

THOMPSON, HINE AND FLORY

1920 N STREET, N. W.

WASHINGTON, D.C. 20036

RECORDATION NO. 1 5721

IN PALM BEACH, FLORIDA  
125 WORTH AVENUE  
PALM BEACH, FLORIDA 33480  
(407) 833-5900

IN CLEVELAND, OHIO  
1100 NATIONAL CITY BANK BUILDING  
CLEVELAND, OHIO 44114  
(216) 566-5500 · TELEX 980217

IN COLUMBUS, OHIO  
100 EAST BROAD STREET  
COLUMBUS, OHIO 43215  
(614) 469-7200

JUL 13 1988-1 25 PM

July 13, 1988

INTERSTATE COMMERCE COMMISSION

IN WASHINGTON, D.C.  
TELEPHONE  
(202) 331-8800  
TELEX 904173

Ms. Noreta R. McGee  
Secretary  
Interstate Commerce Commission  
12th & Constitution Avenue, N.W.  
Washington, D.C. 20423

Date \_\_\_\_\_  
Fee \$ \_\_\_\_\_  
ICC Washington, D.C.

Dear Ms. McGee:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. § 11303 and 49 C.F.R. § 1177 are the original and one certified true copy of a Hopper Car Lease entered into as of March 10, 1988 by and between ConAgra, Inc., a Delaware corporation, successor in interest to Peavey Company, and Cedar Valley Railroad Company, an Iowa corporation.

The enclosed document is a lease dated as of March 10, 1988 and is a primary document within the meaning of 49 C.F.R. § 1177.1(a).

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

- Lessor: ConAgra, Inc.  
(successor to Peavey Company)  
730 Second Avenue South  
Minneapolis, MN 55402
- Lessee: Cedar Valley Railroad Company  
223 Main Street  
Osage, IA 50461

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

Covered hopper cars of 4750 cubic foot capacity subject of lease agreement filed under Recordation No. 11041-B.

A filing fee of \$13 is enclosed. Please return the original document to the bearer upon completion and recordation.

*Clarey [unclear] Mike Rowan*

Ms. Noreta R. McGee  
July 13, 1988  
Page 2

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

Hopper car lease between ConAgra, Inc., a Delaware corporation, successor to Peavey Company, as Lessor, and Cedar Valley Railroad Company, an Iowa corporation, as Lessee, dated as of March 10, 1988, and covering those covered hopper cars that are the subject of the lease agreement between MHC, Inc., ConAgra, Inc. as guarantor and Exchange National Bank of Chicago, dated as of October 1, 1979, and bearing Recordation No. 11041-B.

Very truly yours,



Peter A. Greene

PAG:11

Enclosure

AFFIDAVIT

1 5721  
RECORDED ON \_\_\_\_\_ FILED 1988

JUL 13 1988 - 1 05 PM

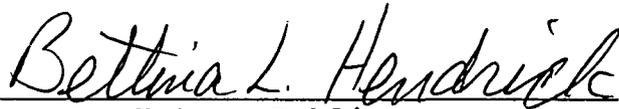
**INTERSTATE COMMERCE COMMISSION**

District of ) ss.  
                  )  
Columbia        )

Peter A. Greene, having been duly sworn, deposes and says that he has compared the attached copy of the Hopper Car Lease between ConAgra, Inc., a Delaware corporation, successor to Peavey Company, and Cedar Valley Railroad Company, an Iowa corporation, dated as of March 10, 1988, to the original document and found the copy to be complete and identical in all respects to the original document.

  
\_\_\_\_\_  
Peter A. Greene

Subscribed and sworn to before me, a notary public in and for the District of Columbia, this 13<sup>th</sup> day of July, 1988.

  
\_\_\_\_\_  
Notary Public

My Commission expires: My Commission Expires January 31, 1991.

[SEAL]

JUL 13 1988-1 04 PM

HOPPER CAR LEASE

INTERSTATE COMMERCE COMMISSION

This Hopper Car Lease is entered into as of March 10, 1988 ("effective date") by and between ConAgra, Inc., a Delaware corporation ("Lessor") and Cedar Valley Railroad Company, an Iowa corporation ("Lessee").

**WHEREAS**, Lessor is the sole owner or Lessee of 200 covered hopper cars with an approximate capacity of 4,750 cubic feet described on Exhibit A hereto and by this reference incorporated herein ("equipment"); and

**WHEREAS**, some of the equipment is subject to a lease dated as of October 1, 1979 between MHC, Inc., ConAgra, Inc. as Guarantor and Exchange National Bank of Chicago, and filed with the ICC and bearing recordation number 11041-B; and

**WHEREAS**, Lessee desires to hire and lease the equipment from Lessor and Lessor desires to lease the equipment to Lessee upon the terms and conditions of this Lease.

**NOW, THEREFORE**, the parties agree as follows:

Lease of Equipment

Lessor hereby leases to Lessee and Lessee hereby hires and leases from Lessor the equipment upon the terms and conditions of this Lease.

Delivery, Acceptance and Return

Said equipment is to be or has been delivered to Lessee by Lessor at Osage, Iowa or such other point as has or may be mutually agreed upon between the parties and said rolling stock equipment shall be returned to Lessor at the termination of this Agreement at such place as shall be mutually agreed upon by the parties. In taking delivery, Lessee hereby accepts said rolling stock equipment in the condition in which delivered.

Rejection of Equipment

In the event any car delivered to Lessee is in less than good and satisfactory working condition, upon written notice of the same by Lessee to Lessor, Lessee may reject such car, and Lessor, at its option, shall promptly cause said car to be either restored, repaired, or replaced at Lessor's own expense. Rent shall not be paid for such a rejected car.

### **Rental Charge**

Lessee shall pay to Lessor the sum of Four Hundred Fifty Dollars (\$450.00) per car per month payable thirty (30) days in advance. Rental shall be computed starting with the date of delivery of each unit of equipment to Lessee and ending upon the date on which each unit of equipment is returned.

### **Car Hire Earnings**

Upon the delivery of the equipment as set forth herein, Lessee shall enjoy all car hire earnings (per diem and mileage) thereafter until the expiration or sooner termination of this lease.

### **Term**

The term of this Lease shall be for a period of eighteen (18) months from the effective date.

### **Maintenance and Repairs**

Lessee shall be responsible for all maintenance and repairs to the equipment. Upon termination of this Lease, Lessee shall deliver this equipment to Lessor in as good condition and repair as when delivered to it, ordinary wear and tear alone excepted. In the event any of said equipment is not returned in such condition, Lessor is hereby requested by Lessee to make necessary repairs thereto at the expense of said Lessee, which expense shall be paid by Lessee on demand and should any of said equipment be destroyed or for any other reason not be returned to Lessor, Lessee agrees to pay Lessor the casualty value of such equipment less the value of salvage, if any, recovered by Lessor. Casualty value is defined as the value shown on Lessor's schedule pursuant to its financing arrangements with its Bank.

### **Carryover Term**

Unless either party gives thirty (30) days written notice prior to the termination date, the contract shall continue on a month to month basis terminable by either party with thirty (30) days written notice.

### **Taxes and Expenses**

Lessee shall pay, before they become delinquent, any taxes levied because of the ownership or operation of the equipment. Lessee shall also be responsible for filing all necessary returns or reports for such taxes. Lessee is also responsible for any other expenses arising out of the ownership or operation of the equipment.

## **Insurance**

Lessee shall maintain insurance as follows:

- (a) All risk insurance against loss or damage to any of the equipment.
- (b) Comprehensive general liability insurance including blanket contractual liability endorsement and completed operations endorsement against claims for bodily injury, death and property damage affording minimum single limit protection of Five Million Dollars (\$5,000,000.00) per occurrence.
- (c) Workers' Compensation Insurance as required by state or federal law.

Lessee shall furnish certificates of insurance upon request evidencing the coverages specified.

## **Rental Abatement for Damage or Destruction**

In the event any car is totally damaged or destroyed, the rental payment with respect to such car shall be suspended from the date Lessor receives written notification until such car is repaired or replaced. In the event any car is damaged to the extent that it must be removed from service in order to make repairs, rental payments for such car shall be suspended from the date Lessor receives written notification until such car is repaired or replaced. Lessor's right to substitute a car shall be at Lessor's sole option; the rental payments for such substituted car shall commence upon acceptance of such substituted car by lessee.

## **Payments Received for Account of Other Party**

In the event either party receives payments from a third party which should be paid to the other, such payments shall promptly be transmitted to the other.

## **Rights to Use of Units**

The rights of the Lessee (Cedar Valley Railroad Company) under this Lease are subordinate and junior to the rights and remedies of Exchange National Bank of Chicago as Trustee under a Lease of Railroad Equipment between MHC, Inc., ConAgra, Inc. and Exchange National Bank of Chicago as Trustee dated October 1, 1979, and to the rights of LaSalle National Bank under the Conditional Sale Agreements referred to in the Lease dated as of October 1, 1979.

### Hold Harmless

Lessee further agrees as part of the consideration of this Lease to forever indemnify and save harmless Lessor, its successors and assigns, from and against any and all loss, damage, injury, death, claims, demands and liability of every nature arising directly or indirectly in connection with the use or handling of said equipment by Lessee, its employees, contractors, successors and assigns except that Lessor shall not be indemnified against its own sole negligence.

### Assignment

Lessee may assign or sublet this Lease or any of said equipment or rights hereunder with the written consent of Lessor, which consent shall not be unreasonably withheld.

### Markings

Lessee may use its own markings on the equipment, but must remove such markings prior to returning the equipment to Lessor.

### Operation in Continental U.S. Only

The equipment shall not be operated outside the contiguous 48 states of the United States of America without the written consent of Lessor.

### Compliance with Laws

Lessee shall at its own cost and expense comply with all laws, regulations and requirements with respect to the use, maintenance and operation of the equipment.

### Inspection

Lessor shall have the right to inspect the equipment from time to time during the term of this Lease.

### Default

Any failure or refusal of Lessee to properly and fully observe the terms, covenants and conditions herein contained, including the timely prepayment of rent, shall entitle Lessor to immediately terminate this Lease and resume absolute possession of said equipment wherever situated without legal demand, notice or proceeding and at the expense of Lessee, which expense, including a reasonable attorney fee (whether or not litigation occurs), shall be repaid by Lessee to Lessor on demand; a waiver of any default of Lessee hereunder shall not be taken to be a waiver of any other or subsequent default nor shall the

termination of this Lease for any reason whatsoever relieve or release the Lessee from any liability or obligation growing out of or connected with the leasing of said equipment.

**Notices**

Notices permitted or required by this Agreement shall be effective if transmitted by overnite mail, Federal Express or similar courier service, or by telex or fax if followed by mail or courier to:

Lessor  
730 Second Avenue South  
Minneapolis, MN 55402  
Attn: C.O. Buirge

Lessee  
223 Main Street  
Osage, IA 50461  
Attn: J.E. Haley

**Authority of Signatories; Binding Effect**

Each signatory to this Agreement warrants that he is authorized by his company to sign this Agreement, and that such Agreement is binding upon his principal. This Lease shall benefit and be binding upon the successors and assigns of the parties hereto.

**Return of Original**

The original of this Agreement should be returned to:

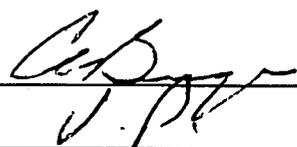
Lessor  
730 Second Avenue South  
Minneapolis, MN 55402  
Attn: C.O. Buirge

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first above written.

CONAGRA, INC.

BY: \_\_\_\_\_

ITS: \_\_\_\_\_



CEDAR VALLEY RAILROAD COMPANY

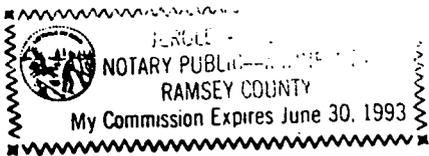
BY: FS

ITS: VP

STATE OF MINNESOTA )  
                          ) SS.  
COUNTY OF HENNEPIN )

On this, the 27th day of June, 1988, before me, the undersigned notary, personally appeared C.O. Buirge, who acknowledged himself to be the Vice President of Peavey Company, a division of CONAGRA, INC., a corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing his name on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)  NOTARY PUBLIC  
RAMSEY COUNTY  
My Commission Expires June 30, 1993

[Signature]  
NOTARY PUBLIC

STATE OF Iowa )  
                          ) SS.  
COUNTY OF Black Hawk )

On this, the 30th day of June, 1988, before me, the undersigned notary, personally appeared Frederick S. Tanner, who acknowledged himself to be the Vice President of CEDAR VALLEY RAILROAD COMPANY, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL) 

[Signature]  
NOTARY PUBLIC

CONAGRA HOPPER CARS TRANSFERED TO CEDAR VALLEY RR.

EXHIBIT A

OLD NUMBER		NEW NUMBER		OLD NUMBER		NEW NUMBER	
1	CAGX 103	CVAR	103	55	PVGX 1030	CVAR	1030
2	CAGX 131	CVAR	131	56	PVGX 1031	CVAR	1031
3	CAGX 148	CVAR	148	57	PVGX 1032	CVAR	1032
4	CAGX 164	CVAR	164	58	PVGX 1033	CVAR	1033
5	CAGX 210	CVAR	210	59	PVGX 1034	CVAR	1034
6	CAGX 221	CVAR	221	60	PVGX 1035	CVAR	1035
7	CAGX 228	CVAR	228	61	PVGX 1036	CVAR	1036
8	CAGX 234	CVAR	234	62	PVGX 1037	CVAR	1037
9	CAGX 238	CVAR	238	63	PVGX 1038	CVAR	1038
10	CAGX 250	CVAR	250	64	PVGX 1039	CVAR	1039
11	CAGX 252	CVAR	252	65	PVGX 1040	CVAR	1040
12	CAGX 253	CVAR	253	66	PVGX 1041	CVAR	1041
13	CAGX 261	CVAR	261	67	PVGX 1042	CVAR	1042
14	CAGX 263	CVAR	263	68	PVGX 1043	CVAR	1043
15	CAGX 270	CVAR	270	69	PVGX 1044	CVAR	1044
16	CAGX 512	CVAR	512	70	PVGX 1045	CVAR	1045
17	CAGX 564	CVAR	564	71	PVGX 1046	CVAR	1046
18	CAGX 745	CVAR	745	72	PVGX 1047	CVAR	1047
19	CAGX 779	CVAR	779	73	PVGX 1048	CVAR	1048
20	CAGX 789	CVAR	789	74	PVGX 1049	CVAR	1049
21	CAGX 886	CVAR	886	75	PVGX 1050	CVAR	1050
22	CAGX 891	CVAR	891	76	PVGX 1051	CVAR	1051
23	CAGX 957	CVAR	957	77	PVGX 1052	CVAR	1052
24	CAGX 225	CVAR	225	78	PVGX 1053	CVAR	1053
25	CAGX 233	CVAR	233	79	PVGX 1054	CVAR	1054
26	PVGX 1000	CVAR	1000	80	PVGX 1055	CVAR	1055
27	PVGX 1001	CVAR	1001	81	PVGX 1056	CVAR	1056
28	PVGX 1002	CVAR	1002	82	PVGX 1057	CVAR	1057
29	PVGX 1003	CVAR	1003	83	PVGX 1058	CVAR	1058
30	PVGX 1004	CVAR	1004	84	PVGX 1059	CVAR	1059
31	PVGX 1005	CVAR	1005	85	PVGX 1060	CVAR	1060
32	PVGX 1006	CVAR	1006	86	PVGX 1061	CVAR	1061
33	PVGX 1007	CVAR	1007	87	PVGX 1063	CVAR	1063
34	PVGX 1008	CVAR	1008	88	PVGX 1064	CVAR	1064
35	PVGX 1009	CVAR	1009	89	PVGX 1065	CVAR	1065
36	PVGX 1010	CVAR	1010	90	PVGX 1066	CVAR	1066
37	PVGX 1011	CVAR	1011	91	PVGX 1067	CVAR	1067
38	PVGX 1012	CVAR	1012	92	PVGX 1068	CVAR	1068
39	PVGX 1013	CVAR	1013	93	PVGX 1069	CVAR	1069
40	PVGX 1014	CVAR	1014	94	PVGX 1070	CVAR	1070
41	PVGX 1015	CVAR	1015	95	PVGX 1071	CVAR	1071
42	PVGX 1016	CVAR	1016	96	PVGX 1072	CVAR	1072
43	PVGX 1017	CVAR	1017	97	PVGX 1073	CVAR	1073
44	PVGX 1018	CVAR	1018	98	PVGX 1074	CVAR	1074
45	PVGX 1019	CVAR	1019	99	PVGX 1075	CVAR	1075
46	PVGX 1021	CVAR	1021	100	PVGX 1076	CVAR	1076
47	PVGX 1022	CVAR	1022	101	PVGX 1077	CVAR	1077
48	PVGX 1023	CVAR	1023	102	PVGX 1078	CVAR	1078
49	PVGX 1024	CVAR	1024	103	PVGX 1079	CVAR	1079
50	PVGX 1025	CVAR	1025	104	PVGX 1080	CVAR	1080
51	PVGX 1026	CVAR	1026	105	PVGX 1081	CVAR	1081
52	PVGX 1027	CVAR	1027	106	PVGX 1082	CVAR	1082
53	PVGX 1028	CVAR	1028	107	PVGX 1083	CVAR	1083
54	PVGX 1029	CVAR	1029	108	PVGX 1084	CVAR	1084

CONAGRA HOPPER CARS TRANSFERED TO CEDAR VALLEY RR.

OLD NUMBER		NEW NUMBER		OLD NUMBER	
109	PVGX 1085	CVAR	1085	165	PVGX 1145
110	PVGX 1086	CVAR	1086	166	PVGX 1146
111	PVGX 1087	CVAR	1087	167	PVGX 1147
112	PVGX 1088	CVAR	1088	168	PVGX 1148
113	PVGX 1089	CVAR	1089	169	PVGX 1150
114	PVGX 1090	CVAR	1090	170	PVGX 1151
115	PVGX 1091	CVAR	1091	171	PVGX 1152
116	PVGX 1092	CVAR	1092	172	PVGX 1153
117	PVGX 1094	CVAR	1094	173	PVGX 1155
118	PVGX 1095	CVAR	1095	174	PVGX 1156
119	PVGX 1096	CVAR	1096	175	PVGX 1157
120	PVGX 1097	CVAR	1097	176	PVGX 1159
121	PVGX 1098	CVAR	1098	177	PVGX 1160
122	PVGX 1099	CVAR	1099	178	PVGX 1161
123	PVGX 1100	CVAR	1100	179	PVGX 1162
124	PVGX 1101	CVAR	1101	180	PVGX 1163
125	PVGX 1102	CVAR	1102	181	PVGX 1164
126	PVGX 1104	CVAR	1104	182	PVGX 1165
127	PVGX 1106	CVAR	1106	183	PVGX 1166
128	PVGX 1107	CVAR	1107	184	PVGX 1167
129	PVGX 1108	CVAR	1108	185	PVGX 1169
130	PVGX 1109	CVAR	1109	186	PVGX 1170
131	PVGX 1110	CVAR	1110	187	PVGX 1171
132	PVGX 1111	CVAR	1111	188	PVGX 1172
133	PVGX 1112	CVAR	1112	189	PVGX 1173
134	PVGX 1113	CVAR	1113	190	PVGX 1174
135	PVGX 1114	CVAR	1114	191	PVGX 2078
136	PVGX 1115	CVAR	1115	192	PVGX 2080
137	PVGX 1116	CVAR	1116	193	PVGX 2083
138	PVGX 1117	CVAR	1117	194	PVGX 2085
139	PVGX 1118	CVAR	1118	195	PVGX 2086
140	PVGX 1119	CVAR	1119	196	PVGX 2089
141	PVGX 1121	CVAR	1121	197	PVGX 2105
142	PVGX 1122	CVAR	1122	198	PVGX 2110
143	PVGX 1123	CVAR	1123	199	PVGX 2123
144	PVGX 1124	CVAR	1124	200	PVGX 2124
147	PVGX 1127	CVAR	1127		
148	PVGX 1128	CVAR	1128		
149	PVGX 1129	CVAR	1129		
150	PVGX 1130	CVAR	1130		
151	PVGX 1131	CVAR	1131		
152	PVGX 1132	CVAR	1132		
153	PVGX 1133	CVAR	1133		
154	PVGX 1134	CVAR	1134		
155	PVGX 1135	CVAR	1135		
156	PVGX 1136	CVAR	1136		
157	PVGX 1137	CVAR	1137		
158	PVGX 1138	CVAR	1138		
159	PVGX 1139	CVAR	1139		
160	PVGX 1140	CVAR	1140		
161	PVGX 1141	CVAR	1141		
162	PVGX 1142	CVAR	1142		
163	PVGX 1143	CVAR	1143		
164	PVGX 1144	CVAR	1144		