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THOMAS F. MCFARLAND

October 18, 2006

By e-filing

Vernon A. Williams, Secretary  
Surface Transportation Board  
Case Control Unit, Suite 713  
1925 K Street, N.W.  
Washington, DC 20423-0001

Re: Finance Docket No. 34890, *PYCO Industries, Inc. -- Feeder Line Application --  
Lines of South Plains Switching, Ltd. Co.*

Finance Docket No. 34922, *Keokuk Junction Railway Co. -- Feeder Line  
Application -- Lines of South Plains Switching, Ltd. Co.*

Dear Mr. Williams:

In behalf of Respondent South Plains Switching, Ltd. Co. (SAW), the Board is respectfully requested to take official notice of the attached Order Granting Motion For Partial Summary Judgment entered on October 4, 2006 in *BNSF Railway Company v. South Plains Switching, Ltd. Co.*, 72<sup>nd</sup> Dist. Ct., Lubbock Cty., TX, No. 2004-526, 559-A. See 49 C.F.R. § 1114.6.

The attached Order corroborates SAW's evidence that SAW is entitled to receive \$75 per car from BNSF for transportation performed by BNSF for Jarvis Metals, Inc. to or from Burris, Texas.

Although the Order was entered on October 4, 2006, it did not come to the attention of SAW until after the filing of SAW's final Statement on October 12, 2006. Consequently, SAW was not able to file the Order as part of that Statement.

Very truly yours,



Thomas F. McFarland  
*Attorney for Respondent*

THOMAS F. MCFARLAND

Vernon A. Williams

October 18, 2006

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cc: (by e-mail)

All parties of record, *w/copy of Order*

James L. Gorsuch, Esq.

Mrs. Delilah Wisener

Mr. Dennis Olmstead

Mr. Joseph Plaistow

NO. 2004-526,559-A

BNSF RAILWAY COMPANY, f/k/a  
 THE BURLINGTON NORTHERN AND  
 SANTA FE RAILWAY COMPANY

v.

SOUTH PLAINS SWITCHING, LTD. CO.,  
 AND SOUTH PLAINS LAMESA  
 RAILROAD, L.L.C.

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IN THE 72ND DISTRICT COURT

OF

LUBBOCK COUNTY, TEXAS

FILED FOR RECORD  
 DISTRICT CLERK LUBBOCK CO.  
 2006 OCT -4 PM 1:01  
 Deputy  
*Barbara Ducey*

**ORDER GRANTING MOTION**  
**FOR PARTIAL SUMMARY JUDGMENT**

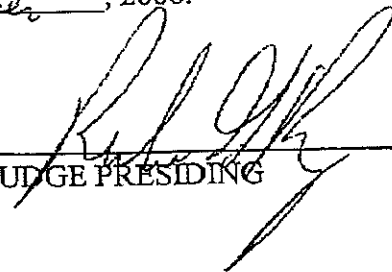
ON THIS DAY CAME ON TO BE CONSIDERED the Motion for Partial Summary Judgment filed by Defendant, SOUTH PLAINS SWITCHING, LTD. CO., and the court, having considered the same, and the response filed thereto by the Plaintiff, BNSF RAILWAY COMPANY, f/k/a THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, the court finds that there is no genuine issue as to any material fact and that the Motion for Partial Summary Judgment should be granted.

The court finds that BNSF RAILWAY COMPANY, f/k/a THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, breached its Asset Sale Agreement with SOUTH PLAINS SWITCHING, LTD. CO., by refusing to allow SOUTH PLAINS SWITCHING, LTD. CO., to serve the customers at Burris, Texas beginning August 25, 2005.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion for Partial Summary Judgment of SOUTH PLAINS SWITCHING, LTD. CO., be, and is hereby granted and BNSF RAILWAY COMPANY, f/k/a THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, is liable to SOUTH PLAINS SWITCHING, LTD. CO. for refusing to allow South Plains Switching, Ltd. Co. to serve the customers at Burris, Texas

beginning August 25, 2006

SIGNED this 3rd day of October, 2006.

  
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JUDGE PRESIDING