

PUBLIC LAW BOARD NO. 4402

**PARTIES)
TO)
DISPUTE)** **BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**
BURLINGTON NORTHERN RAILROAD COMPANY

STATEMENT OF CLAIM

1. The Agreement was violated when the Carrier assigned outside forces to perform ditch cleaning work on the track east of Sheridan, Wyoming, on the Yellowstone Division, on May 19, 20 and 21, 1988 (System File C-88-C100-69/MWA 88-10-18E).
2. The Agreement was violated when the Carrier assigned outside forces to perform ditch cleaning work starting at the tunnels between Guernsey and Casper, Wyoming beginning on May 24, 1988 and continuing (System File C-88-C100-68/MWA 88-10-18F).
3. As a consequence of the violation referred to in Part 1 hereof:

"... the two senior furloughed employees should be allowed a total of 16 hours straight time and 17 hours overtime at the foreman's rate of pay. The next two senior furloughed employees should be paid the same amount of time at the group 3 rate of pay, with the two junior furloughed employees from the top six that were on furlough on May 19, 20, and 21, 1988 to be allowed the same hours of pay at the laborers rate of pay. ***"
4. As a consequence of the violation referred to in Paragraph 2 hereof, Foreman A. J. Stangland and Group 2 Machine Operators T. L. Anderson, R. D. Andrews, J. W. Bates, K. O. Davis and G. L. Witt shall each:

"... be paid at their respective rates of pay for all time lost from May 24, 1988 until this violation no longer exists."

OPINION OF BOARD

This dispute involves the contracting out of certain ditching work.

By letter of December 21, 1987 the Carrier advised various General Chairmen:

As information the Carrier plans to utilize a high production ditching machine across the system starting approximately January 4, 1988 on the Portland Division, Seattle Region. This machine was manufactured by Loram Maintenance of Way, Inc. and is a specialized piece of equipment which is


owned, operated and maintained by Loram. The ditcher will be manned by three Loram personnel, and all flagging, supervision, and other work to support the ditching will be accomplished by BNRR people. BNRR intends to enter into a service contract with Loram for this machine beyond 1988 and into 1991, since multi-year service contracts represent substantial savings in rate structures.

for rent. The machine establishes a ditch profile with a smooth bottom which provides for the efficient runoff of storm drainage. Much of the work that this machine performs has simply not been done in the past because of the difficulty and expense of using more conventional equipment in these areas. It has the capability of handling air dump cars to deposit material in.

Recently, in PLB

AWARD

Claim denied.


Edwin H. Benn
Neutral Member

E. J. Kallinen
Carrier Member

P. S. Swanson
Organization Member

Chicago, Illinois

Dated: _____