

RECORDATION NO. 25610 FILED

MAY 31 '05

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SURFACE TRANSPORTATION BOARD

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ELIAS C. ALVORD (1942)  
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May 31, 2005

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 May 31, 2005, 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  
885 Second Avenue, 49<sup>th</sup> Floor  
New York, New York 10017

Secured Party: Bayerische Hypo-Und Vereinsbank AG, Agent  
FPA 4 Lease/Asset Finance  
Am Tucherpark 1 (FPA)  
80538 Munich  
Germany

Mr. Vernon A. Williams  
May 31, 2005  
Page 2

A description of the railroad equipment covered by the enclosed document is:

1. 149 flatcars: AOK 29580 – AOK 29645 and AOK 29647 – AOK 29729, and
2. 75 flatcars: AOK 26700 – AOK 26774.

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

Memorandum of Mortgage.

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 stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/anm  
Enclosures

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SURFACE TRANSPORTATION BOARD

EXECUTION COPY

**MEMORANDUM OF MORTGAGE**

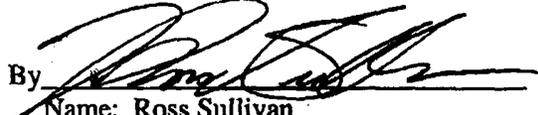
Memorandum of Mortgage, made and entered into as of May 31, 2005 between BABCOCK & BROWN RAIL FUNDING LLC (the "Debtor") and BAYERISCHE HYPO-UND VEREINSBANK AG, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "Secured Party"). Terms used 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. 19 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



**Exhibit A  
to Memorandum of Mortgage**

**EQUIPMENT**

<b>Lease #</b>	<b># Cars</b>	<b>Year Built</b>	<b>Description</b>	<b>Reporting Marks</b>	<b>Casualty Marks</b>
1	149	2005	73' center partition flatcars with flat floors and non-tapered center partitions, AAR Car Type F483, 286,000 lbs. GRL, manufactured by American Railcar Industries, Inc.	AOK 29580-29645, inclusive; and 29647-29729, inclusive.	None
2	75	2005	73' center partition flatcars with flat floors and non-tapered center partitions, AAR Car Type F483, 286,000 lbs. GRL, manufactured by American Railcar Industries, Inc.	AOK 26700-26774, inclusive.	None

**LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS**

Lease #

1. Lease Agreement made as of September 15, 2004, by and between Greenbrier Leasing Corporation and Canadian Forest Products Ltd., to the extent the same relates to the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Schedule No. 1 to Lease Agreement made as of September 15, 2004, by and between Greenbrier Leasing Corporation and Canadian Forest Products Ltd.

Memorandum of Lease Agreement dated September 15, 2004, by and between Greenbrier Leasing Corporation and Canadian Forest Products Ltd.

Bills of Sale dated May 9, 2005, from American Railcar Industries, Inc. to Greenbrier Leasing Corporation, and each Certificate of Acceptance executed by Greenbrier Leasing Corporation in relation to the railcars identified in such Bills of Sale.

Certificate of Acceptance dated May 19, 2005 executed by Canadian Forest Products Ltd., in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Bill of Sale dated May 31, 2005 from Greenbrier Leasing Corporation to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Purchase Agreement [GLC] dated as of May 31, 2005, between Greenbrier Leasing Corporation 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 May 31, 2005, between Greenbrier Leasing Corporation 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 May 25, 2005, made by Greenbrier Leasing Corporation and Babcock & Brown Rail Funding LLC to Canadian Forest Products Ltd., in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated May 31, 2005, made by Babcock & Brown Rail Funding LLC and Greenbrier Leasing Corporation to Canadian Forest Products Ltd., in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Warranty Assignment [CanFor] dated as of May 31, 2005, between Greenbrier Leasing Corporation, as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Manufacturer's Consent dated May 25, 2005, made by American Railcar Industries, Inc. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Railcar Service Agreement [CanFor] dated as of May 31, 2005, between Greenbrier Management Services, LLC and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Letter Agreement dated May 31, 2005 from Babcock & Brown Rail Funding LLC addressed to Greenbrier Leasing Corporation, in respect of the price per railcar for the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Side Letter dated May 31, 2005 from Babcock & Brown Rail Funding LLC addressed to Greenbrier Leasing Corporation, in respect of the original equipment cost for the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

2. Lease Agreement made as of November 24, 1997, by and between Greenbrier Leasing Corporation and Desticon Transportation Services, Inc., to the extent the same relates to the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Schedule No. 2 to Lease Agreement made as of January 15, 2005, by and between Greenbrier Leasing Corporation and Desticon Transportation Services, Inc.

Memorandum of Lease Agreement made and entered into as of January 15, 2005, by and between Greenbrier Leasing Corporation and Desticon Transportation Services, Inc.

Bills of Sale dated May 9, May 16 and May 26, 2005, from American Railcar Industries, Inc. to Greenbrier Leasing Corporation, and each Certificate of Acceptance executed by Greenbrier Leasing Corporation in relation to the railcars identified in such Bills of Sale.

Certificate of Acceptance dated May 24, 2005 executed by Desticon Transportation Services, Inc., in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Bill of Sale dated May 31, 2005 from Greenbrier Leasing Corporation to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Purchase Agreement [GLC] dated as of May 31, 2005, between Greenbrier Leasing Corporation 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 May 31, 2005, between Greenbrier Leasing Corporation 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 May 24, 2005, made by Greenbrier Leasing Corporation and Babcock & Brown Rail Funding LLC to Desticon Transportation Services, Inc., in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated May 31, 2005, made by Babcock & Brown Rail Funding LLC and Greenbrier Leasing Corporation to Desticon Transportation Services, Inc., in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Warranty Assignment [Desticon] dated as of May 31, 2005, between Greenbrier Leasing Corporation, as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Manufacturer's Consent dated May 26, 2005, made by American Railcar Industries, Inc. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Railcar Service Agreement [Desticon] dated as of May 31, 2005, between Greenbrier Management Services, LLC and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Letter Agreement dated May 31, 2005 from Babcock & Brown Rail Funding LLC addressed to Greenbrier Leasing Corporation, in respect of the price per railcar for the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Side Letter dated May 31, 2005 from Babcock & Brown Rail Funding LLC addressed to Greenbrier Leasing Corporation, 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: 5/31/05



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Robert W. Alvord