

EMPLOYER STATUS DETERMINATION**Coos Bay Railroad Operating Company, LLC****d/b/a Coos Bay Rail Link**

This is the determination of the Railroad Retirement Board concerning the status of Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link (CBR) 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.). The status of CBR under the Acts has not previously been considered.

Information about CBR was provided by Mr. Scott L. Parkinson, President of CBR. According to Mr. Parkinson, CBR is a wholly-owned subsidiary of American Railroad Group Transportation Services, LLC d/b/a ARG, Trans (ARG Trans). ARG Trans also owns San Pedro Railroad Operating Company, LLC, d/b/a San Pedro & Southwestern Railroad (SPROC), an employer under the Acts (B.A. No. 4786). CBR is the contracted operator for the Oregon International Port of Coos Bay (the Port), which purchased the line from RailAmerica. The Port selected ARG Trans to be the contracted operator, which in turn created CBR to "operate the railroad owned by the Port and assume the common carrier obligation". CBR has three compensated employees as of September 19, 2011, and expected to begin rail operations on October 3, 2011. According to Ms. Peggy S. Davis, Railroad Director at ARG Trans, CBR's "origination date was September 28, 2011. CBR-Coos Bay Rail Link officially became a railroad on September 28, 2011". CBR will interchange with the Union Pacific Railroad (UP), and 100% of its business time will be spent doing business with the UP. According to Mr. Parkinson, initially 100% of CBR's revenue will be service as a handling carrier interchanging with UP at UP's Eugene, Oregon terminal. CBR will provide freight service, consisting of primarily forest products, and CBR's volume is "likely to be less than 750 revenue railcars during first twelve months of operation". No passenger traffic is anticipated.

In Surface Transportation Board (STB) Finance Docket No. 35550, service date September 14, 2011, ARG Trans filed a notice of exemption to continue in control of CBR upon CBR's becoming a Class III railroad. That transaction was related to a concurrently filed verified notice of exemption in Docket No. FD 35551, wherein CBR sought STB approval to operate the approximately 133 miles of railroad owned by the Port.

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 CBR is a class III rail carrier operating in interstate commerce. Accordingly, it is determined that CBR 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 as of September 28, 2011, the date it began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board