

**EMPLOYER STATUS DETERMINATION
Boise Valley Railroad, Inc. (BVRR)**

This is a determination of the Railroad Retirement Board concerning the status of Boise Valley Railroad, Inc. (BVRR) 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 BVRR under the Acts has not previously been considered.

BVRR is a privately held corporation owned by Watco Transportation Services, Inc. Ms. Tamara Payne, Director of Payroll & Tax Services for BVRR, supplied information regarding the formation and start of operations for BVRR. Mr. Richard B. Webb is the CEO of BVRR. Ms. Payne represented that BVRR began operations on November 15, 2009. BVRR has eight employees who were first compensated on or about November 1, 2009.

In Surface Transportation Board (STB) Finance Docket No. 35259, decided September 28, 2009, BVRR filed a verified notice of exemption to acquire by assignment of lease from Idaho Northern and Pacific Railroad Company the operating and lease rights over approximately 35.99 route miles (not including yard tracks) of railroad line owned by Union Pacific (UP). BVRR will acquire rights to track between milepost (MP) 0.2 near Caldwell, Idaho and MP 11.39 at Wilder, Idaho; between MP 443.0 near Hillcrest, Idaho and MP 467.8 at Nampa, Idaho; and track numbers 40, 401, 402, 403, 404, 406, 407, 408, 409, 410, 411, 412, 413, 414, and 415 in UP's Nampa Yard at Nampa, Idaho. BVRR will also acquire by assignment approximately 12.11 miles of incidental trackage rights over two segments of UP's lines in order to interchange traffic with UP at Nampa and to access one of the leased lines. This track is between MP 465.91 at Caldwell and MP 454.0 at Nampa and MP 465.91 at Caldwell and MP 0.2 near Caldwell on the Wilder Branch.

BVRR will provide standard switching services with no passenger traffic. BVRR anticipates an annual carload of 7,000 initially with an increase to the historic average of 11,000 carloads in the future. BVRR will provide its own locomotive and track maintenance. All of BVRR business will consist of this type of switching service exclusively with UP. BVRR does not expect its annual projected revenues due to this transaction to result in BVRR becoming a class II or class I carrier. According to documents provided, the exemptions filed with the STB became effective on September 28, 2009.

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 BVRR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Boise Valley Railroad, Inc., 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 November 15, 2009, the date on which BVRR began operations.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board