EMPLOYER STATUS DETERMINATION
Oregon Pacific Railroad Company (OPR)

APR 6 1999

This is a determination of the Railroad Retirement Board concerning the status of the Oregon Pacific Railroad Company (OPR) 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.).

In Surface Transportation Board (STB) Finance Docket 33570, decided May 12, 1998, OPR filed a verified notice of exemption to acquire and operate lines of railroad owned by East Portland Traction Company (EPTC) (BA No. 4646) and Molalla Western Railway (MWRL) (BA No. 2771) in Clackamas and Multnomah Counties, Oregon. The line acquired from EPTC extends from EPTC milepost 0.26 (at its connection with Union Pacific Railroad Company's (UP) (BA No. 1713) Portland-Eugene mainline at UP milepost 769) at or near East Portland, Oregon, to milepost 4.54 at Milwaukie, a distance of 4.28 miles and includes 2.11 miles of secondary and yard trackage, for a total trackage of 6.39 miles to be operated in Clackamas County. The line acquired from MWRL extends from a connection with the UP main track at UP milepost 747.568 in the city of Canby, Oregon, to milepost 757.50 at Molalla, a distance of 9.93 miles, and includes 1.45 miles of secondary and yard trackage, for a total of 11.38 miles to be operated in Clackamas County, Oregon.

Information regarding OPR was furnished by Mr. Richard A. Samuels, President, Chief Executive Officer, and General Manager of OPR. Mr. Samuels is also the owner of 100 percent of the stock of OPR. According to Mr. Samuels, EPTC and MWRL ceased operations on December 31, 1996, and were merged on January 1, 1997, to become OPR. OPR assumed all operations on January 1, 1997. Mr. Samuels stated that all employees of EPTC and MWRL were transferred to OPR. These seven employees were first compensated on January 1, 1997, the date operations began.

Mr. Samuels stated that OPR operates approximately fifteen miles of track in two divisions: East Portland-Milwaukie and Canby-Molalla. OPR interchanges with UP.

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. §231(a)(1)), insofar as relevant here, defines a covered employer as:

Oregon Pacific Railroad Company (OPR)

(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.

The evidence of record establishes that OPR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Oregon Pacific Railroad Company 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, 1997, the date on which it commenced operations and its employees were first compensated.

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