

B.C.D. 11-86
EMPLOYER STATUS DETERMINATION
George's Creek Railway, LLC

August 29, 2011

This is a determination of the Railroad Retirement Board concerning the status of George's Creek Railway, LLC (GCR) 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 a decision issued November 1, 2010, the Surface Transportation Board (STB) approved GCR's verified notice to operate a 8.54-mile rail line from milepost BAI 27.0 near Morrison and milepost BAI 18.46 at the end of the track near Carlos, Maryland (Docket No. 35437) (hereinafter called the "Line").

Information regarding George's Creek Railway, LLC was provided by Mr. Gerald Altizer, GCR's Managing Member. Mr. Altizer advised the Board that GCR is a limited liability corporation that was incorporated in the state of Maryland. According to Mr. Altizer, GCR first compensated its five employees April 2, 2010. GCR currently originates and delivers car load freight to CSX Transportation (CSXT), a covered railroad employer under the RRA and the RUIA (B.A. No. 1524).¹ Mr. Altizer further stated that 100% of GCR's revenue from rail carrier services are generated from its business with CSXT.

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;

Section 1 of the RUIA contains essentially the same definition.

The evidence of record establishes that George's Creek Railway, LLC is a rail carrier operating in interstate commerce. Accordingly, it is determined that George's Creek Railway, LLC 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 effective

¹ Mr. Altizer stated that GCR and CSXT established a junction settlement agreement and both entities are defining the interchange location.

April 2, 2010, the date as of which its employees were first compensated. See, Rev. Rul. 82-100, 1982-1 C.B. 155, wherein the IRS held that a company became an employer under the Railroad Retirement Tax Act on the date it hired employees to perform functions directly related to its carrier operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board