

EMPLOYER STATUS DETERMINATION
CMC Railroad, Inc.

This is a determination of the Railroad Retirement Board concerning the status of CMC Railroad, Inc. (CMC)(Pre-assigned B.A. No. 4866) 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. 33513, decided December 5, 1997, CMC filed a verified notice of exemption to operate a rail car storage yard (Yard) that was previously operated by GWI Switching Services, L.P. (GWI) (B.A. No. 4862). According to the STB decision, GWI assigned to CMC the operating agreement that would permit CMC to operate the Yard. CMC will access the Yard at connections with the Baytown Branch of Union Pacific Railroad Company (B.A. No. 1715) in the vicinity of Dayton, Texas, at a line of the former Southern Pacific Transportation Company (SP) mileposts 2.0 and 3.3. Under the assignment, CMC will also operate 10 miles of incidental trackage rights. The 10 miles of trackage rights include (a) SP milepost 5.0 to SP milepost 0.0 (also known as Lafayette Main Line SP milepost 327.8); and (b) Lafayette Main Line SP milepost 325.0 to SP milepost 330.0.

Information regarding CMC was provided by Ruth E. Salek, General Counsel of CMC Industries, Inc. According to Ms. Salek, Mr. Bill Sjolander is president and sole owner of CMC. Ms. Salek stated that CMC began operations and first compensated its employees on December 1, 1997. She also stated that CMC interchanges with Union Pacific Railroad and Burlington Northern and Santa Fe Railway Company (B.A. No. 1621).

The evidence of record establishes that CMC is a carrier operating in interstate commerce. Accordingly, it is determined CMC Railroad, Inc. 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 December 1, 1997, the date on which its employees were first compensated.

V. M. Speakman, Jr.

Jerome F. Kever