

RECORDATION NO. 21923 FILED

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10-54 AM

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10 LIGHT STREET
BALTIMORE, MARYLAND 21202-1487

TELEPHONE 410-727-6464
FAX 410-385-3700

MCLEAN, VA
ROCKVILLE, MD
TOWSON, MD
WASHINGTON, D.C.

December 31, 1998

via FEDERAL EXPRESS

Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001
Attention: Mrs. Janice Fort
Recordation

Re: Our File No.: 258-1921

Dear Mrs. Fort:

Enclosed for recordation as a primary document pursuant to the provisions of 48 U.S.C. §11301(a) are one original and one notarized copy of the following document:

Car Lease effective as of December 1, 1998 by and between C.K. Industries, Inc. (P.O. Box 87, Deland, Florida 32721) and CSX Transportation, Inc. (500 Water Street, Jacksonville, Florida 32202)

Also enclosed is a check in the amount of \$26.00 to cover the costs of recording this document.

Once this document has been recorded, please return the same to the undersigned.

Thank you for your prompt attention to this matter. Please call me at 1-800-344-2532 if you have any questions.

Sincerely,



Michele E. Sperato
Assistant to Mary L. Weidenbach

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

OFFICE OF THE SECRETARY

Michele E. Sperato

Date: 1/4/99

Miles & Stockbridge
10 Light Street
Baltimore, Maryland 21202-1487

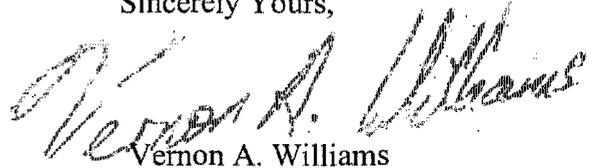
Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of 49 U.S.C. 11301

and 49 CFR 1177.3(c), on 1/4/99 at 10:54AM, and

assigned recordation number(s). 21922, 21923 and 21924.

Sincerely Yours,



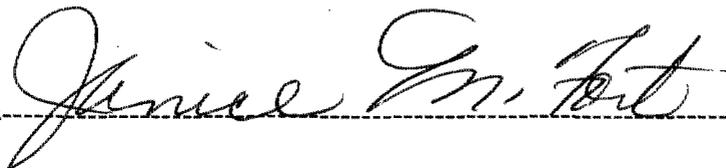
Vernon A. Williams

Enclosure(s) (3)

78.00

\$_____ 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. In the event of an error or any questions concerning this fee, you will receive a notification after the Surface Transportation Board has an opportunity to examine your document.

Signature _____



STATE OF MARYLAND

SS:

CITY OF BALTIMORE

THIS IS TO CERTIFY that the attached Car Lease is a true and complete copy of said Car Lease.

WITNESS my hand and seal this 31st day of December, 1998.

Michelle P. Sperato
Notary Public

My Commission Expires: January 28, 2001

JAN 4 '99

10-54 AM

CAR LEASE

This Car Lease ("Lease") dated and effective as of December 1, 1998, is by and between C.K. Industries, Inc., a Florida corporation ("Lessor"), and CSX Transportation, Inc. ("Lessee"). This Lease continues, and amends and restates in its entirety, the letter agreement dated as of June 18, 1998, between Railcar, Ltd. (as agent for owner, namely, Progress Rail Services Corporation), as lessor, and Lessee, as lessee.

1. Capitalization and Titles: Capitalized words are used herein for the convenience of the parties. The specific definitions or uses of such words are contained in the body of the lease. All titles to the paragraphs are for the information and convenience of the parties and are not substantive.
2. Cars: Lessor agrees to furnish and Lessee agrees to accept, subject to the provisions of this lease, 200 52-foot, 6-inch, 263,000 cubic foot GLR, 5-foot high side gondolas (the "Cars").
3. Term: The initial term of this Lease is one (1) year beginning (or the date of acceptance for Cars accepted earlier) through Unless notice of non-extension is given by either party at least days prior to the end of the then-current term, the term of the Lease shall be automatically extended for an additional term of

4. Transfer and Use: Lessor agrees to deliver the Cars to Lessee and Lessee agrees to return the Cars to Lessor, at mutually agreed interchange points on Lessee's lines. Lessor is solely responsible for all line haul, switching and accessorial charges applicable to the movement of the Cars to and from the interchange points. Lessee is responsible for all similar charges incurred in returning the Cars to the designated interchange points. Acceptance of the Cars will take place at the repair facilities of Progress Rail Services Corporation at DeCoursey, Kentucky, and Corbin, Kentucky. Lessee agrees not to charge Lessor for any transportation on Lessee's lines, or for any storage charges for the Cars, while the Cars are being moved to or from, or are waiting to go into, the repair facilities. At a mutually agreed date and location, Lessee shall have its authorized representative or agent inspect such Cars and accept or reject them as to condition and compliance with the specifications as outlined on Exhibit B. Cars so inspected and accepted shall be subject to this Lease and deemed to meet all requirements of this Lease. Cars which are available for inspection but are not inspected by Lessee for any reason other than the fault of Lessor shall be deemed to be subject to the rental (as if they were on Lessee's lines) until they can be inspected by Lessee's authorized representative. Lessee shall issue and deliver to Lessor with respect to all Cars accepted, or deemed accepted, a Certificate of Acceptance in the form of Exhibit C. Lessee agrees to use the Cars exclusively in its own service and interchange service with other railroads. Lessee shall not use, or permit the use of, the Cars for loading, storage, or hauling any hazardous, toxic, corrosive or radioactive substances. Lessee also agrees not to load any of the Cars in excess of the load limit stenciled thereon. Lessee shall have full authority to direct the movement of the Cars to any location in the continental United States, Mexico and Canada, provided, that Lessee shall use and shall cause third parties whose use Lessee can control to use the Cars in the United States for not less than 185 days during any consecutive 12 month period. If any of the Cars are used outside the continental United States, then without limiting any obligations Lessee may have pursuant to Section 17, Lessee shall indemnify and reimburse Lessor for any net loss of tax benefits [such as deductions for depreciation or cost recovery (for example, accelerated cost recovery under IRC § 168), interest, or

amortization of transaction costs, or foreign tax credits], or other expenses resulting from such use. Lessee will use the Cars as if they were Lessee's system cars and will not send Cars home to the Georgia Northeastern Railroad Company, Inc. ("GNRR") except under load.

5. **Rental:** With respect to each car accepted by Lessee, Lessee shall pay rental in the form of car hire at the following rates with respect to the Car while on Lessee's lines, payable to the owner of such Car through (and in accordance with the rules governing) the car hire system: _____ per hour and _____ per mile; provided, that effective on and after _____ the hourly rate will be _____ per hour rather than _____ per hour, and in consideration for this reduction Lessee shall use its best efforts to cause the term of the Lease to be extended for an additional term of one year (that is, through _____). Lessee shall pay a late charge of _____ of the amount due if not received by Lessor within ten days of the date of notice from Lessor, as provided in Section 14 (provided, that in the case of rental in the form of car hire payable by Lessee, Lessee shall have no liability for such late charge where Lessee timely paid the car hire in accordance with the rules governing the car hire system). Rental shall continue on destroyed cars up to the date casualty payment is received.

6. **Incorporation of Documents:** Except as otherwise expressly provided herein, the parties agree to incorporate and be governed by the provisions of the Field Manual of the AAR Interchange Rules, AAR Circular No. OT-6 and 49 CFR parts 215, 231 and 232, all as amended, supplemented or superseded throughout the term of this Lease.

7. **Maintenance and Repair.** The Cars are leased to Lessee on a "Full Service" basis. Lessor shall perform all required maintenance and repairs to the Cars during the Lease term at the expense of Lessor. Lessor may terminate this Lease with respect to any Car for which Lessor in good faith deems repairs to be uneconomical.

7.1 If a Car remains in a repair shop for repair work that is the responsibility of Lessor as provided in this Lease beyond twenty-four (24) hours, the rental payment shall abate beginning with the twenty-fifth (25th) hour until the Car is returned to service.

8. **Inspection:** Each of the Cars will be inspected by the parties at the ending of this Lease at times and locations mutually agreed upon by the parties. The condition of each Car will be noted on a joint inspection certificate (JIC). Should either party waive inspection, the records of the other party shall control. All Cars will be returned in interchange condition subject to reasonable wear and tear (and subject to any maintenance and repair obligations of Lessor) and free from excessive accumulations or deposits from commodities transported in or on the Cars while in the service of Lessee. If any Car is not returned to Lessor free from such accumulations or deposits, Lessee shall reimburse Lessor for any expense incurred in cleaning such Car. Lessor shall have the right to return to Lessee at Lessee's expense, any material removed from said Cars. If a Car is in need of repair prior to acceptance for delivery or return, a separate inspection will be held after repairs have been made. Should either party waive inspection, the records of the other party will control regarding the condition of the Cars on that date.

9. **Car Hire Charges:** Lessor, and not Lessee, shall be entitled to all car hire and other payments made or due with respect to the Cars for possession, usage and handling not on Lessee's

lines under the Interchange Rules. Subject to Section 7.1, at no time while the Cars are in the possession of Lessee or used or handled on Lessee's lines will the Cars be subject to A.A.R. Rule 22 or any other type of reclaimer or setoff of any nature which could dilute the earnings of the Cars. Lessee shall not have the right to negotiate bilateral or multilateral contracts concerning car hire for or any other third-party payments with respect to the Cars or to authorize any type of reclaimer or diminishment of the earnings of the Cars or to avail itself of any other rights of a car owner under the rail industry's Code of Car Hire Rules.

10. **Destruction of Car:** Any Car that is damaged or destroyed beyond economic repair (each a "Casualty Occurrence") will be deleted from this Agreement as of the date the casualty payment is received. Lessee will pay Lessor the amount due under the casualty schedule attached hereto. If such Casualty Occurrence occurs other than on Lessee's lines, then there shall be credited against the casualty value owing by Lessee the amount of any payment actually received by Lessor for such Car from a handling railroad or other party pursuant to applicable interchange rules (such credit not to exceed the amount owed by Lessee, and any excess to be solely for Lessor's account). No replacement Car will be furnished unless agreed in writing by both parties.

11. **Disclaimer of Warranties:** LESSOR, NOT BEING THE MANUFACTURER OF THE CARS, NOR THE MANUFACTURER'S AGENT, HEREBY EXPRESSLY DISCLAIMS AND MAKES TO LESSEE NO WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE. Lessor hereby acknowledges that any manufacturer's and/or seller's warranties are for the benefit of both Lessor and Lessee.

12. **Lettering:** Lessor, at its expense, shall cause each Car to be stenciled with the reporting marks and numbers of Georgia Northeastern Railroad Company, Inc. ("GNRR") as set forth in Exhibit A attached hereto and shall reprogram the AEI Tags to conform to those markings. Lessor will rent the car marks for the Cars from GNRR pursuant to an agreement between Lessor and GNRR (the "GNRR Agreement"). Lessor will be solely responsible for paying the fees owing to GNRR pursuant to the GNRR Agreement, and Lessee shall have no liability with respect to such fees. Lessor, at its expense, shall remove those reporting marks and AEI tags once this Lease has expired. Based on the GBS mechanical designation, the Cars will be subject to Car Service Control. In connection therewith, Lessor agrees to endorse the Cars with Car Service Directives and Transportation Codes as requested by Lessee. Lessor shall also be responsible for updating UMLER records accordingly.

13. **Sublease:** Lessee may sublease any of the Cars to any third party of its choosing. Any sublessee shall be bound by all the terms and conditions of this Lease. Notwithstanding any such sublease, Lessee shall continue to remain liable to Lessor under all conditions and terms of this Lease and such sublease shall be subject and subordinate to this Lease. Except for the rights contained in this Lease, no right, title, or interest in any of the Cars shall vest in Lessee by reason of this Lease.

14. **Default:** If Lessee shall fail to perform any of its obligations hereunder, Lessor shall provide written notice to Lessee, specifying the alleged failure. If such failure has not been corrected within (A) _____ days for payment of rent or (B) _____ days for any other alleged failure, Lessor, at its sole election, may --

(i) terminate this Lease upon three (3) days written notice and retake the Cars, and Lessor may thereafter recover from Lessee any and all amounts which under the terms of this Lease may then be due or may have accrued to the date of such termination and, in addition, recover from Lessee as liquidated damages any and all costs and expenses of termination, retaking and reselling or re-leasing the Cars (including reasonable attorneys' fees) plus the Lost Benefit of the Bargain. The Lost Benefit of the Bargain shall equal the present value (using a discount rate of _____ of all rental for the unexpired balance of the lease term unpaid as of said date of termination (and for this purpose, rental in the form of car hire shall be deemed to be _____ per Car per month, prorated for any partial month), reduced by the present value (using a discount rate of _____) of the fair market rental value of the Cars for the unexpired balance of the lease term as of said date, whether or not such Cars are relet or otherwise disposed of. Fair market rental value will be equal to zero for any Car not returned by Lessee. If any Car is not returned, Lessee shall also pay the casualty value as of the date of termination. Lessor may sell the Cars at public or private sale, with or without notice, advertisement, or publication, as Lessor may determine, or otherwise dispose of, hold, use, operate or lease to others the Cars as Lessor in its sole discretion may determine, all free and clear of any rights of Lessee and without any duty to account to Lessee, except the duty to mitigate damages. The parties acknowledge that actual damages in the case of an Event of Default are difficult or impossible to estimate and that the liquidated damages in this subsection (i) are not a penalty and are a reasonable pre-estimate of the probable loss in light of the anticipated harm caused by the default; or

(ii) proceed by lawful means to enforce performance by Lessee of this Lease.

15. Assignment of Lease: This Lease shall be assignable by Lessor and by its assigns without the consent of Lessee, but Lessee shall not be obligated to any assignee of Lessor except upon written notice of such assignment from Lessor or such assignee. Notwithstanding anything to the contrary contained herein, except as provided in Section 7.1, the obligation of Lessee to pay rental to such assignee shall be absolute and unconditional and shall not be affected by any circumstance whatsoever and such payment shall be made without interruption or abatement notwithstanding any event or circumstance whatsoever, including, without limitation, the deprivation or limitation of the use of the equipment, the bankruptcy or insolvency of Lessor or Lessee or any disaffirmance of this Lease by or on behalf of Lessee, and notwithstanding any defense, setoff, recoupment or counterclaim or any other right whatsoever, whether by reason of breach of this Lease or otherwise which Lessee may now or hereafter have against Lessor and whether any such event shall by reason of any act or omission of Lessor or otherwise; provided, however, that nothing herein contained shall effect any right of Lessee to enforce against Lessor any claim which Lessee may have against Lessor in any manner other than by abatement, attachment, or recoupment of interference with, or set-off, counterclaim or defense against, the aforementioned payments to be made to such assignee. Lessee's undertaking herein to pay the Rental to and to perform the other obligations of Lessee hereunder for the benefit of an assignee of Lessor shall constitute a direct, independent and unconditional obligation of Lessee to said assignee. Lessee also acknowledges and agrees that any assignee of Lessor's interest in this Lease shall have the right to exercise all rights, privileges and remedies (either in its own name or in the name of Lessor) which by the terms of this Lease are permitted to be exercised by Lessor.

16. Return Tender and Storage: Lessee shall gather the Cars at the end of the terms of this Lease and shall notify Lessor that the Cars are available for inspection. The aforementioned notice shall: (A) constitute the return tender of the Cars; (B) terminate any rental payments; and (C) begin the storage period. Lessee shall provide free storage for the cars for up to _____ from the date of return tender, after which a charge of _____ Car per day shall apply until receipt of forwarding instructions from Lessor. Lessee shall not be responsible for loss or damage sustained to the Cars during the storage period, unless due to the negligence of Lessee.

17. Taxes:

- (a) Except as provided in paragraph (b) below, during the period beginning on the date on which each Car is delivered to and accepted (or deemed accepted) by Lessee hereunder and continuing until the termination of this Lease with respect to that Car, Lessee shall pay when due all sales and use tax, property and ad valorem taxes, excise taxes and all other taxes and duties of any nature imposed on Lessee's interest in the Cars or on the ownership, possession, rental, car hire, delivery, transportation or use of the Cars, together with any interest and penalties (all such taxes, duties, fees, charges, interest and penalties being hereinafter called "Impositions"); provided, however, that, except as otherwise provided herein, Lessee shall not be responsible for (i) Impositions imposed by any federal, state or local government or taxing authority or any subdivision thereof which are based upon or measured by Lessor's net income (including any minimum tax) or which are in substitution for, or relieve Lessor from, any Imposition based upon or measured by Lessor's net income, including (but not limited to) income taxes assessed against Lessor for any rental payments or other income received or deductions taken by Lessor in connection with this Lease, (ii) business and occupation taxes, franchise taxes, gross receipts taxes and taxes upon Lessor's capital stock imposed by the United States or any state or political subdivision thereof, or (iii) interest, fines and penalties to the extent due to the acts or omissions of Lessor. Lessee shall not be required to pay any Imposition so long as it shall in good faith and by appropriate legal or administrative proceedings contest the validity or amount thereof and Lessor's interests in the Cars or the Lease are not impaired.
- (b) Notwithstanding the foregoing, Lessor shall pay and be responsible for all property and ad valorem taxes assessed or levied against the Cars and shall file all property and ad valorem tax returns with respect to the Cars. Upon request by Lessee, Lessor shall furnish Lessee with a copy of all property and ad valorem tax returns and evidence of payment made thereunder.

18. Title, Possession and Assignment: Lessor is aware of and acknowledges the importance of Lessee's right of sole possession and quiet enjoyment of the Cars for the entirety of this Lease. Lessor represents: (A) that it is the sole owner of the Cars or has the sole right and authority to lease the Cars as provided herein, and (B) no other party has any right that might affect Lessee's rights to possession and peaceful enjoyment of the Cars under this Lease as long as Lessee is in compliance with its obligations. Lessee, however, agrees and covenants that it will not allow any lien or claim against the Cars and further agrees to discharge any claim or lien which may be made against the Cars. In the event Lessee fails or refuses to discharge any lien or claim within _____ after the

effective date thereof, Lessor may discharge such lien or claim and Lessee shall reimburse Lessor the full cost thereof, with interest thereon at the rate of _____ per annum. Failure to reimburse Lessor within ten days of written notice shall constitute a default by Lessee hereunder.

19. **Notices:** Unless otherwise provided, any notice sent pursuant to this Lease must be in writing and addressed as follows:

To Lessor: Railcar, Ltd. (as agent for C.K. Industries, Inc.)
1819 Peachtree Road, N.E., Suite 455
Atlanta, Georgia 30309-1847
Attention: President

To Lessee: CSX Transportation, Inc.
Attn: Treasury Department, J-220
500 Water Street
Jacksonville, Florida 32202

20. **Non-Waiver:** The failure of either party to enforce any provision of this Lease or to prosecute any default shall not be considered as a waiver of that provision or as a bar to the prosecution of that default unless so indicated in writing.

21. **Insurance:** Lessee will at all times during the term of this Lease, and until return of the Cars to Lessor, at its own expense, cause to be carried and maintained insurance or self insurance in respect to its obligations assumed under this Lease in amounts and against such risks customarily insured against by comparable railroad companies. Lessee will annually furnish Lessor with a schedule of such coverage upon written request. In addition, Lessor will at all times during the term of this Lease, and until return of the Cars to Lessor, at its own expense, cause to be carried and maintained liability and casualty insurance or self insurance to fully cover Lessor's operations and assets. Lessor will furnish Lessee with a schedule of such coverage upon written request.

22. **UMLER:** Lessee will be shown as the lessee of the Cars in the AAR UMLER file.

23. **Indemnity:** Lessee shall indemnify and hold Lessor, its agents, employees, successors and assigns, harmless from and against all claims, losses, liabilities, demands, obligations, liens, recovery, actions, damages, judgments, suits, and all legal proceedings, and any and all cost and expenses in connection therewith (including attorneys' fees) incurred by Lessor under this Lease, unless caused by the negligence of Lessor and its agents or subcontractors or the failure of Lessor to perform its obligations under this Lease. The foregoing indemnity shall survive the termination of this Lease.

24. **Time:** Time is of the essence of this Lease.

25. **Entire Agreement:** This Lease constitutes the entire understanding of the parties, has been drafted on a basis of mutual input, shall be construed pursuant to the laws of the State of Georgia, and shall be binding upon the parties, their respective successors, assigns and legal representatives. It shall remain in full force and effect until all Cars have been tendered at the

appropriate interchange point for return to Lessor. Any modification to this Lease must be in writing and signed by both parties.

26. Severability: Any term or provision of this lease which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Lease in any jurisdiction. Any determination that the application of any provision of this Lease to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provisions as it may apply to any other person or circumstances.

27. Further Assurances: The parties agree (a) to furnish upon request to each other such information, (b) to execute and deliver to each other such other documents, and (c) to do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Lease and the documents referred to in this Lease.

28. Binding Authority: Each party represents to the other that it has full power and authority to enter into this Lease and that the persons signing below on behalf of each such party have been duly authorized to execute this Lease.

29. Product of Negotiation: This Lease is the product of negotiation and no one party shall be deemed to be the drafter of this Lease or any part thereof. Neither the form nor any language of this Lease shall be interpreted or construed in favor of or against each party hereto.

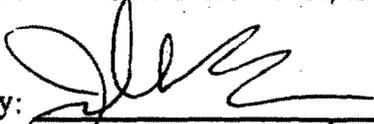
IN WITNESS WHEREOF, the parties have caused this Lease to be executed by their duly authorized officials.

LESSEE:

LESSOR:

CSX TRANSPORTATION, INC.

C.K. INDUSTRIES, INC.

By: 
Name/Title: James M. Tilley

By: _____
Name/Title: _____

Date: Asst. Treasurer

Date: _____

12/30/98

EXHIBIT A

This is an exhibit to the Car Lease dated as of June 18, 1998, between C.K. Industries Inc., as Lessor, and CSX Transportation, Inc., as Lessee.

Description of Cars: 52-foot, 6-inch, 263,000 cubic foot GLR, 5-foot high side gondolas

Number of Cars: Two Hundred (200) Cars

Car Marks and Numbers: GNRR 6600 - 6799 (inclusive)

EXHIBIT B

This is an exhibit to the Car Lease dated as of June 18, 1998, between C.K. Industries, Inc., as Lessor, and CSX Transportation, Inc., as Lessee.

Specifications

EXHIBIT C

CERTIFICATE OF ACCEPTANCE

The undersigned, a duly authorized representative of CSX Transportation, Inc. ("Lessee"), for the purpose of accepting equipment that is to become subject to a Car Lease dated as of June 18, 1998, between Lessee, as lessee, and C.K. Industries, Inc., as lessor (the "Equipment Agreement"), hereby certifies that the following described unit or units of railroad equipment (the "Equipment"):

Description: 52-foot, 6-inch, 263,000 cubic foot GLR, 5-foot high side gondolas

Quantity:

Road Numbers:

Delivered at:

have been delivered to and have been accepted on behalf of Lessee under the Equipment Agreement as of the date indicated below.

The execution of this certificate shall not in any way reduce, limit, alter or affect any right Lessee may have to pursue any claim, in warranty or otherwise, against the builder of the Equipment for any defect, whether latent or patent.

Authorized Representative of CSX Transportation, Inc.

Dated: _____, 19__

CASUALTY SCHEDULE

This is an exhibit to the Car Lease dated as of June 18, 1998, between C.K. Industries Inc., as Lessor, and CSX Transportation, Inc., as Lessee.

Casualty value: The value of the Car determined in accordance with Rule 107.