

EMPLOYER STATUS DETERMINATION
Western Rail Switching, Incorporated (WRSI)

This is a determination of the Railroad Retirement Board concerning the continuing status of Western Rail Switching, Incorporated (WRSI), 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.). WRSI has been an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act since October 11, 2004, the date operations began.

The Board's Audit and Compliance Division issued a letter dated May 11, 2010 to Mr. Todd Havens, President of WRSI, asking about its current operating status because WRSI had last filed an "Employee Service and Compensation Report" reflecting employees in calendar year 2008 and had filed no reports for the subsequent year 2009. In a letter dated May 18, 2010, Mr. Havens responded that WRSI was not currently providing rail service, that operations ceased on June 1, 2008, and that WRSI has no employees or equipment. Mr. Havens also provided a copy of a resolution dated November 18, 2008 by the Board of Commissioners of Spokane County, Washington which accepted the recommendation of the County Engineer to accept the assignment of operating rights of the Geiger Spur rail line owned and operated by WRSI to Eastern Washington Gateway Railroad Company (EWGR).¹

In Surface Transportation Board (STB) Finance Docket Number 39564, decided November 26, 2008, EWGR, a Class III rail carrier, filed a verified notice of exemption to change operators from WRSI to EWGR over approximately 5.9 miles of

¹ In B.C.D. 07-39, issued November 1, 2007, EWGR was held to be an employer covered by the RRA and RUIA effective June 4, 2007.

rail line (the Geiger Spur) owned by the County. According to the STB decision, the rail line extends from milepost 2.5 at the east gate of Fairchild Air Force Base to milepost 4.93 at McFarlane and Hayford Roads near Airway Heights, Washington, and from a connection with EWGR at milepost 0.00 at Geiger Junction near Medical Lake, Washington, to milepost 3.45 at a connection with the first segment (milepost 2.7 on the first segment). The STB decision further states that EWGR will acquire all of WRSI's interest in an existing operating agreement with the County and will replace WRSI as the operator of the Geiger Spur.

Section 202.11 (20 CFR 202.11) of the Board's regulations states that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

The evidence of record establishes that WRSI no longer possesses the characteristics of an operating railroad company. The Board therefore finds that effective June 1, 2008, the date on which operations ceased, Western Railroad Switching, Incorporated ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board