

**DOHERTY
RUMBLE
& BUTLER**
PROFESSIONAL ASSOCIATION

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Reply to Saint Paul office

REGISTRATION NO ~~17093~~ A

NOV 30 1990 10 50 AM

NOV 30 1990 10 50 AM

INTERSTATE COMMERCE COMMISSION

November 29, 1990

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
12th Street and Constitution Avenue NW
Washington, DC 20423

0-3344010

REGISTRATION NO ~~17093~~ B

NOV 30 1990 10 50 AM

INTERSTATE COMMERCE COMMISSION

Attn: Room 2303/Recording Officer

Re: Documents for Recordation

Dear Sir or Madam:

Enclosed for filing with your office are the following documents
(which need to be filed in the following order):

1. Agreement for leasing between Cargill Leasing Corporation and Western Fuels Association, Inc.
2. Coop Lease between Western Fuels Association, Inc. and Cargill Leasing Corporation; and
3. Loan and Security Agreement between Cargill Leasing Corporation and St. Paul Bank for Cooperatives.

Two fully executed and notarized copies of each document are enclosed. After completion of filing, it is my understanding that one original of each document will be returned to me.

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

Cargill Leasing Corporation *Jesse*
15407 McGimty Road West
Minnetonka, MN 55345

Western Fuels Association, Inc. *Jesse*
Magruder Building
1635 M Street NW
Washington, DC 20036-3210

St. Paul Bank for Cooperatives *assigned*
375 Jackson Street
St. Paul, MN 55101

NOV 30 10 44 AM '90
MOTOR VEHICLE UNIT

A general description of the property and/or equipment subject to the lease agreements and loan and security agreement is as follows:

P. Zito
C. Anderson

DOHERTY
RUMBLE
& BUTLER

PROFESSIONAL ASSOCIATION

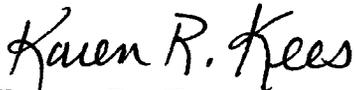
Interstate Commerce Commission
November 29, 1990
Page 2

One Hundred Twenty (120) Aluminum BethGon Coalporter
Cars, 110-ton nominal capacity, Numbered WFAX 90,000
through WFAX 90,119, inclusive.

Our check in the amount of \$45.00 is enclosed to cover the filing
fee.

Should you have any questions or require additional information,
please contact the undersigned at the number listed herein.

Very truly yours,



Karen R. Kees
Legal Assistant

KRK078.ltr/elo
Enclosures

PURSUANT TO THAT CERTAIN LOAN AND SECURITY AGREEMENT OF EVEN DATE HERewith, LESSOR HAS PLEDGED AND ASSIGNED TO THE ST. PAUL BANK FOR COOPERATIVES ALL ITS RIGHT, TITLE, AND INTEREST IN AND TO THIS LEASE. TO THE EXTENT, IF ANY, THAT THIS LEASE CONSTITUTES CHATTEL PAPER (AS SUCH TERM IS DEFINED IN THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN ANY APPLICABLE JURISDICTION), NO SECURITY INTEREST IN THIS LEASE MAY BE CREATED BY THE TRANSFER OR POSSESSION OF ANY COUNTERPART HEREOF OTHER THAN THE COUNTERPART CONTAINING THE RECEIPT THEREFOR EXECUTED BY THE ST. PAUL BANK FOR COOPERATIVES, ON OR IMMEDIATELY FOLLOWING THE SIGNATURE PAGE HEREOF.

17093 *A*
NOV 30 1990 50 AM
INTERSTATE COMMERCE COMMISSION

Schedule 1 to Commitment Letter

COOP LEASE

Lessor, hereby leases to Lessee, and Lessee hereby hires and takes from Lessor, the Units as defined below, at the rent and upon the terms, covenants, and conditions herein set forth:

A. Definitions:

- i) "Basic Lease Term": Commencing as of May 29, 1991 and expiring as of May 29, 2011.
- ii) "Basic Rent Applicable To" a particular Unit shall, during the Basic Lease Term, be, as of a particular Basic Rent Payment Date, the product of multiplying the Basic Rent Percentage set forth opposite such date in Appendix B hereto by the Equipment Cost Of such Unit. "Basic Rent Applicable To" a particular Unit shall, during the Renewal Term, be as set forth in Section 18 of the Agreement for Leasing.
- iii) "Basic Rent Payment Dates" with respect to all the Units are the dates identified as such in Appendix B hereto and all such dates as agreed by Lessor and Lessee during the Renewal Term, if any.
- iv) The "Equipment Cost Of" a particular Unit shall be as set forth in Appendix A hereto.

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- v) "Interim Lease Term": Commencing on November 29, 1990 and expiring as of the commencement of the Basic Lease Term.
- vi) "Lease Term" shall mean the full term, including Interim Lease Term, the Basic Lease Term, and the Renewal Term, if any.
- vii) "Overdue Rate" shall mean the greater of 200 basis points over the Prescribed Financing Rate or 300 basis points over the then current prime rate charged by Norwest Bank Minnesota National Association per annum unless otherwise prohibited by law in which case it shall be the highest rate allowed by law.
- viii) "Renewal Term" shall have the meaning set forth in Section 18 of the Agreement for Leasing.
- ix) The "Stipulated Loss Value Applicable To" a particular Unit shall be, as of a particular Basic Rent Payment Date, the product of the SLV Percentage set forth opposite such date in Appendix B hereto by the Equipment Cost Of such Unit.
- x) "Termination Value" with respect to the Units shall, as of a particular Basic Rent Payment, be the Product of the Termination Value percentage set forth opposite such date in Appendix B hereto by the Equipment Cost Of all Units.
- xi) "Termination Date" shall have the meaning set forth in Section 23 of the Agreement for Leasing.
- xii) The "Units" for the purpose of this Lease are those items of equipment identified as such in Appendix A hereto.
- B. Immediately upon expiration or termination of the Basic Lease Term or the Renewal Term, if any, Lessee shall return each Unit to Lessor, in such condition as is required by the maintenance provisions of the Agreement for Leasing, onto Lessee's storage facilities in the vicinity of Gillette, Wyoming. Lessee shall provide up to 120 days of storage at its expense; risk of loss or damage to the Units during such period shall also be borne by Lessee. In the event that any Unit shall suffer a Event of Loss during the 120 storage period, Lessee shall pay Lessor the Stipulated Loss Value Applicable To such Unit determined as of the last Basic Rent Payment Date. After the 120 day storage period Lessor shall have the right to continue storing the Units with Lessee for

an additional 180 days for One Dollar (\$1.00) per day per Unit to be paid per month in arrears; risk of loss and damage after the 120 period shall be borne by Lessor. Upon expiration of the additional 180 day storage period, or for such Units as earlier requested by Lessor, Lessee shall at its expense deliver said Units to Lessor within a one hundred (100) mile radius of Denver, Colorado at such destination as determined by Lessor on a connecting Class I Carrier, or at such other destination as determined by Lessor on a connecting Class I Carrier anywhere in the continental United States with the cost of delivery in excess of a reasonable cost to deliver the Units within a one hundred (100) mile radius of Denver, Colorado to be borne by Lessor. The risk of loss for Units delivered during the 120 day storage period shall be borne by Lessee. The risk of loss thereafter shall be borne by Lessor. During any storage period, Lessee will permit Lessor or any person designated by it, including its authorized representative or the authorized representatives of any prospective purchaser of any such Unit, to inspect the same. Basic Rent Applicable To the Units at the then applicable rate shall continue unabated during any period after expiration of the Lease Term for which Lessee fails to return the Units in such condition as required hereunder.

- C. By the execution hereof, there are incorporated herein and made a part hereof for all purposes, as though set forth herein at length, each and all of the terms, conditions, and provisions of the Agreement for Leasing between Lessee and Lessor attached as Exhibit B to that certain Participation Agreement between Lessee, Lessor, and the St. Paul Bank for Cooperatives dated as of November 29, 1990.
- D. It is a condition precedent to the obligations of Lessor hereunder that Lessee execute a Delivery and Acceptance Certificate in substantially the form attached hereto as Appendix C prior to or concurrently with the execution of this Lease.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Lease to be duly executed and dated as of November 29, 1990.

WESTERN FUELS ASSOCIATION, INC.
Lessee

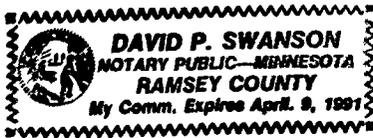
CARGILL LEASING CORPORATION
Lessor

By Robert P. Nungard
Title Mgr of Finance & Administration

By [Signature]
Title _____

STATE OF MINNESOTA)
COUNTY OF ~~HENNEPIN~~ ^{RAMSEY}) SS

Before me, the undersigned authority, on this 29th day of November 1990, personally appeared Philip J. Martini, Vice President, Cargill Leasing Corporation; and Robert P. Norrgard, Manager of Finance and Administration, Western Fuels Association, Inc.; who, each being duly sworn, did declare with respect to their title only, that they are the Vice President, and the Manager of Finance and Administration of their respective corporations, and each declared that the foregoing instrument was executed on behalf of their respective corporations by authority of their respective Board of Directors, and each did declare and acknowledge that the said instrument is the free act and deed of their respective corporation.



David P. Swanson
Notary Public

My Commission Expires:

April 9, 1991

APPENDIX A

Equipment Description: One Hundred and Twenty (120) 110 ton all steel underframe, aluminum bodied, riveted side, through center sill, open top coal cars with a twin rounded bottom, designed for rotary dump service, BethGon Coalporter cars with road numbers WFAX90000 through WFAX90119 inclusive.

Manufacturer: Bethlehem Steel Corporation

Unit Car Cost: \$48,034.50

Total Equipment Cost Of the Units: \$5,764,140.00

APPENDIX B TO SCHEDULE 1 TO COMMITMENT LETTER

BASIC RENT PAYMENT DATES	BASIC RENT PERCENTAGE AS OF THAT DATE	RENT DUE*	SLV PERCENTAGE PMT AS OF THAT DATE	TERMINATION PERCENTAGE PMT AS OF THAT DATE
5/29/91	0.00000	0.00	114.75387	114.75387
11/29/91	4.86806	280,601.58	115.62675	115.62675
5/29/92	4.86806	280,601.58	116.23293	116.23293
11/29/92	4.86806	280,601.58	116.61860	116.61860
5/29/93	4.86806	280,601.58	116.80279	116.80279
11/29/93	4.86806	280,601.58	116.82215	116.82215
5/29/94	4.86806	280,601.58	116.68923	116.68923
11/29/94	4.86806	280,601.58	116.42915	116.42915
5/29/95	4.86806	280,601.58	116.05162	116.05162
11/29/95	4.86806	280,601.58	115.56907	115.56907
5/29/96	4.86806	280,601.58	114.96467	114.96467
11/29/96	4.86806	280,601.58	114.24625	114.24625
5/29/97	4.86806	280,601.58	113.39700	113.39700
11/29/97	4.86806	280,601.58	112.43169	112.43169
5/29/98	4.86806	280,601.58	111.37652	111.37652
11/29/98	4.86806	280,601.58	110.25507	110.25507
5/29/99	4.86806	280,601.58	109.08250	109.08250
11/29/99	5.94985	342,957.48	106.78620	106.78620
5/29/00	5.94985	342,957.48	104.40827	104.40827
11/29/00	5.94985	342,957.48	101.94793	101.94793
5/29/01	5.94985	342,957.48	99.41694	99.41694
11/29/01	5.94985	342,957.48	96.80504	96.80504
5/29/02	5.94985	342,957.48	94.12041	94.12041
11/29/02	5.94985	342,957.48	91.35195	91.35195
5/29/03	5.94985	342,957.48	88.50903	88.50903
11/29/03	5.94985	342,957.48	85.57961	85.57961
5/29/04	5.94985	342,957.48	82.57438	82.57438
11/29/04	5.94985	342,957.48	79.48029	79.48029
5/29/05	5.94985	342,957.48	76.30951	76.30951
11/29/05	5.94985	342,957.48	73.04790	73.04790
5/29/06	5.94985	342,957.48	69.70934	69.70934
11/29/06	5.94985	342,957.48	66.27847	66.27847
5/29/07	5.94985	342,957.48	62.77108	62.77108
11/29/07	5.94985	342,957.48	59.17054	59.17054
5/29/08	5.94985	342,957.48	55.49479	55.49479
11/29/08	5.94985	342,957.48	51.70912	51.70912
5/29/09	5.94985	342,957.48	47.75686	47.75686
11/29/09	5.94985	342,957.48	43.61038	43.61038
5/29/10	5.94985	342,957.48	39.28156	39.28156
11/29/10	5.94985	342,957.48	34.74127	34.74127
5/29/11	5.94985	342,957.48	30.00000	30.00000

Equipment Cost of all Units: \$5,764,140.00

* This sets forth the amount due on each Basic Rent Payment Date based on the Basic Rent Percentage as of that date multiplied by the sum of the Equipment Cost of all Units at the beginning of the Lease Term, i.e. on the assumption that none of the Units have been subject to an Event of Loss.

APPENDIX C

DELIVERY AND ACCEPTANCE CERTIFICATE

Lessee: Western Fuels Association, Inc.
Magruder Building
1635 M Street, N.W.
Washington, D.C. 20036-3201

The undersigned ("Lessee") hereby certifies i) that all Units described on Appendix A to that certain Coop Lease dated as of _____, 1990 by and between Lessee and Cargill Leasing Corporation ("Lessor") have been furnished, ii) that delivery and/or installation has been fully completed as required, iii) that Lessee has had a reasonable opportunity to inspect the Units, iv) that the Units are in conformity in all respects with the Coop Lease, v) that there are no non-conformities upon which Lessee is assuming will be cured, and vi) that Lessee's acceptance of the Units has not been induced by any assurances by Lessor. Lessee will therefore not reject or revoke its acceptance of the Units.

Lessee represents, warrants, and agrees as follows that: i) Lessor did not select, manufacture, or supply the Units, ii) Lessor has acquired the Units in connection with the Coop Lease, iii) Lessee has received a copy of the Equipment Purchase Contract by and between Lessee and _____ dated _____, 19__ which such Contract has been assigned by Lessee to Lessor, and iv) the Units will not be used primarily for family, personal, or household uses.

In view of the above, the undersigned hereby authorizes Lessor to pay for the Units in accordance with the terms of the Equipment Purchase Contract.

Dated: _____, 1990.

WESTERN FUELS ASSOCIATION, INC.

By: _____

Its: _____