

14449-F

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ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

OF COUNSEL
URBAN A. LESTER

John

C. Williams

November 15, 1996

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a), are ~~two~~ (2) copies of an Assignment and Assumption Agreement, dated as of November 15, 1996, a secondary document as defined in the Commission's Rules for the Recordation of Documents under 49 C.F.R. Section 1177.

The enclosed document relates to the Conditional Sale Agreement, Lease of Railroad Equipment and related documents which were previously filed with the Commission under Recordation Number 14449.

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

Assignor: BNY Capital Resources Corporation
8400 E. Prentice Avenue, Suite 715
Englewood, Colorado 80111

Assignee: FINOVA Capital Corporation
1850 North Central Avenue
Phoenix, Arizona 85002

A description of the railroad equipment covered by the enclosed document is:

Twenty-four (24) GP40-2 diesel electric locomotives SSW 7248 through SSW 7273 (excluding SSW 7258 and SSW 7267).

Mr. Vernon A. Williams
November 15, 1996
Page 2

Also enclosed is a check in the amount of \$22.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return one stamped copy of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/bg
Enclosures

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423-0001

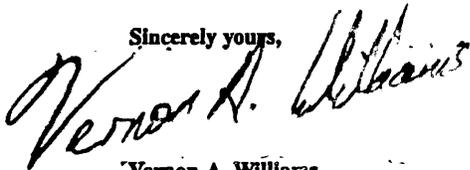
11/15/96

Robert W. Alvord
Alvord And Alvord
918 Sixteenth Street, NW., Ste. 200
Washington, DC., 20006-2973

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 11/15/96 at 3:40PM , and assigned recordation number(s). 14449-F and 14476-F.

Sincerely yours,

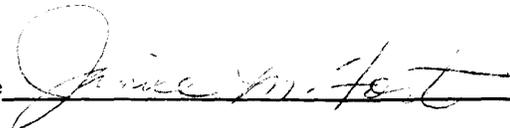


Vernon A. Williams
Secretary

Enclosure(s)

\$ 44.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature



14449-F

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT dated November 15, 1996 (this "Assignment"), made among BNY Capital Resources Corporation ("Assignor"), FINOVA Capital Corporation ("Assignee") and State Street Bank and Trust Company of Connecticut, National Association (successor to The Connecticut Bank and Trust Company, National Association), as trustee under the Trust Agreement (as defined in the Participation Agreement referred to herein), as Trustee ("Trustee").

WITNESSETH

WHEREAS, Assignor and the Assignee have entered into a Sale Agreement, dated as of November 8, 1996 (the "Sale Agreement").

WHEREAS, pursuant to the terms and conditions hereof and of the Sale Agreement, Assignor desires to sell and transfer, and Assignee desires to purchase and assume among other things, all of Assignor's interest in and obligations under the following (the "Transferred Rights"): (i) the Trust Documents, (ii) Assignor's 100% beneficial interest in the Trust Estate, and (iii) Assignor's interest in the transactions (the "Transaction") contemplated by the Trust Documents.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

Section 1. Definitions. The following terms, when capitalized, shall have the following meanings for all purposes of this Agreement, except where the context otherwise requires:

"Agent" means The Bank of New York (successor to Mercantile-Safe Deposit and Trust Company).

"Builder" means General Motors Corporation (Electric-Motive Division), a Delaware corporation.

"Investor" means State of Wisconsin Investment Board.

"Lease" means the Lease of Railroad Equipment dated September 1, 1984 between the Trustee and Lessee, as more fully described on Schedule I attached hereto.

"Lessee" means St. Louis Southwestern Railway Company.

"Participation Agreement" shall mean the Participation Agreement dated as of September 1, 1984, among the Lessee, the Agent, the Investor, the Trustee and Assignor (as successor to The Bank of New York) as more fully described on Schedule I attached hereto.

"Trust Agreement" shall mean the Trust Agreement, dated as of September 1, 1984, between Trustee and and Assignor, as more fully described on Schedule I attached hereto, pursuant to which Trustee holds legal title for the benefit of the Assignor to 24 units of railroad equipment described in Schedule II attached hereto.

"Trust Documents" shall mean the Lease, the Participation Agreement and the Trust Agreement and the other documents and agreements listed on Schedule I hereto.

Other capitalized terms used but not defined in this Assignment shall have the meanings ascribed to such terms in the Trust Agreement and the Lease.

Section 2. Assignment. As of the date hereof, the Assignor hereby sells, assigns, transfers and conveys to the Assignee all of the Assignor's right, title and interest in and to Transferred Rights; provided, that the Assignor hereby reserves and does not transfer its right, title and interest in any indemnities or liability insurance proceeds under or contemplated by the Trust Documents in favor of the Assignor to the extent that such indemnities or liability insurance proceeds were paid, accrued in favor of, relate to events occurring, or become payable to Assignor, prior to the date hereof.

Section 3. Assumption by Assignee. The Assignee hereby accepts the foregoing assignment and, with respect to all periods from (and including) and after the date hereof assumes and agrees to be bound by all the terms of, and to assume and

undertake all of the obligations of the Assignor contained in, the Trust Agreement and the other Trust Documents, including, without limitation, as the "Owner" thereunder.

Section 4. Representations, Warranties and Covenants.

(a) Assignee represents and warrants that it is not a railroad company and has a net worth of at least \$50,000,000.00.

(b) Each party by its signature agrees and accepts that the transfer requirements of Article VI of the Trust Agreement have been satisfied or waived and that the Assignor is relieved from all obligations, responsibilities and liabilities in respect of the Transferred Rights in respect of the period from and after the date hereof.

(c) Other than the express representations and warranties of Assignor set forth above in Section 5 of the Sale Agreement, the Transferred Rights are being sold and assigned hereunder, "AS IS, WHERE IS" and ASSIGNEE ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSIGNOR NOR ANY OF ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES OR REPRESENTATIVES HAS MADE OR WILL BE DEEMED TO HAVE MADE ANY TERM, CONDITION, REPRESENTATION, WARRANTY OR COVENANT EXPRESS OR IMPLIED (WHETHER STATUTORY OR OTHERWISE) AS TO (a) THE CAPACITY, AGE, VALUE, QUALITY, DURABILITY, DESCRIPTION, CONDITION (WHETHER OF THE EQUIPMENT OR ANY PART THEREOF), DESIGN, WORKMANSHIP,

MATERIALS, MANUFACTURE, CONSTRUCTION, OPERATION, DESCRIPTION, STATE, MERCHANTABILITY, PERFORMANCE, FITNESS FOR ANY PARTICULAR USE OR PURPOSE (INCLUDING THE ABILITY TO OPERATE OR REGISTER THE EQUIPMENT OR USE THE EQUIPMENT IN ANY OR ALL JURISDICTIONS) OR SUITABILITY OF THE EQUIPMENT OR ANY PART THEREOF, (b) THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, KNOWN OR UNKNOWN, APPARENT OR CONCEALED, EXTERIOR OR INTERIOR, (c) THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT OR OTHER INTELLECTUAL PROPERTY RIGHTS, (d) ANY IMPLIED WARRANTY ARISING FROM THE COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE OR (e) ANY OTHER REPRESENTATIONS OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT, THE TRANSFERRED RIGHTS OR ANY PART THEREOF, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED, IT BEING UNDERSTOOD THAT NOTHING HEREIN WILL BE DEEMED TO LIMIT THE ASSIGNEE FROM AVAILING ITSELF OF ANY WARRANTIES, COVENANTS, AND REPRESENTATIONS OF ANY MANUFACTURER. ASSIGNOR WILL IN NO EVENT BE LIABLE TO THE ASSIGNEE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES CAUSED, DIRECTLY OR INDIRECTLY, BY THE EQUIPMENT OR ANY

INADEQUACY THEREOF FOR ANY PURPOSE, OR ANY DEFICIENCY OR DEFECT THEREIN.

Section 5. Successors and Assigns. This Assignment shall be binding upon, and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors, transferees and assigns.

Section 6. Applicable Law. THIS ASSIGNMENT SHALL BE DEEMED TO HAVE BEEN NEGOTIATED AND MADE IN, AND SHALL BE GOVERNED AND INTERPRETED UNDER THE LAWS OF, THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE BY RESIDENTS THEREOF TO BE ENTIRELY PERFORMED THEREIN.

Section 7. Counterparts. This Assignment may be executed in one or more counterparts, each of which shall be an original document and all of which together shall constitute but one and the same Assignment.

Section 8. Waiver of Trial by Jury. THE PARTIES HEREBY IRREVOCABLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT TO ENFORCE ANY PROVISION OF THIS ASSIGNMENT OR ANY AGREEMENT EXECUTED IN CONNECTION HEREWITH.

IN WITNESS WHEREOF, the parties hereto have executed this

Assignment and Assumption Agreement as of the date first above written.

BNY CAPITAL RESOURCES
CORPORATION

By: Scott M. Fisher

Name: Scott M. Fisher

Title: Assistant Vice President

FINOVA CAPITAL CORPORATION

By: _____

Name: _____

Title: _____

STATE STREET BANK AND TRUST
COMPANY OF CONNECTICUT,
NATIONAL ASSOCIATION, not in its
individual capacity but solely as
Trustee

By: _____

Name: _____

Title: _____

STATE OF Colorado)

: ss.:

COUNTY OF Arapahoe)

On this 12th day of November, 1996, before me personally appeared Scott M. Fisher, to me personally known, who being by me duly sworn, says that he/she is the Assistant Vice President of BNY CAPITAL RESOURCES CORPORATION, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Deane M. Jernigan
Notary Public

[Notarial Seal]

My Commission expires 5/11/98

STATE OF NEW JERSEY)

: ss.:

COUNTY OF)

On this _____ day of November, 1996, before me personally appeared Kathy Gross, to me personally known, who being by me duly sworn, says that she is a Vice President of FINOVA CAPITAL CORPORATION, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires _____

IN WITNESS WHEREOF, the parties hereto have executed this

Assignment and Assumption Agreement as of the date first above written.

BNY CAPITAL RESOURCES
CORPORATION

By: _____

Name: _____

Title: _____

FINOVA CAPITAL CORPORATION

By: Kathy A. Gross

Name: Kathy A. Gross

Title: Vice President

STATE STREET BANK AND TRUST
COMPANY OF CONNECTICUT,
NATIONAL ASSOCIATION, not in its
individual capacity but solely as
<18> Trustee

By: _____

Name: _____

Title: _____

STATE OF)
 : ss.:
COUNTY OF)

On this _____ day of November, 1996, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he/she is the _____ of BNY CAPITAL RESOURCES CORPORATION, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires _____

STATE OF NEW JERSEY)
 : ss.:
COUNTY OF *Middlesex*)

On this 8th day of November, 1996, before me personally appeared Kathy Gross, to me personally known, who being by me duly sworn, says that she is a Vice President of FINOVA CAPITAL CORPORATION, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

[Notarial Seal]

My Commission expires _____

TOBY LEONE
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES
MAR. 28, 2001

IN WITNESS WHEREOF, the parties hereto have executed this

Assignment and Assumption Agreement as of the date first above written.

BNY CAPITAL RESOURCES CORPORATION

FINOVA CAPITAL CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, NATIONAL ASSOCIATION, not in its individual capacity but solely as Trustee

By: James E. Schultz

Name: James E. Schultz

Title: Assistant Secretary

Commonwealth of Massachusetts

Commonwealth
STATE OF

COUNTY OF Suffolk)
: ss.:

On this 12th day of November, 1996, before me personally appeared JAMES E. SCHUTZ, to me personally known, who being by me duly sworn, says that he/she is the Assistant Secretary of STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, NATIONAL ASSOCIATION, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

[Notarial Seal]

My Commission expires _____

SCOTT KNOX
Notary Public
My Commission Expires July 12, 2002

SCHEDULE I

TRUST DOCUMENTS

1. Participation Agreement, dated as of September 1, 1984, among St. Louis Southwestern Railway Company ("Lessee"), BNY Capital Resources Corporation (successor by assignment to The Bank of New York "Owner"), State Street Bank and Trust Company of Connecticut, National Association (successor to The Connecticut Bank and Trust Company, National Association, in its individual capacity, "CBT" and in its capacity as trustee, "Lessor"), The Bank of New York (successor to Mercantile-Safe Deposit and Trust Company, "Agent"), and State of Wisconsin Investment Board ("Investor").
2. Conditional Sale Agreement, dated as of September 1, 1984, between General Motors Corporation (Electric-Motive Division) ("Builder") and Lessor, as recorded with the ICC on October 15, 1984 and assigned Recordation No. 14449.
3. Lease of Railroad Equipment, dated as of September 1, 1984, between Lessee and Lessor, as recorded with the ICC on October 15, 1984 and assigned Recordation No. 14449-B.
4. Assignment of Lease and Agreement, dated as of September 1, 1984, between Lessor and Agent as recorded with the ICC on October 15, 1984 and assigned Recordation No. 14449-C.
5. Agreement and Assignment, dated as of September 1, 1984, between Builder and Agent as recorded with the ICC on October 15, 1984 and assigned Recordation No. 14449-A.
6. Amendment Agreement, dated as of January 15, 1986, among Lessee, Lessor and Agent as recorded with the ICC on January 30, 1986 and assigned recordation No. 14449-~~F~~.D.
7. Trust Agreement, dated as of September 1, 1984, between Owner and CBT.
8. Tax Indemnity Agreement, dated as of September 1, 1984, between Lessee and Owner.

SCHEDULE II

EQUIPMENT

<i>Builder</i>	<i>Type</i>	<i>Builder's Specifications</i>	<i>Plant</i>	<i>Quantity</i>	<i>Lessee's Identification Numbers All Inclusive</i>
General Motors Corporation (Electro-Motive Division)	3,000 h.p. Model GP-40-2 diesel electric locomotives	8091-3	McCook, Illinois	24	SSW7248-7257 SSW7259-7266 SSW7268-7273