

**EMPLOYER STATUS DETERMINATION**  
**Eastern Shore Railroad, Inc. (ESHR) (B.A. No. 3417)**

This is the determination of the Railroad Retirement Board concerning the continued status of Eastern Shore Railroad, Inc. (ESHR) (B.A. No. 3417) 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 Legal Opinion L-82-22, issued January 22, 1982, ESHR was found to be a covered rail carrier employer under the RRA and RUIA effective October 1, 1981, the date on which it commenced railroad operations.

In Surface Transportation Board (STB) Finance Docket Number 34814, decided January 27, 2006, Cassatt Management, LLC d/b/a Bay Coast Railroad (BCR), a noncarrier,<sup>1</sup> filed a verified notice of exemption to lease from Canonie Atlantic Co. (Canonie), acting on behalf of the Accomack-Northampton Transportation District Commission, and to operate approximately 68.3 miles of rail line as follows: (1) between ESHR milepost 30.5 at Pocomoke City, Maryland (Norfolk Southern Railway Company (NS) (BA 9408) interchange), and ESHR milepost 94.8 at Cape Charles, Virginia (float bridge); (2) between ESHR milepost 95.0 at Little Creek (Virginia Beach), Virginia, and ESHR milepost 97.6 at Camden Heights (Norfolk), Virginia; and (3) between ESHR milepost 100.7 at North Junction and ESHR milepost 102.1 at St. Julian, Virginia. As part of the transaction, BCR was being assigned to operate a 4.6 mile line of railroad leased by Canonie from NS extending (a) between ESHR milepost 97.6 at Camden Heights and ESHR milepost 100.7 at North Junction; and (b) on the Diamond Springs Line between NS milepost SN 5.2 and NS

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<sup>1</sup> Cassatt Management, LLC d/b/a Bay Coast Railroad became a covered employer under the jurisdiction of the Railroad Retirement and Railroad Unemployment Insurance Acts effective January 18, 2006, the date it began operations.

milepost SN 6.7. BCR was also assigned to operate Canonie's trackage rights over a 4.0-mile line of railroad owned by NS, extending between Coleman Place and NS's Portlock Yard for interchange purposes. ESHR formerly operated these lines.

Information regarding ESHR was furnished by Mr. Larry E. LeMond, Vice-President of Operations for ESHR. According to Mr. LeMond, ESHR ceased operations on January 18, 2006 when BCR took over all of the operations and the employees of ESHR. According to Mr. LeMond, on the advice of their auditors, the ESHR payroll account remained open and all former employees were paid from that account for Fiscal Year 2006. Mr. LeMond stated that ESHR last paid its employees on December 29, 2006, for payroll ending December 23, 2006. ESHR was the operator of the rail line owned by Canonie and, as the operator, had no assets, according to Mr. LeMond. Mr. LeMond stated that Canonie owned all of the assets and Cassatt Management, LLC d/b/a Bay Coast Railroad had a 30-year lease of all of the land and assets of the rail line from Canonie. According to Mr. Lemond, ESHR still exists for Interline Settlement of freight that moved over the ESHR line and as such, has not yet been dissolved. Mr. Lemond stated that all ESHR employees will now be under the BCR payroll beginning in 2007.

Section 202.11 (20 CFR 202.11) of the Board's regulations states that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Also, section 1(a)(1) of the RRA defines the term "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)].

\* \* \* \* \*

Section 1 of the RUIA contains the same definition.

The information summarized above indicates that, due to the assumption of all operations by Cassatt Management, LLC d/b/a Bay Coast Railroad (BCR), ESHR no longer possesses the characteristics of an operating railroad company. The Board therefore finds that effective with the close of business on December 29, 2006, the date on which ESHR last paid employees, the Eastern Shore Railroad, Inc. ceased being a covered employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Original signed by:

Michael S. Schwartz

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