

B.C.D. 13-25 & 13-25.1

August 29, 2013

EMPLOYER STATUS DETERMINATION

Modoc Northern Railroad Company (B.C.D 13-25)

Modoc Railway and Land Company, LLC (B.C.D. 13-25.1)

This is a determination of the Railroad Retirement Board concerning the status of Modoc Northern Railroad Company (MNRR)(BA No. 4788) and Modoc Railway and Land Company, LLC, (MR&L)(BA No. 9020) as employers 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.).

In Board Coverage Decision 06-27, dated June 30, 2006, it was previously determined that both MNRR and M&RL were covered employers under the Railroad Retirement Act and Railroad Unemployment Insurance Acts with effective coverage dating back to November 1, 2005, the date MNRR began railroad operations.

MNRR operated on a line of railroad known as the Modoc Subdivision from milepost 552.0 near Texum, Oregon to Milepost 445.6 at the end of track near McArthur, California and the Lakeview Branch from Milepost 456.89 to Milepost 458.60 at Alturas, California. Surface Transportation Board (STB) authority for MNRR operations is set forth in STB Finance Docket No. 34768, decided November 9, 2005. MNNR operations connected with Union Pacific Railroad.

According to a note to the STB decision in Finance Docket No. 34722, decided November 9, 2005, Beth A. and William D. Blansett each owned a 50 percent interest in MNNR. Each also owned a one-third interest in MR&L; Christina C. Blansett, a minor, owned the remaining one-third interest in MR&L. In its decision in Finance Docket No. 34722, the STB stated that Beth A. Blansett and William D. Blansett filed a verified notice of exemption to continue in control of MR&L and MNNR “upon their becoming Class III rail carriers.” The STB decision stated that the Blansetts controlled Utah Central Railway Company, a Class II rail carrier, BA No. 3785.

Information obtained by the Board indicates that Lake County, California cancelled its contract with MNRR on May 5, 2009 following months of speculation. Allegedly, Chief Executive Officer and President of MNRR, Don Blansett, had fallen out of compliance with the county due to not addressing various safety concerns and failing to pay on the lease of the line. Information obtained by the Board indicates that Frontier Rail is now operating the Lake County line from Lakeview to Alturas, California as the Lake Railroad.

Board records show that MR&L last filed an "Employee Service and Compensation Report" reflecting zero employees in calendar year 2006. Additionally, Board records show that MNRR last filed a similar report reflecting employees in calendar year 2007. No subsequent reports have been filed. Some MNRR employees reported to the Portland, Oregon district office that they failed to receive W-2's for calendar year 2009 and that some employees worked without pay for several weeks in 2009. Repeated efforts by the Board to obtain additional reports through the issuance of subpoenas has been futile.

In March 2010, the Board was informed by a former employee of MNRR that he was residing in a house previously rented by the President of MNRR, Mr. Don Blansett, which contained several boxes labeled as MNRR records. Based on this information, the Board, with the assistance of its Portland, Oregon district office, obtained the records. The records were reviewed by the Board's Employee Service and Compensation Section. A review of the records failed to produce any relevant employee service and earnings records in order to credit employee service and compensation.

Additional efforts by the Board's Audit and Compliance Division to obtain information concerning MNRR and M&RL have been unsuccessful.

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

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.

The evidence of record establishes that both MNRR and M&RL no longer possess the characteristics of an operating railroad company. The Board therefore finds that effective May 5, 2009, the date Union Pacific terminated the MNRR's contract and took back over the operation of the Modoc Line from Kalamath Falls, Oregon to Alturas, California, Modoc Northern Railroad and Modoc Railway and Land Company, LLC ceased being covered employers under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board