

EMPLOYER STATUS DETERMINATION
Albany & Eastern Railroad Company

MAR 11 1999

This is the determination of the Railroad Retirement Board concerning the status of Albany & Eastern Railroad Company (AERC) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA).

In Surface Transportation Board (STB) Finance Docket No. 33567, decided May 14, 1998, AERC filed a verified notice of exemption to acquire and operate 17.40 miles of rail line owned by the Burlington Northern Santa Fe Railway Company (BNSF), B.A. No. 1621. The rail line is between milepost 14.50, at or near Lebanon, Oregon and milepost 31.90, at or near Foster, in Linn County, Oregon. AERC acquired incidental trackage rights over BNSF's rail line between milepost 0.0 at Albany and milepost 0.89 east of Albany, in Linn County, Oregon; and also acquired incidental trackage rights over Union Pacific Railroad Company's (UP) rail line between milepost 688.96, at or near Lebanon, and milepost 691.52, at or near Albany, Oregon, a total of 13.62 miles. According to the STB decision, the incidental trackage rights will permit AERC to interchange traffic with BNSF at its Albany yard.

Information regarding AERC was provided by David P. Root, President of AERC and by Mike Root, who in February 1999 indicated that he is now in charge of AERC. David and Donna M. Root are the owners of AERC. AERC began rail operations on May 9, 1998 and first compensated its employees on November 1, 1998.¹ AERC provides freight service between Albany, Oregon and Foster, Oregon and interchanges with BNSF, UP, and Willamette Valley Railway Company (BA No. 2766).

The evidence of record establishes that AERC is a carrier operating in interstate commerce. Accordingly, it is determined that Albany & Eastern Railroad Company became an employer within the meaning of section 1(a)(1)(i)

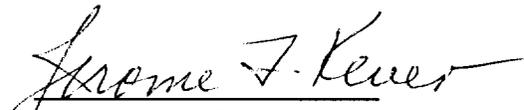
¹The information provided indicates that prior to the time AERC hired employees, Willamette Valley Railway Company provided all services over AERC's rail line.

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of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act effective May 9, 1998, the date on which it commenced operations.


Cheryl T. Thomas


V. M. Speakman, Jr.


Jerome F. Kever