

EMPLOYER STATUS DETERMINATION**Portland Vancouver Junction Railroad, LLC (PVJR)**

This is a determination of the Railroad Retirement Board concerning the status of Portland Vancouver Junction Railroad, LLC (PVJR) 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 PVJR under the Acts has not previously been considered.

PVJR is a privately held company owned by Eric S. Temple. Mr. Eric Temple bought 50% of the membership interest in PVJR from Mr. Nicholas Brigham Temple on February 1, 2012, giving Mr. Eric Temple 100% membership interest in the company. Mr. Temple, the Chief Executive Officer, supplied information regarding the formation and start of operations for PVJR. In electronic correspondence dated April 18, 2012, Mr. Temple stated that PVJR began operations on February 2, 2012 with two compensated employees.

In Surface Transportation Board Finance Docket No. 35210, service date January 16, 2009, PVJR obtained authority to operate. Nicholas and Eric Temple, Columbia Basin Railroad Company, Inc. (CBRW), Central Washington Railroad Company (CWA), and PVJR filed a verified notice of exemption for a transaction within a corporate family. Mr. Nicholas and Mr. Eric Temple are noncarrier individuals. CBRW and CWA are Class III rail carriers. PVJR is a newly formed, wholly owned subsidiary of CBRW.

In Columbia Basin Railroad Company, Inc. - Lease and Operation Exemption-Clark County, WA, STB Finance Docket No. 34472 (STB served Mar. 11, 2004), CBRW was authorized to acquire by lease and to operate 14 miles of rail line owned by Clark County, WA, extending between milepost 0.0 at Vancouver Junction, WA, and milepost 14.1 at Battle Ground, WA.

In Columbia Basin Railroad Company, Inc.-Lease and Operation Exemption-Clark County WA, STB Finance Docket No. 34661 (STB served Mar. 3, 2005), CBRW was also authorized to acquire by lease and to operate an additional 19 miles of rail line owned by Clark county, WA, extending between milepost 14.1 at Battle Ground, WA, and milepost 33.1 at or near Chelatchie, WA.

In Central Washington Railroad Company – Lease and Operation Exemption-The Burlington Northern and Santa Fe Railway Company, STB Finance Docket No. 34640 (STB served Jan. 21, 2005), CWA was authorized to lease from The Burlington Northern and Santa Fe Railway Company (BNSF) and to operate 41.57 miles of rail line extending between specified points in the State of Washington. CWA was also assigned certain trackage rights by BNSF as part of that transaction. The Temples control both CBRW and CWA. The applicants planned on assigning CBRW's interests in the 33-mile Clark County line to PVJR, which would assume its common carrier obligations.

The intra-corporate restructuring was arranged so that the Clark County line was geographically and operationally distinct from the remainder of CBRW's rail system. The restructuring would insulate CBRW and PVJR from the financial, legal and operational risks of the other. The applicants stated that the transaction would not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

PVJR handles freight of about 600 rail cars per year. CBRW and CWA are Class III rail carriers. PVJR does not now intend to provide any rail passenger service.

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 PVJR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Portland Vancouver Junction Railroad, LLC 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 February 2, 2012, the date on which PVJR began operations.

Original Signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board