B.C.D. 04-41

SEP 02 2004

**Employer Status Determination**
Old Augusta Railroad Company
Old Augusta Railroad, LLC

This is the determination of the Railroad Retirement Board concerning the continuing status of Old Augusta Railroad Company (OARC) (B.A. No. 4563) 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). OARC has been an employer under the RRA and RUIA with service creditable from June 15, 1982. This is also the determination of the Board concerning the employer status of Old Augusta Railroad, LLC (OARLLC) as an employer under the RRA and RUIA. OARLLC has not heretofore been ruled to be an employer under the Acts.

According to information given to the Board by representatives of OARC and OARLLC, Georgia-Pacific Corporation, a non-carrier and parent company of OARC, sold OARC, with all assets, to Koch Cellulose, LLC, a non-carrier and parent company of OARLLC. This transaction took place as of the close of business on May 7, 2004, at which time and date OARC employees were last compensated and OARC ceased operations. Simultaneously, as of the close of business on May 7, 2004, OARLLC began operations over the same 2.5 mile line of track to the Leaf River Pulp Mill and interchanging with the Canadian National Railway Company. Surface Transportation Board (STB) authority for acquisition and exemption in this matter is set forth at STB Finance Docket No. 34493, decided April 14, 2004. Additionally, in order to qualify OARLCC to do business in Mississippi, OARC changed its name to Old Pine Belt Railroad Company, which is currently a corporate shell with no operations.

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.

Based on the information summarized above, it is determined that Old Augusta Railroad Company ceased being an employer covered under the RRA and RUIA as of the close of business on May 7, 2004, the date on which it ceased operations and last compensated employees.

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)), insofar as relevant here, defines a covered employer as:

> (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)].

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially the same definition as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

Based on the information summarized above, it is determined that Old Augusta Railroad, LLC became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act as of the close of business on May 7, 2004, the date it began operations.

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