

EMPLOYER STATUS DETERMINATION
Tradewater Railway Company (TRC)

This is the determination of the Railroad Retirement Board concerning the continued status of Tradewater Railway Company (TRC) (B.A. No. 3590) 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).

In Interstate Commerce Commission (ICC) Finance Docket No. 32642, decided January 17, 1995, the former ICC approved a notice of exemption for Western Kentucky Railway, L.L.C., (B.A. No. 5559) to acquire and operate approximately 93 miles of rail line owned by Costain Coal, Inc. (now Lodestar Energy, Inc. due to a name change) (Lodestar), and operated by TRC. The name of the surviving railroad is Western Kentucky Railway, L.L.C. (WKR).

Mr. R. Eberley Davis, Vice President & General Counsel of Lodestar, provided information regarding TRC. According to Mr. Davis, effective December 31, 1994, TRC and its parent, Costain Coal, Inc. (Lodestar), sold all of TRC's assets to WKR. Mr. Davis stated that TRC ceased rail operations at 12:01 a.m. on January 1, 1995, and that no employees were compensated after that date.

Section 202.11 (20 CFR 202.11) of the Board's regulations states:

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.

The information summarized above indicates that TRC no longer possesses the characteristics of an operating railroad company. The Board therefore finds that effective January 1, 1995, Tradewater Railway Company ceased being a covered employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

V. M. Speakman, Jr.

Jerome F. Kever