

**EMPLOYER STATUS DETERMINATION
Sisseton Milbank Railroad, Inc. (SMRI)**

This is a determination of the Railroad Retirement Board concerning the continuing status of Sisseton Milbank Railroad, Inc (SMRI) 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.) (collectively, the “Acts”).

SMRI¹ (B.A. # 3661) has been an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act since July 1, 1989, the date from which SMRI was found to have first compensated rail employees as found in Board Notice 89-81 dated October 30, 1989.

The latest coverage information in the file for SMRI was provided by Ralph Schmidt, the General Manager for SMRI. He served a letter dated August 20, 2012 on the Board’s Audit and Compliance Division which provided details and documentation of SMRI’s sale of all assets to Sisseton Milbank Railroad Company (SMRC).² Concurrent with this sale, Sisseton Milbank Railroad Company also acquired all of the assets of SLA Property Management, LTD (SLAP – BA#9631). Mr. Schmidt enclosed documents indicating the sale of all SMRI’s assets to SMRC, including STB Finance Docket Number 35641. The STB decision, decided date of June 26, 2012, determined that SMRC filed a verified notice of exemption to acquire from SLAP and SMRI the interest to operate an approximately 37.1 mile rail line between milepost 0.9 in or near Milbank, South Dakota and milepost 38.0 in or near Sisseton, South Dakota. According to information from Mr. Schmidt, July 24, 2012 was the date SMRI operations ceased. Mr. Schmidt also indicates that SMRI employees were last compensated on July 24, 2012.

Section 202.11 (20 CFR 202.11) of the Board’s regulations states that:

¹ Sisseton Milbank Railroad, Inc. has been referred to as SMRI and SMRR. This decision will refer to the entity as SMRI to reflect the abbreviation used most recently by Ralph Schmidt, the General Manager of SMRI in his correspondence with the Board and to reflect the difference between the new entity – Sisseton Milbank Railroad Company (SMRC) and the dissolving entity, Sisseton Milbank Railroad, Inc. (SMRI).

² The status of SMRC is considered in a separate decision.

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Information in our coverage files indicates that SMRI was formed to operate approximately 38 miles of track from Milbank, South Dakota to Sisseton, South Dakota. SMRI employees were first compensated July 1, 1989 which was also the beginning date of operations. The evidence of record establishes that SMRI has not operated as a railroad carrier and does not retain the ability to do so since the acquisition of all SMRI's assets by SMRC on July 24, 2012. SMRI has not functioned as a rail carrier since that date and no longer possesses the characteristics of a railroad carrier employer.

The Board therefore finds that effective July 24, 2012, the date that SMRC acquired all of SMRI's assets, Sisseton Milbank Railroad, Inc. ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board