

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31678
Docket No. MW-31576
96-3-93-3-577**

The Third Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

PARTIES TO DISPUTE: (**(Brotherhood of Maintenance of Way Employes**
(Southern Pacific Transportation Company
((Eastern Lines)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned an outside concern (Pat Baker Construction Company) to perform heavy duty truck driving work of hauling track materials from Luling and San Antonio, Texas to Mile Post 499.27 near Sanderson, Texas on July 12 and 13, 1992 (System File MW-92-130/MW 92-181 SPE).
- (2) The Agreement was further violated when the Carrier failed to furnish the General Chairman with advance notice of its plan to contract out the above-described work in accordance with Article 36.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Machine Operators K. J. Magirl, A. A. Riojas and G. M. Housos shall each be allowed eight (8) hours' pay at their respective straight time rates and sixteen (16) hours' pay at their respective time and one-half rates."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This case involves the same parties, issues, derailment, and Agreements as in Third Division Award 31676. The only difference in this case is that the outside contractor hauled bridge stringers from Luling, Texas, and H-Beams from San Antonio, Texas, to the derailment site.

For the reasons cited in the above-mentioned Award we will deny this claim.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of August 1996.