B.C.D. 00-41

OCT 23 2000

EMPLOYER STATUS DETERMINATION
Beaufort and Morehead Railway, Incorporated

This is the determination of the Railroad Retirement Board concerning the continued status of Beaufort and Morehead Railway, Incorporated (BA number 5557) 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.).

The Beaufort and Morehead Railway (B&M Railway) was held to be an employer under the Acts effective February 4, 1991, when it assumed operation of approximately 3 miles of rail line between Morehead City and Beaufort, North Carolina. Ownership of the rail line remained with the Beaufort and Morehead Railroad (B&M Railroad). See B.C.D. No. 95-46.[1]

By letter dated March 7, 2000, Mr. William C. Taylor, General Manager of the North Carolina Ports Railway Commission (Railway Commission) reported to the Chief of the Board's Audit and Compliance Section that the Surface Transportation Board had approved the acquisition of the lease and operation of the railway line by the Railway Commission, which intended to do business as Beaufort and Morehead Railway. See: North Carolina Ports Railway Commission d/b/a Beaufort & Morehead Railway—Acquisition and Operation Exemption—Beaufort & Morehead Railway, Inc., STB Finance Docket No. 33826, 64 Fed. Reg. 67619, December 2, 1999. Mr. Taylor further stated that the Commission began operations over the line on January 1, 2000.

Regulations of the Board provide that the employer status of a company shall terminate whenever the company loses any of the characteristics essential to the existence of an employer status. See 20 CFR 202.11. The Board previously determined the B&M Railway to be a covered employer on the basis of operation of the Beaufort - Morehead City rail line under lease. Because the obligations of the B&M Railway to operate the line were assumed effective January 1, 2000 by the Railway Commission, the Board finds that the status of the Beaufort & Morehead Railway as a covered employer under the Acts terminated with the close of business on December 31, 1999.

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1 The B&M Railroad was itself owned by the North Carolina Ports Railway Commission. On April 1, 1997, ownership of the B&M Railroad was transferred to the North Carolina Department of Transportation (NC Dot). One year later, on April 1, 1998, B&M Railroad merged with North Carolina Railroad (BA No.8055) as part of a transaction whereby NC DoT gained 100 percent control of the North Carolina Railroad. The B&M Railroad then ceased to exist as a corporate entity. B&M Railroad functioned throughout its history as merely title holder to the rail line, and never conducted rail operations itself.