

EMPLOYER STATUS DETERMINATION
Southern Freight Logistics, LLC

This is the determination of the Railroad Retirement Board concerning the continuing status of Southern Freight Logistics, LLC (SFL) (B.A. No. 5591) 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).

SFL was a tenant in the "Heritage Center" of the East Tennessee Technology Park, located near Oak Ridge, Tennessee. The Park, which is owned by the United States Department of Energy (DOE), formerly operated as the Oak Ridge K-25 Site for production of components of nuclear weapons. The existing structures are now operated as an industrial park by Heritage Center LLC, a subsidiary of the Community Reuse Organization of East Tennessee (CROET). SFL had been granted an exemption by the Surface Transportation Board (STB) allowing it to lease from CROET and to operate a total of 14.5 miles of rail line consisting of 7 miles of rail from an interchange with the Norfolk Southern Railway at Blair, Tennessee to the Technology Park, and 24 industrial spurs located within the Park which total an additional 7.5 miles of track. The STB notice stated the transaction between SFL and CROET was to be concluded on or about May 2, 1997.

SFL operated five businesses: Southern Freight Express and Lakeway Trucking carry freight by motor truck; Southern Air Logistics transports passengers and freight by air; and Southern Freight Warehousing and Distribution operates a warehouse and distribution center in the Heritage Center. As previously stated, SFL also provided rail freight service to tenants of the Technology Park under lease with CROET, doing business as SF Railroad.

In Board Coverage Decision (B.C.D.) 04-37, issued July 28, 2004, the Board found SFL, d/b/a SF Railroad, to be an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and its corresponding provision of the Railroad Unemployment Insurance Act effective May 2, 1997. The Board also found that, pursuant to section 202.3 of the regulations, SFL was an employer only with respect to the rail carrier operations conducted as SF Railroad under the agreement with CROET and Heritage RR.

In a letter dated June 2, 2005, Ms. Melissa F. Hill, CPA, advised the RRB that "as of September, 2004, the company is no longer operating this railroad". In a letter dated November 6, 2006, Ms. Hill advised that SFL still is in existence as a trucking company, "however, SFL ceased Railroad Operations on September 24, 2003" and that railroad employees were last compensated on September 24, 2003. Ms. Hill further stated that SFL has not been dissolved, and that the "entity still in (sic) existence – assets used in trucking operations". Ms. Hill explained that no relationship exists between SFL and the railroad industry, stating,

SFL has been and still is a general freight trucking company. It was located in Oak Ridge at the Y12 Nuclear Facility and utilized the railroad located there to facilitate it's (sic) trucking operations. SFL no longer utilizes the

railroad and is no longer even located near railroad facilities. The company's current operations consist solely of general freight trucking.

Because of the discrepancy in the dates of termination (the letter dated June 2, 2005, states the termination date is September 2004; the letter dated November 9, 2006, states the date is September 24, 2003), a letter was sent to Ms. Hill requesting clarification and additional information. In a letter dated December 20, 2006, Ms. Hill stated that SFL "ceased Railroad Operations on September 23, 2004¹". Ms. Hill was asked whether SFL obtained STB authority to cease railroad operations, and explained that (as described in B.C.D. 04-37) because SFL was granted an exemption from the STB at the lease inception, SFL is not required to obtain an authority to cease at the lease cessation. Ms. Hill explained that CROET terminated its lease with SFL in September 2004; SFL moved away from the DOE compound (to Morristown, Tennessee), and ceased all operations relating to the railroad.

Additional information was obtained from Mr. Jeff Deardorff, President of Heritage Railroad Corporation, Inc. a subsidiary of CROET. In a letter dated April 25, 2007, Mr. Deardorff confirmed that the lease and operating agreements previously in effect with SFL are terminated, and

¹ As Ms. Hill's first contact with the RRB was to submit form G-440 for the years 1998-2004, the Board accepts that in her letter of November 9, 2006, the "3" and "4" were erroneously transposed, making the date of termination September 24, 2003, rather than September 23, 2004.

SFL has ceased all operations relating to the Heritage Railroad.¹ Mr. Deardorff also advised that Heritage Railroad's current contracted operator is Walden's Ridge Railway Company, a covered employer under the Acts (B.A. No. 9537).

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, it is the determination of the Railroad Retirement Board that Southern Freight Logistics, LLC ceased being an employer under the RRA and RUIA on September 23, 2004, the date on which it last compensated its employees and ceased operations.

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever

¹ On November 23, 2004, the Board held Heritage Railroad Corporation not to be a covered employer under the Acts. See B.C.D. 04.56.