



5600 Forward Avenue · Pittsburgh, Pennsylvania 15217 · 412/422-9900

September 12, 1977

RECORDATION NO. 7469-A Filed & Recorded

REGISTERED MAIL

SEP 16 1977 - 3 10 PM

Mr. Robert Oswald
Secretary
Interstate Commerce Commission
Washington, D. C. 20423

INTERSTATE COMMERCE COMMISSION SEP 16 1977

50.00
Washington, D. C.

SEP 16 1977
RECEIVED
SEP 16 1977

Dear Mr. Oswald

Enclosed herewith please find original and two counterparts of Lease of railroad cars intended for use in connection with interstate commerce. I.E.:

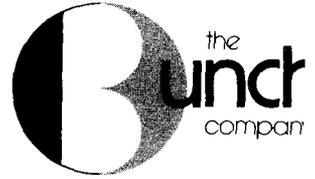
Owner - Lessor: The Buncher Company
5600 Forward Avenue
Pittsburgh, Pennsylvania 15217

Lessee: Roscoe, Snyder & Pacific Railway Company
111 Cypress Street
Roscoe, Texas 79545

Quantity of Cars and Description: Twenty-five (25) NEW - 70 ton - roller bearing - 50'-6" single sheathed class boxcars with outside posts; 10'-0" sliding doors; rigid underframe. Manufactured by Berwick Forge and Fabricating, Berwick, Pennsylvania; as per specifications issued December 12, 1973 covering BFFLOT-19400.

Reporting Marks and Numbers: RSP-5000-5024, both inclusive (Roscoe, Snyder & Pacific Railway Company).

In accordance with the provisions of Section 20C of the Interstate Commerce Act, we respectfully request that the Lease be duly recorded. Enclosed is our check in amount of \$50.00 payable to the Interstate Commerce Commission to cover the cost of such recording.



Please note that this Lease cancels and supersedes Lease of railroad equipment dated February 20, 1974 between the above two parties, which was duly recorded on February 25, 1974 and assigned Recordation No. 7409.

After recording, kindly return the original Lease to me at the above address.

Very truly yours


Ralph L. Goffing
Group Vice President
RLC/smd

INTERSTATE
COMMERCE COMMISSION
RECEIVED

SEP 14 1977

ADMINISTRATIVE SERVICES
E MAIL BRANCH

Enclosure

cc: Mr. C. Spalding R, S & P Railway

Interstate Commerce Commission
Washington, D.C. 20423

9/16/77

OFFICE OF THE SECRETARY

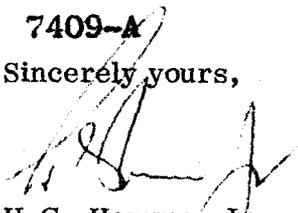
Ralph L. Coffing
Group Vice Pres.
The Buncher Company
5600 Forward Avenue
Pittsburgh, Pa. 15217

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 9/16/77 at 3:10pm and assigned recordation number(s)

7409-A

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)

RECORDATION NO. 7402-A
SEP 16 1977-8 12 PM
INTERSTATE COMMERCE COMMISSION

AGREEMENT TO LEASE
RAILROAD EQUIPMENT

DATED: JULY 1, 1977

BETWEEN

THE BUNCHER COMPANY (LESSOR)

AND

ROSCOE, SNYDER AND PACIFIC
RAILWAY COMPANY

NOTE: This Lease cancels
and supersedes Lease of
railroad equipment dated
February 20, 1974 between
Lessor and Lessee.

SEP 16 1977 - 3 1

AGREEMENT TO LEASE RAILROAD EQUIPMENT

MULTISTATE COMMERCE CO

THIS NET LEASE AGREEMENT, made and entered into this 1st day of July, 1977, by and between THE BUNCHER COMPANY, a Pennsylvania corporation (hereinafter referred to as "Lessor") and the ROSCOE, SNYDER and PACIFIC RAILWAY COMPANY, a Texas corporation (hereinafter referred to as "Lessee").

WITNESSETH

In consideration of the covenants and agreements herein contained, the parties hereto covenant and agree as follows:

- I. CARS: Lessor hereby agrees to lease to Lessee and Lessee agrees to lease from Lessor twenty-five (25) 70-ton, 50 ft. 6 in. boxcars (as identified in Exhibit A), currently bearing the reporting marks and numbers RSP-5000 - 5024, both inclusive. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR ANY PURPOSE, DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN THE CARS, but Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assist and enforce from time to time, in the name of and for account of the Lessor and/or the Lessee, as their interest may appear, whatever claims and rights the Lessor may have, as Owner, under any express or implied warranties of any manufacturer or vendor.

EQUIPMENT DATED AS OF FEBRUARY 20, 1974, BETWEEN LESSOR AND LESSEE AS OF JULY 1, 1977, (EXCEPT WITH RESPECT TO ANY OBLIGATIONS OF LESSEE UNDER SAID LEASE TO PAY RENT FOR, AND REMIT PER DIEM AND MILEAGE INCOME EARNED DURING THE MONTHS PRIOR TO JULY, 1977, AND/OR OBLIGATIONS RELATING TO INDEMNIFICATION UNDER SAID LEASE.)

- III. MARKING: Lessor shall cause each and all cars to be distinctly, permanently and conspicuously marked by stenciling or by a metal plate affixed thereto, with the following legend in letters not less than one inch in height

"THE BUNCHER COMPANY
PITTSBURGH, PENNSYLVANIA
OWNER-LESSOR"

Lessee shall cause each and all cars to maintain such markings at all times and any additional markings designated by the Lessor as from time to time may be required by law in order to protect the title of the Lessor and its rights under this Lease and keep the cars free from any marking or labeling which might be interpreted as a claim of ownership thereof by Lessee or any other party other than Lessor. Lessee will not change or permit to be changed, the reporting marks and numbers on any of the cars without the written consent of the Lessor, provided, however, that Lessee may paint or mark said cars with its own name, insignia, or other markings customarily applied to its own cars so long as the same cannot be interpreted as a claim of ownership thereof by Lessee.

- IV. RENTAL: Lessee agrees to pay Lessor a monthly rental of Two Hundred and Fifteen Dollars (\$215.00) per car per calendar month (or a total of \$5,375.00 per month). Each month's rental is payable in advance and shall become due and payable on the first day of the month in which it occurs. The rental on each car shall begin on July 1, 1977, and shall be paid for each month of the Lease term period as defined in Para-

graph II and shall be payable in any and all events unless the obligation to pay same shall be terminated pursuant to the express provision of this Lease.

V. PER DIEM/MILEAGE COMPENSATION: All per diem, mileage and/or other compensation paid by any railroad for the use of said cars, as provided in the AAR Rules of Interchange or other applicable tariffs, shall accrue to and become the property of Lessee.

VI. OBLIGATIONS OF LESSEE: Lessee agrees that during the term of this Lease Agreement, or any renewal term, it will at its sole cost and expense:

- a. TAXES: Promptly pay all sales, use, ad valorem or other taxes and assessments and all licenses and fees, imposed or required by federal, state, municipal or other governmental authorities upon the ownership, possession, leasing, or use of the cars, excluding any income tax imposed on the income of Lessor; provided, however, that Lessee shall be under no obligation to pay any such tax so long as Lessee is contesting same in good faith and by appropriate legal proceeding, and provided such non-payment shall not put a hazard upon the property or right of Lessor hereunder.
- b. USE OF CARS: Use the cars in a careful and prudent manner and keep them in good order and repair and satisfactory for interchange service in accordance with all governmental laws, regulations, requirements and rules, including the rules of the ICC and the current Interchange rules, or supplements thereto, of the AAR, and make any and all replacements of any parts or additions required to continue the cars in interchange service in accordance with said rules; and all such equipment, accessories, parts and replacements for or which are added to or become attached to the cars shall be

the property of Lessor. Lessee further agrees to prevent the use of the cars for the transportation or storage of corrosive or contaminating products.

- c. MAINTENANCE: Maintain each of the cars in good condition and repair. Such repair and maintenance to be performed in compliance with Code of Rules and standards of the AAR. To return the cars at the termination of the Lease, or extension thereof, suitable for AAR interchange service in compliance with current ICC and DOT requirements, and in the same good order and condition as when originally placed in Lessee's service, ordinary wear excepted.
- d. INDEMNITY: Indemnify, protect and hold harmless Lessor and its successors and assigns from and against (a) any and all loss or damage of or to the cars; and (b) any and all losses, expenses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, reasonable counsel fees and expenses, patent liabilities, penalties and interest, arising in any way out of or as the result of the entering into or the performance of this Agreement, the ownership of any car, the transportation, leasing, use, operation, condition, purchase, rehabilitating, delivery, rejection, or storage of any car or any accident in connection with the transportation, leasing, operating use, condition, possession, or storage of any car resulting in damage to property or injury or death to any person, or arising by reason or as a result of any act or omission of the Lessee for itself or as agent or attorney-in-fact for Lessor hereunder. The

indemnities arising hereunder shall continue in full force and effect notwithstanding the full payment of all obligations under the Lease embodied in this Agreement or the termination of that Lease.

- e. REGULATION/REGISTRATION: Secure the consent of any governmental authority necessary in order to lease the cars and comply thereafter with all laws and regulations of any governmental authority with reference to the manner of using or operating the cars. File and record all the cars under this Lease with the AAR, the ICC, and cause the cars to be published in the Official Railway Equipment Register.

Execute, acknowledge, deliver, file, register and record any and all further instruments required by law or requested by Lessor, and perform such other acts as may be desirable for the purpose of protecting the title and rights of Lessor or for the purpose of carrying out the intention of Lease Agreement, and furnish Lessor certificates or other evidences of any filing, registering, and recording.

- f. INSPECTION: Furnish to Lessor at least once every year an accurate inventory of the cars showing their present location to the best knowledge of Lessee. To permit Lessor, or its authorized agent, at Lessor's expense, to inspect the cars at any reasonable time or times.

- g. RESOLUTION: Furnish to Lessor on or before the execution of this Lease Agreement resolutions of the Board of Directors of Lessee, certified by the Secretary or an Assistant Secretary of

Lessee, authorizing Lessee to enter into this Lease Agreement.

VII. DAMAGE OR DESTRUCTION: All risk, loss or damage to the cars from any and every cause whatsoever (except due to the sole negligence of Lessor) shall, at all times, be upon Lessee, and in the event of loss, destruction or irreparable damage to any of the cars from any such cause, Lessee shall promptly and fully inform Lessor with respect to the same and shall promptly pay Lessor the sum of the following:

- (a) a sum equal to the settlement basis provided by the rules of the AAR; and
- (b) the pro rata daily rental from the end of the preceding month to the date of destruction.

Rental shall terminate with respect to such damaged or destroyed car or cars settled for as herein provided on the date of destruction.

In all cases where such loss, destruction or irreparable damage occurs off the lines of Lessee, Lessor hereby authorizes Lessee to make settlement pursuant to the rules of the AAR, for the account of Lessor, with the foreign line upon whose railroad line such car or cars may have been damaged or destroyed; provided, however, no such settlement shall relieve Lessee from its obligation to pay Lessor the sum provided for herein.

VIII. DEFAULT: If the Lessee shall make default in the payment of rentals for the cars at the time when same become due and payable, or shall make default in the performance or observance of any of the other agreements herein contained and to be performed or observed by Lessee, and such default shall continue for thirty (30) days, or there shall be filed by or against Lessee a petition in bankruptcy or for reorganization under the Bankruptcy Law, or there shall be a Receiver appointed of any part of Lessee's property

or Lessee shall make a general assignment for the benefit of creditors, then and in any of said events Lessor, at its election, may terminate this Lease, whereupon all right of Lessee to the use of the cars shall absolutely cease and terminate as though this Lease had never been made, but Lessee shall remain liable as herein provided; and thereupon Lessee shall deliver possession of the cars to Lessor in accordance with Paragraph IX hereof and Lessor or its agents may enter upon the premises of Lessee, or other premises where any of the cars may be, and take possession of all or any of such cars (damages occasioned by such taking of possession are hereby expressly waived by Lessee) (Lessee shall without expense to Lessor assist Lessor in repossessing itself of said cars and shall for a reasonable time, if required, furnish suitable trackage space for the storage of said cars) and thenceforth hold, possess and enjoy the same free from any right of Lessee, or Lessee's successors or assigns to use the cars for any purpose whatever; but Lessor shall, nevertheless, have a right to recover from Lessee any and all amounts which under the terms of this Lease may be then due or which may become due and unpaid for the use of the cars or otherwise (including rental accruing on the cars after the date of default); and also to recover from Lessee (to the extent not recovered pursuant to the foregoing) the following: (i) any expenses incurred in the retaking, storage, repairing and reasonable attorneys' fees incurred by Lessor, and (ii) from time to time, rentals which would have been payable hereunder had this Lease not been terminated, less any net rentals received by Lessor in reletting any cars after providing for the expenses of reletting and collecting the rentals thereof.

IX. TERMINATION: Upon the expiration of this Lease, Lessee shall surrender the cars to Lessor at Buncher, Virginia (Lynchburg), or any other point as

directed by Lessor of equal or less freight as compared to Buncher, Virginia. The cars will be in a condition satisfactory for interchange service under load under the rules of the AAR, as they may exist at such time. If any of the cars are away from the Lessee on the date of expiration of this Lease, the obligations of Lessee hereunder as to such cars (including the payment of rental therefor) shall continue until same are surrendered as herein provided.

X. MISCELLANEOUS PROVISIONS:

- a. ASSIGNMENT: This Lease may not be assigned by Lessee without the written consent of Lessor, provided, however, that Lessee may assign all of the rights under this Lease to another corporation which succeeds to all or substantially all of the business of the Lessee, provided that such successor shall have assumed all of the obligations of the Lessee hereunder. Lessor may at any time assign this Lease, whereupon said assignee shall succeed to all of the rights and obligations of The Buncher Company as Lessor herein as if named as Lessor herein, and thereafter The Buncher Company shall have no right or obligation under this Agreement to any party. In addition, Lessor shall have the right at any time hereunder to assign its interest under this Lease Agreement and in and to the cars as collateral in connection with any borrowing made by Lessor, and if requested, Lessee shall acknowledge its recognition of such assignment.

- b. NOTICES: Any notice required or permitted to be given to the Lessor shall be deemed to have been given when deposited in the United States Mail, first class postage prepaid, addressed as follows:

THE BUNCHEER COMPANY
5600 Forward Avenue
Pittsburgh, Pennsylvania 15217

or such other address as may be specified in writing by the
Lessor to the Lessee.

Any notice required or permitted to be given to the Lessee
shall be deemed to have been given when deposited in the
United States Mail, first class postage prepaid, addressed
as follows:

ROSCOE, SNYDER and PACIFIC RAILWAY COMPANY
111 Cypress Street
Roscoe, Texas 79545

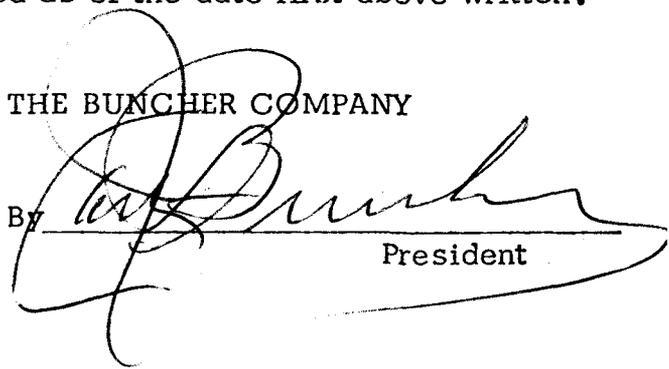
or such other address as may be specified in writing by the
Lessee to the Lessor.

- c. WHOLE AGREEMENT: This Lease Agreement and Supplement A thereto constitutes the entire agreement of the parties and no representation, warranty, agreement or promise, oral or written, not contained herein shall be binding, and no change or amendment herein may be made except in writing signed by both parties.
- d. LAW GOVERNING: This Lease Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania provided, however, that the parties shall be entitled to all rights conferred by Section 20C of the Interstate Commerce Act and Section 145 of the Railway Act.
- e. BINDING EFFECT: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto caused this
Lease of Railroad Equipment to be signed as of the date first above written.

THE BUNCHER COMPANY

By

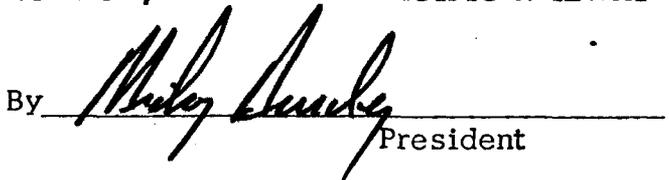

President

ATTEST:


Secretary

ROSCOE, SNYDER and PACIFIC RAILWAY

By


President

ATTEST:

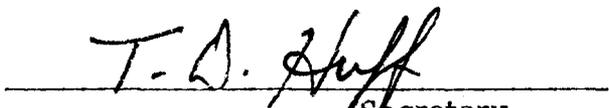

Secretary

EXHIBIT A

TO

LEASE OF RAILROAD EQUIPMENT DATED JULY 1, 1977

BETWEEN

THE BUNCHER COMPANY

AND

THE ROSCOE, SNYDER and PACIFIC RAILWAY COMPANY

Quantity of Cars: Twenty-five (25)

Description: 70-ton - roller bearing - 50' 6" single sheathed class "XM" boxcars with outside posts; 10' 0" sliding doors; rigid underframe. Manufactured by Berwick Forge and Fabricating, Berwick, Pennsylvania, as per specifications issued December 12, 1973, covering BFF LOT - 19400.

Reporting Marks and Numbers: RSP-5000 - 5024, both inclusive
(Roscoe, Snyder and Pacific
Railway Company)

Ownership Identification: (Both sides of each car in letters not less than 1" in height)

"THE BUNCHER COMPANY
PITTSBURGH, PENNSYLVANIA
OWNER-LESSOR"

STATE OF TEXAS)
)
) ss
COUNTY OF NOLAN)

On this 1st day of August 1977, before me personally appeared Mickey Nunley to me personally known, who being by me duly sworn, says that he is President of Roscoe, Snyder & Pacific Railway Company, and T. D. Huff to me personally known to be the Secretary of said 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Virginia Cleckler
Notary Public

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this 16th day of August, 1977, before me personally appear Jack G. Buncher, to me personally known, who being by me duly sworn, says that he is the President of The Buncher Company, 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.

(SEAL)

T. D. Huff

My Commission expires: May 14, 1979