

**EMPLOYER STATUS DETERMINATION  
Western Washington Railroad, LLC**

This is a determination of the Railroad Retirement Board concerning the status of Western Washington Railroad, LLC (WWR) 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 Finance Docket No. 35694, decided December 3, 2012, WWR filed a verified notice of exemption to lease from the City of Tacoma, Department of Public Works (City of Tacoma) and operate 7.6 miles of rail line. The rail line is between milepost 60 and milepost 67.6 in Lewis County, Washington.

Information regarding WWR was provided by Mr. W. Karl Hansen, legal counsel for WWR. According to Mr. Hansen, Mr. Toby J. Van Altvorst is WWR's Managing Member and Chief Executive Officer. Mr. Hansen stated that WWR is owned by Mr. Van Altvorst and Mr. Paul Didelius. He further stated that the lease agreement between City of Tacoma and WWR became effective on December 20, 2012. He also advised that the 7.6 miles is between Blakelee Junction, Washington and Chehalis, Washington. WWR will operate as a switch carrier for BNSF Railway Company (BNSF)(B.A. No. 1621) and Union Pacific (UP)(B.A. 1713). Mr. Hansen further stated that WWR will also provide private railcar storage, freight service to one existing online customer, and developing transloading opportunities. WWR estimated that its annual freight volume in first year operation is less than 500 carloads. WWR estimates that 50% of its revenue will derive from services for BNSF and UP, and its remaining revenue from car storage. Mr. Hansen stated that although WWR had not begun freight operations, WWR hired its first employee on January 1, 2013 and first compensated its employee on February 1, 2013.

Section 1(a) (1) of the RRA defines the term "employer" to include:

- (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of Title 49;

Section 1 of the RUIA contains essentially the same definition.

The evidence of record establishes that WWR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Western Washington 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 1, 2013, the date on which it first hired an employee. Cf. Rev. Ruling 82-100, 1982-1 C.B. 155, wherein the Internal Revenue Service held that a Company becomes an employer subject to RRTA taxes on the date the company first hires employees to perform functions directly related to its carrier operations.

Original signed by:

FOR THE BOARD  
Martha P. Rico  
Secretary to the Board