

RECORDATION NO. *6506-5* Filed 1429

January 7, 1983 014A069

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INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington D.C. 20423

Dear Secretary:

I have enclosed an original and several counterparts of the document described below, to be recorded pursuant to § 11303 of title 49 of the U.S. Code.

This document is a First Amendment, a secondary document, dated December 23, 1982.

The primary document to which this is connected is recorded under Recordation No. 6506-A.

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The names and addresses of the parties to the document are as follows:

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Lessor: Union Trust Company of Maryland
c/o Union Tidewater Financial Company, Inc.
P.O. Box 2373
Baltimore, MD 21203

Lessee: Chicago, Milwaukee, St. Paul and Pacific
Railroad Company
516 W. Jackson
Chicago, IL 60606

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A description of the equipment covered by the document follows:

18 - GP9 rebuilt to GP20 General Motors Diesel Electric Road Switcher Locomotives, SN 964 - 981.

A fee of \$10 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to the messenger presenting this document.

A short summary of the document to appear in the index follows:

First Amendment dated December 23, 1982 to Lease of Railroad Equipment dated as of February 15, 1972 between Union Trust Company of Maryland, c/o Union Tidewater Financial Company, Inc., P.O. Box 2373, Baltimore, MD 21203, Lessor, and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, 516 W. Jackson, Chicago, IL 60606, Lessee, covering the following equipment:

18 - GP9 rebuilt to GP20 General Motors Diesel Electric Road Switcher Locomotives, SN 964 - 981.

Sincerely,

M D Sullivan

Michael D. Sullivan
Attorney to Chicago, Milwaukee,
St. Paul and Pacific Railroad
Company

*counterpart
Sales Manager*

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Michael D. Sullivan
Chicago, Milwaukee, St. Paul
& Pacific RR Co.

January 14, 1983

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 1/14/83 at 4:20PM, and assigned re-
recording number(s). 6506-J

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

FIRST AMENDMENT TO EQUIPMENT LEASE

RECORDATION NO. 6506-5 F.M.C. 1428

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INTERSTATE COMMERCE COMMISSION

First Amendment dated December 23, 1982 to Lease of Railroad Equipment ("Lease") dated as of February 15, 1972, between Union Trust Company of Maryland, a Maryland banking corporation ("Lessor") and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company ("Milwaukee Road").

The background of this Amendment is as follows:

A. The Milwaukee Road filed a petition for reorganization under the Federal Bankruptcy Act on December 19, 1977, in the federal district court for the Northern District of Illinois, Eastern Division ("Reorganization Court"). Richard B. Ogilvie has been appointed Trustee of the Property of the Milwaukee Road ("Trustee").

B. On February 13, 1978, Court Order No. 10 was entered wherein the Trustee, among other things, affirmed the Lease.

C. The Lessor and Trustee desire to amend the Lease as hereinafter set forth to reflect the extension of the term thereof pursuant to the option to renew contained in Section 23.3 of the Lease.

Now, therefore, it is hereby agreed as follows:

1. The term of the Lease shall extend as to all the Equipment subject to the Lease as of January 18, 1983, for an additional three years through and including January 18, 1986.



2. During the term of this extension, the six semi-annual rentals payable by the Lessee in respect of each Item of Equipment shall be in an amount equal to 2.8464% of the Total Purchase Price of such Item, payable at the time and in the manner specified in the Lease. Such payments shall be due on the 18th of July and January of each year, commencing July 18, 1983 and ending on January 18, 1986. Any payment or notice required or permitted to be made to Lessor under the Lease shall be made directly to Lessor, c/o Union Tidewater Financial Company, Inc., P.O. Box 2373, Baltimore, MD 21203, until notified to the contrary by Lessor in accordance with the applicable notice provision of the Lease.

3. Schedule B to the Lease is amended to add the following, which shall be in effect during the term of this extension:

<u>Prior to Periodic Rental Payment Date</u>	<u>% of Acquisition and Reconstruction Costs</u>
July 18, 1983	24.0763%
January 18, 1984	22.4337%
July 18, 1984	20.7090%
January 18, 1985	18.8981%
July 18, 1985	16.9966%
January 18, 1986 & thereafter	15.0000%

4. Notwithstanding anything to the contrary in the Lease or this First Amendment, if before the end of the stated term of the Lease, as hereby extended, Trustee or the Reorganization Court notifies Lessor that the Reorganization Court has ordered the termination of the Lease, as hereby amended, with respect to the lease of all Equipment thereunder in connection

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with the discontinuance of substantially all service and/or the liquidation of the assets of the Milwaukee Road (the "Early Termination Order"), the Lease, as hereby amended, shall be automatically terminated. In such event, Trustee shall be obligated to return the Equipment to Lessor in accordance with Section 13 of the Lease and to pay lease charges in respect of the Equipment accrued to the date possession of the Equipment is offered to Lessor pursuant to the Early Termination Order; any further obligation of Trustee or the Milwaukee Road, for lease charges or otherwise, shall terminate and Lessor shall have no claim against Trustee or the Milwaukee Road for any lease charges or other damage claims accruing after that date or, except pursuant to the next following proviso, for other obligations of Trustee or the Milwaukee Road under the Lease, as hereby amended; provided, however, that Trustee shall thereafter continue to be liable in respect to any obligations which accrued under the Lease, as hereby amended, prior to such termination and offer of possession until payment or performance of such obligation in full; and provided, further, that no company or corporation which is an assignee or successor to the Milwaukee Road may exercise any right to terminate the Lease, as hereby amended, pursuant to this provision. In the event of an Early Termination Order, the rights afforded Lessor under Paragraph 4 of this First Amendment shall be deemed to be exclusive of all rights and remedies provided by law; however, in that event the obligations of Trustee hereunder shall be treated as an expense of administration in its presently pending reorganization proceedings.

5. Notwithstanding Section 17 of the Lease, provided all monetary defaults then existing have been cured prior to any such assignment or transfer, Trustee shall have the right to assign or transfer its leasehold interest under the Lease, as hereby amended, in the Equipment or possession

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of the Equipment to (a) any corporation into or with which the Milwaukee Road shall have become merged or consolidated or which shall have acquired all or substantially all of the assets of the Milwaukee Road, provided that such an assignee, successor or transferee shall have duly assumed the obligations of Trustee hereunder and would not, upon the effectiveness of such merger, consolidation or acquisition of assets and the assumption of such obligations, be in default under any provision of the Lease, as hereby amended, (b) any railroad corporation organized under the laws of the United States or any state thereof which, at the time of such assignment or transfer thereto shall become effective, (1) qualifies as a class I railroad under the rules and regulations of the Interstate Commerce Commission and (2) has outstanding at such time equipment obligations rated "A" (or the equivalent thereof) or better by Moody's Investors Service or Standard & Poor's Corporation or a successor thereto, which rating shall have been provided thereby during the year preceding such assignment or transfer either in connection with a sale of equipment obligations or by a private letter, provided that the right of assignment and transfer set forth in this clause (b) will not result in a default by the assuming or transferee railroad under any instrument or agreement to which it is a party, and may be exercised only by the trustee or a successor trustee under the aforesaid reorganization proceedings, and (c) any corporation which assumes Lessee's interests in and obligations under the Lease, as hereby amended, pursuant to a plan of reorganization adopted in the reorganization proceedings. Upon the due assumption of the obligations of Lessee hereunder by any permitted party, as aforesaid, Trustee and the Milwaukee Road shall be relieved of all obligations to pay lease charges hereunder accruing from and after the date of such assignment or transfer and all other such obligations hereunder as shall arise after the date of such assignment or transfer.

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6. All other terms and conditions of the Lease, except Section 23.3, shall constitute the terms and conditions governing this extended period; it being the intent of the parties not to vary or modify any of them.

Commencing on January 18, 1983, Section 23.3 shall read as follows:

Option to Renew. As an alternative to the foregoing option to purchase, the Lessor shall have the option to extend the terms of the Lease as to all but not less than all Equipment then under lease hereunder for an additional three year period (the rent continuing to be payable semi-annually in arrears). If the Lessor chooses this alternative, he shall give the same notice as provided in Section 23.1(a) before the end of this extended term. The rentals shall be 1.7790% per semi-annual period (multiplied by the Total Purchase Price per Item of Equipment) or the "fair rental value" whichever is higher. The fair rental value shall be determined by appraisal under the procedure referred to in Section 23.1(b). The appraiser shall also determine the Casualty Value for the Equipment during that additional extended term.

7. On or prior to December 31, 1982, Trustee shall cause Lessor to be provided with the following:

a. An inventory of the Equipment and a statement to the effect that each Item of Equipment is in the condition prescribed by Section 8 of the Lease, and

b. A certificate of an officer of the Lessee stating that no Event of Default (as defined in Section 14 of the Lease), or any event which with the passage of time would constitute such an Event of Default, then exists.

8. This First Amendment is subject to and contingent upon approval by the Reorganization Court. The Trustee shall take the necessary action to obtain such approval on or prior to December 31, 1982.

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9. Promptly following Reorganization Court approval, the Trustee shall cause this First Amendment to be recorded with the Secretary of the Interstate Commerce Commission, as a supplementary document under Recordation No. 6506 under which the Lease was recorded on February 22, 1972.

10. This First Amendment is binding upon Richard B. Ogilvie, not individually, but solely as Trustee.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year first above written.

UNION TRUST COMPANY OF MARYLAND

(Corporate Seal)

By Thomas B. Brown
Lessor

Attest: Bonnie Baker

Richard B. Ogilvie
RICHARD B. OGILVIE, TRUSTEE OF
THE PROPERTY OF CHICAGO,
MILWAUKEE, ST. PAUL AND
PACIFIC RAILROAD COMPANY,
DEBTOR

Lessee

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this *30th* day of *December*, 1982, before me personally appeared Richard B. Ogilvie, to me personally known, who, being by me duly sworn, says that he is the Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor and that he executed the foregoing instrument as his free and voluntary act in the capacity therein expressed pursuant to proper authority.

Joseph A. Seefeld

Notary Public

(Notarial Seal)

STATE OF *Maryland*)
) SS:
COUNTY OF *Calvert*)

On this *23rd* day of *December*, 1982, before me personally appeared *Thomas B. Howard Jr.*, to me personally known, who, being by me duly sworn, says that (s)he is a *Vice President* of the Union Trust Company of Maryland, that the seal affixed to the foregoing instrument is the corporate seal of that corporation and that the foregoing instrument was signed and sealed on behalf of that corporation pursuant to proper authority and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of that corporation.

Bonnie E. Baker

Notary Public

Commission expires: July 1986

