B.C.D. 03-14

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EMPLOYER STATUS DETERMINATION
Duluth & Northeastern Railroad Company

This is the determination of the Railroad Retirement Board concerning the continuing status of the Duluth & Northeastern Railroad Company (D&NE) (B.A. No. 2605) 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). D&NE has been an employer under the RRA and RUIA with service creditable from September 10, 1898.

In his letter dated November 5, 2002, Mr. Ralph M. Davisson, Vice President and General Counsel, Potlatch Corporation (Potlatch), advised that all D&NE assets were conveyed to Cloquet Terminal Railroad Company, Inc. (CTRR) (B.A. No. 4652) on May 13, 2002. Potlatch was a co-assignor along with D&NE in regard to the aforesaid conveyance. The former vice president and office manager of D&NE requested that Mr. Davisson reply to the Board's employer status inquiry. Mr. Davisson stated that it was his understanding that most, if not all, of D&NE's former employees were hired by CTRR. D&NE was not dissolved as a corporation. However, without assets or employees, it does not appear that D&NE can now operate as a carrier by rail within the meaning of the RRA and RUIA. Surface Transportation Board authority for the takeover of D&NE by CTRR is set forth in STB Finance Docket No. 34185, decided May 23, 2002.

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 the conveyance of its assets and the separation of its employees, D&NE has lost the characteristics essential to the existence of an employer status.

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Based on the information set forth above, it is the determination of the Railroad Retirement Board that Duluth & Northeastern Railroad Company ceased being an employer covered under the RRA and RUIA as of the close of business on May 13, 2002, the date on which it conveyed all of its assets and no longer had any employees.

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