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Tuesday, 30 August, 2011 02:24:53 PM
Clerk, U.S. District Court, ILCD

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

KANSAS CITY SOUTHERN)
RAILWAY COMPANY and)
NORFOLK SOUTHERN)
RAILWAY COMPANY)

Plaintiffs,)

v.)

No. 09-3094

RUSSELL E. KOELLER,)
et al.,)

Defendants.)

OPINION

On July 27, 2011 the Seventh Circuit Court of Appeals issued a decision reversing this Court’s judgment in Kansas City Southern Railway Co. v. Koeller, No. 10-2333 (7th Cir. filed July 27, 2011). The Mandate issued on August 18, 2011. See d/e 103.

In it’s decision, the Seventh Circuit concluded the Sny Island Levee Drainage District’s 2009 assessment discriminated against Plaintiff railroad carriers. In addition to reversing this Court’s judgment, the Seventh Circuit remanded with directions that “[o]n remand, the district court must enjoin the 2009 assessment, while at the same time leaving

the District free to go back to the drawing board and craft an assessment that is non-discriminatory,” as the Seventh Circuit explained that concept in its Opinion. Kansas City Southern Railway Co., No. 10-2333, slip op. at 33.

THEREFORE, the Sny Island Levee Drainage District’s 2009 assessment is hereby ENJOINED. The parties are directed to file a joint status report by September 9, 2011. The joint status report shall address how to handle the funds that were deposited with the Clerk pursuant to the Court’s Opinion of September 29, 2009, how the case should proceed from here, and any other issues the parties deem relevant.

ENTERED: August 30, 2011

FOR THE COURT:

s/Sue E. Myerscough
SUE E. MYERSCOUGH
UNITED STATE DISTRICT JUDGE