

B.C.D. 13-13

May 22, 2013

EMPLOYER STATUS DETERMINATION

American Rail Heritage, Ltd.

d/b/a Crab Orchard and Egyptian Railroad Company

This is a determination of the Railroad Retirement Board concerning the continued status of American Rail Heritage, Ltd. d/b/a Crab Orchard and Egyptian Railroad Company (COER), BA No. 3325, 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 Service Order 1282 dated October 18, 1977, the Interstate Commerce Commission (predecessor to the Surface Transportation Board) authorized COER to operate over the tracks of the Illinois Central Gulf Railroad Company between Ordill, Illinois and Mandeville, Illinois. Mr. William E. Schreiber, Vice President and General Manager of COER, stated that the company commenced freight operations on October 18, 1977 and had seven full-time employees at that time. Based on that information, in Legal Opinion 77-25 the General Counsel determined COER to be an employer within the meaning of the Acts as of October 18, 1977.

According to Kathy A. Crane, Corporate President of COER, COER ceased operations at midnight on December 19, 2012, which was also the last date of compensation for all COER employees. The assets of COER were purchased and have been transferred to the ownership of Progressive Rail of Lakeville, Minnesota. Ms. Crane states that there will be no continuing relations between COER and the railroad industry and COER did not merge into another company.

Surface Transportation Board Finance Docket Number 35656 shows that Progressive Rail Incorporated, a Class III rail carrier, has filed a verified notice of exemption to acquire from COER and operate 12.23 miles of COER's rail lines in Williamson County, Illinois. In addition, COER submitted a State of Delaware Certificate of Dissolution showing that American Rail Heritage, Ltd. incorporated in Delaware on February 8, 1980 and authorized dissolution on February 13, 2013. Finally, COER submitted an Application for Withdrawal and Final Report for the State of Illinois filed March 15, 2013 showing that American Rail Heritage, Ltd. surrendered its authority to transact business in Illinois. The report also indicates that no portion of the corporation's issued shares at this time is represented by business transacted or property located in Illinois.

Section 202.11 (20 CFR §202.11) of the Board's regulations states, "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 COER no longer possesses the characteristics of an operating railroad company covered under the RRA and the RUIA.

The Board finds that effective with the close of business December 19, 2012, the last day in which there were operations and employees had compensated service, American Rail Heritage, Ltd. d/b/a Crab Orchard and Egyptian Railroad Company, ceased being a covered employer under the RRA and the RUIA. Cf. Rev. Ruling 82-99, 1982.1 C.B. 154.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board