

**B.C.D. 12-29**

**August 13, 2012**

**EMPLOYER STATUS DETERMINATION**

**Swan Ranch Railroad L.L.C.**

This is the determination of the Railroad Retirement Board concerning the status of Swan Ranch Railroad L.L.C. (SRR), 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 SRR was provided by Craig R. Richey and submitted by Michael Gray, Associate General Counsel of SRR's parent company. According to Mr. Richey, SRR began operations on January 2, 2012. Two employees have been compensated by SRR starting on January 2, 2012. SRR is a wholly-owned subsidiary of Watco Transportation Services, LLC (WTS). WTS is a covered railroad employer (BA number 9848).

According to SRR, the length of track is 3.5 miles. It interchanges with BNSF Railway. SRR will receive loaded and empty railcars from BNSF and deliver those railcars to customers within the Cheyenne Logistics Hub Industrial Park. It will pick up loaded or empty railcars from customers and deliver those railcars to BNSF at designated interchange tracks. SRR will transmit appropriate documentation as required, and will inspect and repair railcars.

Relevant to this decision, there were two notices filed concurrently. In Surface Transportation Board Finance Docket No. 35574, SRR filed a notice of exemption to operate all of the track located within the Swan Industrial Park in Cheyenne, Wyoming per an agreement with Cheyenne Logistics Hub, LLC. The agreement does not contain any provision that prohibits SRR from interchanging traffic with a third party. In addition, in Surface Transportation Board Finance Docket No. 35575, Watco Holdings, Inc. (Watco) filed a verified notice of exemption to continue in control of SRR upon SRR becoming a Class III rail carrier. Watco intended to consummate the transaction on or shortly after December 28, 2011. Watco currently controls 23 Class III rail carriers that operate rail lines in 18 states. Watco represented that (1) the rail lines to be operated by SRR do not connect with any other railroads in the Watco corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines to be operated by SRR with any other railroad in the Watco corporate family; and (3) the transaction does not involve a Class I rail carrier.

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 SRR is a carrier subject to the jurisdiction of the Surface Transportation Board. Accordingly, it is determined that SRR 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 January 2, 2012 the date as of which it first began operations.

Original signed by:

FOR THE BOARD  
Martha P. Rico  
Secretary to the Board