

**B.C.D. 13-39**

**November 4, 2013**

**EMPLOYER STATUS DETERMINATION**

**Ag Valley Railroad, LLC (AVRR)**

This is a determination of the Railroad Retirement Board concerning the status of Ag Valley Railroad, LLC (AVRR) 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). The status of AVRR under the Acts has not previously been considered.

AVRR is a limited liability corporation not owned by another entity. Mr. David C. Dillon, counsel to AVRR, provided information on AVRR's operations and corporate structure. Mr. Dillon provided information in a response dated June 19, 2013 to an Audit and Compliance questionnaire and provided the Surface Transportation Board (STB) decision regarding AVRR's operations as an enclosure. Mr. Dillon represented that AVRR commenced operations on January 8, 2013. AVRR's corporate office is in Chicago, Illinois.

The Surface Transportation Board (STB) in Finance Docket 35736 decided May 20, 2013 in favor of AVRR's verified notice of exemption to operate approximately 3.09 miles of track with no mileposts on the line. The line is located between E. 100<sup>th</sup> St. and E. 104<sup>th</sup> St. and roughly parallel to Torrence Avenue in Chicago, Illinois. The track is owned by Ag Valley Holdings, LLC. Ag Valley Holdings has not been ruled to be a covered employer under the Acts. AVRR will interchange with Chicago Rail Link (BA#4713) for transloading carloads of inbound and outbound shipments of specified products for distribution to their final destination. These shipments include vegetable co-products, animal feed ingredients and bio-diesel feed stocks.

AVRR will employ four to six full-time employees and six to seven part-time employees. The employees began receiving compensation on or about the starting date of operations. Expected traffic is about 4,000 carloads and truckloads annually. AVRR certifies that projected annual revenue and carloads as a result for this transaction will not result in AVRR becoming a class I or Class II carrier.

Section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)), 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;

Section 1 of the RUIA (45 U.S.C. § 351) contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that AVRR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Ag Valley Railroad, LLC became 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 effective January 8, 2013, the date AVRR first began operations.

Original signed by:

FOR THE BOARD  
Martha P. Rico  
Secretary to the Board