

EMPLOYER STATUS DETERMINATION**Middletown and New Jersey Railway Company, Inc.**

This is the determination of the Railroad Retirement Board concerning the continuing status of Middletown and New Jersey Railway Company, Inc. (MN&J) (B.A. No. 2217) 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). MN&J was found to be a covered employer under the Acts with service creditable from October 1, 1947, when it succeeded the Middletown and Unionville Railway (Legal Opinion L-47-957).

In a letter dated April 14, 2009, Mr. Paul Biberkraut, Chief Financial Officer of Chartwell International, Inc., the parent company of MN&J, advised the Agency that operations had ceased as of March 31, 2009, and "all MN&J railroad related assets and operations were sold to another corporation unrelated to us." According to Surface Transportation Board (STB) Finance Docket No. 35227, decided March 12, 2009, Middletown & New Jersey Railroad, LLC (Middletown) had filed a verified notice of exemption to acquire and operate 6.5 miles of rail line owned by MN&J¹. A copy of the Agreement for Sale and Purchase of Business Assets, dated March 31, 2009, has been submitted. Review of that document indicates that Middletown purchased from MN&J all equipment; inventories; all of MN&J's rights under contracts held by MN&J; all accounts receivable; MN&J's business and goodwill; and all real property of MN&J.

According to a letter dated April 17, 2009, from Mr. Robert C. Parker, President and CEO of Middletown, Middletown "is the direct successor to the Middletown & New Jersey Railway Co., Inc. as it relates to the ownership and operation of the rail line described above".

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 set forth above, although MN&J has not yet dissolved as a business organization, it is clear that its character as a railroad no longer exists inasmuch as all of its railroad assets have been sold. Therefore, it is the determination of the Railroad Retirement Board that Middletown & New Jersey Railway Company, Inc. ceased being an employer under the RRA and RUIA on March 31, 2009, the date on which its railroad assets were sold.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board

¹ The employer status of Middletown is considered separately from this decision.