

EMPLOYER STATUS DETERMINATION

Nobles Rock Railroad, Inc. (NRRR)

NOV 19 1999

This is a determination of the Railroad Retirement Board concerning the status of the Nobles Rock Railroad, Inc. (NRRR) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.).

NRRR was incorporated in the State of Nevada on August 13, 1998. On December 21, 1998, NRRR and its parent company, Cascade Railcorp, Inc. (Cascade), entered into a sublease/purchase agreement (Agreement) with Rail Equipment & Transportation, Inc. (RETI) and RETI's sole shareholders, Dirk Lenthe and William G. Dahlin. The Agreement provided that Cascade and NRRR would acquire stock ownership of RETI and secure a sublease for the operation of the Nobles Rock Railroad from RETI pending completion of the stock acquisition. RETI formerly operated the railroad and was found to be an employer covered under the RRA and RUIA. See B.C.D. No. 95-104.

Information regarding NRRR was furnished by Judy M. Tennant, Vice President of Administration for NRRR. Tim S. Tennant is the Chief Executive Officer of NRRR. According to Ms. Tennant, NRRR began to operate on December 21, 1998 over the 41.5 miles of trackage between Agate, Minnesota and Manley, Minnesota, pursuant to authority granted in Surface Transportation Board Finance Docket No. 32368. NRRR interchanges with Burlington Northern Santa Fe Railway Company at Manley, Minnesota and interchanges with the Union Pacific Railroad Company at Worthington, Minnesota. Ms. Tennant stated that the railroad serves the agricultural industry of Rock and Nobles Counties, Minnesota, moving approximately 1000 to 1200 carloads of corn, soybeans, dried distillers grain, ethanol and fertilizers on an annual basis. The employees of NRRR were first compensated as of January 1, 1999.

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, United States Code.

The evidence of record establishes that NRRR is a rail carrier subject to the jurisdiction of the Surface Transportation Board. Accordingly, it is determined that Nobles Rock Railroad, Inc. became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. §231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act

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effective December 21, 1998, the date on which it commenced railroad operations. The Board also finds that NRRR is the successor employer of RETI for purposes of experience rating under the RUIA. See 20 CFR §345.204.

Original signed by:

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever