

RECORDATION NO. 8123 Filed & Recorded

NOV 27 1975 10 15 AM

INTERSTATE COMMERCE COMMISSION

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, Deborah P. Roberts, a Notary Public in the State of Arizona, have compared the attached photocopy with the original Settlement Agreement and find the attached is a complete copy of the original Settlement Agreement true and correct in all respects.

Deborah P. Roberts

My commission expires:
My Commission Expires Dec. 19, 1975

DATE: October 30, 1975

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

MORRISON-KNUDSEN COMPANY, INC.)
a Delaware corporation,)

Plaintiff,)

v.)

SOUTHWESTERN RAILWAY COMPANY,)
an Arizona corporation,)

Defendant.)

No. C 314075

SETTLEMENT AGREEMENT

Agreement made in Phoenix, Arizona as of this 18th day of August, 1975 between MORRISON-KNUDSEN COMPANY, INC. ("Plaintiff") by and through its authorized attorney Arne M. Rovick and SOUTHWESTERN RAILWAY COMPANY ("Defendant") by and through its general counsel Joseph E. Glenn.

WHEREAS, certain claims, disputes and differences have arisen between Plaintiff and Defendant, and Plaintiff has instituted an action against Defendant in the Superior Court in the State of Arizona in and for the County of Maricopa, Cause No. 314075 ("Suit") and,

WHEREAS Defendant desires to compromise and settle the litigation in order to avoid trial and possible execution proceedings and the additional expenses thereof; and

WHEREAS, each of the parties deems it in their best interest to do so,

NOW, THEREFORE in consideration of the premises and mutual covenants, representations and promises hereafter set forth, the parties hereto agree as follows:

1. Defendant is indebted to Plaintiff in the principal amount of \$13,674.95 together with interest thereon at the rate of 6% per annum from June 7, 1973. Defendant agrees to pay the principal sum together with accrued interest in three equal prin-

1 cipal installments of \$4,558.32. The first principal installment
2 together with accrued interest is due and payable on September
3 1, 1975, the second principal installment together with accrued
4 interest is due and payable on December 31, 1975 and the third
5 principal installment together with accrued interest is due and
6 payable on March 31, 1976. Each installment together with accrued
7 interest is to be paid by cashier's check payable to the order
8 of MORRISON-KNUDSEN COMPANY, INC., delivered to Plaintiff's attor-
9 ney, Arne M. Rovick.

10 2. Simultaneously with execution hereof, Defendant
11 shall cause its attorney Joseph E. Glenn to execute and deliver,
12 or cause to be executed and delivered, to Plaintiff, by delivery
13 to Plaintiff's attorney, a Stipulation and Consent Judgement
14 identical in form and substance to the Stipulation and Consent
15 Judgement attached hereto as Exhibits "A" and "B". Plaintiff's
16 attorney, is authorized, if Defendant fails to make the payments
17 set forth in Paragraph 1 above, to, and shall file, or cause to
18 be filed, such Stipulation and Consent Judgement in the pending
19 Suit, as a final judgement therein, causing the Consent Judgement
20 to be entered by the Court without further notice to Defendant, or
21 hearing therein, and thereafter Plaintiff's attorney is authorized
22 to, and shall record, cause to be recorded, in the office of the
23 County Recorder of Maricopa County, Arizona the Judgement.

24 3. Defendant hereby grants to Plaintiff a security
25 interest in seventeen coal hopper cars more fully described in
26 Exhibit "C" attached hereto and in the replacements and proceeds
27 thereof. Simultaneously with execution hereof, Defendants shall
28 cause his attorney Joseph E. Glenn to execute and deliver, or
29 cause to execute and deliver, to Plaintiff, by delivering to
30 Plaintiff's attorney, an Arizona Uniform Commercial Code Financing
31 Statement identical in form and substance to the Arizona Uniform
32 Commercial Code Financing Statement attached hereto as Exhibit "D".

1 4. Upon receipt of the third installment as set
2 forth in paragraph 1 above Plaintiff shall execute and file
3 with the Court a Notice of Dismissal and Order identical in
4 form and substance to the Notice of Dismissal and Order attached
5 hereto as Exhibit "E." In addition, Plaintiff shall return to
6 Defendant the Stipulation and Consent Judgment previously
7 executed, and file a Termination Statement on the Financing
8 Statement previously executed.

9 5. This agreement is entered into freely and vol-
10 untarily between the parties hereto with the consent and approval
11 of their respective attorneys, and shall be binding upon an inure
12 to the benefit of the parties hereto and their respective success-
13 ors and assigns.

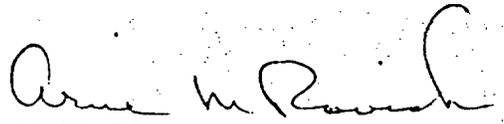
14 6. It is expressly understood and agreed by and
15 between the parties that the payment of the sum specified herein,
16 the execution of the documents and/or the doing of the things
17 required by this Agreement are in full accord and satisfaction
18 of the Suit.

19 7. No change or modification of this Agreement or
20 any provisions thereof shall be binding upon any party hereto
21 unless it be in writing and be subscribed to by it.

22 8. Defendant agrees to pay all costs, expenses and
23 attorney's fees incurred by Plaintiff in the enforcement of this
24 Settlement Agreement whether suit is commenced or not.

25 IN WITNESS WHEREOF, the parties have executed this
26 Agreement as of the date and year first above written.

27
28 MORRISON-KNUDSEN COMPANY, INC.

29
30 By 

31 Arne M. Rovick
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SOUTHWESTERN RAILWAY COMPANY

By Joseph E. Glenn
Joseph E. Glenn

Subscribed and sworn to before me this 20th day
of August, 1975 by ARNE M. ROVICK.

My Commission expires My Commission Expires Dec. 19, 1975

Reborah P. Roberts
Notary Public

Subscribed and sworn to before me this 29th day
of August, 1975 by JOSEPH P. GLENN.

My Commission expires My Commision Expires June 24, 1979

Joseph P. Glenn
Notary Public

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

MORRISON-KNUDSEN COMPANY, INC.,)
a Delaware corporation,)
)
Plaintiff,)
)
v.)
SOUTHWESTERN RAILWAY COMPANY,)
an Arizona corporation,)
)
Defendant.)

No. C 314075

STIPULATION FOR ENTRY
OF JUDGMENT

IT IS HEREBY STIPULATED AND AGREED by and between the parties, by their undersigned attorneys, that final Judgment be entered as a Consent Judgment in accordance with the form of Judgment attached hereto.

DATED this _____ day of _____, 197__.

EVANS, KITCHEL & JENCKES, P.C.

By _____
Arne M. Rovick
Attorneys for Plaintiff

SOUTHWESTERN RAILWAY COMPANY

By _____
Joseph E. Glenn
General Counsel

5/16 Invoice 11

INVOICE
MORRISON-KNUDSEN COMPANY, INC.
CONTRACTORS • ENGINEERS • DEVELOPERS

SOLD TO: Southwestern Railway Company
Box 6037
Phoenix, Arizona 85005

ATTN: Mr. Newman

MAKE PAYMENT TO:

ADDRESS Box 7208

CITY & STATE Boise, Idaho

DATE OF INVOICE	ENTERED IN	YOUR ORDER NO.	INVOICE REFERENCE	INVOICE NO.
5-16-73			EQ-305-4870	5-11

MK-363	Coal Hopper Car NP MKIX-352	Serial 70747	750.00
MK-364	Coal Hopper Car NP MKIX-345	Serial 70151	750.00
MK-365	Coal Hopper Car NP MKIX-337	Serial 70707	750.00
MK-367	Coal Hopper Car NP MKIX-351	Serial 70850	750.00
MK-368	Coal Hopper Car NP MKIX-344	Serial 70185	750.00
MK-371	Coal Hopper Car NP MKIX-350	Serial 70145	750.00
MK-372	Coal Hopper Car NP MKIX-343	Serial 70074	750.00
MK-373	Coal Hopper Car NP MKIX-336	Serial 70178	750.00
MK-375	Coal Hopper Car NP MKIX-349	Serial 70280	750.00
MK-376	Coal Hopper Car NP MKIX-342	Serial 70152	750.00
MK-379	Coal Hopper Car NP MKIX-348	Serial 70544	750.00
MK-380	Coal Hopper Car NP MKIX-341	Serial 70306	750.00
MK-384	Coal Hopper Car NP MKIX-340	Serial 70201	750.00
MK-387	Coal Hopper Car NP MKIX-347	Serial 70825	750.00
MK-388	Coal Hopper Car NP MKIX-339	Serial 70563	750.00
MK-390	Coal Hopper Car NP MKIX-346	Serial 70634	750.00
MK-391	Coal Hopper Car NP MKIX-338	Serial 70111	750.00

NOTED
FIA

5% Calif. Sales Tax

\$12,750.00

637.50

\$13,387.50

Dr. 01-1112-99-7284	Southwestern Railway Co.	13,387.50
Cr. 01-1915		12,750.00
Cr. 01-2103-04		637.50

PROCESSED
MAY 1973

KAY DE WINTER

Any Sales Tax imposed with respect to the sale of the product shall be added and paid as part of the purchase price.

Exhibit "C"

STATE OF ARIZONA, County of

ss.

I do hereby certify that the within instrument was filed (recorded) at the request of

on A.D., 19 at o'clock M. Docket
Page , File number , Records of this office.

WITNESS my hand and official seal the day and year first above written

Secretary of State/County Recorder

Return copy or recorded original to:

Arne M. Rovick
EVANS, KITCHEL & JENCKES, P.C.
363 North First Avenue
Phoenix, Arizona 85003

By _____, Deputy

ARIZONA UNIFORM COMMERCIAL CODE
FINANCING STATEMENT - Form UCC-1
This form approved by the Secretary of State of Arizona

This FINANCING STATEMENT is presented for filing (recording) pursuant to the Arizona Uniform Code. 1. No. of additional sheets presented:

2. Debtor(s) (last name first, and address(es):

SOUTHWESTERN RAILWAY CO.
P. O. BOX 6087
Phoenix, Arizona 85005

3. Secured Party(ies) and address(es):

MORRISON-KNUDSEN COMPANY, INC.
P. O. BOX 7808
Boise, Idaho 83729

4. Name and Address of Assignee of Secured Party:

None

5. This Financing Statement covers the following types (or items) of property:

17 Coal Hopper Cars,

6. CHECK (X) IF COVERED: Products of collateral are also covered Proceeds of collateral are also covered

7. If collateral is timber to be cut, crops growing or to be grown or goods which are to become fixtures, also describe real estate concerned:

8. This Statement is filed (recorded) without the Debtor's signature to perfect a security interest in collateral

Check already subject to a security interest in another jurisdiction when it was brought into this state.
appropriate box which is proceeds of the original collateral described above in which a security interest was perfected.
 already subject to a financing statement recorded in another county.

SOUTHWESTERN RAILWAY CO.

Dated: August 20, 1975

By: _____

MORRISON-KNUDSEN COMPANY, INC.

By: _____

SIGNATURE(S) OF DEBTOR(S)

SIGNATURE OF SECURED PARTY OR ASSIGNEE OF RECORD
(not valid until signed)

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 IN AND FOR THE COUNTY OF MARICOPA

3
4 MORRISON-KNUDSEN COMPANY, INC.,)
a Delaware corporation,)

5 Plaintiff,)

6 v.)

7 SOUTHWESTERN RAILWAY COMPANY,)
8 an Arizona corporation,)

9 Defendant.)
_____)

No. C 314075

NOTICE OF DISMISSAL
AND ORDER

10
11 Plaintiff and Defendant hereby request that this case
12 be dismissed with prejudice and without costs, all matters in
13 controversy have been satisfactorily adjusted and settled by and
14 between the parties.

15 DATED this _____ day of _____,
16 197__.

17 EVANS, KITCHEL & JENCKES, P.C.

18
19 By _____

Arne M. Rovick
363 North First Avenue
Phoenix, Arizona 85003
Attorneys for Plaintiff

22 SOUTHWESTERN RAILWAY COMPANY

23
24 By _____

Joseph E. Glenn
General Counsel

25
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28 ORDER

29 Pursuant to the foregoing Notice of Dismissal,
30 IT IS HEREBY ORDERED that this case be and hereby is
31 dismissed, with prejudice and without costs, all costs having
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Exhibit "E"

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been paid and all matters in controversy having been satisfactorily adjusted and settled by and between the parties.

DONE IN OPEN COURT this _____ day of _____,

197____.

Judge of the Superior Court