

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32420
Docket No. MW-32143
98-3-94-3-489**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (**Brotherhood of Maintenance of Way Employees**
(**Union Pacific Railroad Company (former**
(**Western Pacific Railroad)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned Bridge and Building forces to perform Track Subdepartment work (snow removal from switches and railroad right of way) throughout the Feather River Division including right of way main line east of Portola, California, including the Reno Branch trackage beginning December 29, 1992 through January 8, 1993 (Carrier's File 930273 WPR).**
- (2) As a consequence of the violation referred to in Part (1) above, the Claimants* listed below shall each be compensated at their respective and applicable rates of pay for an equal proportionate share of the total man-hours expended by the B&B forces in the performance of the work in question during the period claimed.**

***H. W. Powell
J. L. Day
D. J. Morrison
A. G. Davis
M. J. Porter
V. M. Pinedo
E. E. Mayle
W. A. Stepp**

**E. R. Cabrera
D. M. Floyd
A. S. Garcia
D. N. Glover
C. W. Ridenour
S. V. Burns
S. G. Fernandez
A. C. Rodriguez**

B. J. Roberts
P. S. Estrada
L. Z. Flores
B. S. Estrada
V. S. Ortega

M. M. Cervantes
B. Mendoza
R. Davila
D. G. Begaye"

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 were given due notice of hearing thereon.

Heavy snows during late December 1992 and early January 1993 in the Feather River Division area caused interruption of service; the closing of Highway 70; the declaration of a state of emergency by the Governor of California; and the calling out of the National Guard. In order to get track opened, the Carrier utilized available employees in the area to engage in snow removal and related operations. This claim followed.

The Carrier has demonstrated the existence of an emergency. It is well-established that in emergency situations the Carrier has latitude to use its discretion in the assignment of forces. Third Division Awards 28683, 28643, 28142, 10965. That doctrine applies in this case.

AWARD

Claim denied.

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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 21st day of January 1998.