

**EMPLOYER STATUS DETERMINATION**

**H & S Railroad Company, Inc.**

This is a determination of the Railroad Retirement Board concerning the continuing status of H & S Railroad Company, Inc. (H & S), 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 Board Coverage Decision (BCD) 92-50, H & S was determined to be an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act effective July 1, 1992.

On July 31, 2008, in response to ongoing communication between H & S and the Railroad Retirement Board, Ms. Ellen Oblow, the Chief Financial Officer of Chattahoochie Bay Railroad (CBR used to utilize H & S for payroll purposes), provided answers and exhibits to completely explain the sale of H & S to Gunderson and CBR and the relationship several railroads had whereby H & S provided payroll services to the affiliated railroads.

A portion of H & S was sold to Gunderson Rail Services, Inc. on March 7, 2005, but H & S continued as the operating railroad during 2005. The remaining assets of H & S were sold to Chattahoochie Bay Railroad (CBR) in August of 2006.

Ms. Oblow stated that rail operations ceased as of the date of the sale and that H & S had no employees as of December 31, 2005. More specifically, Ms. Oblow also stated that in 2005 and earlier, H&S functioned as a master payroll company. H&S paid and reported railroad employee wages for all the associated Alabama properties of the Gulf & Ohio Railways, Inc. In 2006, the service and compensation of all employees was reported

on the individual railroad on which they worked. Following that administrative change, H & S had no employees.

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 H & S no longer possesses the characteristics of a railroad carrier employer. The Board therefore finds that effective with the close of business December 31, 2005, the date after which H & S no longer had any employees, H & S Railroad Company, Inc. ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

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