

EMPLOYER STATUS DETERMINATION
Northern Nevada Railroad Corporation

This is the determination of the Railroad Retirement Board regarding the status of Northern Nevada Railroad Corporation (NN) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA). NN has not previously been determined to be an employer under the RRA and the RUIA.

Information about NN was furnished by Bryan R. R. Whipple, Chief Operating Officer of NN. Although NN was formed in 1991 to lease and operate the abandoned railroad properties of the former Nevada Northern Railway,¹ the first compensated service performed as a rail common carrier was January 1, 1995. The rail line in question was acquired by the cities of Ely, Nevada and Los Angeles, California, and in 1993 NN obtained long-term freight operating rights from the cities. See Interstate Commerce Commission (ICC) Finance Docket No. 32623, 32624 decided December 15, 1994. According to information provided by Mr. Whipple, NN began operations on January 1, 1995, and has nine employees who were compensated for rail carrier service from that same date. Mr. Whipple stated that the line in question interchanges with the Union Pacific Railroad, and by late 1995 will re-establish the former interchange with Southern Pacific Transportation Company. NN expects to ship about 3,200 carloads per year of copper concentrate from Magma Copper Co.'s mine to its smelter at San Manuel, Arizona. It also expects to handle crude oil, propane, electric cable, lumber and plywood, and copper slag. Non-Magma business is expected to amount to over 3,000 carloads a year within two years. Two GE 70-ton locomotives have been delivered and are in service on NN. Two additional secondhand locomotives are on order for delivery in late 1995.

Section 1(a)(1) of the RRA defines the term "employer" to include:

(i) any express company, sleeping car company, and carrier by railroad, subject to subchapter I of chapter 105 of Title 49;

(ii) any company which is directly or indirectly owned or controlled by, or under common control with one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking

¹ Nevada Northern Railway, B.A. No. 2742, has been terminated as an employer under the Acts. Notice No. 89-40.

Northern Nevada Railroad Corporation

service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad * * *. [45 U.S.C. §231(a)(1)(i) and (ii)].

Section 1(a) of the RUIA (45 U.S.C. § 351(a)) contains essentially the same definition.

The evidence establishes that NN is a carrier by rail engaged in the transportation of persons or property in interstate commerce. Accordingly, it is determined that Northern Nevada Railroad Corporation became a rail carrier employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective January 1, 1995, the date on which it began operations as a rail carrier, and the date from which it first compensated employees.

Glen L. Bower

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nonevrr.cov
C. 390-95

TO : The Board

FROM : Catherine C. Cook
General Counsel

SUBJECT: Coverage Determination
Northern Nevada Railroad Corporation

Attached is a proposed coverage ruling for Board approval.

Attachment