

RECORDATION NO. 25266 FILED

OCT 29 '04 11-57 AM

SURFACE TRANSPORTATION BOARD

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ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

October 29, 2004

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Mortgage, dated as of October 29, 2004, a primary document as defined in the Board's Rules for the Recordation of Documents.

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

Debtor:	Babcock & Brown Rail Funding LLC 230 Park Avenue, 32 nd Floor New York, New York 10169
Secured Party:	Bayerische Hypo-Und Vereinsbank AG, Agent FPA 4 Lease/Asset Finance Am Tucherpark 1 (FPA) 80538 Munich Germany

Mr. Vernon A. Williams
October 29, 2004
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A description of the railroad equipment covered by the enclosed document is:

1. 246 mill gondola railcars: CNW 350500 – CNW 350751 (excluding CNW 350527, CNW 350575, CNW 350582, CNW 350645, CNW 350679 and CNW 350708), and
2. 240 aluminum rapid discharge coal cars: COMX 9001 – COMX 9025 (excluding COMX 9062, COMX 9108, COMX 9199, COMX 9209 and COMX 9222) .

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

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/anm
Enclosures

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EXECUTION COPY

SURFACE TRANSPORTATION BOARD

MEMORANDUM OF MORTGAGE

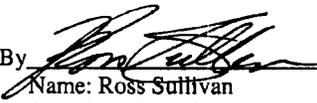
Memorandum of Mortgage, made and entered into as of Oct. 29, 2004 between BABCOCK & BROWN RAIL FUNDING LLC (the "Debtor") and BAYERISCHE HYPO- UND VEREINSBANK AG, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "Secured Party"). Terms used in this instrument have the meanings assigned thereto in the Amended and Restated Security Agreement dated as of October 18, 2002 (as supplemented, including by Security Agreement Supplement No. 15 dated the date hereof, the "Security Agreement") between the Secured Party and the Debtor.

WITNESSETH:

The undersigned and the Secured Party have entered into the Security Agreement, by which the Debtor has granted a security interest in certain railroad equipment bearing reporting marks and road numbers as listed on Exhibit A attached hereto and in each lease referred to on Exhibit B attached hereto to the Secured Party in order to secure the Debtor's performance of its obligations as described in the Security Agreement.

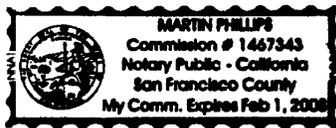
IN WITNESS WHEREOF, the party hereto has caused this memorandum to be duly executed by its officer duly authorized as of the date and year first above written.

BABCOCK & BROWN RAIL FUNDING LLC

By 
Name: Ross Sullivan
Title: Vice President

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

On the 28 day of October in the year 2004 before me personally came Ross Sullivan to me known, who, being by me duly sworn, did depose and say that he resides at 1090 Butterfield Road, San Anselmo, CA 94960; that he is the Vice President (duly appointed) of Babcock & Brown Rail Funding LLC, the limited liability company described in and which executed the above instrument; and that he signed his name thereto by authority of the officers of said limited liability company.



[Notarial Seal]

Martin Phillips

Notary Public

Memorandum of Mortgage

NEWYORK/#140754.1

**Exhibit A
to Memorandum of Mortgage**

EQUIPMENT

Lease #	# Cars	Year Built	Description	Reporting Marks	Casualty Marks
1	246	1980	2494 CF 50' mill gondola railcars equipped with 5' sides, AAR Car Type Code E530, 263,000 GRL, manufactured by Trinity Industries, Inc.	CNW 350500-350644, inclusive; 350646-350678, inclusive; and 350680-350751, inclusive	CNW 350527, 350575, 350582 and 350708
2	240	1995	4074 CF rotary Aluminum Rapid Discharge IV coal cars, 286,000 GRL, AAR Car Type Code K341, 286,000 GRL, manufactured by Trinity Industries, Inc.	COMX 9001-9245, inclusive	COMX 9062, 9108, 9199, 9209 and 9222

**Exhibit B
to Memorandum of Mortgage**

LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS

Lease #

1. Car Leasing Agreement 8812-83 dated October 14, 1986, by and between NBB North America Co., Ltd. (as assignee of General Electric Railcar Services Corporation) and Union Pacific Railroad Company.

Rider No. 41 forming part of Car Leasing Agreement 8812-83 dated December 27, 1995, by and between NBB North America Co., Ltd. (as assignee of General Electric Railcar Services Corporation) and Union Pacific Railroad Company.

Bill of Sale dated June 26, 2000, from General Electric Railcar Services Corporation to NBB North America Co., Ltd.

Bill of Sale dated October 29, 2004 from NBB North America Co., Ltd. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Purchase Agreement [NBB/BBRF] dated as of October 29, 2004, between NBB North America Co., Ltd. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of October 29, 2004, between NBB North America Co., Ltd. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Notice and Acknowledgment dated October ____, 2004, made by NBB North America Co., Ltd. and Babcock & Brown Rail Funding LLC to Union Pacific Railroad Company, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated October 29, 2004, made by Babcock & Brown Rail Funding LLC and NBB North America Co., Ltd. to Union Pacific Railroad Company, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Side Letter dated October 29, 2004 from Babcock & Brown Rail Funding LLC addressed to NBB North America Co., Ltd., in respect of the original equipment cost for the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Exhibit B
Page 1

2. Lease Agreement No. 1519-01 dated May 22, 1998, by and between NBB North America Co., Ltd. (as successor to General Electric Railcar Services Corporation) and Exelon Generation Company, LLC (as assignee of Commonwealth Edison Company).

Rider No. 1 forming part of Lease Agreement No. 1519-01 dated April 25, 1995, by and between NBB North America Co., Ltd. (as successor to General Electric Railcar Services Corporation) and Exelon Generation Company, LLC (as assignee of Commonwealth Edison Company).

Consent to Assignment and Assumption by NBB North America Co., Ltd. and Confirmation of Assumption by Exelon Generation Company, LLC dated October 30, 2001.

Bill of Sale dated June 26, 2000, from General Electric Railcar Services Corporation to NBB North America Co., Ltd.

Bill of Sale dated October 29, 2004 from NBB North America Co., Ltd. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Purchase Agreement [NBB/BBRF] dated as of October 29, 2004, between NBB North America Co., Ltd. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of October 29, 2004, between NBB North America Co., Ltd. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Notice and Acknowledgment dated October ____, 2004, made by NBB North America Co., Ltd. and Babcock & Brown Rail Funding LLC to Exelon Generation Company, LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated October 29, 2004, made by Babcock & Brown Rail Funding LLC and NBB North America Co., Ltd. to Exelon Generation Company, LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Side Letter dated October 29, 2004 from Babcock & Brown Rail Funding LLC addressed to NBB North America Co., Ltd., in respect of the original equipment cost for the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Together with all substitutions, replacements and renewals of the property above described, and all property which shall hereafter become physically attached to or incorporated in the property

above described, whether the Debtor now has rights therein or such rights shall hereafter be acquired by it.

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: _____

10/29/04



Robert W. Alvord