B.C.D. 03-48

EMPLOYER STATUS DETERMINATION

JUN 1 0 2003

Missouri & Valley Park Railroad Company

This is a determination of the Railroad Retirement Board concerning the status of Missouri & Valley Park Railroad Company (MVPR) as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.) (RUIA).

In Surface Transportation Board (STB) Finance Docket No. 34231 decided July 25, 2002, MVPR filed a notice of exemption to permit MVPR to lease from the Burlington Northern and Santa Fe Railway Company (BNSF) (BA 1621) and operate a 2.14-mile rail line and yard office building. According to information submitted by Mr. Richard C. McClure, President and Chief Executive Officer of MVPR, MVPR leased the yard track for a pure switching operation for a period of five years from July 4, 2002 and began operations on that same date. The BNSF daily delivers trains to the yard. MVPR then takes the railcars and switches them to a DaimlerChrysler auto assembly plant and other companies located close to the DaimlerChrysler plant. MVPR switches approximately 1404 cars per month. MVPR also switches out empty rail cars for pickup by BNSF.

MVPR is a wholly owned subsidiary of American Railroads Corporation. Mr. McClure stated that MVPR first compensated employees on July 15, 2002, and currently has 15 employees.

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)), insofar as relevant here, defines a covered employer as:

> (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of title 49, United States Code;

Section 1 of the RUIA contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act.

Part A of subtitle IV of Title 49, United States Code defines a "railroad" to include:

> (C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation. 49 U.S.C. § 10102 (6) (c).

The evidence of record establishes that MVPR is a rail carrier operating in interstate commerce. Accordingly, it is determined that MVPR became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and the corresponding provision of the Railroad Unemployment Insurance Act effective July 4, 2002, the date it began operations.

Original signed by:

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