

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BNSF RAILWAY COMPANY,)
)
 Plaintiff,)
)
 v.)
)
 L.B. FOSTER COMPANY)
)
 Defendant and)
 Third Party Plaintiff)
)
 v.)
)
 HERZOG SERVICES, INC.)
)
 Third Party Defendant)
)

4:11CV3076

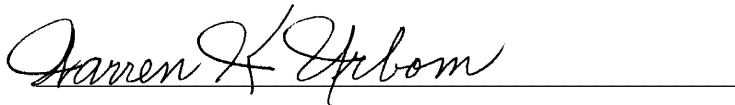
MEMORANDUM AND ORDER

On January 22, 2013, I ordered L.B. Foster to show cause why its third party complaint against Herzog Services should not be dismissed as moot and why a final judgment should not be entered in this case. (ECF No. 138.) L.B. Foster responded promptly to this order. (See ECF No. 139.) In its response, L.B. Foster states that it considers the third party complaint to be moot, and it has no objection to the entry of a final judgment.

IT IS ORDERED that L.B. Foster’s third party complaint against Herzog Services is dismissed without prejudice, and a final judgment will be entered on a separate document.

Dated January 29, 2013.

BY THE COURT



Warren K. Urbom
United States Senior District Judge