

EMPLOYER STATUS DETERMINATION

OCT 19 1999

Laurinburg and Southern Railroad Company (B.A. No. 3536)
Laurinburg & Southern Railroad Co., Inc.

This is the determination of the Railroad Retirement Board concerning the continued status of the Laurinburg and Southern Railroad Company (B.A. No. 3536) ("Laurinburg 1") and the status of Laurinburg & Southern Railroad Co., Inc. ("Laurinburg 2"), as employers 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).

Laurinburg 1 has been an employer under the RRA and the RUIA, with service creditable from March 4, 1909. In a letter dated May 18, 1999, addressed to the Board's Office of Audit and Compliance, Murphy Evans, of L&S Holding Company, stated that Laurinburg 1, a division of L&S Holding Company, ceased operations and last paid employees on July 31, 1998, at which time its rail line was acquired by Laurinburg 2. Mr. Evans indicated that after July 31, 1998, the remaining assets of Laurinburg 1 consisted of a diesel shop, car shop, locomotive leasing assets, and railroad cars. Those assets were being liquidated; and, as of the date of Mr. Evans' letter, the car shop and 8 railroad cars remained to be liquidated. Laurinburg 1 retained no freight operations.

In Surface Transportation Board (STB) Finance Docket No. 33640, decided August 12, 1998, Laurinburg 2 obtained authority to acquire from L&S Holding Company and to operate the rail line of Laurinburg 1. The STB decision described the rail line as approximately 28.2 miles long in North Carolina, extending from the end of the line near Johns to the interchange with Aberdeen and Rockfish Railroad Company near Raeford.

Laurinburg 2 began railroad operations over the rail line acquired from Laurinburg 1 and first compensated its 13 employees on July 31, 1998. Laurinburg 2 is a short line rail carrier which hauls 5500 cars annually. Laurinburg 2 interchanges with CSX Transportation Company at Dixie, North Carolina, and with Atlantic & Western Railroad at Raeford, North Carolina.

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

- (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 contains the same definition.

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Section 202.11 of the Board's regulations provides 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.

Based on the information summarized above, the Board finds that upon acquisition of its rail line by Laurinburg 2, Laurinburg 1 lost a characteristic essential to the existence of employer status. The Board thus finds that effective with the close of business on July 31, 1998, Laurinburg and Southern Railroad Company, B.A. No. 3536, ceased to be a rail carrier employer under the RRA and the RUIA. The Board also finds that Laurinburg & Southern Railroad Co., Inc. became a rail carrier employer under the Acts effective July 31, 1998. Finally, the Board finds that for purposes of experience rating under the RUIA, Laurinburg 2 is the successor employer of Laurinburg 1. See 20 CFR §345.204.


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