B.C.D. 02-61

EMPLOYER STATUS DETERMINATION
Bad Water Railway, LLC
BDW, LLC

AUG 2 7 2002

This is the determination of the Railroad Retirement Board concerning the continuing status of the Bad Water Railway, LLC (BWR) (B.A. No. 2792) 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 BWR was ruled to be an employer under the Acts effective May 1, 2000.

Mr. Marvin Leonhardt, Chief Financial Officer of Bighorn Divide & Wyoming Railroad, Inc. (BDW) (pre-assigned B.A. 3792)[1], advised that BWR changed its name to BDW, LLC on April 17, 2002. BDW, LLC is now a real estate holding company for BDW and is no longer involved in railroad operations as of June 1, 2002, the date on which it transferred all of its operations to the newly organized BDW. Surface Transportation Board exemption authority for this transaction is set forth in STB Finance Docket No. 34195, decided May 15, 2002.

Section 202.11 of the Board's regulations provides 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 information summarized above shows that BWR no longer possesses the characteristics of an operating railroad company. The Board therefore finds that effective with the close of business on May 31, 2002, the Bad Water Railway, LLC, now known as BDW, LLC, ceased being an employer covered under the Railroad Retirement Act and Railroad Unemployment Insurance Act.

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1 The status of BDW is considered in a separate coverage decision.