B.C.D. 01-71

Reconsideration Determination
Northwestern Pacific Railway Company, L.L.C.

AUG 2 7 2001

This is the determination of the Railroad Retirement Board concerning the request for reconsideration submitted by the Northwestern Pacific Railway Company, L.L.C. (NWPY).

The Board held NWPY to be an employer effective February 13, 2001 (Board Coverage Decision 01-37 dated April 27, 2001). The date of February 13, 2001, was based on a report of a telephone call advising of the beginning date of railroad operations. However, in its request for reconsideration the company states that it began operations July 25, 2000, which is the date employees began work and as of which they were first compensated for the start of railroad construction and maintenance to comply with standards set forth by the Federal Railroad Administration emergency order intended to permit commercial operations to begin. NWPY requests an appropriate modification of the effective date. See Revenue Ruling 82-100 wherein it was held that coverage begins on the date a company first hires employees to perform functions directly related to its carrier operations.

The Board finds that the start of railroad construction and maintenance, as described above, to enable commercial operations to begin are functions directly related to carrier operations. Accordingly, it is the decision of the Board that NWPY became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on July 25, 2000.

Original signed by:

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever