B.C.D. 02-1

JAN 16 2002

EMPLOYER STATUS DETERMINATION
Raritan Central Railway, L.L.C.

This is the determination of the Railroad Retirement Board concerning the status of Raritan Central Railway, L.L.C. (RCRY) 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. 34071 decided July 17, 2001, RCRY filed a notice of exemption to lease and operate approximately 14 miles of rail line, pursuant to an agreement entered into with Federal Business Centers, Inc. and Summit Associates, Inc. The 14 mile rail line properties, easements and right-of-way, are located within the Raritan Center Business Park, in the Townships of Edison and Woodbridge, in Middlesex County, New Jersey. The STB decision further states that RCRY will interchange with the Conrail Shared Assets Operations and that RCRY will serve as the substitute operator for Durham Transport, Inc., the former operator of the rail line.

Information concerning RCRY was provided Eyal Shapira, President of RCRY. According to Mr. Shapira, RCRY began rail operations and first compensated its two employees on August 15, 2001. Mr. Shapira stated RCRY has a twenty year operating lease with Federal Business Centers, Inc. and Summit Associates, Inc., the owners of the right-of-way.

Mr. Shapira stated that Federal Business Centers, Inc. and Summit Associates, Inc. are real estate development corporations and the joint owners of Raritan Business Center. Mr. Shapira stated that RCRY currently handles approximately 850 rail cars a year. Mr. Shapira further stated that RCRY interchanges with CSX Transportation (B.A. No. 1524). Mr. Shapira also stated that he owns 87.50% of the New York and Ogdensburg Railway Co. (B.A. No. 2272) and 24% of Landisville Terminal and Transfer Co. (B.A. No. 4410).

Raritan Central Railway, L.L.C.

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.

The evidence of record establishes that RCRY is a rail carrier operating in interstate commerce. Accordingly, it is determined that Raritan Central Railway, L.L.C. 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 August 15, 2001, the date as of which it began rail operations and first compensated its employees.

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