

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34042
Docket No. MW-34702
00-3-98-3-359**

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

**(Brotherhood of Maintenance of Way Employes
PARTIES TO DISPUTE: (
(Burlington Northern Santa Fe Railway Company (former
(St. Louis - San Francisco Railway Company)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces (Gilbert Construction Company) to perform Maintenance of Way work using scrapers, backhoes, motor graders, dozers, pile driving crane, packer, front end loader, 360 Speed Swing and a water truck to do dirt work for a new siding on the Arvard Subdivision between Mile Posts 556.5 and 558.5 on July 8 through August 4, 1996 (System File B-2367-14/MWC 96-10-24AB SLF).**
- (2) As a consequence of the violation referred to in Part (1) above, the thirteen (13) Claimants* listed below shall each be compensated at their respective rates of pay for an equal proportionate share of the nine hundred ninety-one (991) hours expended by the outside forces in the performance of the work in question.**

*T. G. Spicer	R. E. Perkins
E. A. Sconyers	W. L. Lewis
D. R. Sconyers	D. W. Posey
G. D. Wakefield	W. L. Grider
L. W. Trekell	J. D. Parks
R. J. Thatcher	W. R. Bowman
H. D. Bennett”	

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.

This dispute is almost identical to the dispute resolved in Third Division Award 34041. The only differences is the dates the work was performed, and in this Docket the inclusion of one more Claimant. Otherwise, the claims are the same and what has been said in Award 34041 is adopted in its entirety and made a part of this Award.

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 25th day of May, 2000.