

**EMPLOYER STATUS DETERMINATION  
Tyburn Railroad Company**

This is a determination of the Railroad Retirement Board concerning the continued status of Tyburn Railroad Company (TRC), BA No. 3367, 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).

TRC began doing business in June 1989. It started with two employees. TRC operated a total of 6 miles of track and interchanged with Consolidated Rail Corporation (Conrail, BA No. 1321). The Surface Transportation Board (STB) approved the acquisition of the railroad by TRC in Finance Docket No. 31475, decided June 23, 1989. TRC was found to be a covered employer in Board Notice No. 90-16.

Pursuant to an Asset Purchase Agreement, on August 31, 2011, TRC sold its rail and transloading operations to Tyburn Railroad, LLC and Regional Transload, LLC. The Agreement has been submitted and is included with the documentation for the employer status determination of Tyburn Railroad, LLC. TRC employees were compensated through August 31, 2011 and received their last paycheck on September 7, 2011.

TRC retains real estate assets in another location which it did not sell. As a result, it has changed its name to Penndel Properties II effective August 31, 2011. Attorney Richard W. Berlinger submitted responses on behalf of Penndel Properties II. Mr. Berlinger states that TRC no longer engages in rail operations and there is no remaining relationship between TRC and the railroad industry. In addition, TRC and the buyers are unrelated parties.

Section 202.11 (20 CFR §202.11) of the Board's regulations states, "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." The evidence of record establishes that TRC no longer possesses the characteristics of an operating railroad company covered under the RRA and the RUIA.

The Board finds that effective with the close of business August 31, 2011, the last day in which employees had compensated service, Tyburn Railroad Company, ceased being a covered employer under the RRA and the RUIA. Cf. Rev. Ruling 82-99, 1982.1 C.B. 154.

Original signed by:

FOR THE BOARD  
Martha P. Rico  
Secretary to the Board