

EMPLOYER STATUS DETERMINATION

Witherow Locomotive Service, Inc. (WLS)

This is a determination of the Railroad Retirement Board concerning the continuing status of Witherow Locomotive Service, Inc. (BA Number 9522), 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.). In Legal Opinion L-87-90, issued on June 30, 1987, WLS was determined to be an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act with service creditable from May 13, 1981, the date the Articles of Incorporation were filed and operations began.

The Board's Audit and Compliance Division issued a letter dated April 5, 2011, to Ms. Carolyn Witherow, President of WLS, asking about its current operating status. In a letter received May 3, 2011, Ms. Witherow responded that WLS was not currently providing rail service, and had no employees, equipment, or facilities. Additionally, copies of the Articles of Dissolution filed with the State of Florida on March 1, 2010 were provided by Ms. Witherow. The Articles of Dissolution indicate that the dissolution was approved by a majority of the shareholders of WLS on December 31, 2009, and became effective on the date they were filed with the Florida Secretary of State.

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 WLS no longer possesses the characteristics of an operating railroad company. The Board therefore finds that effective March 1, 2010 the date the Articles of Dissolution were filed with the State of Florida, Witherow Locomotive Service, 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