EMPLOYER STATUS DETERMINATION OCT 19 1999
Rocky Mountain Railcar and Railroad, Inc. (RMRR)

This is the determination of the Railroad Retirement Board concerning the continued status of Rocky Mountain Railcar and Railroad, Inc. (RMRR), B.A. No. 3769, 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).

Initially, information obtained from Victoria Buckley, Secretary of State for the State of Colorado, indicates that RMRR was administratively dissolved on February 13, 1997 by the State of Colorado for RMRR's failure to file its required corporate report for 1996. Additional information obtained in response to a coverage investigation of Green Acres Turf Farm, Inc. (Green Acres), was provided by Mr. Robert L. Bartholic, attorney for Green Acres. Green Acres is an agricultural enterprise engaged in planting, cultivation, seeding, growing, harvesting and delivery of grass turf in the Douglas, Jefferson, Arapahoe, Adams, Weld, Larimer, and Denver, Colorado County areas. Mr. Bartholic provided information which indicates that Ronnie Lynn Maynard and Diane Lynne Maynard (the Maynards) owned and controlled all of the outstanding shares of RMRR. According to Mr. Bartholic, the Maynards were declared bankrupt by the U.S. Bankruptcy Court for the District of Colorado. Mr. Bartholic stated that pursuant to the Bankruptcy Court Order, on May 3, 1996, the Maynards sold and conveyed agricultural land owned by them to T. Aigaki "on behalf and for the benefit of Green Acres." According to Mr. Bartholic, the Maynards sold RMRR as personal property and conveyed by bill of sale to T. Aigaki RMRR's "railroad track(s), structure, rail, ties, ballast, grade, roadbed, switches, fixtures, fittings, appurtenances and materials... ." This transaction was approved by the Bankruptcy Court as an asset sale-purchase of personal property consisting of the physical track structure located on the agricultural land sold and conveyed to Green Acres, according to information provided by Mr. Bartholic. Further, he stated that a part of the track on the land conveyed to Green Acres was made "subject to the right of Rescar Industries, Inc. [(Rescar)] to conduct railroad interchange operations there over."[1]

From the information provided by Mr. Bartholic, it appears that all railroad trackage has been transferred from RMRR to T. Aigaki and subsequently conveyed to Green Acres, subject to the judicially imposed rights of Rescar.

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[1]The Board's Office of Audit and Compliance is conducting a coverage investigation of Rescar.

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Additionally, an order of dismissal with prejudice, filed October 31, 1996, in the U. S. District Court for the District of Colorado, forbids both the Maynards and RMRR, or any of their affiliates, from entering or using any of the Rescar property, including the trackage thereon.

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

The information summarized above indicates that RMRR no longer possesses the characteristics of an operating railroad company. The Board therefore finds that effective with the close of business on February 13, 1997, the date it was administratively dissolved, the Rocky Mountain Railcar and Railroad, Inc. ceased being a covered employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

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