

10323-B

MAY 9 1980

INTERSTATE COMMERCE COMMISSION

LAW OFFICES

**JACKSON, CAMPBELL & PARKINSON, P. C.**

ONE LAFAYETTE CENTRE

SUITE 300 SOUTH

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WASHINGTON, D. C. 20036

(202) 457-1600

May 9, 1980

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ROCKVILLE, MARYLAND 20850  
(301) 340-0450

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ARLINGTON, VIRGINIA 22201  
(703) 522-1330

ROGER H. MUZZALL  
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\* ALSO ADMITTED IN MARYLAND  
† ALSO ADMITTED IN VIRGINIA

No. 0-1301987

Date MAY 9 1980

Fee \$ 10.00

ICC Washington, D. C.

RECEIVED  
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I.C.C.  
FEE COLLECTION UNIT

*Edward J. Murray*

Ms. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
Room 2215  
Washington, D.C. 20423

Dear Ms. Mergenovich:

As special counsel for McDonnell Douglas Finance Corporation, I have been requested to ask that you file the following enclosed document:

1. A document entitled, "Termination Agreement," dated as of April 30, 1979, by and between National Railway Utilization Corporation ("Lessee") and McDonnell Douglas Finance Corporation ("Lessor"), which is intended to effectuate the termination of an Equipment Lease Agreement dated as of April 30, 1979, filed with the ICC and assigned Recordation No. 10323.

The Equipment Lease Agreement, filed with the ICC on or about April 30, 1979, and the Termination Agreement filed this date, relate to the leasing of twenty-five (25) 50' 6" - 70XM Boxcars which have been plainly marked in stencil on both sides with the words "Title To This Car Subject To Documents Recorded With The Interstate Commerce Commission." These boxcars bear Road Numbers HOSC 250040 through 250064, inclusive.

Ms. Agatha L. Mergenovich  
May 9, 1980  
Page Two

I am delivering a total of three (3) copies of the Termination Agreement. I would appreciate it if you would have each of the three copies stamped as recorded and filed and then return two (2) of those copies to me.

Thank you for your assistance. I look forward to hearing from you at your earliest convenience.

Sincerely yours,

JACKSON, CAMPBELL & PARKINSON, P.C.

A handwritten signature in cursive script that reads "David H. Cox".

David H. Cox

DHC/tlb

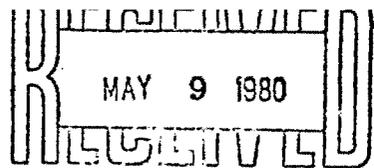
Enclosures

cc: Brian N. Siegel, Esquire  
McDonnell Douglas Finance  
Corporation

10323-6

MAY 9 1980-3 05 PM

TERMINATION AGREEMENT



JACKSON, CAMPBELL & PARKINSON

INTERSTATE COMMERCE COMMISSION

WHEREAS, National Railway Utilization Corporation ("Lessee") and McDonnell Douglas Finance Corporation ("Lessor") entered into an Equipment Lease Agreement (the "Lease") dated as of April 30, 1979, Recordation No. 10323, Filed 1425, recorded April 30, 1979, and

WHEREAS, the Lease pertains to twenty-five (25) 50'6" - 70XM Exhibit "A" Boxcars, (individually referred to as a "unit of equipment" and collectively referred to as the "equipment"), and

WHEREAS, Lessor and Lessee desire to terminate the Lease, pursuant to the terms, and conditions hereafter set forth:

It is hereby agreed as follows:

- 1. The Lease is hereby terminated.
- 2. Lessee shall, as promptly as possible, return all of the units of equipment to the Indiana Eastern Railroad Transportation Corporation at Knightstown, Indiana, or such other location as Lessor may designate and which is acceptable to Lessee (the "Location"). Lessee shall notify Lessor immediately upon delivery of each unit of equipment to the Location.

3. Lessor hereby releases Lessee and its subsidiaries from any and all liabilities, claims, suits, demands, judgments, and causes of action whether now existing or hereafter arising under the Lease; provided, however, (1) Lessee shall issue in favor of Lessor, upon *and subject to* approval of the Interstate Commerce Commission and Securities and Exchange Commission (which approval shall promptly be sought by Lessee, at Lessee's sole cost and expense), 3,750 shares of Lessee's common stock, (2) Lessee shall promptly pay to Lessor all income or revenue of Lessee attributable to the equipment for the period

commencing April 1, 1980 and concluding upon delivery of the equipment to the Location (the "Period") less (A) \$3.00 per unit of equipment for each day that Lessee receives income or revenue for each unit of equipment, plus (B) all movement, storage and repair charges and expenses attributable to each unit of equipment (provided, however, as to units in service only, Lessor shall under no circumstances be liable to Lessee for the excess of the sum of (A) and (B) over the income or revenue for such units of equipment during the Period).

4. Lessee represents and warrants to Lessor that (1) based solely on information provided by third parties over which Lessee exercises no control and only to the best of Lessee's knowledge and belief the equipment is in good condition, reasonable wear and tear excepted, (2) Lessee shall keep in effect all insurance required under the Lease until the date the equipment is delivered to the Location and Lessor is notified of such delivery, and (3) Lessee shall forthwith direct any sublessee of any unit of equipment to deliver the equipment to the Location.

5. Lessee shall cooperate with Lessor in (1) executing and recording any documents, and (2) doing any acts, which Lessor reasonably believes necessary to carry out the purposes and intentions of this Termination Agreement. Lessee shall take such action as is necessary to cause the return of the equipment to the Location.

6. Except as otherwise provided herein Lessee hereby irrevocably assigns to Lessor all of its right, title and interest in and to all credits, claims or causes of action Lessee now has or may hereafter acquire against any party or entity by reason of, or in any manner related to, the equipment (including, but not limited to, damage

to prosecuting and/or enforcing any such claims or causes of action.

7. In the event that (1) Lessee becomes the subject, voluntarily or involuntarily of a case under the Federal Bankruptcy Code, 11 U.S.C. §101, et. seq., or any other general insolvency law, (2) Lessee or any successor in interest to Lessee (including, but not limited to, a trustee in bankruptcy or debtor-in-possession) asserts that any unit of equipment is property of the Lessee or otherwise subject to the jurisdiction of the bankruptcy court, and a final order, judgment or decree (the "Order") is entered or issued to that effect, then, with respect to any unit of equipment subject to the Order only, this Termination Agreement shall be deemed void ab initio with respect to such units of equipment.

NATIONAL RAILWAY UTILIZATION CORPORATION

SEAL

By: *[Signature]*

Its: *Vice President*

Attested:

*[Signature]*

SEAL

MCDONNELL DOUGLAS FINANCE CORPORATION

By: *[Signature]*

Its: *Vice President*

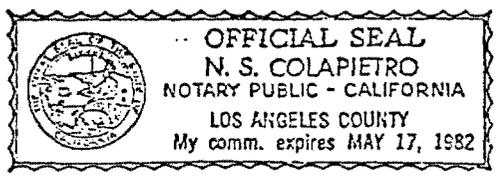
Attested:

*[Signature]*

<u>Quantity</u>	<u>Description</u>	<u>Road Number</u>	
Twenty-Five (25)	50'6" - 70 Ton Type XM Railroad Boxcars manufactured by Berwick Forge and Fabrica- tion Company	HOSC #250040	HOSC #25005
		HOSC #250041	HOSC #25005
		HOSC #250042	HOSC #25005
		HOSC #250043	HOSC #25005
		HOSC #250044	HOSC #25005
		HOSC #250045	HOSC #25005
		HOSC #250046	HOSC #25006
		HOSC #250047	HOSC #25006
		HOSC #250048	HOSC #25006
		HOSC #250049	HOSC #25006
		HOSC #250050	HOSC #25006
		HOSC #250051	
		HOSC #250052	
		HOSC #250053	

COUNTY OF LOS ANGELES )

On this 2d day of May , 1980, before me personally appeared Don V. Black, to me personally known, who, being by me duly sworn, says that he is Vice-President, Commercial and Industrial Financing of McDonnell Douglas Finance Corporation 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.



*N. S. Colapietro*  
\_\_\_\_\_  
Notary Public

(Notarial Seal)

My Commission expires May 17, 1982

STATE OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF PHILADELPHIA )

ON THIS <sup>5<sup>th</sup></sup> ~~th~~ day of *May*, 19 *30*, before me personally appeared *Charles P. Truesdale*, to me personally known, who being by me duly sworn, says that he is the *Vice President* of *National Railway Stationery Co.*, 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.

*Edwin A. [Signature]*

My Commission Expires:  
~~1932~~  
Notary Public, Phila., Phila. Co.  
My Commission Expires Oct. 18, 1932

MCDONNELL DOUGLAS FINANCE CORPORATION

Indiana Eastern Railroad  
& Transportation, Inc.  
406 East Warrick Street  
P. O. Box 199  
Knightstown, Indiana 46148

Re: Twenty-five 70 ton 50'6" Class XM Boxcars  
Manufactured by Whittaker Corp. (Berwick  
Forge & Fabricating Div.) Bearing RD. #5  
HO5C 250040 - HO5C 250064 (both inclusive)

Gentlemen:

As you are aware, National Railway Utilization Corporation ("NRUC") has agreed to return the subject railcars to McDonnell Douglas Finance Corporation ("MDFC") in consideration for terminating the Equipment Lease Agreement (the "Lease") dated as of April 30, 1979, between MDFC and NRUC.

To facilitate redelivery of the Equipment to MDFC, MDFC and NRUC hereby request that you promptly

- 1) exercise your best efforts to expedite the return of the equipment to your line;
- 2) notify MDFC upon receipt of each unit of Equipment on your line; and
- 3) ship each unit of Equipment to a location designated by MDFC within 24 hours after receipt of costs of shipment to be at MDFC expense.

Thank you for your cooperation and assistance in this matter.

McDonnell Douglas Finance Corporation

National Railway Utilization Corporation

By: *N. J. Slack*

By: *Frank J. Trubbe*

Its: *Vice President*

Its: *Vice President*

Date: *5/2/80*

Date: *5/1/80*

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

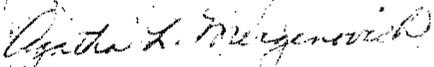
OFFICE OF THE SECRETARY

David H. Cox  
Jackson, Campbell & Parkinson, P.C.  
One Lafayette Centre  
Suite 300 South-1120 20th St. N. W.  
Washington, D. C. 20036

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 5/9/80 at 3:05PM, and assigned re-  
recording number (s) 10323-B

Sincerely yours,

  
Agatha L. Mergenovich  
Secretary

Enclosure(s)