and Operation Exemption – Winamac Southern Railway Company and Kokomo Grain Co., Inc.*, STB Finance Docket No. 35205 (served December 31, 2008)

(a)(1)(iii) The purpose of the overall transactions (the separation of the leasehold asset from the operating rights) is to establish a structure conducive for future financing, while keeping all interests within the corporate family of entities controlled by Applicant

(a)(5) Hall currently controls US RAIL which operates in Ohio and Indiana, and Holdings which will have a leasehold interest, and residual common carrier obligations, in Indiana

(a)(6) A map showing the Indiana rail lines that will be affected by the transaction is attached as Exhibit A. Twenty extra copies of the map are also included

(a)(7)(ii) Once its lease becomes effective, Holdings will execute a Designation of Operator Agreement substantially in the form attached as Exhibit B. There are no documents relating to Hall's common control of Holdings and US RAIL

Labor Protection

Because the designation of US RAIL as the operator will mean that there will be no change in operators or operations, no employees will be affected. Applicant recognizes that 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. However, since US RAIL and Holdings will both be Class III rail carriers, under 49 U.S.C. 11326(c), no labor protection may be imposed on these transactions

Environmental and Historic Reports

Under 49 C F R §1105 6(c)(2) and 49 C F R §1105 8(b)(2) and (3), no environmental or historic documentation is required

Respectfully submitted,



ERIC M HOCKY
THORP REED & ARMSTRONG, L.L.P.
One Commerce Square
2005 Market Street, Suite 1910
Philadelphia, PA 19103
(215) 640-8500

Dated March 23, 2009

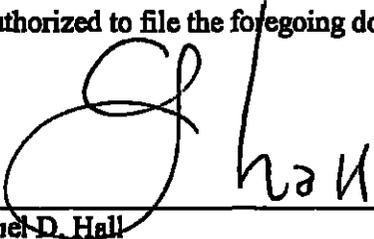
Attorneys for Gabriel D Hall

VERIFICATION

I, Gabriel D. Hall, verify under penalty of perjury that the foregoing is true and correct

Further, I certify that I am qualified and authorized to file the foregoing document

Executed on March 23, 2009.



Gabriel D. Hall

MAP

EXHIBIT A

FORM OF DESIGNATION

EXHIBIT B

DESIGNATION OF OPERATOR AGREEMENT

This Designation of Operator Agreement (this "Agreement") is entered into on this ____ day of March, 2009, by and between US Rail Holdings, LLC, a Michigan limited liability company (hereafter "Lease Holder") and U S Rail Corporation, an Ohio corporation (hereafter "Operator")

RECITALS

Operator desires to provide services to Lease Holder in the form of operating and providing common carrier railroad services and otherwise performing all obligations of Lease Holder under that certain lease agreement dated March 12, 2009, made by and between Winamac Southern Railroad and Kokomo Grain Company as lessor ("Winamac") and Lease Holder as lessee (hereafter referred to as the "Lease") Operator has been provided with a copy of the Lease which covers the operation of the rail lines shown on the map attached as **Exhibit A**

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Lease Holder and Operator agree as follows

TERMS AND CONDITIONS

1. **Services Provided** During the term of this Agreement, Operator shall provide, on behalf of Lease Holder, common carrier rail services in order to allow Lease Holder to profitably satisfy the terms of the Lease, and Operator shall provide services and take all steps necessary to avoid any default on the part of Lease Holder under the terms of such Lease (hereafter referred to as the "Services") Operator represents and warrants it is experienced in the business of operating and providing common carrier rail services and is familiar with the railroad lines that are leased to Lease Holder pursuant to the terms of the Lease, and Operator is capable of operating and providing the common carrier rail services required to be provided by Lease Holder under the Lease

2. **Exceptions to Services to be Provided** Notwithstanding anything to the contrary contained in this Agreement, except for the common carrier rail services to be provided by Operator, Lease Holder shall not be required to use Operator for services required under the Lease which Operator is unable to provide in required quantities, or meeting the quality, delivery or other requirements of this Agreement or the Lease, and Lease Holder shall be entitled to provide such services for its own benefit or acquire such services from any of its affiliates or any other supplier or suppliers if Operator is unable to comply with this section

3. [Deliberately omitted]

4. **Pricing** Whereas Operator will profit from its ability to use the rail lines that are the subject of the Lease, no further price will be paid by Lease Holder to Operator Conversely, Operator shall pay Lease Holder, as sub-lease payments for the right to use the rail lines that are the subject of the Lease, all of the amounts for which Lease Holder is obligated to pay Winamac Southern Railroad and Kokomo Grain Company under the terms of the Lease ("Price") Operator shall otherwise be allowed to retain all profit from operating its business,

provided, however, that it satisfies the terms of this Agreement, the Lease, and any and all other agreements existing between Lease Holder and Operator

5. [Deliberately omitted]

6. **Term and Termination** The term of this Agreement shall commence on the date this Agreement is signed and shall continue for the term of the Lease. Thereafter, this Agreement shall automatically renew on a month to month basis, unless either party provides written notice at least ten days prior to expiration of the month for which termination is desired. This Agreement may be terminated earlier in accordance with any of the following provisions:

(a) If Operator or Lease Holder breaches a material term of this Agreement and fails to cure such breach within five (5) business days of notice thereof.

(b) A party hereto may terminate this Agreement immediately upon notice of the other party's Bankruptcy Event. For purposes of this Agreement, the term "Bankruptcy Event" means, with respect to a party, (i) the adjudication of such party as bankrupt or insolvent or the filing by such party of a petition or application to any tribunal for the appointment of a trustee or receiver for such party or any substantial part of the assets of such party, or (ii) the commencement of any voluntary or involuntary bankruptcy proceedings, reorganization proceedings or similar proceeding with respect to such party or the entry of an order appointing a trustee or receiver or approving a petition in any such proceeding, or (iii) the making by such party of an assignment for the benefit of creditors of all or substantially all of its assets or the admission by such party in writing of inability to pay its debts as they become due.

(c) Lease Holder may terminate this Agreement in accordance with Section 5 above in the event that Lease Holder reasonably determines in good faith that Operator is unable or unwilling to supply Lease Holder any Services in required quantities, or meeting the quality, delivery or other requirements of this Agreement or the Lease.

Notwithstanding the termination provisions set forth herein, Lease Holder may only terminate this Agreement if either (i) it has received authority from the STB for Operator to discontinue operations over the leased rail lines, or (ii) any successor operator has received authority from the STB to operate the rail lines. Operator may only terminate this Agreement if it receives authority from the STB to discontinue operations over the leased rail lines.

7. **Effect of Termination or Expiration** Termination or expiration of this Agreement in accordance with its terms shall not affect or impair

(a) any rights, obligations or liabilities existing or arising under this Agreement prior to such termination or expiration,

(b) any rights, obligations or liabilities under this Agreement that are expressly to survive the termination of this Agreement, or

(c) any rights, obligations or liabilities accruing or arising under any other agreement between the parties.

Lease Holder shall not otherwise be liable to Operator for any compensation, reimbursement or damages on account of loss of profits or prospective profits or anticipated sales, or on account of commitment in connection with the business or goodwill of Operator or otherwise for direct, special, incidental, indirect or consequential damages solely by reason of the termination or expiration of this Agreement if in accordance with Section 6 or otherwise (it being understood that any such termination shall not relieve the breaching party from any responsibility for any breach by such breaching party of this Agreement)

8. **Indemnification.** Operator hereby covenants and agrees to indemnify and hold Lease Holder, its directors, managers, officers, owners, agents, and employees harmless from any claims, liabilities, damages (including special, consequential, punitive and exemplary damages), cost and expenses (including reasonable attorney fees) incurred in connection with any claims (including lawsuits, administrative claims, regulatory actions and other proceedings to recover for personal injury or death, property damage or economic losses) that are related in any way to or arise in any way from (i) Operator's representations or performance of obligations under this Agreement, (ii) the breach of any terms contained in this Agreement, (iii) any acts, errors, or omissions on the part of Operator or its agents or employees, (iv) damages to the property of or injuries (including death) to Lease Holder, its employees or any other person arising from or in connection with Operator's performance of work, use, occupancy or possession of all or any portion of the property or assets leased to Lease Holder under the Lease, and (v) claims for any violation of any applicable law, ordinance or regulation or government authorization or order. Operator's obligation to indemnify under this Section will apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise, except to the extent of any such liability arising out of the sole negligence of Lease Holder

9. **Insurance.** Operator shall obtain and maintain at its expense the insurance coverage required to be carried by Lease Holder under the Lease and, in addition, such insurance as reasonably requested by Lease Holder, each with such insurance carriers and in such amounts as are reasonably acceptable to Lease Holder but in no event less than the amounts required under the Lease. Operator shall furnish to Lease Holder certificates of insurance setting forth the amount of coverage, policy number and date(s) of expiration for insurance maintained by Operator and such certificates must provide that Lease Holder shall receive thirty (30) days' prior written notification from the insurer of any termination or reduction in the amount or scope of coverage

10. **Authorization** Each of the representatives executing this Agreement on behalf of the parties hereto represent and warrant that they possess the corporate power and authority to execute this Agreement on behalf of the respective parties to this Agreement and this Agreement has been duly authorized by the parties

11. **Cooperation** Each party agrees to cooperate fully with the other parties and to take all additional actions that may be necessary to give full force and effect to this Agreement

12. **Section Headings** The section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation of this Agreement. All references to sections and Exhibits are to sections and Exhibits in or to this Agreement unless otherwise specified

13. No Waiver; Cumulative Remedies; Unenforceability No party to this Agreement shall by any act, delay, indulgence, omission, or otherwise be deemed to have waived any right or remedy under this Agreement or of any breach of the terms and conditions of this Agreement. A waiver by any party of any right or remedy under this Agreement on any one occasion shall not be construed as a bar to any right or remedy which that party would otherwise have had on a subsequent occasion. No failure to exercise, nor any delay in exercising, any right, power, or privilege under this Agreement, by any party shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or future exercise thereof or the exercise of any other right, power or privilege. The rights and remedies under this Agreement are cumulative, may be exercised singly or concurrently, and are not exclusive of any rights and remedies provided by any other agreements or applicable law. Should any provision of this Agreement be held invalid or unenforceable, the remainder of this Agreement will not be affected thereby.

14. Waivers and Amendments; Successors and Assigns No term or provision of this Agreement may be waived, altered, modified, or amended except by a written instrument, duly executed by the parties hereto. This Agreement and all of the parties' obligations are binding upon their respective successors and assigns, and together with the rights and remedies of the parties under this Agreement, inure to the benefit of the parties and their respective successors and assigns. Operator may not assign or transfer any right or obligation under this Agreement without the prior written consent of Lease Holder.

15. Notices All notices, requests, and other communications that are required or may be given under this Agreement must be in writing, and shall be deemed to have been given on the date of delivery, if delivered by hand, telecopy or courier, or three (3) days after mailing, if mailed by certified or registered mail, postage prepaid, return receipt requested, addressed as set forth below (which addresses may be changed, from time to time, by notice given in the manner provided in this section).

If given to Operator

U. S RAIL Corporation
7846 Central Avenue
Toledo, OH 43617
Facsimile (419) 720-7589
Attn: President

If given to Lease Holder

US Rail Holdings, LLC
7846 Central Avenue
Toledo, OH 43617
Facsimile (248) 560-0205
(419) 720-7589
Attn: Managing Member

16. **Counterparts** This Agreement may be executed in any number of counterparts and by each party hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which together shall constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. For purposes of this Agreement, facsimile signatures shall also constitute originals.

17. **Entire Agreement; Ambiguous Language** This Agreement, together with any other agreements and schedules referenced to herein or executed in connection with this Agreement, constitutes the entire understanding of the parties in connection with the subject matter hereof. This Agreement may not be modified, altered, or amended except by an agreement in writing signed by the parties hereto. This Agreement is being entered into among competent persons who are experienced in business and represented by counsel, and has been reviewed by Operator, Lease Holder and their respective counsel. Therefore, any ambiguous language in this Agreement will not necessarily be construed against any particular party as the drafter of such language. All prior agreements, understandings, representations, warranties and negotiations regarding the subject matter hereof, if any, oral or otherwise, are merged into this Agreement.

18. **Governing Law** This Agreement is made in the State of Michigan (U S) and shall be governed by, and construed and enforced in accordance with, the laws of the State of Michigan, located within the United States, without regard to conflicts of law principles.

19. [Deliberately omitted]

20. **Venue.** The parties agree that any litigation regarding or arising out of this operating agreement or the relationship of the parties or their affiliates shall be commenced and maintained in either a state or county court located in Oakland County, Michigan or a federal court located in the Eastern District of Michigan, anything to the contrary notwithstanding. Each party hereby waives, for itself or himself, any claim of *forum non conveniens*.

The parties have signed this Agreement as of the date first above written.

US Rail Holdings, LLC

U.S. Rail Corporation

By _____

By _____

Name _____

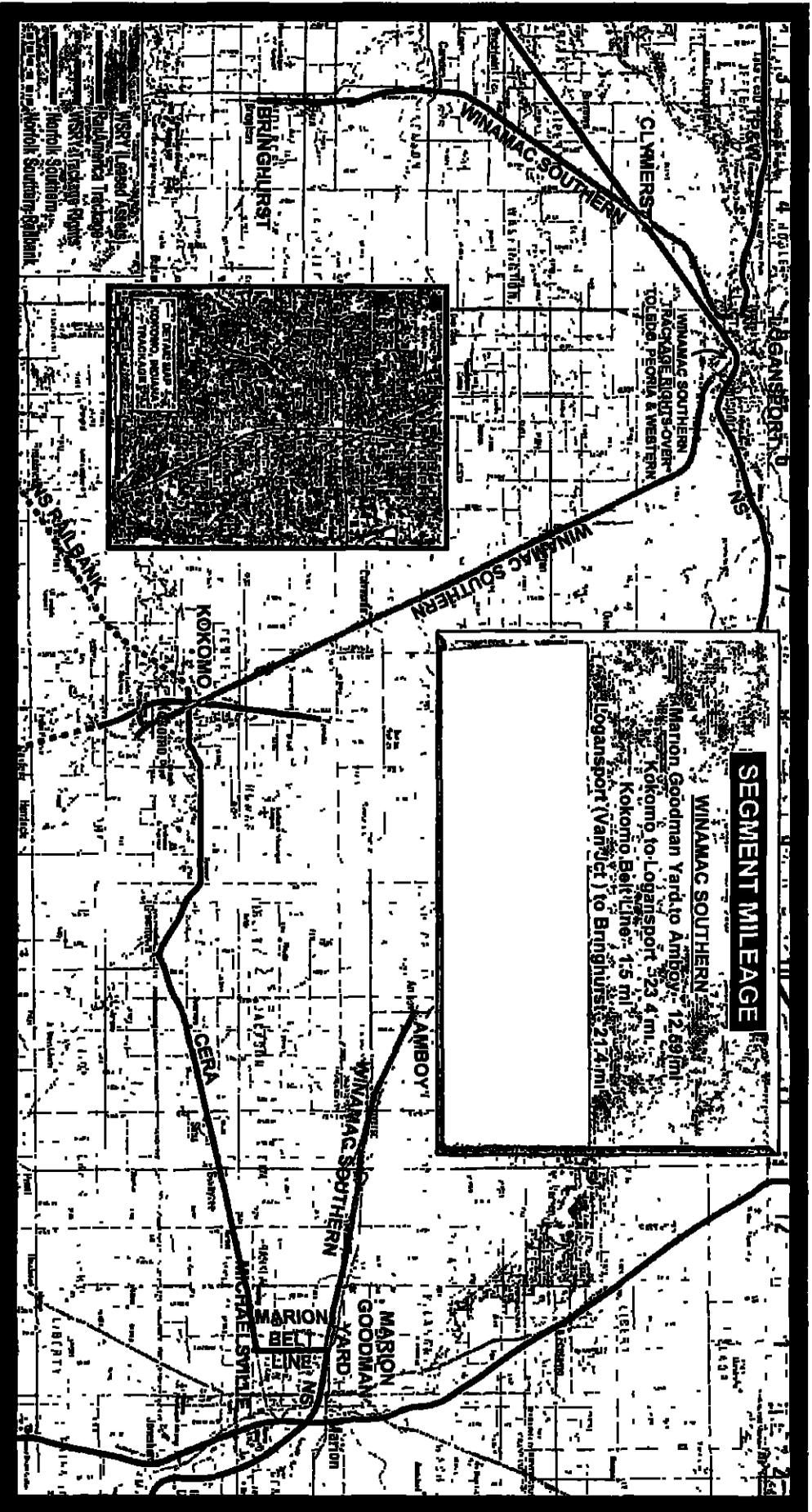
Name _____

Title _____

Title _____

Exhibit A

See attached map



WINAMAC SOUTHERN RAIL SYSTEM

EXHIBIT 1