B.C.D. 01-60

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EMPLOYER STATUS DETERMINATION
South Orient Railroad Company, Inc.
Texas Train Management Company
Texas Pacifico Transportation, Ltd.

This is the determination of the Railroad Retirement Board concerning the continuing status of South Orient Railroad Company, Inc. (SORC) (B.A. No. 5820) and Texas Train Management Company (TTMC) (B.A. No. 5818) as employers 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) as well as the employer status, under the Acts, of Texas Pacifico Transportation, LTD. (TPTL), which has not heretofore been ruled to be an employer. SORC (formerly known as Cen-Tex Rail Link, Ltd.) was determined to be an employer effective May 20, 1994 and TTMC was determined to be an employer effective August 23, 1993.

The State of Texas, acting through the Texas Department of Transportation (TxDOT), acquired all of the assets of SORC, which included the rail line between milepost 1029.1 and milepost 956.7, approximately 370.5 miles, from Brewster County, Texas to Upton County, Texas. Surface Transportation Board authority for this transaction is set forth in STB Finance Docket No. 33946, decided October 25, 2000. SORC rail operations continued on this line and an extension thereof, owned by the Union Pacific Railroad Company, until the close of business on March 2, 2001, at which time SORC ceased operations and last compensated its employees. TTMC was the management company which existed exclusively for SORC operations and which also last compensated its employees and ceased its operations as of the close of business on March 2, 2001. Although the corporate structures of SORC and TTMC have not yet been dissolved, neither SORC nor TTMC is now capable of operating as an employer covered under the RRA and RUIA.

TxDOT leased the rail line it acquired from SORC to TPTL. Authority for this transaction was set forth in Surface Transportation Board Finance Docket No. 33944, decided December 4, 2000. TPTL also acquired the right to operate over the extension of this rail line by assignment thereof from SORC. TPTL began rail freight operations, formerly operated by SORC, on March 3, 2001 and first compensated its employees from that date. TPTL connects with the Burlington Northern Santa Fe, Union Pacific, Fort Worth and Western, and Ferrocarril Mexicano.

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:

> (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of Title 49 [45 U.S.C. § 231(a)(1)(i)].

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially the same definition as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

Based on the information summarized above, it is determined that Texas Pacifico Transportation, Ltd. became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on March 3, 2001, the date it began operations. It is also determined that South Orient Railroad Company, Inc. and Texas Train Management Company both

ceased to be employers under the Acts as of the close of business on March 2, 2001, the date on which their operations ceased and employees were last compensated.

Original signed by:

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