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RECORDATION NO. 11667-A FILED 1420

JUN 29 1990 - 2:00 PM  
INTERSTATE COMMERCE COMMISSION

June 29, 1990

15 RUE DE LA LOI  
B-1040 BRUSSELS  
TELEPHONE 011 (322) 231-0903  
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Dear Ms. McGee:

*\$15.00 filing fee*

On behalf of EFS Alpha, Inc., a Delaware corporation, I submit for filing and recording under 49 U.S.C. Section 11303(a) and the regulations promulgated thereunder, executed counterparts of a secondary document, not previously recorded, entitled Assignment and Assumption Agreement, entered into June 29, 1990. The aforesaid document relates to that certain Equipment Lease dated as of March 1, 1980, recorded with the Interstate Commerce Commission under Recordation No. 11667 on April 14, 1980, and should be filed under the next available letter designation under Recordation No. 11667, which we believe will be -A.

The parties to the enclosed document are:

EFS Alpha, Inc. - "Seller/Assignor"  
c/o Pegasus Capital Corporation  
One Maritime Plaza, 15th Floor  
San Francisco, California 94111

Chrysler Rail Transportation Corporation -  
"Transferee/Assignee"  
300 Knightsbridge Parkway  
Suite 320  
Lincolnshire, Illinois 60069

The said document among other things, is an assignment, transfer and sale by EFS Alpha, Inc. of its right, title and interest in, to and under the above-mentioned Lease Agreement and equipment covered thereby to Chrysler Rail Transportation Corporation.

The equipment covered by the document is the equipment covered in the aforesaid Lease Agreement.

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

*this one is 11667-A*

*Counterparts - J. H. Harrison*

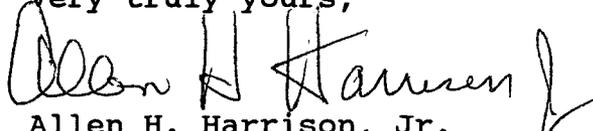
JUN 29 1990 2:00 PM

"Assigns Lease and all equipment thereunder"

Enclosed is a check in the amount of fifteen dollars (\$15) in payment of the filing fee.

Once the filing has been made, please return to bearer the stamped counterparts of the document not required for filing purposes, together with the fee receipt, the letter from the ICC acknowledging the filing, and the two extra copies of this transmittal letter.

Very truly yours,



Allen H. Harrison, Jr.  
Attorney for EFS Alpha, Inc.  
for the purpose of this filing

Honorable Noreta R. McGee  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Enclosures

BY HAND

**Interstate Commerce Commission**  
Washington, D.C. 20423

6/29/90

OFFICE OF THE SECRETARY

Allen H. Harrison, Jr.  
Wilmer, Cutler & Pickering  
2445 M. Street, N. W.  
Washington, D. C. 20037-1420

Dear Sirs:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 6/29/90 at 2:30PM, and assigned recordation number(s). 11667-A

Sincerely yours,



Noreta R. McGee  
Secretary

Enclosure(s)

11667-A

RECORDATION NO. 11667-A FILED 1488

JUN 29 1990 -2:00 PM

ASSIGNMENT AND ASSUMPTION AGREEMENT

INTERSTATE COMMERCE COMMISSION

This Assignment and Assumption Agreement is entered into this 29th day of June, 1990, by and between EFS Alpha, Inc., a Delaware corporation ("Seller"), and Chrysler Rail Transportation Corporation, a Delaware corporation ("Transferee"), for the benefit of Western Co-Operative Fertilizers (U.S.) Inc., a Delaware corporation ("Lessee").

WHEREAS, Lessee and Seller have heretofore entered into that certain Purchase Order Assignment dated as of March 1, 1980 (the "Purchase Order Assignment"), providing for the assignment by Lessee to Seller of its rights to purchase the one hundred covered hopper cars (the "Railcars") more fully described in Schedule A hereto from Trinity Industries, Inc.;

WHEREAS, Seller and Lessee have heretofore entered into that certain Equipment Lease dated as of March 1, 1980 (the "Lease"), which Equipment Lease was duly recorded by the Interstate Commerce Commission on April 14, 1980, and assigned recordation number 11667, providing for the lease of the Railcars to Lessee by Seller;

WHEREAS, Seller, Lessee, Western Co-Operative Fertilizer Limited, a Canadian corporation ("Guarantor"), Aetna Life Insurance Company ("Note Purchaser"), and The Connecticut Bank and Trust Company, as trustee ("Security Trustee"), have heretofore entered into that certain Participation Agreement dated as of March 1, 1980 (the "Participation Agreement");

WHEREAS, Guarantor and Seller have heretofore entered into that certain Guaranty Agreement dated as of March 1, 1980 (the "Guaranty Agreement");

WHEREAS, concurrently with the execution and delivery of this Agreement by the parties hereto, Seller shall pay Note Purchaser all indebtedness owed Note Purchaser under the 13% Secured Note dated April 14, 1980, in the original principal amount of \$3,322,658.95 and Note Purchaser shall arrange for the delivery by Security Trustee of a Release dated the date hereof (the "Release") duly executed by the Security Trustee for filing with the Interstate Commerce Commission whereby the lien created in favor of the Security Trustee pursuant to the Security Agreement - Trust Deed dated as of March 1, 1980 (the "Security Agreement"), between Seller and Security Trustee shall be released and extinguished and the Security Agreement terminated;

WHEREAS, pursuant to an Assignment and Purchase Agreement of even date herewith between Seller, as seller, and Transferee, as buyer (the "Purchase Agreement"), Seller has agreed to sell the Railcars to Transferee and to assign all of its right, title and interest in and to the Lease, the Participation Agreement, the Purchase Order

Assignment and the Guaranty Agreement to Transferee in accordance with the terms hereof and Transferee has agreed to accept such assignment in accordance with the terms hereof;

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows.

1. Assignment by Seller. Seller does hereby irrevocably and unconditionally transfer, convey, assign, set over, bargain, sell and deliver to Transferee all of Seller's rights, titles and interest in, under and to the Participation Agreement, the Purchase Order Assignment, the Lease and the Guaranty Agreement provided, however, that Seller hereby reserves, and nothing herein shall be construed as an assignment, transfer, sale or setting over of, any of the rights, titles and interests of Seller in and to each and every indemnity and each and every obligation to provide insurance (other than insurance relating to loss of or damage to the Railcars) on behalf or in favor of Seller under Section 6 of the Purchase Order Assignment or Section 6 of the Lease to the extent that such indemnities and obligations arise, or relate to events or circumstances occurring or in existence, on or prior to the date hereof.

2. Representations and Warranties of Seller. Seller represents and warrants that:

(a) Seller is a corporation duly organized, validly existing and in good standing under the laws of Delaware and has the full power and authority and legal right to execute, deliver and perform this Agreement;

(b) The execution and delivery by Seller of this Agreement does not violate any provisions of law binding on it, any order of any court or governmental agency in proceedings to which Seller is a party, the Certificate of Incorporation or By-laws of Seller, or any indenture, agreement or other instrument to which Seller is a party or by which it, or any of its property, may be bound;

(c) Seller is not in default of any of its obligations under the Participation Agreement, the Lease, the Purchase Order Assignment or the Guaranty Agreement and all obligations of Seller under the Purchase Order Assignment to the Manufacturer (as defined therein) have been fulfilled;

(d) the Lease and the Railcars are not subject to any pledges, liens or encumbrances save those specifically referred to in Schedule A hereto;

(e) the executed originals of the Lease, the Participation Agreement, the Guaranty and the Purchase Order Assignment to be

delivered to Purchaser concurrently with the execution and delivery of this Agreement are true and complete originals thereof and there have been no amendments to any of the foregoing agreements;

(f) Seller does not have knowledge of the existence of any Event of Default (as defined therein) under the Lease other than any such Event of Default that may exist arising out of the General Electric Agreement and the Kalium Agreement referred to in Schedule A hereto; and

(g) upon the execution and delivery by each party hereto to the other party hereto, Transferee shall be entitled to receive from the Lessee the sum of \$127,920.33 on October 1, 1990, and quarterly thereafter, until July 1, 1997, and all other amounts payable by Lessee, as lessee under the Lease, to Transferee, as lessor under the Lease, on and after the date of this Agreement other than the quarterly rental of \$127,920.33 due on July 1, 1990, and any indemnification amounts payable to Seller under Section 6 of the Lease arising out of events or circumstances occurring or in existence on or prior to the date hereof.

3. Representations and Warranties of Transferee. Transferee represents and warrants that:

(a) Transferee (i) is a corporation duly organized, legally existing and in good standing under the laws of Delaware and has the full power and authority and legal right to execute, deliver and perform this Agreement and to perform the obligations of Seller under the Participation Agreement, the Lease and the Guaranty Agreement; and the performance or observance by Transferee of any of its obligations thereunder and hereunder does not violate any provisions of law binding on it (other than laws to which Transferee may be subject by reason of the business activities of the Lessee or the nature or use of the Railcars), any order of any court or governmental agency in proceedings to which Transferee is a party, the Certificate of Incorporation or By-laws of Transferee, or any indenture, agreement or other instrument to which Transferee is a party or by which it, or any of its property, may be bound, and will not be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Transferee pursuant to the provisions of any such indenture, agreement or other instrument;

(b) Pending Litigation. There are no proceedings pending, or to the knowledge of Transferee threatened, against Transferee or any of its properties in any court or before any governmental authority or arbitration board or tribunal which, if adversely determined, would materially and adversely affect the Railcars or

the ability of Transferee to perform its obligations as the assignee of Seller under the Participation Agreement, the Lease and the Guaranty Agreement;

(c) Title to the Collateral. The Railcars are free and clear of any liens or encumbrances which result from claims against Transferee other than Permitted Encumbrances (as defined in the Participation Agreement) and Transferee has not by affirmative act conveyed title to the Railcars to any Person (as defined in the Participation Agreement) or subjected the Railcars to any lien or encumbrance;

(d) No Defaults. Transferee is not in violation in any material respect of any of its obligations as assignee of the Seller under the Participation Agreement, the Lease and the Guaranty Agreement;

(e) Governmental Consent. Neither any relationship between Transferee and any other Person, nor any circumstance in connection with the execution and delivery of this Agreement or the Assignment and Purchase Agreement, is such as to require a consent, approval or authorization of, or filing, registration or qualification with, any governmental authority on the part of the Transferee, other than the filing and registration of the Release and this Agreement with the Interstate Commerce Commission pursuant to 49 USC Section 11303;

(f) It is acquiring its interest in the Railcars and the Lease for its own account for investment and not with a view to, or for sale in connection with any, distribution but subject nevertheless to any requirement of law that the disposition of its property shall at all times be and remain within its control; and

(g) Chrysler Capital Corporation, the parent corporation of Transferee has a net worth of not less than \$25,000,000 as of the date hereof, and Transferee owns unencumbered assets in excess of one hundred million dollars and has no outstanding liabilities as of the date hereof.

4. Assumption. Transferee hereby agrees to be bound by all terms of, and to undertake all obligations of Seller as Lessor under, the Lease, the Participation Agreement and the Guaranty Agreement to the same extent as if it were a party to each such agreement.

5. Governing Law. This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of New York.

6. Third Party Beneficiary. All of the terms and provisions of this Agreement, including without limitation the representations and warranties of Transferee set forth in Section 3 hereof, are expressly made and entered into for the benefit of Lessee.

Notwithstanding the foregoing, the Lessee shall have no obligations whatsoever under this Agreement.

7. Counterparts. This Agreement may be executed in separate counterparts each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Seller and Transferee have caused this Agreement to be duly executed on the day and year first above written.

EFS ALPHA, INC.

By:   
Name: Mark S. Maymar  
Title: President

CHRYSLER RAIL TRANSPORTATION CORPORATION

By:   
Name: Lewis B. Ferrelly  
Title: V.P.

SCHEDULE A  
to the  
ASSIGNMENT AND ASSUMPTION AGREEMENT

DESCRIPTION OF RAILCARS

One Hundred (100), 4750 cubic foot covered hopper cars manufactured by Trinity Industries, Inc., and delivered new on April 14, 1980 (40 cars), April 21, 1980 (30 cars) and May 6, 1980 (30 cars). The Railcars are 100-ton welded, triple covered hopper cars with through center sills and gravity discharge having the following marks:

WCFX 4500 - 4599, inclusive

PERMITTED ENCUMBRANCES:

1. Equipment Lease Agreement (the "Lease") dated as of March 1, 1980 between Western Co-operative Fertilizers (U.S.) Inc., as Lessee ("Lessee") and EFS Alpha, Inc., as Lessor ("Lessor"), for 100 covered hoppers, as described on Schedule A herein.
2. Administrative Service and Repair Agreement (Car Leasing Agreement 4823-95) dated as of February 17, 1987, between Lessee and General Electric Railcar Services Canada Ltd., a Canadian corporation ("GE") (the "General Electric Agreement").
3. Schedule I Rider No. 21 dated as of February 17, 1987, between GE and Kalium Chemicals Limited (the "Kalium Agreement").
4. Any liens permitted by Section 9 of the Lease except the claims against, through or under the Lessor referred to therein.

STATE OF CALIFORNIA )  
 )  
COUNTY OF SAN FRANCISCO )      ss.:

On this 28<sup>th</sup> day of June, 1990, before me, Kathy Kimura-Barnes, a Notary Public of said State, duly commissioned and sworn, personally appeared Mark S. Maymar, to be personally known, who by me being duly sworn, says that he is President of EFS Alpha, Inc., a Delaware corporation, and that the foregoing instrument was signed and sealed on behalf of said corporation for the purposes and consideration therein expressed, and as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Kathy Kimura-Barnes  
Kathy Kimura-Barnes  
Notary Public

[seal]

STATE OF CONNECTICUT )  
 )  
COUNTY OF Fairfield )      ss.:

On this 28<sup>th</sup> day of June, 1990, before me, Amy E. Starcher, a Notary Public of said State, duly commissioned and sworn, on this day personally appeared LOUIS B. EVERLY, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be a VICE PRESIDENT of Chrysler Rail Transportation Corporation, a Delaware corporation, and acknowledged to me that he executed said instrument for the purposes and consideration therein expressed, and as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Amy E. Starcher  
Notary Public

My Commission Expires May 1, 1993

[seal]