

PUBLIC LAW BOARD NO. 7096

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO)
DISPUTE) UNION PACIFIC RAILROAD COMPANY (FORMER CHICAGO
) NORTHWESTERN TRANSPORTATION COMPANY)

STATEMENT OF CLAIM

Claim of the System Committee
of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces (DeAngelo Brothers, Inc.) to perform Maintenance of Way and Structures Department work (cut brush on the right of way) at crossings in the vicinity of Merrilan, Wisconsin on September 13, 14, 15 and 16, 2003 and continuing instead of Seniority District T-7 employees J. Lilly, R. Pichler and D. Zawistowski (System File 7WJ-7387T/1387656 CNW).
- (2) The Agreement was further violated when the Carrier failed to furnish the General Chairman with proper advance written notice of its intent to contract out the above-referenced work or make a good-faith attempt to reach an understanding concerning such contracting as required by Rule 1(b).
- (3) As a consequence of the violations referred to in

Parts (1) and/or (2) above, Claimants J. Lilly, R. Pichler and D. Zawistowski shall now each be compensated at the rate of pay applicable to the positions which Claimants could have held (Zawistowski and Lilly at Class B Machine Operator rate and Claimant Pichler at Trackman rate) for an equal share of the total hours of work performed by Contractor forces in performance of the brush cutting in the vicinity of Merrilan, WI on September 13, 14, 15 and 16 and any dates subsequent thereto.

OPINION OF BOARD

This is a factually similar dispute to the dispute decided in *Award 3* of this Board involving the five year contract the Carrier entered into with DeAngelo Brothers, Inc. for brush cutting on various portions of the Carrier's right of way. For the same reasons expressed in *Award 3*, this claim shall be denied.

AWARD

Claim denied.

Edwin H. Benn

Edwin H. Benn
Neutral Member

D. A. Ring

D. A. Ring
Carrier Member

R. C. Robinson

R. C. Robinson
Organization Member

Chicago, Illinois

Dated: March 18, 2008