B.C.D. 02-58

AUG 14 2002

EMPLOYER STATUS DETERMINATION
Idaho Western Railway Company

This is the decision of the Railroad Retirement Board regarding the continued status of the Idaho Western Railway Company 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).

Idaho Western was held to be an employer under the Acts effective May 24, 1985 (B.A. Number 3637). It formerly was a subsidiary of StatesRail, which was determined not to be an employer under the Acts in B.C.D. No. 98-1[1]. It operated under a lease arrangement with Potlatch Corporation, also not a covered employer, and ceased operations when the lease was terminated October 31, 2000. St. Maries River Railroad, a subsidiary of Potlatch and an employer under the Acts since May 1, 1980 (B.A. No. 9002), subsequently hired all the employees of Idaho Western.

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.

Through its cessation of operations and transfer of its employees, Idaho Western has lost the characteristics essential to the existence of an employer status. Accordingly, the Board holds that Idaho Western ceased to be an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective with the close of business on October 31, 2000. Cf. Rev Ruling 82-99, 1982-2 C.B. 154, wherein the Internal Revenue Service ruled that a railroad ceases to be an employer subject to taxes under the Railroad Retirement Tax Act when the

1 It was transferred to RailAmerica, not a covered employer under the Acts, in January 2002.

railroad's employees stop performing services in connection with the railroad's carrier activities.

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