

B.C.D. 12-36

September 12, 2012

EMPLOYER STATUS DETERMINATION

Santa Teresa Southern Railroad LLC

This is the determination of the Railroad Retirement Board concerning the status of Santa Teresa Southern Railroad LLC (STSR), 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 STSR was provided by Barry S. McClure, Executive Vice President. According to Mr. McClure, STSR began operations on June 1, 2012 and one employee began being compensated by STSR on July 1, 2012. STSR is a wholly-owned subsidiary of Ironhorse Resources, Inc. (IR). IR is a covered railroad employer (BA number 9362).

According to STSR, the length of track is approximately 12,000 feet of rail line extending between points of connection with Union Pacific Railroad (UP) at or near milepost 1280 on UP's Lordsburg Subdivision and terminus at Strauss Road. It interchanges with UP. STSR will interchange railcars for delivery and provide rail related service to all of the occupants of the Santa Teresa Industrial Park.

Relevant to this decision, there were two notices filed concurrently. In Surface Transportation Board Finance Docket No. 35599, STSR filed a notice of exemption to operate a rail line owned by Verde Logistics Railroad LLC (Verde). STSR states that it has entered into an Operating Agreement with Verde for STSR to provide common carrier rail services to shippers and receivers located in the Santa Teresa Logistics Industrial Park. In addition, in Surface Transportation Board Finance Docket No. 35600, IR, Gregory B. Condiff, Connie Condiff, and CGX Inc. (the parties) filed a verified notice of exemption to continue in control of STSR upon STSR becoming a Class III rail carrier. CGX Inc., a noncarrier holding company, owns IR as well as four other Class III rail carriers. IR owns five Class III carriers including STSR. The parties represented that (1) the rail lines to be operated by STSR do not connect with any other railroads in the CGX or IR corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines to be operate by STSR with any other railroad in the 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 STSR is a rail carrier subject to the jurisdiction of the Surface Transportation Board. Accordingly, it is determined that STSR 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 June 1, 2012 the date as of which it first began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board