

RECORDATION NO. 13244-1425 - A
SEP 25 1981 - 11 45 AM

RECORDATION NO. 13244-1425

SEP 25 1981 - 11 45 AM
CRAVATH, SWAINE & MOORE
INTERSTATE COMMERCE COMMISSION

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CABLE ADDRESSES
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RECORDATION NO. 13244-1425

SEP 25 1981 - 11 45 AM
INTERSTATE COMMERCE COMMISSION

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RECORDATION NO. 13244-1425 - B

SEP 25 1981 - 11 45 AM
INTERSTATE COMMERCE COMMISSION

September 24, 1981

Chicago and North Western Transportation Company
Lease Financing Dated as of July 15, 1981
15-1/2% Equipment Trust Certificates
Due February 1, 1992
[CS&M Ref.: 2044-128]

*Copy to President
of Chicago and North Western
Sept 25*

SEP 25 11 37 AM '81

Manfred - D.E. Wilson

Dear Madam:

Pursuant to 49 U.S.C. § 11303(a), I enclose here-
with on behalf of Chicago and North Western Transportation
Company for filing and recordation counterparts of the
following documents:

New Number

1. Reconstruction Agreement dated as of July 15, 1981, between North Western Leasing Company, as Owner, and Chicago and North Western Transportation Company, as Builder.
2. Equipment Trust Agreement dated as of July 15, 1981, between The Connecticut Bank and Trust Company, as Trustee, and North Western Leasing Company, as Owner.
3. (a) Lease of Railroad Equipment dated as of July 15, 1981, between Chicago and North Western Transportation Company, as Lessee, and North Western Leasing Company, as Lessor; and

- A

- B

- C Next Page

C (b) Assignment of Lease and Agreement dated as of July 15, 1981, between The Connecticut Bank and Trust Company, as Trustee, and North Western Leasing Company, as Owner.

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

(1) Trustee:

The Connecticut Bank and Trust Company
One Constitution Plaza
Hartford, Connecticut 06115

(2) Lessee-Builder:

Chicago and North Western
Transportation Company
One North Western Center
165 North Canal Street
Chicago, Illinois 60606

(3) Owner-Lessor:

North Western Leasing Company
One North Western Center
165 North Canal Street
Chicago, Illinois 60606

Please file and record the documents referred to in this letter and index them under the names of the Trustee, the Owner-Lessor and the Lessee-Builder.

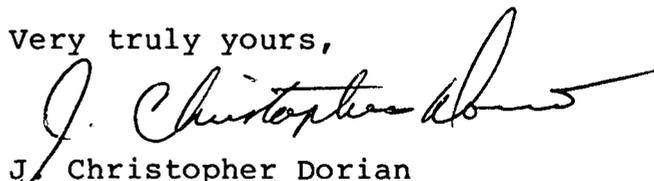
The equipment covered by the aforementioned documents consists of:

38 GP-40 3000 h.p. locomotives bearing identifying numbers CNW 5500-CNW 5537, both inclusive, and also bears the legend "Ownership Subject to a Security Agreement Filed With The Interstate Commerce Commission". ✓

There is also enclosed a check for \$150 payable to the Interstate Commerce Commission, representing the fee for recording the Reconstruction Agreement, the Equipment Trust Agreement and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,



J. Christopher Dorian
As Agent for Chicago and
North Western Transportation Company

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

Encls.

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Interstate Commerce Commission
Washington, D.C. 20423

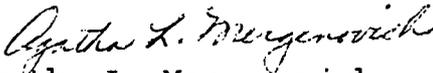
OFFICE OF THE SECRETARY

J. Christopher Dorian
Cravath, Swaine & Moore
One Chase Manhattan Plaza
New York, N. Y. 10005

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 9/25/81 at 11:45AM, and assigned re-
recording number (s). 13244, 13244-A, 13244-B, & 13244-C

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure (s)

RECORDATION NO. 13244

SEP 25 1981 - 11 45 AM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. No.: 2044-128]

RECONSTRUCTION AGREEMENT

Dated as of July 15, 1981

Between

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY,

Builder

and

NORTH WESTERN LEASING COMPANY,

Owner

[Covering 38 Reconstructed Locomotives]

RECONSTRUCTION AGREEMENT dated as of July 15, 1981, between CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY (the "Builder") and NORTH WESTERN LEASING COMPANY (the "Owner").

WHEREAS the Owner is the owner of certain used units of railroad equipment described in Annex A attached hereto (the "Hulks");

WHEREAS the Builder agrees to reconstruct the Hulks in accordance with the Specifications (as hereinafter defined) and deliver such Hulks, as so reconstructed, to the Owner and the Owner agrees to pay for the reconstruction of such Hulks as hereinafter provided (such Hulks, as so reconstructed, being hereinafter referred to individually as a "Unit" and collectively as the "Equipment");

WHEREAS the Owner will enter into an Equipment Trust Agreement dated as of the date hereof (the "Trust Agreement") with The Connecticut Bank and Trust Company, as Trustee (the "Trustee"), substantially in the form of Exhibit B to the Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Owner, the Builder (in its capacity as both Builder and Lessee), the Trustee and the purchasers named therein;

WHEREAS the Owner and Lessee will enter into a Lease of Railroad Equipment dated as of the date hereof (the "Lease"), substantially in the form of Annex I to the Equipment Trust Agreement pursuant to which the Owner will lease the Equipment to the Lessee;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Reconstruction. Subject to the terms and conditions hereinafter set forth, the Builder will reconstruct the Hulks and will deliver the Equipment as hereinbelow provided, and the Owner will pay or cause the Trustee to pay to the Builder the Reconstruction Cost (as hereinafter defined) of the Equipment, each Unit of which will be reconstructed in accordance with the Specifications (as defined in the Participation Agreement) and will, at or before delivery thereof to the Owner pursuant to Article 2 hereof, have the following ownership markings stenciled on each side thereof in a conspicuous place in letters not less than one inch in height:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED WITH THE INTERSTATE COMMERCE COMMISSION."

The Builder agrees that the design, quality and component parts of the Equipment will conform to all Federal Railroad Administration requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to reconstructed railroad equipment of the character of such Units as of the date of delivery thereof; provided, however, that if any such requirements, specifications or standards shall have been promulgated or amended after the respective dates on which the Equipment was ordered, the base price or prices of the Equipment affected thereby may be appropriately adjusted by written agreement of the Builder and the Owner.

ARTICLE 2. Delivery. The Builder will deliver the Equipment to the Owner, freight charges, if any, prepaid, at such point or points within the United States of America as shall be determined by the mutual agreement of the Builder and the Owner and in accordance with the time of delivery schedule set forth in Annex A hereto.

The Builder's obligation as to time of delivery is subject to delays resulting from causes beyond the Builder's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, labor shortages, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities or delays in receiving necessary materials or delays of carriers or subcontractors.

The Equipment shall be subject to inspection and approval prior to delivery by inspectors or other representatives of the Owner, and the Builder shall grant to any such inspector or other authorized representative reasonable access to its plant. From time to time upon the completion of the reconstruction of each Unit or a number of Units, each Unit shall thereupon be presented to an inspector or other authorized representative of the Owner for inspection at the Builder's plant and, if each such Unit conforms to the Specifications and the other requirements, specifications and standards set forth or referred to in Article 1 hereof, such inspector or authorized representative shall promptly execute and deliver to the Builder, in such number of counterparts or copies as may be reasonably requested, a certificate of

acceptance (a "Certificate of Acceptance") substantially in the form of Schedule B to the Lease stating that such Unit or Units have been inspected and accepted on behalf of the Owner and are marked in accordance with Article 1 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty contained in Article 6 hereof. The Owner hereby appoints the Lessee as its agent to accept delivery of Units hereunder and to execute Certificates of Acceptance on its behalf.

ARTICLE 3. Reconstruction Cost and Payment. The base reconstruction cost per Unit is set forth in Annex A hereto. Such base reconstruction cost is subject to such increase or decrease as may be or has been agreed to by the Builder and the Owner including a decrease contemplated by Article 5, if any. The term "Reconstruction Cost" as used in this Agreement shall mean the base reconstruction cost as so increased or decreased plus freight and storage charges, if any, and any applicable taxes; provided, however, that such reconstruction cost shall in no event exceed the price which would be charged by an independent locomotive builder for comparable reconstruction.

Subject to the provisions of Article 4 hereof, the Owner hereby promises to pay or cause to be paid in cash to the Builder at such place as the Builder shall designate, on or before each Closing Date (as defined in the Trust Agreement), an amount equal to the Reconstruction Cost of all Units (as set forth in the invoices therefor) to be paid for on such date.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

ARTICLE 4. Conditions to Closing. On or prior to each Closing Date (as defined in the Trust Agreement) the Owner shall pay or cause to be paid to the Builder the amount required to be paid pursuant to Article 3 hereof with respect to the Units then being delivered provided that there shall have been delivered to the Owner, on or prior to such Closing Date, the following documents in such number of counterparts or copies as may reasonably be requested in form and substance satisfactory to it:

(i) the invoice or invoices with respect to such Units from the Builder to the Owner describing such Units and setting forth the Reconstruction Cost of each such Unit;

(ii) Certificates of Acceptance covering such Units;

(iii) a certificate, dated such Closing Date, of the President, any Vice President, the Assistant Vice President-Motive Power or the Superintendent-Motive Power of the Builder certifying (a) as to the amount of any decrease or increase in the base reconstruction cost of such Units, or that there is no such decrease or increase and (b) that such Units have been reconstructed in accordance with the Specifications; and

(iv) such other documents as the Owner may reasonably request.

ARTICLE 5. Price Reduction. In the event that, prior to the delivery and acceptance of any Unit, any lower base reconstruction costs than those set forth in Annex A to this Agreement or in any supplement entered into pursuant to this Agreement are invoiced by the Builder on railroad equipment (other than railroad equipment delivered to the Owner and accepted by the Owner acting on behalf of itself, its assigns or an owner-lessor) substantially identical in type and Specifications to any Unit of the Equipment, the Builder agrees to make a corresponding reduction in the base reconstruction cost of any such Unit of the Equipment delivered pursuant to Article 2 of this Agreement on or after the effective date of said other price reduction.

ARTICLE 6. Builder's Warranty of Materials and Workmanship. The Builder warrants that the Equipment will be rebuilt in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 1 above and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Owner and not manufactured by the Builder) and workmanship or design (except as to designs specified by the Owner and not developed or purported to be developed by the Builder) under normal use and service; the Builder's obligation under this paragraph being limited to making good

at its plant (or at the option of the Builder at a place designated by the Builder and agreed upon by the Owner) any part or parts of any Unit which shall be returned to the Builder within one year after the delivery of such Unit, or as to which written notice of such defect has been given by the Owner to the Builder within one year after delivery of such Unit and which part or parts are returned within 90 days after such notice to the Builder, provided that the Builder's examination shall disclose to its reasonable satisfaction such part or parts to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER ARTICLES 1, 2, 3, 5 and 7 OF THIS AGREEMENT. The Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid.

The Builder and the Owner agree that the Owner (or the Lessee, as its agent) as well as the Builder may to the extent permitted by law take and prosecute claims against vendors of any parts purchased by the Builder for incorporation in the Equipment for the breach of any warranty by the vendors with respect to such parts. The Builder and the Owner (or the Lessee, as its agent) each agree to notify the other prior to the assertion of any claim by them against any such vendors of specialties. If the Builder determines that it has no interest in any such claim asserted by the Owner, the Builder agrees to assign to the Owner, solely for the purpose of making and prosecuting any such claim, all of the rights which the Builder has against such vendor for the breach of warranty or other representation respecting the Equipment.

The Builder further agrees that neither the inspection as provided in Article 2 of this Agreement, nor any examination or acceptance of any Units of the Equipment as provided in said Article 2, shall be deemed a waiver or modification by the Owner of any of its rights under this Article 6.

It is further understood and agreed that the word "design(s)" as used herein and in Article 7 and the word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

ARTICLE 7. Patent Indemnities. Except in case of designs, processes or combinations specified by the Owner and not developed or purported to be developed by the Builder, and articles and materials specified by the Owner and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Owner, and the Trustee, the holders of the Trust Certificates issued under the Equipment Trust Agreement and the Owner, as third party beneficiaries, from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Owner, the Trustee, such holders or the Owner because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Owner likewise will indemnify, protect and hold harmless the Builder from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Builder because of the use in or about the construction or operation of the Equipment, or any Unit thereof, of any design, process or combination specified by the Owner and not developed or purported to be developed by the Builder, or article or material specified by the Owner and not manufactured by the Builder, which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Owner every claim, right and cause of action which the Builder has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article or material specified by the Owner and used by the Builder in or about the construction or operation of the Equipment, or any Unit thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and the Builder further agrees to execute and deliver to the Owner all and every such further assurances as may be reasonably requested by the Owner more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Owner will give notice to the Builder of any claim known to the Owner on the basis of which liability may be charged against the Builder hereunder and the Builder will give notice to the Owner of any claim known to the Builder, on the basis of which liability may be charged against the Owner hereunder.

ARTICLE 8. Taxes. All payments to be made or caused to be made by the Owner hereunder will be free of expenses to the Builder with respect to the amount of any local, state or Federal taxes (other than net income taxes, gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales taxes], franchise taxes measured by net income based on such receipts, excess profit taxes and similar taxes), assessments, license fees, charges, fines and penalties, all of which the Owner assumes and agrees to pay on demand in addition to the Reconstruction Cost of the Equipment.

ARTICLE 9. Notice. Any notice hereunder to the parties designated below shall be deemed to be properly served if delivered or mailed to it at the following specified addresses:

(a) to the Owner, at One North Western Center, 165 N. Canal Street, Chicago, Illinois 60606, attention of Assistant Vice President-Finance;

(b) to the Builder, at One North Western Center, 165 N. Canal Street, Chicago, Illinois 60606, attention of Assistant Vice President-Finance;

or at such other addresses as may have been furnished in writing by such party to the other party to this Agreement.

ARTICLE 10. Article Headings. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

ARTICLE 11. Effect and Modification of Agreement. This Agreement and the Annexes attached hereto exclusively and completely state the rights and agreements of the Builder and the Owner with respect to the Hulks and the Equipment and supersede all purchase or reconstruction agreements, purchase or reconstruction orders and other agreements, oral or written, with respect to the Hulks and the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing, duly executed on behalf of the Owner and the Builder and made with the written consent of the Trustee.

ARTICLE 12. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

ARTICLE 13. Successors and Assigns. As used herein, the terms Builder, Owner and Trustee shall be deemed to include the successors and assigns of the Builder, the Owner and the Trustee, as the case may be.

ARTICLE 14. Recording. Upon the execution and delivery of this Agreement, the Owner will, at its expense, cause this Agreement to be duly filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303.

ARTICLE 15. Execution. This Agreement may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of the date specified in the introductory paragraph of this Agreement, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the day, month and year first above written.

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY,

by

Thomas A. Tringleff
Vice President - Finance

[Corporate Seal]

Attest:

Joan A. Schramm

ASSISTANT SECRETARY

NORTH WESTERN LEASING COMPANY,

by

Thomas A. Tringleff
Vice President

[Corporate Seal]

Attest:

Joan A. Schramm

ASSISTANT SECRETARY

ANNEX A TO THE RECONSTRUCTION AGREEMENT

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY
(Builder)

NORTH WESTERN LEASING COMPANY
(Owner)

<u>Type</u>	<u>Quantity</u>	<u>Owner's Locomotive Numbers (Inclusive)</u>	<u>Estimated Unit Base Reconstruction Cost</u>	<u>Estimated Total Base Reconstruction Cost</u>	<u>Estimated Time of Delivery</u>
GP-40 3000 h.p. Locomotives	38	CNW 5500-5537 inclusive	\$ 145,000 \$140,000	\$ 5,510,000 \$5,320,000	September- December 1981

JB

JB

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