B.C.D. 01-44

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Employer Status Determination
Riverport Railroad, L.L.C.

This is the determination of the Railroad Retirement Board concerning the status of Riverport Railroad, L.L.C., as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.).

Information regarding Riverport was provided by Philip A. Jackman, General Counsel of Riverport. According to Mr. Jackman, employees were first compensated approximately two weeks after they were hired on March 1, 1999, and Riverport began railroad operations May 1, 1999. Riverport currently has seven employees.

In Surface Transportation Board Finance Docket No. 33799, Riverport filed a notice of exemption to lease and operate approximately 50 miles of rail line from Jo-Davies/Carroll County Local Re-Development Authority. The lines are located in the former Savanna Army Ammo Depot. Riverport operates as a switching railroad and connects with the Burlington Northern and Santa Fe Railway. Riverport stores out of service railcars for car owners. When the cars are recalled, Riverport delivers the cars to the interchange with the Burlington Northern and Santa Fe. Riverport also leases warehouses on the former army base to subtenants.

Section 1(a)(1) of the Railroad Retirement Act defines an "employer" to include:

> (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under part A of subtitle IV of Title 49. 45 U.S.C. §231(a)(1)(i).

Sections 1(a) and (b) of the Railroad Unemployment Insurance Act [45 U.S.C. §351(a) and (b)] contain essentially the same definition as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. §3231).

Riverport Railroad, L.L.C.

The evidence of record establishes that Riverport is a carrier operating in interstate commerce. Accordingly, it is determined that Riverport is an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act as of March 1, 1999, the date as of which it first hired employees. Cf. Rev. Rul. 82-100, 1982-1 C.B. 155.

Original signed by:

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever