

**EMPLOYEE SERVICE DETERMINATION
MGK**

FEB 20 2004

This is the determination of the Railroad Retirement Board concerning whether the services performed by MGK as President of the Eastern Idaho Railroad Company constituted employee service under the Railroad Retirement and Railroad Unemployment Insurance Acts. The Eastern Idaho is and has been a covered employer under those Acts since November 21, 1993 (B.A. No. 2768).

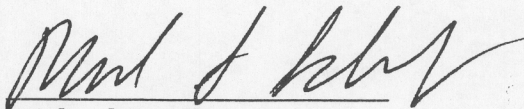
MGK was President of the Eastern Idaho from November 1993 through February 6, 1998. He advises that he was involved in all aspects of railroad operations except accounting and payroll.

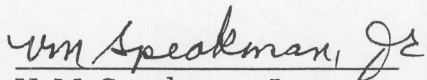
No service was reported for MGK at least through December 1996. MGK raised this issue with the Board at least as early as March 1998. However, resolution of MGKs' complaint was delayed, as enforcement of reporting requirements against the owners of Eastern Idaho was attempted and concluded.

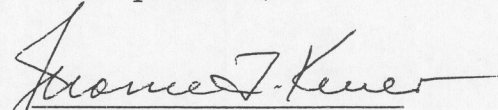
Section 203.2 of the Board's regulations provides that:

An individual shall be an employee whenever (a) he is engaged in performing compensated service for an employer or (b) he is in an employment relation to an employer, or (c) he is an employee representative, or (d) he is an officer of an employer.

The Board finds that MGK was an officer of an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts for the period November 1993 through February 6, 1998, and should be credited with service for that period.


Michael S. Schwartz


V. M. Speakman, Jr.


Jerome F. Kever