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April 4, 1977

Hon. Robert L. Oswald  
Secretary  
Interstate Commerce Commission  
Washington, D. C. 20036

RECORDATION NO. 8775 Filed & Recorded

APR 5 1977 - 2 10 PM

INTERSTATE COMMERCE COMMISSION

RE: Lease Agreement made as of April 4, 1977 between FMC Corporation, 200 East Randolph Drive, Chicago, Illinois, 60601, and SSI Rail Corp.

*David M. Schwartz*

Dear Sir:

Enclosed for filing with and recording by the Interstate Commerce Commission are eight (8) executed counterparts of a Lease Agreement dated as of April 4, 1977, between SSI Rail Corp., Two Embarcadero Center, San Francisco, California, 94111, Lessee, and FMC Corporation, Lessor, covering the following railroad equipment:

110 70-ton, 50'6" single sheath boxcars (AAR Mechanical Designation XM) bearing identifying number PHD 1000 through 1099, both inclusive, and VNOR 7740 through 7749, both inclusive.

Identifying marks on all of the foregoing equipment: The words, "Owned by a bank or trust company under a Security Agreement filed under the Interstate Commerce Act, Section 20c," printed on each side of each unit.

Also enclosed is this Company's check in the sum of \$50.00, payable to the Interstate Commerce Commission, being the prescribed fee for filing and recording the foregoing document.

Please return all additional copies of the enclosed counterparts not required by the Interstate Commerce Commission to David Schwartz, Esq., of Sullivan and Worcester, who will be delivering this letter on our behalf.

Very truly yours,

Martin D. Goodman  
Secretary

*David M. Schwartz*

TWO EMBARCADERO CENTER

SAN FRANCISCO, CALIFORNIA 94111

(415) 983-0123

TELEX 34-0867 CABLE SSI  
SUBSIDIARY OF THE IT&T CORPORATION

**Interstate Commerce Commission**  
Washington, D.C. 20423

4/5/77

OFFICE OF THE SECRETARY

Martin D. Goodman  
SSI Rail Corp.  
Two Embarcadero Center  
San Francisco, Calif. 94111

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 4/5/77 at 2:10pm , and assigned recordation number(s) 8775

Sincerely yours,

  
Robert L. Oswald  
Secretary

Enclosure(s)

LEASE AGREEMENT

8775  
RECORDATION NO. .... Filed & Recorded

APR 5 1977 -2 10 PM

THIS AGREEMENT made this 4th day of April, 1977 by and between FMC Corporation (hereinafter called "Manufacturer,") and SSI RAIL CORP., (hereinafter called "SSI.")

INTERSTATE COMMERCE COMMISSION

WITNESSETH:

The Manufacturer and SSI heretofore entered into Purchase Agreements whereunder the Manufacturer agreed to construct and deliver to SSI and SSI agreed to accept and pay for the following railroad equipment (hereinafter called the "Cars"):

- 110 70-Ton 50'6" Outside Post Box Cars with 10" End-of-Car Cushioning, numbered PHD 1000 to 1099, both inclusive, and VNOR 7740 to ~~7749~~ 7749 both inclusive.

Purchase Agreement is by reference made a part of this Agreement as fully as though expressly set forth herein.

Delivery of the Cars is tentatively scheduled to begin on or about April 5, 1977. However, inasmuch as SSI has not as yet consummated financing arrangements, it is not in position to accept delivery of and pay for the Cars under the terms of the Purchase Agreement at this time. SSI represents that such financing arrangements will be consummated, however, on or before April 20, 1977.

SSI (in order that it may use the Cars pending completion of the above financing arrangements) has arranged with the Manufacturer to give it temporary custody and possession of the Cars upon their completion, solely as a lessee of such Cars, and the Manufacturer is willing to do so upon the terms and conditions hereinafter stated.

In consideration of the premises, the Manufacturer hereby leases said Cars to SSI, for the sum of \$10.00 and other valuable consideration and SSI hereby hires from the Manufacturer the Cars and each of them as of the date each of them is delivered to SSI, for the period ending no later than April 20, 1977, said date being the "Termination Date."

After SSI's representative finds that each Car upon completion has been built in accordance with the

requirements of the Purchase Agreement, he will execute and deliver to the Manufacturer at its plant a certificate of inspection and acceptance acknowledging the receipt of delivery of each Car under this Agreement. Title to the Cars shall remain in the Manufacturer and SSI's right and interest therein is and shall be solely that of possession, custody and use as lessee under this Agreement, provided that SSI may sublease the Cars to the Vermont Northern Railroad Company and Port Huron and Detroit Railroad. Transfer of title shall be effected only at the time of delivery of the bills of sale. The Manufacturer will promptly cause this Agreement to be filed with the Interstate Commerce Commission for recordation under Section 20c of the Interstate Commerce Act. In addition, SSI shall do such other acts as may be required by law, or reasonably requested by the Manufacturer, for the protection of the Manufacturer's title to and interest in the Cars.

SSI agrees that it will permit no liens of any kind to attach to the Cars; and that it will

- (a) indemnify and save harmless the Manufacturer from any and all claims, expenses or liabilities of whatsoever kind; and
- (b) pay any and all taxes, fines, charges and penalties

that may accrue or be assessed or imposed upon the Cars or the Manufacturer because of its ownership or because of the use, operation, management or handling of the Cars by SSI during the terms of this Agreement. SSI's obligations contained in this paragraph shall survive the termination by mutual agreement or otherwise of this Agreement.

SSI will, at its own expense, keep and maintain the Cars in good order and running condition and will at its option repair or replace or promptly pay to Manufacturer the purchase price in cash of those Cars which may be damaged or destroyed by any cause during the term of this Agreement. Upon the expiration or other termination of this Agreement, SSI will surrender and deliver up the Cars in good order and running condition to the Manufacturer free of all charges at the point designated by the Manufacturer.

Prior to the delivery of each Car to SSI, it will be numbered with a car number as hereinbefore indicated, and there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side

of each Car a metal plate bearing the following or similar legend, or such legend shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of each Car, in either case in letters not less than one inch in height:

"Owned by a Bank or Trust Company under a Security Agreement filed under the Interstate Commerce Act, Section 20c"

SSI hereby agrees to indemnify the Manufacturer against any liability, loss, or expense incurred by it as a result of the placing and fastening of the aforementioned plates or markings on said Cars.

In case, during the continuance of this Agreement, such name plate or mark shall at any time be removed, defaced, or destroyed on any Car, SSI shall immediately cause the same to be restored or replaced.

All or any of the rights, benefits or advantages of the Manufacturer (including the right to receive payment of the rental provided for herein) or the right to receive the purchase price of the Cars as provided in the Purchase Agreement, may be assigned by the Manufacturer and reassigned by any assignee at any time or from time to time, provided, however, that no such assignment shall subject any such assignee to any of the Manufacturer's guarantees, warranties, indemnities, or any other obligations contained in this Agreement or in the Purchase Agreement relating to the Cars. In the event the Manufacturer assigns its right to receive the payments herein and/or under the Purchase Agreement, and SSI receives written notice thereof from the Manufacturer, together with a counterpart of such assignment stating the identity and the post office address of the assignee, all payments thereafter to be made by SSI under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to SSI.

In the event of any assignment of the Manufacturer of its right to receive any payments under this Agreement or under the Purchase Agreement, the rights of such assignee to such payments as may be assigned together with any other rights hereunder which can be and are so assigned, shall not be subject to any defense, set-off, counterclaim, or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer in respect to the Cars, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to SSI by the Manufacturer. Any and all such obligations,

howsoever arising, shall be and remain enforceable by SSI, its successors and assigns only against the Manufacturer and its successors and assigns (other than assignees as such of rights, benefits, or advantages assigned pursuant to this Agreement.)

SSI agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to SSI of the Cars, as contemplated by this Agreement, shall not relieve SSI of its obligations to accept, take and pay for the Cars in accordance with the terms of the Purchase Agreement, or impair any of the Manufacturer's rights under the Purchase Agreement.

FMC CORPORATION

BY William R. Galt  
Div. V.P. Sales

Attest:

Charles H. Johnson

SSI RAIL CORP.

BY Robert B. [Signature]  
Vice President

Attest:

[Signature]

STATE OF OREGON )  
 ) SS:  
COUNTY OF MULTNOMAH)

On this 4th day of April, 1977, before me personally appeared William R. Galbraith, to me personally known, who, being by me duly sworn, says that he is Division Vice President, Sales, of FMC CORPORATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sada Tashis  
Notary Public

My Commission Expires: My Commission Expires November 4, 1977  
[SEAL]

STATE OF CALIFORNIA)  
 ) SS:  
CITY AND COUNTY OF )  
SAN FRANCISCO )

On this 4th day of April, 1977, before me personally appeared Patrick B. McManus, to me personally known, who, being by me duly sworn, says that he is Vice President of SSI RAIL CORP., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Terry L. Russell  
Notary Public

My Commission Expires: May 10, 1980  
[SEAL]

