B.C.D. 05-18

EMPLOYER STATUS DETERMINATION
Colorado, Kansas & Pacific Railway Company

MAY 0 5 2005

This is the determination of the Railroad Retirement Board concerning the continuing status of Colorado, Kansas & Pacific Railway Company (C K & P) (B.A. No. 2794) 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 Board determined in Board Coverage Decision 01-22 that C K & P was covered under the Acts as of April 17, 2000, due to its operation of a common carrier by rail under a lease/purchase option agreement with the Colorado Department of Transportation, owner of the line. See STB Finance Docket No. 33857, decided March 31, 2000.

Mr. Lew Wunderwald, President, C K & P, informed the Board that C K & P last compensated its only full time employee on October 27, 2003. C K & P officers involved in winding down C K & P as a legal entity do not receive any compensation. Other than some railcars which remain in storage on the line and which must be disposed of, C K & P has no assets except the lease agreement to operate on track owned by the State of Colorado. Mr. Wunderwald advised that C K & P is not in compliance nor can it comply with the terms of the lease and that, therefore, C K & P is not renewing it. After the aforesaid matters are handled, he advised that C K & P will dissolve as a corporation.

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.

Based on the information set forth above, it is the determination of the Railroad Retirement Board that Colorado, Kansas & Pacific Railway Company ceased being an employer under the RRA and RUIA on October 27, 2003, the date on which it last compensated its employees.

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever