

RECORDATION NO. 22538-6 FILED

APR 03 '06

2-47 PM

SURFACE TRANSPORTATION BOARD



VIA UPS 2<sup>nd</sup> DAY AIR

March 29, 2006

## FIRST UNION RAIL

One O'Hare Centre  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Tel 847.318.7575  
Fax 847.318.7588

Mr. Vernon E. Williams  
Surface Transportation Board  
1925 K Street, N.W., Room 704  
Washington, DC 20423-0001  
Attn: Recordation of Railroad Equipment

**Re: Memorandum of Lease Agreement**

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) originals and one (1) copy of a Memorandum of Lease Agreement, dated July 11, 2005, a secondary document as defined in the Board's Rules for the Recordation of Documents. The enclosed document relates to the Lease Agreement which was duly filed with the Commission under Recordation Number 22538.

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

Lessor: First Union Rail Corporation  
One O'Hare Center  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Lessee: Dakota, Missouri Valley & Western  
Railroad, Inc.  
3501 E. Rosser Avenue  
Bismarck, ND 58501

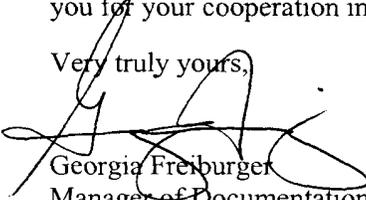
A description of the railroad equipment covered by the enclosed document is seventy-three (73) 4750 cu. ft. covered hopper cars, with NOKL marks (see Exhibit A for car numbers).

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

Also enclosed is a check in the amount of \$33.00 payable to the order of the Surface Transportation Board covering the required recordation fee. Kindly return one (1) stamped original of the enclosed document to the undersigned along with the additional copies.

If you have any questions regarding the above-referenced matter, please contact me at (347) 384-5387. Thank you for your cooperation in this matter.

Very truly yours,

  
Georgia Freiburger  
Manager of Documentation

Enclosures

(DMVW035)

APR 03 '06

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ASSGN. NO.: DMVW035

MEMORANDUM OF LEASE

SURFACE TRANSPORTATION BOARD

THIS MEMORANDUM OF LEASE (the "Memorandum") is made and entered into as of this the 11<sup>th</sup> day of July, 2005, by and between First Union Rail Corporation ("Lessor"), a North Carolina corporation, and Dakota, Missouri Valley & Western Railroad, Inc. ("Lessee").

**WITNESSETH:**

The undersigned Lessor and Lessee have entered into that certain Lease Agreement (the "Lease"), dated as of March 24, 1997, whereby Lessor has agreed to lease to Lessee certain railcars pursuant to Rider No. 26 to the Lease (the "Rider"), as described in more particular on Exhibit A attached hereto, effective as of May 6, 2005, and subject to the terms, conditions and provisions of the above-mentioned Lease and Rider.

IN WITNESS WHEREOF, the parties hereto have each caused this Memorandum to be duly executed under seal by their respective officers duly authorized as of the date and year first above written.

**LESSOR:**

FIRST UNION RAIL CORPORATION

ATTEST:

By: Richard F. Seymour

Name: RICHARD F. SEYMOUR  
Vice President Sales & Marketing

Title: \_\_\_\_\_

By: Theresa Catafano

Name: THERESA CATAFANO

Title: MGR. OF DOCUMENTATION Executed on this 11<sup>th</sup> day of July, 2005.

[CORPORATE SEAL]

STATE OF ILLINOIS

COUNTY OF COOK

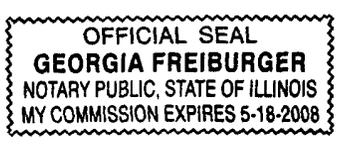
I, GEORGIA FREIBURGER, a Notary Public of the County and State aforesaid, certify that RICHARD F. SEYMOUR personally appeared before me this day and acknowledged his due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal this 11<sup>th</sup> day of July, 2005.

Georgia Freiburger  
Notary Public

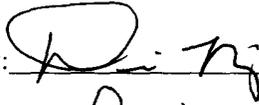
My Commission Expires:

5-2008  
(Notary Public)



**LESSEE:**

DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.

By:   
Name: Dennis Ming  
Title: VP

ATTEST:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

[CORPORATE SEAL]

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged his due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public

Commission Expires:

\_\_\_\_\_  
(Notary Public)

## EXHIBIT A to MEMORANDUM OF LEASE

- I. NUMBER OF CARS: Seventy-three (73)
- II. DESCRIPTION OF CARS: Covered Hopper Cars, 4750 cu. ft., with vibrator brackets, 1980-1981 built, loading to 263/268,000 lbs.
- III. CAR NUMBERS:
- |             |             |
|-------------|-------------|
| NOKL 822190 | NOKL 833450 |
| NOKL 822917 | NOKL 833451 |
| NOKL 823002 | NOKL 833452 |
| NOKL 823017 | NOKL 833453 |
| NOKL 824711 | NOKL 833461 |
| NOKL 826972 | NOKL 833463 |
| NOKL 828149 | NOKL 833467 |
| NOKL 829401 | NOKL 833470 |
| NOKL 829548 | NOKL 833472 |
| NOKL 829651 | NOKL 833473 |
| NOKL 830239 | NOKL 833477 |
| NOKL 830449 | NOKL 833480 |
| NOKL 830572 | NOKL 833483 |
| NOKL 830892 | NOKL 833484 |
| NOKL 832069 | NOKL 833486 |
| NOKL 832102 | NOKL 833487 |
| NOKL 833400 | NOKL 833488 |
| NOKL 833402 | NOKL 833492 |
| NOKL 833404 | NOKL 833500 |
| NOKL 833407 | NOKL 833504 |
| NOKL 833417 | NOKL 833508 |
| NOKL 833418 | NOKL 833509 |
| NOKL 833423 | NOKL 833511 |
| NOKL 833425 | NOKL 833512 |
| NOKL 833426 | NOKL 833516 |
| NOKL 833427 | NOKL 833517 |
| NOKL 833429 | NOKL 833518 |
| NOKL 833431 | NOKL 833519 |
| NOKL 833432 | NOKL 839020 |
| NOKL 833434 | NOKL 839036 |
| NOKL 833436 | NOKL 839039 |
| NOKL 833437 | NOKL 839117 |
| NOKL 833438 | NOKL 839286 |
| NOKL 833439 | NOKL 839290 |
| NOKL 833442 | NOKL 839292 |
| NOKL 833444 |             |
| NOKL 833447 |             |
| NOKL 833448 |             |