SEP 07 1999

EMPLOYER STATUS DETERMINATION
The Blacklands Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of The Blacklands Railroad, Inc. (BLRR) 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).

In Surface Transportation Board (STB) Finance Docket No. 33708, decided February 9, 1999, BLRR filed a notice of exemption to acquire from East Texas Central Railroad (ETC), an employer under the RRA and RUIA, ETC's rights under an agreement with Northeast Texas Rural Rail Transportation District (NETEX), a non-covered employer under the Acts (see Notice No. 96-105, November 14, 1996).[1] The agreement between NETEX and ETC, which is, as of February 9, 1999, now between NETEX and BLRR, is for BLRR to operate over approximately 38 miles of rail line in Texas, 31 miles of which are owned by NETEX, for the purpose of interchanging and switching rail cars at Sulphur Springs, Texas. The connection at Sulphur Springs is with the Union Pacific Railroad, a carrier employer covered under the RRA and RUIA.

According to Mr. Wayne Defebaugh, President of BLRR, employees were first compensated on March 1, 1999, and actual operations began on May 5, 1999.

Based on the information summarized above, it is determined that The Blacklands Railroad, Inc., which interchanges with a rail carrier operating in interstate commerce, is a rail carrier engaged in interstate commerce. The Board finds that BLRR became a rail carrier employer under the RRA and RUIA effective March 1, 1999, the date on which it first compensated its employees for start up work performed in preparation for actual rail operations, which began on May 5, 1999. CF. Rev. Rul. 82-100, 1982-1 C.B. 155.

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[1]B.C.D. No. 96-98 noted that NETEX is an unincorporated political subdivision of the State of Texas.