

**EMPLOYER STATUS DETERMINATION
Sisseton Milbank Railroad Company (SMRC)**

This is a determination of the Railroad Retirement Board concerning the status of Sisseton Milbank Railroad Company (SMRC) 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). The status of SMRC under the Acts has not previously been considered.

SMRC is owned by Twin Cities and Western Railroad Company (TCW - BA#3664). TCW has been ruled to be covered under the RRA and RUIA. Mr. Ralph Schmidt, the operations manager for SMRC, provided information on SMRC's operations and corporate structure. Mr. Schmidt provided information in a response dated August 20, 2012 to an Audit and Compliance questionnaire and provided a copy of the Surface Transportation Board (STB) decision regarding SMRC's operations as an enclosure. Mr. Schmidt represented that SMRC commenced operations on July 24, 2012. SMRC's corporate office is in Wayzata, Minnesota. Mr. Schmidt advised that SMRC is a freight railroad in northeast South Dakota. SMRC services four grain elevators (moving grain outbound and fertilizer inbound) and any industry that may need transportation services.

The Surface Transportation Board (STB) in Finance Docket 35641 decided June 26, 2012 in favor of SMRC's verified notice of exemption to acquire from SLA Property Management, LTD (SLAP BA#9631) and Sisseton Milbank Railroad, Inc. (SMRI - BA#3661) and operate approximately 37.1 miles of rail line. The acquired rail line consists of a single line of track between approximately milepost 0.9 in or near Milbank, South Dakota and milepost 38.0 in or near Sisseton, South Dakota. SMRC will provide freight rail service over the line connecting with and interchanging traffic with TCW and BNSF at Milbank, South Dakota. SMRC began operations July 24, 2012. The projected revenues of SMRC will not exceed those that would qualify it as a Class III rail carrier. SMRC has 2 employees who began to be compensated July 24, 2012.

Section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)), 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;

Section 1 of the RUIA (45 U.S.C. § 351) contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that SMRC is a rail carrier operating in interstate commerce. Accordingly, it is determined that the Sisseton Milbank Railroad Company 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 effective July 24, 2012, the date SMRC first began operations.

Original signed by:

FOR THE BOARD

Martha P. Rico

Secretary to the Board