

Kansas City Southern Industries, Inc.

301 West 11th Street, Kansas City, Missouri 64105

RICHARD P. BRUENING
Vice President and General Counsel

14009

REGISTRATION NO. _____ Filed 1425

April 28, 1983

MAY 3 1983 10 45 AM

Hon. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, DC 20423

INTERSTATE COMMERCE COMMISSION

RE: Locomotive Lease Agreement
Between Southern Leasing of Kansas
City, Inc. and M.A.C. Leasing, Inc.

RECEIVED
MAY 3 9 53 AM '83
I.C.C.
FEE OPERATION BRG

No. 3-123A077
Date
Fee \$ 50.00
MAY 3 1983

Dear Ms. Mergenovich,

I have enclosed an original and two counter-
parts of the document described below, to be recorded
pursuant to Section 11303 of Title 49, United States Code.

This is a primary document, dated April 1, 1983
between Southern Leasing of Kansas City, Inc., and M.A.C.
Leasing, Inc. This document has not been previously re-
corded.

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

LESSOR: Southern Leasing of Kansas City, Inc.
8300 West 83rd Street
Shawnee Mission, KS 66208

LESSEE: M.A.C. Leasing, Inc.
930 North Olive
Kansas City, MO 64120

A description of the equipment covered by the
Lease is as follows:

<u>Type</u>	<u>A.A.R. MECH DESIGNATION</u>	<u>QUANTITY</u>	<u>ROAD NO.</u>
Locomotive (EMD GP 20)	BB	1	CLC 924

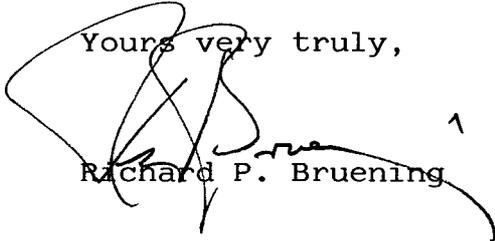
A fee of fifty dollars (\$50.00) is enclosed.
Please return all counterparts of the documents not
needed by the Commission for recordation to me at the
above address.

2.

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

Locomotive Lease Agreement, dated April 1, 1983 covering one EMD GP 20 locomotive (CLC 924).

Yours very truly,


Richard P. Bruening

RPB:cm
Encl.

Interstate Commerce Commission
Washington, D.C. 20423

5/3/83

OFFICE OF THE SECRETARY

Richard P. Bruening
Kansas City Southern Industries, Inc.
301 West 11th Street
Kansas City, Missouri 64106

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 5/3/83 at 10:05am , and assigned re-
recording number (s). 14009

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure (s)

RECORDATION NO. 14009 Filed 1425

MAY 3 1983-10 45 AM

INTERSTATE COMMERCE COMMISSION

LOCOMOTIVE LEASE AGREEMENT

AGREEMENT made this 1st day of April, 1983, between SOUTHERN LEASING OF KANSAS CITY, INC., a Delaware corporation, 4200 West 83rd Street, Shawnee Mission, Kansas 66208, hereinafter referred to as the Lessor, and M.A.C. LEASING, INC., 930 North Olive, Kansas City, Missouri, hereinafter referred to as Lessee.

WITNESSETH

- I. Subject to the terms and conditions hereinafter expressed Lessor hereby leases to Lessee and Lessee hereby hires from Lessor, 1 - EMD GP20 Locomotive, CLC 924 for use upon the lines of the railroad owned or operated by Lessee or any permitted sub-lessee [or in pool service], or in the usual interchange of traffic.

Term of Lease

- II. The term of this lease shall be for a period of three years from the date hereof, and may be extended for a period of two years thereafter, upon written notice of intent to extend, given by Lessee to Lessor at least 90 days prior to the expiration of the initial term. After the initial term, or any extension thereof (if extended) the lease shall continue on a month to month basis, and may be cancelled upon thirty (30) days prior written notice thereof given by either Lessor or Lessee at the address herein listed.

Payment

- III. In consideration for the leasing of such equipment, Lessee agrees to pay Lessor, the sum of \$100 for each day that the locomotive is subject to this lease for the first nineteen (19) months of the initial lease term and \$50 per day for the remaining seventeen (17) months of the initial term. During any extension of this lease, lease payments shall be made monthly at the fair market lease value of the locomotive at the beginning of such extension. Rent shall begin on, and include the day that the locomotive is delivered to Lessee at Kansas City, Missouri and end on and include the date the locomotive is delivered to The Kansas City Southern Railway Company at Kansas City, Missouri, or a point agreed upon by the parties hereto. A point inspection will be performed upon the locomotive prior to the in service date, and the cost of such inspection shared equally by Lessor and Lessee.

Invoices for lease payments hereunder shall be presented by Lessor to Lessee at the end of each monthly rental period. Lessee shall make payments to Lessor within fifteen (15) days after receipt of such invoice.

Any payment past due shall bear interest at the rate of fifteen percent (15%) per annum or at legal rates prescribed by law, whichever is less. All payments pursuant hereto shall be made at the principal place of business of Lessor at 4200 West 83rd Street, Shawnee Mission, Kansas 66208, or such other place as shall be designated by written notice from Lessor to Lessee, unless Lessee shall assign this lease or the right to receive the payments thereunder, in which cash payments shall be paid to Lessor's assignee, after written notice of the assignment has been given to Lessee by Lessor.

IV. Risk of Loss or Damage

Lessee hereby assumes all risk of loss of and damage to the locomotives from any cause. In the event of the total loss of, an economically irreparable damage to the locomotives, Lessee shall pay Lessor a sum equal to the total of all lease payments to be paid until the end of the lease term. Any insurance recovery received as a result of the loss shall, to the extent such recovery exceeds the aforementioned sum of the lease payment, be divided and paid 1/2 to Lessor and 1/2 to Lessee. On such payment this lease will terminate; and Lessee shall become entitled to such property as owner of the property. Lessee shall maintain insurance as set forth in an Exhibit A attached hereto and hereby made a part hereof by reference.

V. Warranty

Lessor has NOT made and does NOT make any representation, warranty, or covenant, express or implied, with respect to the condition, quality, durability, suitability or FITNESS FOR A PARTICULAR USE OR MERCHANTABILITY of the property except that Lessor shall furnish locomotives meeting mechanical standards of the A.A.R. Interchange Rules and the requirements of the Federal Railroad Administration. Lessor shall not be liable to Lessee for any liability, loss or damage caused or alleged to be caused directly or indirectly by the property, by any inadequacy thereof, or defect therein, or by any incident in connection therewith. Lessee agrees to maintain the locomotives in order that the locomotives continue to meet the above mentioned mechanical standards after delivery of the locomotives to Lessee.

VI. Use of Locomotives

Lessee shall keep said locomotives in good order and repair at all times, ordinary wear and tear excepted, and shall maintain the locomotives in accordance with the requirements of the manufacturer, and the Association of American Railroads and the Federal Railroad Administration.

Lessee shall comply with manufacturer's recommendations concerning the fitness of the locomotives for operation in any class or type of service different from that for which said locomotives were designed or offered and which may involve possible impairment or damage to the locomotives due to overloading or other abuses.

Lessee shall not effect any change in design, construction or specifications of the locomotives, body or power plant equipment or component parts thereof, without the written authority and approval of Lessor, provided, Lessee may install additional parts such as train control, radio or the like as necessary or appropriate for use in its service.

It is understood that the locomotive hereby leased will be subleased to Cadillac & Lake City Railway of Colorado Springs, Colorado, to which subleasing Lessor hereby consents. During the term of this Agreement, Lessee shall enter into no additional sublease of the locomotive or assign or suffer the assignment of this lease without the advance written consent of Lessor; unless a consent of Lessor thereto shall otherwise expressly provide to the contrary, Lessee shall not be relieved from any liabilities and obligations, hereunder as a result of any such sublease or assignment and Lessor will look exclusively to Lessee for performance, maintenance, payment and all other obligations to be performed hereunder.

VII. Expiration of Lease

Upon the expiration of this Agreement or any extension hereof, Lessee will surrender possession of such locomotives to Lessor by delivering the same to Lessor. The locomotives shall be no longer subject to this Agreement upon return to The Kansas City Southern Railway Company at Kansas City, Missouri or to a point or at such other place or places as are mutually agreed to, in the same or as in as good a working order and general condition as received, ordinary wear and tear excepted, and Lessee shall be responsible for all charges and costs incurred in shipping the locomotives to the designated point or points. The locomotives shall be inspected prior to return to Lessor, by inspectors approved by Lessor, the cost of such inspection shall be shared equally by Lessor and Lessee and a written report on the condition of the locomotives shall be made, with a copy thereof furnished to Lessee and Lessor. Based upon such

inspection and report, a third party appraiser, appointed by agreement of Lessor and Lessee, shall establish the then Fair Market Value of the locomotive. Lessor and Lessee shall each be entitled to 50% of the appraised Fair Market Value of the locomotive.

VIII. Taxes and Fees

Lessee shall pay all license fees, assessments, and sales, use, property, and other taxes now or hereafter imposed on the locomotives, or any of them, by reason of ownership, leasing, renting, sale, possession, or use, whether they be assessed to Lessor or Lessee, together with any penalties or interest in connection therewith, excepting federal, state, or local governmental taxes, or payments in lieu thereof, imposed on or measured by income by Lessor. If any tax is, by law, to be assessed or billed by Lessor, Lessee at its expense will do anything required to be done by Lessor in connection with the levy, assessment, billing, or payment of such tax, and Lessee is hereby authorized by Lessor to act on Lessor's behalf in such respects; Lessee will cause all billings of such taxes to Lessor to be made to Lessor in care of Lessee and will from time to time, on request of Lessor, submit written evidence of the payment of all the governmental obligations mentioned in this section. Lessee will, on any property tax returns required to be filed by him, include the locomotives covered by this Lease or any substitutions or additions thereto as property owned by the Lessee for purposes of tax assessments. It is expressly agreed that Lessee will not, without obtaining prior written permission of Lessor, assert on his behalf, or on behalf of Lessor, any immunity from taxation based on the tax-exempt status, if any, of Lessor.

It is understood, however, that Lessee shall not be required to pay or discharge any such tax so long as it shall, in good faith, and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which does not affect or endanger the title and interest of Lessor in the locomotives.

IX. Indemnification

The Lessee hereby agrees to indemnify and save harmless the Lessor from and against any and all liability, demands and causes of action, including the cost of defending same, for bodily injury to or death of any person or damage to the property of any person whomsoever, including the parties hereto or the employees of either of them, arising out of or in connection with the use or operation of the locomotives leased hereunder, including damage which may arise or result from the partial or contributory negligence of the Lessor. Indemnity shall apply from the time the locomotives are accepted by the Lessee until they are returned to and accepted by the Lessor.

X. Default

The following events constitute defaults:

1. The nonpayment by Lessee for a period of forty-five (45) days of any sum required hereunder to be paid by Lessee.
2. The nonperformance by Lessee of any other term, covenant, or condition of this lease which is not cured within fifteen (15) days after notice thereof from Lessor.
3. Any affirmative act of insolvency by Lessee, or the filing by Lessee of any petition under any bankruptcy, reorganization, insolvency, or moratorium law, or any law for the relief of, or relating to, debtors.
4. The filing of any involuntary petition under any bankruptcy statute against Lessee, or the appointment of any receiver or trustee to take possession of the property of Lessee, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within thirty (30) days of the date of the filing or appointment.
5. The subjection of any of Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

XI. Lessor's Rights on Default

On the occurrence of any of the events defined in Article IX as constituting defaults, Lessor may without notice to or demand on Lessee:

1. Take possession of the locomotive and lease the same or any thereof, for such period and such rental, and to such persons, as Lessor shall elect, and apply the proceeds of any such renting, after deducting all costs and expenses incurred in connection with the recovery, repair, storage, and renting of the property, to payment of the rent and other obligations due from Lessee to Lessor hereunder, Lessee remaining responsible for any deficiency.

Take possession of the locomotives and sell the same or any thereof at public or private sale, without demand or notice of intention to sell, and

apply the proceeds of any such sale, after deducting all costs and expenses incurred in connection with the recovery, repair, storage. If the proceeds, after the permitted deduction, are less than the value of the total of all lease payments to the end of the lease term as set forth in Article IV hereof, Lessee shall immediately pay Lessor the difference.

XII. Choice of Law

This lease shall be governed by and construed under the laws of the State of Missouri.

XIII. Ownership of the Property

The locomotives are and shall at all times remain the sole property of Lessor, and Lessee shall have no right, title or interest therein except as expressly set forth in the lease.

At all times during the continuance of this Agreement, Lessee will cause the locomotives to remain numbered with the present identifying serial numbers and will not change said identifying serial numbers.

XIV. Further Provisions Regarding Sublease or Assignment

Excepting the sublease referred to in Section VI hereof, Lessee shall not without the prior written consent of the Lessor, (a) assign, transfer, pledge, or hypothecate or otherwise dispose of this lease, or any interest thereby, the property or any part thereof, or any interest therein; (b) sublet or lend the property or any part thereof; or (c) permit the property or any part thereof to be used by anyone other than Lessee or Lessee's employees. Lessor may assign its interest, or a part thereof, in this lease.

In the event of any assignment by Lessor of its rights to receive any payments under this Agreement, the rights of such assignee to such payments as may be assigned, shall not be subject to any defense, set-off, counterclaim or recoupment on Lessee's part whatsoever.

XV. Limitation of Effects of Waivers

No delay or omission to exercise any right, power, or remedy accruing to Lessor or any breach or default of Lessee under this lease shall impair any such right, power, or remedy of Lessor, nor shall it be construed to be a waiver of any such breach or default, or any acquiescence therein, or in any similar breach or default thereafter

occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent, or approval of any kind or character on the part of Lessor of any breach or default under this lease, or condition of this lease, must be in writing and shall be effective only to the extent in such writing specifically set forth. All remedies, either under this lease or by law, or otherwise afforded to Lessor, shall be cumulative and not alternative.

XVI. Attorney's Fees

In the event that any action is filed by the parties hereto in relation to this lease, each party will be responsible for their respective attorney's fees, provided that Lessor shall be entitled to receive and recover from Lessee its reasonable attorneys' fees and other expenses incurred in connection with any action to collect any monetary obligation of Lessee hereunder or in connection with any action to recover property leased hereunder or defend title thereto.

XVII. Patent Indemnities

Lessor, for itself and any successor or successors will save, indemnify and keep harmless Lessee from and against any and all royalties, damages, claims, suits, judgments and costs that may result from the supplying and use of any patented article on the locomotives specified or required by Lessee and not included in the manufacturer's standard specifications.

Lessee agrees that it will give prompt notice in writing to Lessor of the commencement of any action in respect of which Lessor may be charged with liability hereunder. Said covenant of indemnity shall continue in full force and effect notwithstanding the termination of this lease in any manner.

Lessee shall comply with all laws and regulations of any state or governmental authority, including, but not limited to, all laws and regulations relating to the use or operation of the locomotives during the term of this Agreement.

XVIII. Terms Used; Benefits and Burdens

When used herein, all singular terms include the plural, the plural include the singular and reference to gender shall comprehend the masculine, feminine or neuter. This lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

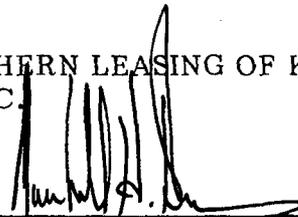
XVIX. Entire Agreement

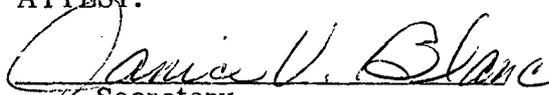
This agreement contains the entire Agreement between Lessor and Lessee with respect to the subject matter hereof, and may not be changed except by further written agreement entered into by each of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

ATTEST:

ASST. Secretary

SOUTHERN LEASING OF KANSAS CITY,
INC.
By 
Marshall H. Bean
President

ATTEST:

Secretary

M.A.C. LEASING, INC.
By 
Curtis D. Blanc
Chairman of the Board

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 14th day of April, 1983, before me personally appeared Marshall H. Dean, to me personally known, who, being by me duly sworn, says that he is President of SOUTHERN LEASING OF KANSAS CITY, INC., that the corporate seal of said Corporation is affixed to the foregoing instrument, 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.

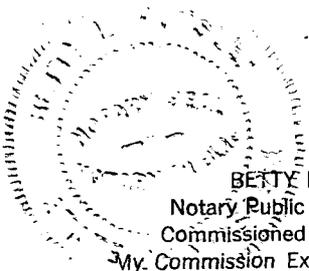
BECKY S. MUELLER
NOTARY PUBLIC
STATE OF KANSAS

My Appointment Expires June 4, 1985

Becky S. Mueller
Notary Public

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 14 day of April, 1983, before me personally appeared Curtis S. Blanc, to me personally known, who, being by me duly sworn, says that he is the Chairman of the Board of M.A.C. LEASING, INC., 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.



BETTY L. HUTSLER
Notary Public - State of Missouri
Commissioned in Jackson County
My Commission Expires October 28, 1983

Betty L. Hutslar
Notary Public

EXHIBIT A

Lessee shall maintain a policy or policies of insurance, insuring against all risks of loss arising out of personal injury and property damage, including contractual coverage, with limits of loss of at least \$500,000 each injury, \$1,000,000 each accident.