

RECORDATION NO. 13082-A Filed 1425



AUG 7 1981-10 00 AM

INTERSTATE COMMERCE COMMISSION

1-219A025

Terminal Tower
P. O. Box 6419
Cleveland, Ohio 44101
216 623 2200

No.

Date.. AUG 7 1981

August 6, 1981

Fee \$.. 1.00

ICC Washington, D. C.

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

Re: Chesapeake and Ohio Railway
Equipment Trust of 1981;
Finance Docket No. 29568

RECEIVED
AUG 7 9 40 AM '81
FEE OPERATION BR.

Dear Ms. Mergenovich:

Enclosed are executed counterparts Nos. 7, 8, 9 and 10 (of 12) of First Amendment, dated as of June 1, 1981, to Equipment Trust Agreement, dated as of March 1, 1981, between Mercantile-Safe Deposit and Trust Company, P. O. Box 2258, Two Hopkins Plaza, Baltimore, Maryland 21203 (Trustee) and The Chesapeake and Ohio Railway Company, P. O. Box 6419, Cleveland, Ohio 44101 (C&O), establishing the above Equipment Trust.

The equipment covered by this First Amendment consists of locomotives and hopper cars, as described in my letter to you dated May 5, 1981, and referred to in the above Equipment Trust Agreement that was recorded in the office of the Secretary of the Interstate Commerce Commission on May 6, 1981, at 10:00 a.m., and assigned recordation number 13082.

Also enclosed is a draft of The Chesapeake and Ohio Railway Company in the amount of \$10 representing the required recording fee.

Pursuant to the Commission's rules and regulations for the recordation of certain documents under 49 USC § 11303 (formerly Section 20c of the Interstate Commerce Act), as currently administered, you are hereby requested duly to file two of the enclosed counterparts for record in your office and to return the remaining copies to me at my above address.

Very truly yours,

Louis Recher

Enclosure
LR:mw



Handwritten signature: S. P. [unclear]

Interstate Commerce Commission
Washington, D.C. 20423

8/7/81

OFFICE OF THE SECRETARY

Louis Recher
Chessie System RR.Co.
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 **8/7/81** at **10:00am** and assigned re-
recording number(s). **13082-A**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 13082-A Filed 1425

no nos

EXECUTED IN 12 COUNTERPARTS

OF WHICH THIS IS NO. 7

AUG 7 1981 - 10 00 AM

INTERSTATE COMMERCE COMMISSION

FIRST AMENDMENT TO
CHESAPEAKE AND OHIO RAILWAY
EQUIPMENT TRUST OF 1981

FIRST AMENDMENT
DATED AS OF JUNE 1, 1981

TO

EQUIPMENT TRUST AGREEMENT

DATED AS OF MARCH 1, 1981

between

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,

Trustee,

and

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

CONSENT AND WAIVER

by

KANAWHA-OHIO CORPORATION

THIS FIRST AMENDMENT, dated as of June 1, 1981 (hereinafter called the "First Amendment"), to EQUIPMENT TRUST AGREEMENT, dated as of March 1, 1981 (hereinafter called the "Equipment Trust Agreement"), between Mercantile-Safe Deposit and Trust Company, a corporation duly organized and existing under the laws of the State of Maryland, as Trustee (hereinafter called the "Trustee"), and The Chesapeake and Ohio Railway Company, a corporation duly organized and existing under the laws of the State of Virginia (hereinafter called the "Company");

WITNESSETH THAT:

WHEREAS, at the time the Trustee and the Company entered into the Equipment Trust Agreement, two provisions, consecutively numbered Section 2.7 and Section 2.8, were intended to be included in and as integral parts of the Equipment Trust Agreement, but were not so included, through inadvertence; and

WHEREAS, on May 5, 1981, the Company sold and delivered the first installment of equipment trust certificates, issued under the Equipment Trust Agreement, on a temporary basis to the Company's wholly-owned non-carrier subsidiary, Kanawha-Ohio Corporation (hereinafter called "Kanawha-Ohio"), as \$16,200,000 principal amount of fully-registered serial equipment trust certificates, in interim form, to mature serially in 15 equal annual installments of \$1,080,000 each from March 1, 1982 to March 1, 1996, both dates inclusive, bearing dividends from their date of delivery at the rate of 14% per annum, payable semi-annually on March 1 and September 1 in each year, commencing September 1, 1981; and

WHEREAS, subject to approval by the Interstate Commerce Commission, the Company intends to arrange for the resale of the certificates (in definitive form) by competitive bidding at such rate of dividend (to be borne by the certificates from their date of delivery to the successful bidder following such resale), to be expressed in some multiple of one-eighth of one percent, as shall be named by the successful bidder; and

WHEREAS, notwithstanding the fifth paragraph of Section 2.5 of the Equipment Trust Agreement, upon such resale and transfer of the certificates Kanawha-Ohio wishes to retain, rather than to transfer along with the certificates to the purchaser thereof, its rights to dividends accrued and unpaid as of the date of such transfer and, in addition, wishes to waive and relinquish its rights to receive any such dividends;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto hereby agree as follows:

1. Article II of the Equipment Trust Agreement shall be amended by the addition thereto of the following Section 2.7 and Section 2.8:

Section 2.7. At any time prior to the issuance of definitive Trust Certificates, the Trustee shall, upon receipt of a Request, issue and deliver, in lieu of definitive Trust Certificates, interim Trust Certificates in any denomination or denominations specified in such Request. Said interim Trust Certificates shall be substantially of the tenor of the definitive Trust Certificates in lieu of which they are issued with such variations as may be appropriate. Interim Trust Certificates may be subject to prepayment, without penalty, by the Company at any time prior to the issuance of definitive Trust Certificates, and if the Company shall prepay the outstanding balance of the principal of the interim Trust Certificates, or any of them, the same shall be surrendered to the Company.

Interim Trust Certificates shall be exchangeable for the definitive Trust Certificates in lieu of which they are issued. Upon surrender and cancellation of any interim Trust Certificates, the Trustee shall without charge to the holder, issue and deliver in exchange therefor definitive Trust Certificates of the same maturity (except that definitive Sinking Fund Certificates bearing a single date of maturity may be issued in exchange for interim Serial Certificates maturing in equal annual installments) and for the same aggregate principal amount. Until so exchanged, the holders of the interim Trust Certificates shall be entitled to the same rights hereunder as if the interim Trust Certificates were definitive.

Section 2.8. The Company may at any time deliver to the Trustee for cancellation any Trust Certificates which the Company may have acquired in any manner whatsoever, and all Trust Certificates so delivered shall be promptly cancelled by the Trustee. All cancelled Trust Certificates held by the Trustee shall be disposed of as directed in a Request.

2. Notwithstanding the provisions of the fifth paragraph of Section 2.5 of the Equipment Trust Agreement, upon the resale and transfer of \$16,200,000 principal amount of equipment trust certificates by Kanawha-Ohio, Kanawha-Ohio shall be permitted, if it so desires, to retain all its rights to dividends accrued and unpaid as of the date of such transfer, and the Trustee shall pay such accrued dividends, if at all, only to, or at the direction of, Kanawha-Ohio. Dividends accruing upon the certificates after such transfer by Kanawha-Ohio shall be paid, when payment is due, in the usual manner to the then-holders of the certificates, as provided in the said fifth paragraph of Section 2.5.

The provisions of the said fifth paragraph of Section 2.5 of the Equipment Trust Agreement otherwise shall remain in effect, and shall be effective, for all the purposes and to the extent originally intended; provided, however, that in the event Kanawha-Ohio acquires other equipment trust

certificates issued under the Equipment Trust Agreement Kanawha-Ohio shall be permitted, if it so desires, upon the resale and transfer of any or all of such other certificates, to retain all its rights to dividends accrued and unpaid as of the date of such transfer, and the Trustee shall pay such accrued dividends, if at all, only to, or at the direction of, Kanawha-Ohio.

3. Upon the resale through competitive bidding of any equipment trust certificates by Kanawha-Ohio, as above-mentioned, the certificates shall bear such rate of dividend, from their date of delivery to the successful bidder following such resale, to be expressed in some multiple of one-eighth of one per cent, as shall be named by the successful bidder. Such dividend rate may be the same as, or greater or lesser than, the dividend rate borne by the certificates while owned and held by Kanawha-Ohio.

4. The Company, at its sole expense and in accordance with the provisions of Section 7.4 of the Equipment Trust Agreement, shall record and file this First Amendment with the Interstate Commerce Commission, and in Canada, and shall promptly furnish the Trustee proper evidence of such filing and recording and an Opinion or Opinions of Counsel in respect thereto. Except as otherwise provided in this First Amendment, the provisions of the Equipment Trust Agreement shall remain in full force and effect to the same extent as originally written and intended.

IN WITNESS WHEREOF, Mercantile-Safe Deposit and Trust Company, as Trustee, and The Chesapeake and Ohio Railway Company, pursuant to due corporate authority, have caused their names to be signed hereto by their officers hereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed as of the day and year first above written.

MERCANTILE-SAFE DEPOSIT
AND TRUST COMPANY

Trustee

By 
R. E. Schreiber
Assistant Vice President

Attest:


Corporate Trust Officer

[Corporate Seal]

THE CHESAPEAKE AND OHIO
RAILWAY COMPANY

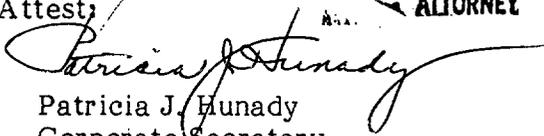
By 
L. C. Roig, Jr.
Assistant Vice President
and Treasurer

APPROVED AS TO FORM



ATTORNEY

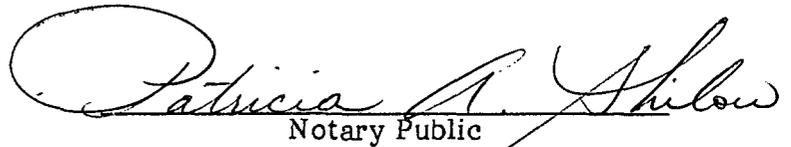
Attest:


Patricia J. Hunady
Corporate Secretary

[Corporate Seal]

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

On this 4th day of August, 1981, before me personally appeared R. E. Schreiber, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of Mercantile-Safe Deposit and Trust 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.


Notary Public

My Commission Expires: 7/1/82

[Notarial Seal]

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

On this 31st day of July, 1981, 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
State of Ohio—Cuyahoga County
My Commission Expires April 21, 1984

[Notarial Seal]

CONSENT AND WAIVER

Kanawha-Ohio Corporation, as present owner and holder of the \$16,200,000 principal amount of equipment trust certificates referred to in the foregoing First Amendment, dated as of June 1, 1981, to Equipment Trust Agreement, dated as of March 1, 1981, between Mercantile-Safe Deposit and Trust Company, Trustee, and The Chesapeake and Ohio Railway Company, in consideration of the benefits to Kanawha-Ohio Corporation which will result from the adoption of such First Amendment, does hereby:

CONSENT to the adoption and execution of such First Amendment by the parties thereto; and

WAIVE and relinquish all of its rights to dividends accrued and unpaid as of the date of resale and transfer of any or all of the \$16,200,000 equipment trust certificates presently held by Kanawha-Ohio Corporation.

KANAWHA-OHIO CORPORATION

Trust Certificate Holder

By *R. F. Hochwarth*
Robert F. Hochwarth
Vice President and
General Counsel

APPROVED AS TO FORM

Louis Peres
ATTORNEY

Attest:

Michael C. Bynane
Michael C. Bynane
Corporate Secretary

[Corporate Seal]

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

On this 31st day of July, 1981, before me personally appeared Robert F. Hochwarth, to me personally known, who, being by me duly sworn, says that he is Vice President and General Counsel of Kanawha-Ohio 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.

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

[Notarial Seal]