

THE LAW OFFICES OF
LORITZ & ASSOCIATES

0100011077

ORLAND STATE BANK BUILDING • 9533 WEST 143RD STREET
ORLAND PARK, ILLINOIS 60462
708-403-2555

RICHARD F. LORITZ
JULIE BURT

Of Counsel

David Dineff
Patrick Dwyer
Thomas E. Grotta
Sheldon Lebold

18435
REGISTERED MAIL

OCT 12 1993 -3 05 PM

INTERSTATE COMMERCE COMMISSION

October 5, 1993

Telecopier
708-349-6628

Office of the Secretary
Interstate Commerce Commission
Twelfth Constitution Ave., N.W.
Room 2303
Washington, D.C. 20423

LICENSING BRANCH

RECEIVED
OFFICE OF THE
SECRETARY
OCT 12 2 47 PM '93

RE: Lease of Locomotive Equipment
National Railway Equipment Company, Lessor
Nebraska Central Railroad Co., Lessee

Dear Sir/Madam:

I have enclosed an original and one copy of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a lease of locomotive equipment and is a primary document dated September 1, 1993. The names and addresses of the parties to the documents are as follows:

Lessor

National Railway Equipment Company
An Illinois Corporation
14400 S. Robey Street
P.O. Box 2270
Dixmoor, IL 60426

Lessee

Nebraska Central Railroad Company
4420 W. Vickery Boulevard
Suite 110
Fort Worth, TX 76107

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SECRETARY
OCT 7 2 57 PM '93

A description of the equipment covered by the document follows:

Office of the Secretary
October 5, 1993
Page 2

<u>Locomotive Type</u>	<u>Previous Road #</u>	<u>Present Road #</u>
GP38AC	MKT 170	4200
GP38AC	MKT 174	4201
GP38AC	MKT 177	4202
GP38AC	MKT 217	4203
GP38AC	UP 600	4204

A fee of \$16.00 is enclosed. Please return the original after recordation to Richard F. Loritz, 9533 W. 143rd Street, Orland Park, IL 60462.

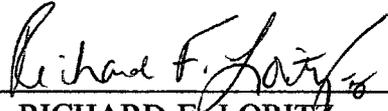
A short summary of the document to appear in the index follows:

A lease of locomotive equipment identified as five (5) locomotives, type GP38AC, with National Railway Equipment Co., as Lessor, and Nebraska Central Railroad Co., as Lessee.

Also attached is an Affidavit executed by the attorney in fact for National Railway Equipment Co. and appropriately notarized declaring that the enclosed copy is identical to the original document which is also enclosed.

Very truly yours,

NATIONAL RAILWAY EQUIPMENT CO.
an Illinois Corporation

BY: 
RICHARD F. LORITZ

ITS: Attorney and Agent in Fact

RFL/sjg

Enclosures

THE LAW OFFICES OF
LORITZ & ASSOCIATES

**ORLAND STATE BANK BUILDING • 9533 WEST 143RD STREET
ORLAND PARK, ILLINOIS 60462
708-403-2555**

RICHARD F. LORITZ

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Of Counsel

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October 8, 1993

Office of the Secretary
Interstate Commerce Commission
Twelfth Constitution Ave., N.W.
Room 2303
Washington, D.C. 20423

RE: Lease of Locomotive Equipment
National Railway Equipment Company, Lessor
Nebraska Central Railroad Co., Lessee

Dear Sir/Madam:

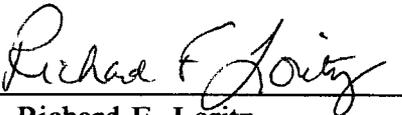
Pursuant to a telephone call received by us from your office, enclosed please find a copy of the cover letter sent to you October 5, 1993, with respect to the above-referenced lease. At the time of the mailing of the original letter and lease, we thought the recording fee was still \$16.00.

Therefore, we are enclosing our check in the amount of \$2.00 to cover your increase in fees.

We appreciate your contacting us with the new fee rate. If you have any questions in this regard, please feel free to contact the undersigned.

Very truly yours,

LORITZ & ASSOCIATES

BY: 
Richard F. Loritz

RFL/sjg

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

10/13/93

OFFICE OF THE SECRETARY

Richard F. Loritz
Lorita & Associates
Orland State Bank Building
9533 West 143rd St
Orland Park Illinois 60462

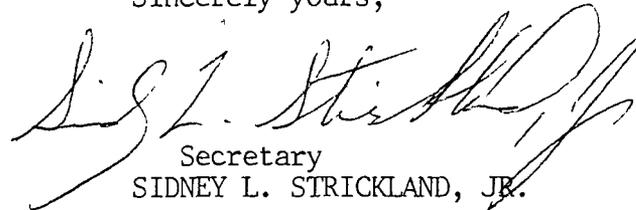
Dear

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 **10/12/93** at **3:05pm**, and assigned
recording number(s).

18435

Sincerely yours,



Secretary
SIDNEY L. STRICKLAND, JR.

Enclosure(s)

18435

A. LEASE OF LOCOMOTIVE EQUIPMENT

OCT 12 1993 3 05 PM

INTERSTATE COMMERCE COMMISSION

1. Base Terms. National Railway Equipment Co. (National) agrees to supply on a lease/purchase basis five (5) locomotives as described in Exhibit A. Nebraska Central Railroad Co. agrees to pay National Railway in accordance to the following schedule:

- (A) Years 1, 2, & 3: \$145 per calendar day per locomotive.
- (B) Years 4 & 5: \$121 per calendar day per locomotive.
- (C) At the end of 5 years: Final balloon payment of \$18,998 per locomotive.

2.. Lease Renewal. Nebraska Central Railroad Co. at the end of the lease term, if all terms and conditions of the Lease agreement have been adhered to, shall assume complete ownership of the locomotives.

3. Default. Upon default by Nebraska Central Railroad Co. in the payment of any amount due under the terms of this rental agreement or upon the violation by Nebraska Central Railroad Co. of any of the terms and conditions hereof or if Nebraska Central Railroad Co. shall vacate, desert or abandon the locomotives or permit same to remain vacated, deserted or abandoned for a period of twenty (20) days and the failure to remedy such default within thirty (30) days after notice of such default to Nebraska Central Railroad Co., then National at its option by written notice to Nebraska Central Railroad Co. may declare this rental agreement to be terminated and all rights of Nebraska Central Railroad Co. in and to said locomotives to be at an end, and National shall become entitled to the immediate possession of the locomotives.

The declaration of default and the repossession of the locomotives by National shall not excuse Nebraska Central Railroad Co. from the liability to National for any rental earned prior to the termination of said rental agreement, or for any other expenses incurred by Nebraska Central Railroad Co. and due National prior to the termination of said rental agreement. Nebraska Central Railroad Co. shall further be liable for and shall pay all expenses incurred by National in taking said locomotives into its possession upon such or any default under the terms of this rental agreement.

4. Uses. - The locomotives are to be used by Nebraska Central Railroad Co. for commercial railway hauling and/or passenger purposes; and Nebraska Central Railroad Co. and National shall comply with all rules of the Association of American Railroads, the Interstate Commerce Commission and the Federal Railroad Administration, or any successors thereto, with respect to the use, maintenance and operations of the locomotives while in the possession of Nebraska Central Railroad Co.

5. Fees And Taxes. Nebraska Central Railroad Co. shall be liable for and pay and satisfy every lawful claim and liability arising against the use or operation of said locomotives during the term of this rental agreement and, as additional rental, assumes hereunder all license fees, taxes, charges and penalties imposed by the state of operation or any other state, governmental, or municipal subdivision in which said locomotives may be situated, or may be operated, during the term of this rental agreement. Nebraska Central Railroad Co. may in

good faith contest the lawfulness of the imposition of all such license fees, taxes, charges, and penalties and National shall cooperate with Nebraska Central Railroad Co. in such contest.

6. Ownership. National covenants and warrants its ownership of said locomotives and guarantees peaceful possession of the locomotives to Nebraska Central Railroad Co. at all times during the term of this agreement.

7. Indemnity. Nebraska Central Railroad Co. shall indemnify National against any loss, liability, damage or expense which it may incur by reason of any claim made by third parties growing out of the operation of said locomotives, except for the loss, liability damage or expense caused or resulting from the negligence or willful misconduct of National or its employees.

8. Insurance. (a) Nebraska Central Railroad Co. will provide and maintain for the said locomotives while under lease, insurance to cover both National and Nebraska Central Railroad Co. against claims of third person(s) as follows.

i. Public liability and property damage coverage protecting National and Nebraska Central Railroad Co. with respect to their liability for injuries and/or death to third person and damage, destruction or loss of use of property of third person, as provided in the insurance policy or policies.

ii. Said liability coverage shall provide for an aggregate limit of not less than Five Million dollars (\$5,000,000.00), to the extent as

commercially available, for all damages arising out of the bodily injuries to or death of persons and for all damages to or destruction of property within one year, and with maximum self insured retention of One Hundred Thousand and NO/100 dollars (\$100,000.00) to the extent commercially available.

iii. In the event Nebraska Central Railroad Co. fails to procure or maintain the above insurance, National may procure or maintain the insurance. The resultant cost shall be payable to National as part of the next rental payment, and Nebraska Central Railroad Co. failure to pay this cost shall have the same effect as the failure to pay rent.

iv. Nebraska Central Railroad Co. shall provide National with a certificate of such insurance from the insurer which shall provide that insurer will notify National in writing at least thirty (30) days prior to cancellation or refusal to renew any policy.

9. Physical Damage. Nebraska Central Railroad Co. further agrees to provide and maintain physical damage insurance coverage, in the amount stated in Exhibit A, for loss of or damage to said locomotives due to fire, theft, windstorm, flood or other risks and hazards covered by the standard type of policy

regularly issued therefore. National shall be named insured in the above physical damage policy.

10. Non-Assignment. Nebraska Central Railroad Co. agrees that it will not assign, transfer, sublet or lease its rights under this lease, without prior written consent of National, which consent shall not be unreasonably withheld, and will not pledge, mortgage or otherwise encumber or permit to exist upon or be subjected to any lien or charge, and right or interest of Nebraska Central Railroad Co hereunder. Nebraska Central Railroad Co. Agrees to keep appropriate signs and/or plaques on the locomotives to clearly show that the locomotives are not the property of Nebraska Central Railroad Co. and are owned by others. Such signs and/or plaques to be provided and mounted on locomotives by National. Nebraska Central Railroad Co. shall have the right to permit other railroad companies to use the locomotives pursuant to power exchange agreements between Nebraska Central Railroad Co. and such other railroad companies. National shall be satisfied that the maintenance performed by the using railroad is of a standard satisfactory to National. Any maintenance or repairs made shall be verified with written records.

11. Condition at Delivery. The locomotives subject to this lease shall be qualified prior to delivery and shall be in compliance with the Federal Railroad Administration requirements.

12. Warranty. The qualification work scope shall be as found in Exhibit "B" herein. Upon delivery of subject locomotives to Nebraska Central, a joint inspection of each

locomotive will be made in order to determine acceptance of each locomotive consistent with the qualification work scope. Defects to said qualification will be remedied by National prior to commencement of lease or obligation to begin rental payments. Delivery shall be at the time of joint inspection at National's shop(s) location.

13. Damage to Locomotives. Nebraska Central Railroad Co. shall pay for all damages caused by failure of Nebraska central Railroad Co. to maintain an adequate level of crankcase oil in the air compressor or diesel engine of the locomotives or other neglect of Nebraska Central Railroad Co. or Nebraska Central Railroad Co. employees or other persons using said locomotives while the locomotives are in Nebraska Central Railroad Co. possession, regardless of whether the damage is discovered while the locomotives are in the possession of Nebraska Central Railroad Co. Except as otherwise provided in this Agreement, Nebraska Central Railroad Co. further understands that National assumes no liability for injuries sustained by any person or employee of Nebraska Central Railroad Co. as a result of the use of the locomotives. National assumes all liabilities for injuries to National's employees resulting from the performance of National's obligations hereunder. National does not assume any liability for failure to keep the locomotive in proper condition or repair except as provided in the Maintenance Agreement dated _____.

B. GENERAL PROVISIONS

1. Payments. All payments or notices hereunder to be sent pursuant to this agreement shall be in writing and shall be addressed, if to National to NATIONAL RAILWAY EQUIPMENT CO., at P.O. Box 74493, Chicago, Illinois 60690, and if to Nebraska Central Railroad Co., 4420 W. Vickery Blvd, Ste. 110, Fort Worth, Texas 76107, or such other address as may be designated from time to time by either party in writing. All payments in arrearage shall bear fourteen percent (14%) per annum interest until date paid.

All payments are due in advance, bi-monthly installments, with one month's security deposit due at time of execution of this lease agreement. All payments are due on the first and the fifteenth day of each month.

Nebraska Central Railroad Company agrees that National Railway may assign its interest to a third party.

C. WARRANTY

1. Warranty. National warrants all parts and components for locomotives described in Exhibit A for a period of three (3) years while covered by this agreement.

2. Rate. National Railway shall have right of first refusal in providing additional locomotives, if required, under this lease, except that locomotives owned or leased by Nebraska Central's sister companies may be used on Nebraska Central and temporary additional locomotives may be leased from Union Pacific Railroad, but would not be maintained by National.

3. Use By Other Railroads. Nebraska Central Railroad Co. may permit other railroad companies to use the locomotives described in Exhibit A.

4. Purchase Obligation. Upon and subject to the terms and conditions set forth in this Lease Agreement and provided that the Lease Agreement has not been terminated for any reason whatsoever, the Lessee has the obligation to purchase the Equipment, as follows:

(A) Provided that Lessee is not in default hereunder, or that an event has not occurred which, with the giving of notice or passage of time or both, would constitute an Event of Default, upon the expiration of the Lease Term, Lessor will sell, and Lessee will purchase the Equipment, unless the

lease is earlier terminated pursuant to the provisions of this Lease Agreement;

(B) Provided that the Lease has not been terminated.

(C) The final balloon payment as defined in base terms shall be as follows:

(1) The Balloon Payment shall be \$18,998.00 per locomotive.

(2) Security deposit shall be returned upon payment of the Purchase Price.

Upon payment of the Final Balloon Payment, Lessor shall convey title of the Equipment by Quit Claim Bill of Sale with no warranties or repossession of any kind or nature whatsoever. Lessee shall be responsible for all closing costs including but not necessarily limited to transfer and/or sales tax.

5. Purchase of Lease Lessee may at any time prior to the termination of this lease, terminate said lease and exercise its option to purchase subject equipment by paying the present value of all remaining lease payments for each locomotive to be purchased using the stated interest rate of nine (9) percent. Such early purchase of lease shall require a minimum of thirty (30) days prior notice.

IN WITNESS WHEREOF, the parties have signed this agreement.

NATIONAL RAILWAY EQUIPMENT CO.
an Illinois Corporation by:



Lawrence J. Beal
President

SEAL

NEBRASKA CENTRAL RAILROAD CO.
a Delaware Corporation by:



Richard D. Bertel
President

SEAL

Dated: September 1, 1993

lease2.ncr

EXHIBIT "A"

<u>LOCOMOTIVE TYPE</u>	<u>PREVIOUS ROAD #</u>	<u>PRESENT ROAD #</u>	<u>CASUALTY VALUE</u>
GP38AC	MKT 170	4200	\$220,000.00
GP38AC	MKT 174	4201	\$220,000.00
GP38AC	MKT 177	4202	\$220,000.00
GP38AC	MKT 217	4203	\$220,000.00
GP38AC	UP 600	4204	\$220,000.00

EXHIBIT "B"

QUALIFICATION WORK SCOPE

A. ENGINES

1. Power assemblies to be replaced with rebuilt EMD 654E assemblies. All new seals and gaskets to be used during installation.
2. Leads to be taken on each assembly. All defects will be corrected.
3. Lube oil samples taken prior to start up and after load test. New lube oil to be applied in engine.
4. Rod bearings to be replaced with new. Main bearings visually inspected and spot checks made.
5. Injectors and valve bridges replaced with rebuilt. Rockers inspected and replaced as required.
6. Roots blowers replaced with rebuilt.
7. Rebuilt water pumps to be installed.
8. Gear train back lash taken and recorded. All defects will be corrected.
9. Engine load tested and governors and racks set to gain proper horsepower. Rebuilt governor applied.
10. Major oil leaks corrected and tightened up.

B. TRUCKS

1. 2 1/2" or better roller bearing wheels to be applied.
2. Bad order brake shoes renewed.
3. Bent or off running shoes and rigging to be repaired. To be single shoe design.
4. Bad order pedestal liners replaced when cracked or out of limits.
5. Traction motors to be qualified.
6. Motor supports, wicks and j-boxes will be serviced and inspected.
7. Gear case leakage deemed excessive will be corrected and all relubed per standards.

B. TRUCKS - CONTINUED

8. Sander at present combination between single and inboard will be repaired in kind.
9. Center bearing and side bearing clearances to be within specification.
10. Trucks cleaned as necessary.

C. ALTERNATOR(S)

1. Electrically qualified for service.
2. Slip ring brushes renewed as required.
3. Interior cleaned as practical.
4. Armature bearing repacked and checked for noise.
5. Air box modified for application and upgraded to GP38AC.
6. Aux. generator housing modified and upgraded to GP38AC.

D. ELECTRICAL SYSTEM

1. Will be inspected for defects and corrected.
2. Free locomotive of grounds.
3. System function test all circuits.
4. Cycle and recalibrate transition circuits.
5. Install new or rebuilt batteries.
6. Set voltage regulation.
7. Apply all missing covers.
8. Apply all light bulbs as necessary.
9. Load test system.
10. Replace brushes as required.
11. Apply ditch lighting.
12. Apply strobe light.
13. Apply Kim Hotstart heaters. (From RRVW)

D. ELECTRICAL SYSTEM - CONTINUED

14. Apply CCS.
15. Apply speedometer and speed recorder.
16. Apply 14KW aux. generator and electric heat.

E. AIR BRAKE

1. Give fresh 92 day FRA.
2. Inspect air compressor for pumping oil, repair as necessary.
3. Renew air intake filters.

F. COOLING

1. Inspect for leaks while under hydro test and correct defects.
2. Load test and monitor all systems.

G. LUBE SYSTEM

1. Repair leaks as necessary.
2. Load test and monitor temperature difference on lube oil cooler.

H. FUEL

1. 60 lb., test engine fuel lines and injectors for leakage.
2. Change all filters.
3. Carbody filter will be renewed.

I. ENGINE AIR FILTERS

1. Renew all filters on engine air intake.
2. Carbody filter will be renewed.

J. LOAD TEST

1. Do standard 4 hour load test.
2. Adjust and correct defects.

K. PAINING

1. Unit to be sandblasted on the exterior.
2. Interior of engine room and cab to be painted suede gray.
3. Unit to be painted on the exterior using a two color paint scheme.

L. SNOW PLOWS

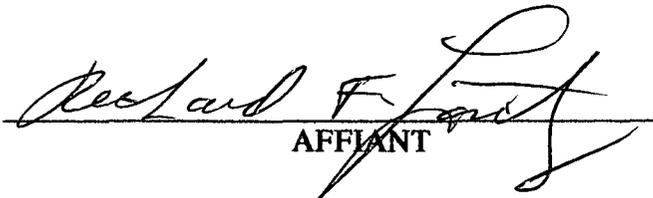
1. One (1) snow plow per unit front end.

AFFIDAVIT

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

The undersigned states that he has read the attached document and that the document attached is identical to the complete and original Lease Agreement.

This Affidavit is made pursuant to the procedures in Section 117.3(2)(b) relative to the recordation of documents with the Interstate Commerce Commission.


AFFILIANT

Subscribed and Sworn to
before me this 5th day
of October, 1993.


NOTARY PUBLIC

