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**EMPLOYER STATUS DETERMINATION**  
**Janesville Sand & Gravel Company**

This is the determination of the Railroad Retirement Board concerning the status of Janesville Sand & Gravel Company (JSG) 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 JSG was obtained from James R. Thorpe, outside counsel for Janesville, Patrick R. Lyons of JSG, and JSG's website. JSG has operated a sand and gravel mining facility since 1907. It has about eight employees. The mined material is sold primarily to LYCON, Inc., a wholly owned subsidiary of JSG, and to the public. The sand and gravel is loaded on trucks for delivery, and the balance on railroad cars for delivery to various customers. Although JSG does load railcars, it does not do so as a service for a railroad; it loads railcars with its product for transport to its customers. JSG does not own any interests in a railroad, nor in any of the railroad cars. JSG is closely held and counsel advises that none of the individuals who have an ownership interest in JSG also have an interest in a company covered under the Acts.

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;

(ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad \* \* \*.

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially similar definitions, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that JSG is not a carrier operating in interstate commerce and that it provides no services to any carrier. JSG is not

owned by a railroad, and it is not under common control with a carrier. Accordingly, it is determined that JSG is not an employer within the meaning of section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)) and the corresponding provision of the Railroad Unemployment Insurance Act.

Original signed by:

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