

**EMPLOYER STATUS DETERMINATION
Alabama Warrior Railway, LLC (ABWR)**

This is a determination of the Railroad Retirement Board concerning the status of Alabama Warrior Railway, LLC (ABWR) 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). The status of ABWR under the Acts has not previously been considered.

ABWR is a privately held corporation owned by Watco Transportation Services, Inc. (BA # 9848). Ms. Tamara Payne, ABWR Director of Payroll & Tax Services, supplied information regarding the formation and start of operations for ABWR. A press release contained in the file represented that ABWR began operations on August 7, 2009. The first employees were compensated on August 7, 2009.

In Surface Transportation Board (STB) Finance Docket No. 35203, decided December 5, 2008, ABWR filed a verified notice of exemption to operate approximately 24.5 route miles of railroad line owned by Sloss Industries Corporation and Jefferson Warrior Railroad Company between the entrance to the Sloss properties at 35th Ave North and extending in a northeasterly direction through the Sloss properties to a point near Summit Street and the South leg of the wye located near the intersection of Erwin Dairy Road and 37th Street North and the Lehigh Yard located approximately .75 miles to the south of the wye. ABWR will also acquire operating rights over approximately 1,532 feet of rail line owned by BNSF between BNSF Sta. 58+50.90 and BNSF Sta. 73+83 on the Dimmick City Main Track. All of the lines are located in Birmingham, Alabama. ABWR will interchange with CSX, BNSF, and NFS on behalf of customers located along the track described above.

According to documents provided, the exemptions filed with the STB became effective on December 26, 2008. ABWR began operations on August 7, 2009 and will handle freight with revenues that will not result in ABWR's becoming a Class I or Class II rail carrier. ABWR anticipates total business time spent with each carrier named to be NFS 78%, CSX 14%, BNSF 8%.

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 (45 U.S.C. § 351) contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that ABWR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Alabama Warrior Railway, LLC, became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and its corresponding provision of the Railroad Unemployment Insurance Act effective August 7, 2009, the date on which ABWR began operations.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board