

**EMPLOYER STATUS DETERMINATION****Santa Maria Valley Railroad Company****Coast Belle Rail, LLC****Coast Belle Rail Corporation d/b/a Santa Maria Valley Railroad Company**

This is the determination of the Railroad Retirement Board concerning the continued status of Santa Maria Valley Railroad Company (Santa Maria) (B.A. No. 3735) 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), and the status of Coast Belle Rail Corporation d/b/a Santa Maria Valley Railroad Company, and Coast Belle Rail, LLC as employers under the Acts.

Santa Maria has been an employer under the Acts since 1911. Coast Belle Rail, LLC (CBRL), a non-carrier, filed a notice of exemption with the Surface Transportation Board (STB) to permit CBRL to acquire the approximately 8.74 miles of rail line owned by Santa Maria (See STB Finance Docket No. 34923, decided October 6, 2006). CBRL acquired the line on September 29, 2006. In a concurrently filed verified notice of exemption, Coast Belle Rail Corp. d/b/a Santa Maria Valley Railroad (SMVR), sought to operate the line of rail acquired by CBRL and lease an adjoining 4.26 miles of rail line owned by Union Pacific Railroad Company (UP) which had been leased to Santa Maria. (See STB Finance Docket No. 34927, decided October 6, 2006). SMVR leased the line from CBRL starting on September 29, 2006, the same date on which it assumed the lease from Santa Maria with the UP. As a result, SMVR operates a total of 13.0 miles of rail line.

CBRL is a partnership formed in 1991 of Central Coast residents to invest in publicly traded railroad companies. Previous investments of the company include the Cascade Railcorp.; that operation encompassed Nobles Rock Railroad<sup>1</sup>, Dakota Southern Railroad and Minnesota Central Railroad<sup>2</sup>. According to information submitted by Mr. Robert Himoto, President of SMVR, CBRL purchased the right of way and all of the operating assets including the track, locomotives, shop equipment, maintenance of way equipment, and track materials from Santa Maria. Upon completion of the sale, Santa Maria changed its name to G.A. Hancock Properties<sup>3</sup>. Mr. Himoto advised that on

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<sup>1</sup> Nobles Rock was terminated as an employer under the Acts effective July 23, 2000 (See, Board Coverage Decision 01-22).

<sup>2</sup> Minnesota Central was terminated as an employer under the Acts effective August 3, 2000 (See, Board Coverage Decision 01-62), when KBN, Inc. obtained control. KBN, Inc. is a holding company, and not a covered employer under the Acts.

<sup>3</sup> The LaBrea Land Company, which was a subsidiary of Santa Maria, was not sold. The land company handles property management and development.

September 14, 2006, the UP consented to the assignment of all agreements with the former Santa Maria to SMVR. Five of the six employees of Santa Maria were

hired by SMVR<sup>4</sup>, and first performed compensated service for SMVR on October 1, 2006.

The evidence of record establishes that Santa Maria no longer possesses the characteristics of a railroad employer. The Board therefore finds that effective September 29, 2006, the date CBRL acquired its rail line and SMVR assumed its lease with the UP, Santa Maria Valley Railroad Company ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

With respect to CBRL and SMVR, Mr. Himoto explained that CBRL owns the right of way and operating assets, but is not operating any part of the railroad. SMVR was incorporated on April 26, 2006, and leases all its rail equipment from CBRL, as well as the right of way and all of the operating assets<sup>5</sup>. As stated above, SMVR assumed the lease from Santa Maria for its agreements with the UP. SMVR has seven employees who were first compensated on October 1, 2006, the actual beginning date of operations for SMVR. According to Mr. Himoto, SMVR does 100% of its business with UP, and receives 100% of its revenue from UP. The partners of CBRL are the same as the shareholders of SMVR.

According to the website for SMVR, it provides daily freight service to its customers, and through its Cooperative Marketing Agreement with the UP, SMVR has direct access to integrated nationwide marketing, sales, pricing, operations and administrative strengths of the UP. SMVR offers transloading services, track repair and inspection services, and has a full locomotive repair shop. In November 2006, SMVR hosted its first dinner train excursion.

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;

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

The evidence of record establishes that through its direct connection to the national railroad network through the UP, Coast Belle Rail Corporation d/b/a

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<sup>4</sup> Only one employee, the former president of Santa Maria, stayed with G.A. Hancock Properties, formerly Santa Maria.

<sup>5</sup> A copy of the lease, entered October 1, 2006, has been made a part of the file.

Santa Maria Valley Railroad Company is a carrier operating in interstate commerce. Accordingly, it is determined that Coast Belle Rail Corporation d/b/a Santa Maria Valley Railroad Company is 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 as of October 1, 2006, the date it began operations and first compensated employees<sup>6</sup>.

In its decision regarding the employer status of Railroad Ventures, Inc. (B.C.D. 00-47), the Board held that an entity that has STB authority to operate a rail line, but leases or contracts with another to operate the line in question, is covered under the Acts administered by the Board unless the Board determines that the entity is not a carrier. The Board enunciated a three-part test in B.C.D. 00-47 to be applied in making this determination. An entity that leases a line to another company or contracts with another company to operate the line is a carrier under the Railroad Retirement Act unless the Board finds that all three of the following factors exist: 1) the entity does not have as a primary business purpose to profit from railroad activities; 2) the entity does not operate or retain the capacity to operate the rail line; and 3) the operator of the rail line is already covered or would be found to be covered under the Acts administered by the Board.

Applying this to the facts of the case at hand, the Board determines that Coast Belle Rail, LLC is an employer covered under the Acts. The evidence of record shows that Coast Belle Rail, LLC is a partnership to invest in publicly traded railroad companies. The Board finds that the primary business purpose of Coast Belle Rail, LLC is to profit from railroad activities. As noted above, an entity that leases a line to another company or contracts with another company to operate the line will be found to be a carrier under the Railroad Retirement Act unless the Board finds that all three of the Railroad Ventures factors exist. As the Board finds that the primary business purpose of Coast Belle Rail, LLC is to profit from railroad activities, the second and third parts of the Railroad Ventures test need not be addressed.

Based upon the information summarized above, and consistent with the holdings in B.C.D. 00-47, it is the decision of the Railroad Retirement Board that

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<sup>6</sup> It is noted that SMVR has advised the Board that it has been filing reports under the same B. A. Number as its predecessor, Santa Maria Valley Railroad (3735), as requested by the Board's Division of Audit and Compliance.

Coast Bell Rail, LLC is an employer under the RRA and RUIA, effective September 29, 2006, the date it acquired the line.

Original signed by:

Michael S. Schwartz

V. M. Speakman

Jerome F. Kever