

**B.C.D 16-17**

**July 27, 2016**

**EMPLOYER STATUS DETERMINATION**

Lackawaxen and Stourbridge Railroad Corporation (LASB)

This is the determination of the Railroad Retirement Board (RRB) concerning the continuing status of Lackawaxen and Stourbridge Railroad Corporation (LASB) 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.).

LASB was granted operating rights by the Interstate Commerce Commission pursuant to a Certificate of Designated Operator, service date April 16, 1976. On November 19, 1981, the RRB began coverage for LASB as a carrier starting from the date of April 1, 1977 (L-81-213) (BA No. 3253). Based on RRB employer records, LASB only reported two times since their 1977 coverage date and claimed “No Employee” status in 1989 and 1993.

According to a letter from the Nathan R. Fenno, President of The New York, Susquehanna and Western Railway Corporation, LASB provided notice of cessation of rail operations effective June 30, 1989 by letter dated July 12, 1989. LASB had no operations or employees from June 30, 1989 to mid-2001, at which time LASB (d/b/a/ NORPA) was conveyed by stock transfer by Delaware Otsego Corporation to Western New York and Pennsylvania Railroad L.L.C. (WNYP). Further, the RRB records show the last update by LASB was on September 1, 2000. However, on March 30, 2016, Carl P. Belke, President and Chief Operating Officer of WNYP, responded to information request from the RRB and stated they have no record of sale for LASB. Further, Mr. Belke confirmed that WNYP has never operated or maintained LASB nor employed any persons on behalf of the LASB.

Section 9 of the RRA (45 U.S.C. § 231h) requires railroad employers to file annual reports of compensation and service with the Railroad Retirement Board. Section 9 further provides that the RRB’s records of reported compensation and service become final unless the error in a report of compensation or the failure to report compensation is called to the attention of the RRB within four years after the date on which the report of compensation was required to be made. Section 209.8 of the RRB’s regulations (20 CFR 209.8) requires that on or before the last day of February, each railroad employer must report the compensation and service of the employer’s employees for the previous calendar year. Section 211.16

of the RRB's regulations (20 CFR 211.16) provides that as a general rule the RRB's record of compensation and service may not be corrected after four years in the absence of fraud.

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 LASB no longer possesses the characteristics of an operating railroad company. The Board therefore finds that effective December 31, 2011, the date the records became final, Lackawaxen and Stourbridge Railroad Corporation 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