

EMPLOYER STATUS DETERMINATION
Roaring Fork Railroad Holding Authority

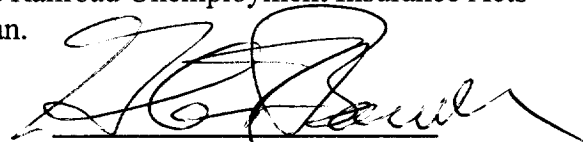
DEC 19 1997

This is the determination of the Railroad Retirement Board concerning the status of Roaring Fork Railroad Holding Authority (RFR) 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.).

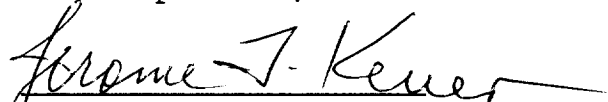
Information regarding RFR was provided by Charles H. Montange, Counsel for RFR, and is also from Surface Transportation Board Decision and Notice of Exemption, Finance Docket 33390. RFR is an intergovernmental entity which acquired approximately 33 miles of track from the Southern Pacific Transportation Company on June 30, 1997. RFR has no employees. It has a "stand-by contract in the nature of an option" with Sammamish Transportation Company, a company which has not been held to be an employer under the Acts, to provide services. There is only one shipper, which has none to five shipments per year; so far, only one carload has been delivered to RFR. RFR plans to contract with an operator to provide freight services, if required.

In cases such as this, where an entity has authority to operate a rail line, but does not actually operate the line in question, the Board looks to the identity of the entity operating the line and the nature of the relationship of that entity to the STB certified carrier to determine the status of the certified carrier under the RRA and RUIA. If the operating entity is itself a carrier employer covered under the Acts administered by the Board, or if that entity has been recognized by the STB as the operator of the line in question, which will result in that entity being found to be a covered employer with respect to the operation of the line it has undertaken, and if the certified entity has no involvement in the actual operation of the rail line, the Board will find the certified entity not to be a covered employer under the RRA and the RUIA. If, however, the operating entity is neither a covered employer nor an entity that has been recognized by the STB as the operator of the line, the Board will find the certified entity to be a covered employer and persons operating that line to be employees of the covered employer.

In this case, RFR reportedly has no employees and such operations as these are conducted by the employees of another company, which has not been held to be an employer under the Acts. Consistent with the above-described analysis of cases such as this, the Board finds that RFR is an employer subject to the Railroad Retirement and Railroad Unemployment Insurance Acts effective June 30, 1997, the date operations began.


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