B.C.D. 02-70

OCT 2 2 2002

EMPLOYER STATUS DETERMINATION
AN Railway, LLC

This is the determination of the Railroad Retirement Board concerning the status of AN Railway, LLC (ANR) 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).

In Surface Transportation Board (STB) Finance Docket No. 34247 decided September 11, 2002, ANR filed a notice of exemption to lease from the Apalachicola Northern Railroad Company (ANRR) (B.A. No. 2503) and operate a total of approximately 96 miles of rail line. The rail line extends from Port St. Joe to Chattahoochee, Florida. The twelve stations on the rail line are located at Port St. Joe (Milepost (MP) 0), Apalachicola (MP 20), Borrow Pit (MP 28), Beverly (MP 29), Sumatra (MP 40), Wilma (MP 50), Vilas (MP 57), Telogia (MP 67), Hosford (MP 70), Greensboro (MP 84), Hardaway (MP 88), and Chattahoochee (MP 96). As part of the same transactions, ANR also purchased from ANRR equipment and other personal property, which includes six locomotives, 148 railroad cars, seven motor vehicles, and a variety of cranes, forklifts, communications equipment and supplies.

Ms. Lisa L. Allen provided information regarding ANR. According to Ms. Allen, Rail Management Corporation and Rail Partners, L.P. are the corporate owners of ANR. Ms. Allen stated that Mr. Michael E. Durden is the president of ANR. She stated that ANR began rail operations and first compensated its six employees on September 1, 2002. Ms. Allen further stated that ANR will operate a short line railroad from Port St. Joe, Florida to Chattahoochee, Florida. She stated that ANR interchanges with CSX Transportation (CSXT) in Chattahoochee. She further stated that ANR will lease a rail yard in Chattahoochee, Florida to CSXT.

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:

AN Railway, LLC

(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 contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act.

The evidence or record establishes that ANR is a rail carrier operating in interstate commerce. Accordingly, it is determined that ANR became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and the corresponding provision of the Railroad Unemployment Insurance Act effective September 1, 2002, the date ANR began rail operations.

Original signed by:

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever