

Michael C. Bynane
Assistant General Attorney



Law Department
Terminal Tower
P. O. Box 6419
Cleveland, Ohio 44101
216 623 2472

RECORDATION NO. 9139-F Filed 1425

July 26, 1979

JUL 31 1979 - 1 10 PM

9-212A012

JUL 31 1979

REGISTERED MAIL

INTERSTATE COMMERCE COMMISSION

Mr. H. G. Homme, Jr., Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Dear Mr. Homme:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as currently administered, I enclose herewith for filing and recordation counterparts Nos. 1-6 (of 6) of an Amendment and Agreement, dated as of June 1, 1979, among First Security Bank of Utah, National Association, as Owner-Trustee, the Chesapeake and Ohio Railway Company, as Lessee, and BWL, Inc., as Owner-Participant.

The names and addresses of the parties to the aforementioned Amendment and Agreement are:

- (1) Owner-Trustee:
First Security Bank of Utah, National Association
79 South Main Street
Salt Lake City, Utah 84111
- (2) Lessee:
The Chesapeake and Ohio Railway Company
2 N. Charles Street
Baltimore, Maryland 21201
- (3) Owner-Participant:
BWL, Inc.
One IBM Plaza
Chicago, Illinois 60611

The equipment covered by the Amendment and Agreement consists of:

100 Auto Racks, Tri-Level, Railpac, bearing identifying numbers RP-1130 through RP-1229;

70 Auto Racks, Bi-Level, Convertible Shielded, bearing identifying numbers RP-1380 through RP-1449;

100 Auto Racks, Tri-Level, Railpac, bearing identifying numbers RP-1230 through RP 1329; and

50 Auto Racks, Bi-Level, Fully enclosed with tri-fold doors,
bearing identifying numbers RP-1330 through RP-1379.

The Amendment and Agreement amends a Lease of Equipment, dated as of November 1, 1977, between the Owner-Trustee and the Lessee, that was recorded in the office of the Secretary of the Interstate Commerce Commission on December 28, 1977, at 2:05 p.m., recordation number 9139-B.

There is also enclosed a check of The Chesapeake and Ohio Railway Company in the amount of \$10 representing the fee for recording the Amendment and Agreement.

Please stamp all counterparts of the enclosed document with your official recording stamp. You will wish to retain one copy of the Amendment and Agreement for your files. Kindly return the remaining counterparts to me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael C. Bynane", written in a cursive style.

Michael C. Bynane

MCB:aj

Interstate Commerce Commission
Washington, D.C. 20423

8/7/79

OFFICE OF THE SECRETARY

Michael C. Bynane
Assistant General Attorney
Chessie System, Terminal Tower
P.O. Box 6419
Cleveland, Ohio 44101

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/31/79 at 1:10pm, and assigned re-
recording number(s). 9139-E

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

EXECUTED IN 6 COUNTERPARTS

RECORDATION NO. 9139-E Filed 1425

OF WHICH THIS IS NO. 1

JUL 31 1979 - 1 10 PM

INTERSTATE COMMERCE COMMISSION

AMENDMENT AND AGREEMENT (this "Agreement") dated as of June 1, 1979, among FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Owner-Trustee (the "Owner-Trustee"), THE CHESAPEAKE AND OHIO RAILWAY COMPANY (the "Lessee"), and BWL, INC. (the "Owner-Participant").

WHEREAS the Owner-Participant, the Owner-Trustee, Mercantile-Safe Deposit and Trust Company, as Agent (the "Agent"), the Lessee and the parties named in Schedule A to the Participation Agreement (the "Investors") have entered into a Participation Agreement dated as of November 1, 1977 (the "Participation Agreement"); Portec, Inc. (the "Builder"), and the Owner-Trustee have entered into a Conditional Sale Agreement dated as of November 1, 1977 (the "CSA"); the Lessee and the Owner-Trustee have entered into a Lease of Equipment dated as of November 1, 1977 (the "Lease"); the Owner-Trustee and the Agent have entered into an Assignment of Lease and Agreement dated as of November 1, 1977 (the "Lease Assignment"); the Lessee has consented to the terms and conditions of the Lease Assignment pursuant to the Lessee's Consent and Agreement dated as of November 1, 1977 (the "Consent"); the Builder and Agent have entered into

an Agreement and Assignment dated as of November 1, 1977 (the "Assignment"); the Owner-Participant and the Owner-Trustee have entered into a Trust Agreement dated as of November 1, 1977 (the "Trust Agreement"); the Lessee and Owner-Participant have entered into an Indemnity Agreement dated as of November 1, 1977 (the "Indemnity Agreement"); and the Lessee, Owner-Participant, Owner-Trustee, Agent, Builder and Investors have entered into an Amendment and Agreement dated as of March 15, 1978 (the "Amendment and Agreement") (such Participation Agreement, CSA, Lease, Lease Assignment, Consent, Assignment, Trust Agreement, Indemnity Agreement and Amendment and Agreement being hereinafter collectively called the "Documents");

WHEREAS the Lease Assignment, the Assignment, the Lease and the CSA were filed with the Interstate Commerce Commission (the "ICC") pursuant to Section 20c of the Interstate Commerce Act on December 28, 1977, at 2:05 p.m. and were assigned recordation numbers 9139, 9139-A, 9139-B and 9139-C, respectively;

WHEREAS the Amendment and Agreement was filed with the ICC pursuant to Section 20c of the Interstate Commerce Act on April 17, 1978, at 1:15 p.m. and was assigned recordation number 9139-D;

WHEREAS the parties hereto desire to amend Table 2 of Schedule B to the Lease;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. Table 2 of Schedule B to the Lease is amended in its entirety as shown below (such amendment to be effective as of the first rental payment date under the lease):

"Table 2

"The percentages set forth in Table 1 of this Schedule B have been computed without regard to recapture of the Investment Credit (as defined in the Indemnity Agreement referred to in the Participation Agreement). Consequently, the Casualty Value of the Equipment suffering a Casualty Occurrence on or before the third, fifth or seventh anniversary of the Closing Date (as defined in the Security Documentation) with respect to the Equipment shall be increased by the applicable percentage of the Purchase Price set forth below:

<u>Anniversary of Closing Date</u>	<u>Percentage of Purchase Price</u>
Third	20.0321
Fifth	13.3547
Seventh	6.6774"

2. Execution and delivery of this Agreement by the Owner-Participant shall constitute authorization for and direction to the Owner-Trustee to execute and deliver this Agreement.

3. The Lease is hereby amended to permit the aforesaid amendment thereto. Each Document is hereby amended so that any reference therein to the Lease shall be deemed to refer to the Lease as amended by this Agreement and as the

Lease may from time to time be otherwise amended.

4. Except as amended hereby, the Documents shall remain in full force and effect.

5. The Lessee will promptly cause this Agreement to be filed in accordance with the provisions of Section 15 of the Lease.

6. The terms of this Agreement and all the rights and obligations hereunder shall be governed by the laws of the State of Ohio.

7. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties so long as each party shall sign at least one counterpart.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto by their respective officers thereunto duly authorized, and their respective seals duly attested, to be hereunto affixed as of the day and year first above written.

THE CHESAPEAKE AND OHIO RAILWAY COMPANY,

by

L.C. Duff
Assistant Vice-President
and Treasurer

[Corporate Seal]

Attest:

Patricia J. Swadey
Assistant Secretary

APPROVED AS TO FORM

W.C. Symon
ASSISTANT GENERAL ATTORNEY

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in
its individual capacity, but
solely as Owner-Trustee,

by *James B. Fisher*
Authorized Officer

[Seal]

Attest:

J. R. Jay
Authorized Officer

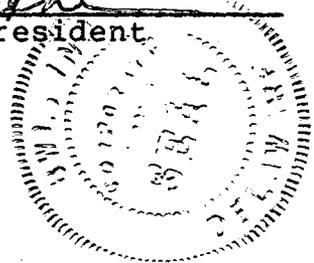
BWL, INC.,

by *John H. Krouse*
Vice President

[Corporate Seal]

Attest:

John H. Krouse
Secretary



The undersigned hereby consent to the foregoing
Amendment and Agreement as of the first day of June 1979.

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, not in its
individual capacity but solely
as Agent,

by *Robert E. [illegible]*
Assistant Vice President

[Seal]

Attest:

F. H. [illegible]
Corporate Trust Officer

STATE OF OHIO,)
) ss.:
COUNTY OF CUYAHOGA,)

On this ^{JULY} 6TH day of ~~June~~ 1979, before me personally appeared L. C. ROIG, JR., to me personally known, who, being by me duly sworn, says that he is Assistant Vice President and Treasurer of THE CHESAPEAKE AND OHIO RAILWAY COMPANY, that one of the seals 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.

Clara Masuga
Notary Public

[Notarial Seal]

My Commission expires

CLARA MASUGA, Notary Public
State of Ohio - Cuyahoga County
My Commission Expires April 21, 1984

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this ²⁵ day of June 1979, before me personally appeared FUCHIA B. EICHERS, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST NATIONAL SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the seal of said National Bank, that said instrument was signed and sealed on behalf of said National Bank 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 National Bank.

Venna S. Hill
Notary Public

[Notarial Seal]

My Commission Expires November 15, 1981
My Commission expires

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this ^{13th} day of June 1979, before me personally appeared R. J. Salamone, to me personally known, who, being by me duly sworn, says that he is Vice President of BWL, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and 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.

Mary C. Bowley
Notary Public

[Notarial Seal]

My Commission expires 4-27-83

