

**EMPLOYER STATUS DETERMINATION  
Saratoga and North Creek Railway LLC**

This is the determination of the Railroad Retirement Board concerning the status of Saratoga and North Creek Railway LLC (Saratoga), 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.).

Information regarding Saratoga was provided by Daniel Marko, General Counsel of Saratoga. Saratoga is a limited liability corporation and the sole member is San Luis and Rio Grande Railroad (BA No. 3796). Permian Basin Railways is the parent company of San Luis and Rio Grande Railroad. Saratoga operates on the 56.5 mile Adirondack Branch, formerly the Delaware and Hudson Railway. The length of track is 39.07 miles of railroad and the terminal points are 3 Railroad Place, North Creek, New York to 26 Station Lane, Saratoga Springs, New York. According to Mr. Marko, Saratoga engages in passenger operations which include running local passenger trains between North Creek and Saratoga Springs, New York in order to provide connections with the national rail system (Amtrack). It also has excursion trains, dinner trains and special event trains. Saratoga operations began on July 18, 2011. The annual expected passenger ridership is 90,000. As of October 19, 2011, there were 8 employees who were compensated starting July 15, 2011.

Saratoga simultaneously filed three notices with the Surface Transportation Board (STB): (1) Finance Docket No. 35500, *Saratoga and North Creek Railway — Acquisition and Operation Exemption—Delaware and Hudson Railway Company d/b/a Canadian Pacific*; (2) Finance Docket No. 35499, *San Luis & Rio Grande Railroad—Continuance in Control Exemption—Saratoga and North Creek Railway, LLC* and; (3) Finance Docket No. 35500 Sub-No. 1, *Saratoga and North Creek Railway, LLC—Operation Exemption—Warren County NY*. As a result of these three transactions, Saratoga has authority to operate from Saratoga Springs to North Creek.

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;

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 Saratoga is a carrier subject to the jurisdiction of the Surface Transportation Board. Accordingly, it is determined that Saratoga 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 July 18, 2011, the date as of which it first began operations.

Original signed by:

FOR THE BOARD  
Martha P. Rico  
Secretary to the Board