

DEC 5 1946

Director of Retirement Claims

L-45 777

The General Counsel

Des Chutes Railroad Company

Service claimed as laborer on steam shovel, near Gateway,
Oregon, from April 1911 to June 1911

In response to your request, I herewith submit my opinion on
the following:

QUESTION

Has the Des Chutes Railroad Company ever been an
employer within the meaning of either the Railroad
Retirement Act or the Railroad Unemployment
Insurance Act and is service to it creditable under
either of those Acts?

OPINION

It is my opinion that the Des Chutes Railroad Company,
at least during the period from August 28, 1935 to date,
has been an employer within the meaning of the Railroad
Retirement Act, and so far as applicable, the Railroad
Unemployment Insurance Act, and that service to it is
creditable under the Railroad Retirement Act from
February 2, 1906 to date.

DISCUSSION

Information in the valuation report of the Interstate Commerce
Commission on the Des Chutes Railroad Company, 44 V.R. 250, 251, and
Moody's Steam Railroads, is that the Des Chutes Railroad Company was
incorporated on February 2, 1906, under the general laws of Oregon, to
construct a railroad from Des Chutes to Redmond, Oregon, a distance of 133
miles; that on date of valuation, June 30, 1916, it owned approximately 95
miles of standard gauge steam railroad, all within the State of Oregon;
that construction of the railroad was begun in 1909 and completed in
sections from June 1911 to September 1911, and that since the date it was
completed the property has been operated under lease by the Oregon-Washington
and its successor in operation, the Union Pacific Railroad Company, by

Memorandum to
The Director of Retirement Claims

which companies it has always been controlled.

In a letter dated October 1, 1942, Mr. W. M. Jeffers, President Union Pacific Railroad Company, states that the Des Chutes Railroad Company has the power under its charter to operate as a common carrier by railroad; that the payrolls of the Des Chutes Railroad Company from September 1908 to November 1911 carry employees engaged in construction work, but that since November 1911, it has had no compensated officers or employees.

Since from the foregoing it appears that the Des Chutes Railroad Company has been chartered as a common carrier by railroad and since its railroad, at least since August 28, 1935, has been operated in interstate commerce by the Oregon-Washington and its successor in operation, the Union Pacific, both the latter companies being carriers by railroad subject to part I of the Interstate Commerce Act, it is my opinion that the Des Chutes Railroad Company, at least during the period August 28, 1935 to date, has itself been a carrier by railroad subject to part I of the Interstate Commerce Act and an employer within the meaning of the Railroad Retirement Act and so far as applicable the Railroad Unemployment Insurance Act. In accordance with the provisions of Sections 1(f) and 202 of the act of June 24, 1937, service to the Des Chutes Railroad Company is creditable from February 2, 1906, the date of its incorporation, to date.

Myles F. Gibbons
General Counsel

HPC:rs