B.C.D. 05-45

OCT 11 2005

EMPLOYER STATUS DETERMINATION
Yellowstone Valley Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Yellowstone Valley Railroad, Inc., 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 Yellowstone was provided by Craig Richey of Watco Companies, Inc. According to Mr. Richey, Yellowstone first compensated employees on August 9, 2005, and began doing business August 14, 2005. Richard B. Webb is the chief executive officer of Yellowstone, which is owned by Watco Transportation Services, Inc. Watco Companies is the parent company of Watco Transportation Services, Inc. Yellowstone has ten employees.

In Surface Transportation Board Finance Docket No. 34737, Yellowstone filed a notice of exemption to lease from BNSF Railway Company and operate two rail lines approximately 171.97 miles in length. The lines interchange with BNSF.

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 Railroad Unemployment Insurance Act (45 U.S.C. § 351(a)) contains a substantially similar definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that Yellowstone is a carrier operating in interstate commerce. Accordingly, it is determined that Yellowstone 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 August 9, 2005, the date as of which employees were first compensated.

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