B.C.D. 00-58

DEC 1 8 2000

EMPLOYER STATUS DETERMINATION
Sunflour Railroad, Inc. (SRI)

This is the decision of the Railroad Retirement Board concerning the status of Sunflour Railroad, Inc. 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 Surface Transportation Board (STB) Finance Docket Number 33903, decided July 19, 2000, Sunflour Railroad, Inc. (SRI) filed a verified Notice of Exemption to acquire from Soo Line Railroad Company (SOO) (B. A. No. 1606) and operate approximately 26.3 miles of rail line extending from a connection with Soo at milepost 210.0, near Rosholt, to the end of track at milepost 236.3, in Veblen, in Marshall and Roberts Counties. South Dakota (Rosholt-Veblen line). In STB Finance Docket No. 33904, Thomas Z. Mars filed a concurrent verified notice to continue in control of SRI upon its becoming a Class III rail carrier.

Mr. Lonnie Morgan, Secretary-Treasurer of Sunflour Railroad, Inc., provided information regarding the railroad. Mr. Morgan stated that Mr. Thomas Z. Mars is Owner and Chief Executive Officer of SRI. According to Mr. Morgan, SRI is "a Class III railroad providing transportation service to the public." Mr. Morgan stated that SRI interlines freight traffic with Soo Line Railroad Company, d/b/a Canadian Pacific Railway, at Rosholt, South Dakota. SRI does not connect with any other rail carrier. Mr. Morgan also stated that SRI is under common control with the Denver Rock Island Railroad (DRIR) (B. A. No. 3786), a Class III rail carrier under the Acts. SRI reports that it commenced operations on August 23, 2000, but had not, as of September 26, 2000, compensated its two employees.

Section 1(a)(1) of the RRA defines the term "employer" to include:

> (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of Title 49 [45 U.S.C. §231(a)(1)(i)].

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Section 1 of the RUIA contains the same definition.

The evidence of record establishes that SRI is a rail carrier subject to the jurisdiction of the Surface Transportation Board. Accordingly, it is determined that Sunflour Railroad, Inc. became an employer within the meaning of section

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1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. §231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act effective August 23, 2000, the date on which it commenced railroad operations.

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