

RECORDATION NO. 25938 -A FILED

ALVORD AND ALVORD
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OCT 31 '05 2-15 PM
SURFACE TRANSPORTATION BOARD

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

OF COUNSEL
URBAN A. LESTER

October 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 an Assignment and Assumption Agreement, dated as of May 31, 2005, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Net Railcar Lease being filed with the Board under Recordation Number _____.

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

Assignor:	Greenbrier Babcock & Brown Rail Funding LLC 885 Second Avenue New York, New York 10017
Assignee:	Babcock & Brown Rail Funding LLC 885 Second Avenue, 49 th Floor New York, New York 10017

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

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

125 railcars: NORX 9001 - NORX 9125.

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

Assignment and Assumption Agreement.

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/anr
Enclosures

OCT 31 '05 2-15 PM

SURFACE TRANSPORTATION BOARD

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement, dated as of October 31, 2005 (this "Agreement"), is between Greenbrier Babcock & Brown Rail Funding LLC, a Delaware limited liability company (the "Transferor"), and Babcock & Brown Rail Funding LLC, a Delaware limited liability company (the "Transferee").

Witnesseth:

WHEREAS, it is the intention of the Transferor and the Transferee that by the execution and delivery of this Agreement, the Transferor will convey, assign, transfer and deliver to the Transferee and the Transferee will assume, pay, perform and discharge when due, without recourse to the Transferor, all of the Transferor's rights and obligations in, to and under the Assigned Operative Agreements (as defined below) to the extent related to the Equipment.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

1. Definitions. Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.
2. Assignment. Effective as to each item of Equipment on the date hereof, the Transferor sells, conveys, assigns, transfers and delivers to the Transferee all of the Transferor's rights, title and interest in and to such item and assigns to the Transferee all of the Transferor's rights and obligations, except to the extent constituting Existing Obligations, under each of the following as they relate to such item of Equipment:
 - (a) the Master Net Railcar Lease entered into as of September 22, 2005, by and between the Transferor, as lessor, and Northern Indiana Public Service Company, as lessee (the "Lessee"), as amended, modified or supplemented from time to time (the "Lease");
 - (b) Schedule No. 1 to the Lease entered into as of September 22, 2005, by and between the Transferor and the Lessee; and
 - (c) Warranty Bill of Sale dated October 31, 2005, from FreightCar America, Inc. to the Transferor (collectively, the "Assigned Operative Agreements").

Notwithstanding the foregoing, to the extent related to the Equipment the Transferor shall continue to be entitled to the benefit of any rights to indemnification for matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the date hereof, as specified in the Assigned Operative Agreements.

3. Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.

The Transferee accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the date hereof, assumes all obligations of the Transferor under, and agrees to be bound to the same extent as the Transferor by all the terms of the Assigned Operative Agreements to the extent related to the Equipment. Effective on and after the date hereof, to the extent related to the Equipment, the Transferee shall be deemed to stand in the place of the Transferor for all purposes under the Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Transferor shall be deemed to mean the Transferee. The Transferor, to the extent related to the Equipment and in respect of the period on and after the date hereof, is released of all obligations of the lessor under the Assigned Operative Agreements.

4. Definitions. Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Equipment: the items of equipment listed on Exhibit A hereto, together with each and every part, accessory, component and any equipment installed therein or attached thereto, including any warranty (individually such railcars shall be referred to as an "item" or "items of Equipment").

Existing Obligations: any and all liabilities and obligations of Transferor under the Ownership Interest, including the Assigned Operative Agreements, or otherwise relating to the Equipment in each such case, to the extent arising or occurring prior to the date hereof (whether or not asserted or assessed), and, with respect to the obligations, to have been performed by Transferor prior to the date hereof.

Ownership Interest: the Transferor's rights, title and interest in and to the Equipment and the Transferor's rights and obligations under the Assigned Operative Agreements, except the Existing Obligations.

5. Amendments. No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. Notices. Any notices required or permitted to be given hereunder shall be deemed given when sent by e-mail, telecopy, by overnight mail using a nationally recognized overnight courier or deposited in United States mail, registered or certified, postage prepaid, addressed to:

If to Transferor:

Greenbrier Babcock & Brown Rail Funding LLC
2 Harrison Street
San Francisco, CA 94105
Fax No.: (415) 267-1500
Email: ross.sullivan@babcockbrown.com
Attn: Ross Sullivan

With a copy to:

Greenbrier Babcock & Brown Rail Funding LLC
1 Dag Hammarskjold Plaza
885 Second Avenue, 49th Floor
New York, NY 10017
Fax No.: (212) 230-0733
Email: larry.littlefield@babcockbrown.com
Attn: Larry Littlefield

If to Transferee:

Babcock & Brown Rail Funding LLC
2 Harrison Street
San Francisco, CA 94105
Fax No.: (415) 267-1500
Email: ross.sullivan@babcockbrown.com
Attn: Ross Sullivan

With a copy to:

Babcock & Brown Rail Funding LLC
1 Dag Hammarskjold Plaza
885 Second Avenue, 49th Floor
New York, NY 10017
Fax No.: (212) 230-0733
Email: larry.littlefield@babcockbrown.com
Attn: Larry Littlefield

or to such other addresses as the Transferor or the Transferee may from time to time designate.

7. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

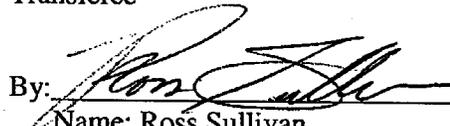
8. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligations Law.

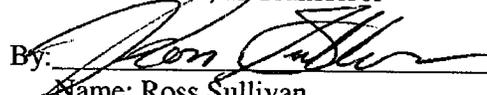
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

BABCOCK & BROWN RAIL FUNDING LLC, as
Transferee

By: 
Name: Ross Sullivan
Title: Vice President

GREENBRIER BABCOCK & BROWN RAIL
FUNDING LLC, as Transferor

By: 
Name: Ross Sullivan
Title: Vice President

State of California)
)
County of San Francisco)

On this, the 31st day of October, 2005, before me, a Notary Public in and for said County and State, personally appeared Ross Sullivan, the Vice President of Babcock & Brown Rail Funding LLC, who acknowledged himself to be a duly authorized officer of Babcock & Brown Rail Funding LLC, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Heidi Wagner
Notary Public



My Commission Expires: June 4, 2006
Residing in: San Francisco

State of California)
)
County of San Francisco)

On this, the 31st day of October, 2005, before me, a Notary Public in and for said County and State, personally appeared Ross Sullivan, the Vice President of Greenbrier Babcock & Brown Rail Funding LLC, who acknowledged himself to be a duly authorized officer of Greenbrier Babcock & Brown Rail Funding LLC, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.



Name: Heidi Wagner
Notary Public

My Commission Expires: June 4, 2006

Residing in: San Francisco

Exhibit A

RIDER NO. 3 EQUIPMENT

<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
125	2005	4520 CF Aluminum body rotary dump BethGon II Coal Porter railcars, 286,000 lbs. GRL, AAR car type code J311, built by FreightCar America, Inc.	NORX 9001-9125, inclusive.	None

CERTIFICATION

I, Edward M. Luria, an attorney licensed to practice in the District of Columbia, the State of Delaware and the Commonwealth of Pennsylvania, 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: October 31, 2005



Edward M. Luria