

OCT 31 '05 2-18 PM

SURFACE TRANSPORTATION BOARD

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ELIAS C. ALVORD (1942)
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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 a Memorandum of Mortgage, dated as of October 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 name and address of the party to the enclosed document are:

Debtor: Babcock & Brown Rail Funding LLC
885 Second Avenue
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
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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:

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

RECORDATION NO.

25938-B

FILED

OCT 31 '05

2-18 PM

EXECUTION COPY

SURFACE TRANSPORTATION BOARD

MEMORANDUM OF MORTGAGE

Memorandum of Mortgage, made and entered into as of October 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. 24 dated the date hereof, the "Security Agreement") between the Secured Party and the Debtor.

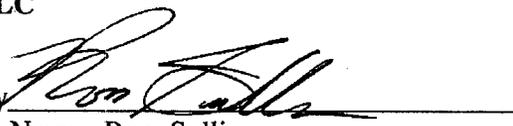
WITNESSETH:

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 31st day of October in the year 2005 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.



Heidi Wagner
Notary Public

[Notarial Seal]

Memorandum of Mortgage

**Exhibit A
to Memorandum of Mortgage**

EQUIPMENT

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
1	125	2005	4520 CF Aluminum body rotary dump BethGon II Coal Porter railcars, 286K lbs. GRL, AAR car type J311	NORX 9001-9125, inclusive	None

LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS

Lease # 1

Master Net Railcar Lease dated as of September 22, 2005, by and between Greenbrier Babcock & Brown Rail Funding LLC to the extent the same relates to the Equipment described in Exhibit A hereto.

Schedule No. 01 to Master Net Railcar Lease dated as of September 22, 2005, by and between Greenbrier Babcock & Brown Rail Funding LLC and Northern Indiana Public Service Company, to the extent the same relates to the Equipment described in Exhibit A hereto.

Memorandum of Net Railcar Lease dated as of September 22, 2005, by and between Greenbrier Babcock & Brown Rail Funding LLC and Northern Indiana Public Service Company.

Certificate of Acceptance of Railroad Cars dated October 20, 2005, from Northern Indiana Public Service Company to Greenbrier Babcock & Brown Rail Funding LLC in relation to the railcars identified in the Certificate of Acceptance.

Master Railcar Manufacturing and Purchase Agreement made and entered into as of June 28, 2005, by and between FreightCar America, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described in Exhibit A hereto.

Rider No. 03 to Master Railcar Manufacturing and Purchase Agreement between FreightCar America, Inc. and Babcock & Brown Rail Funding LLC dated as of October 10, 2005, to the extent the same relates to the Equipment described in Exhibit A hereto.

Assignment and Assumption Agreement dated as of October 19, 2005, between Babcock & Brown Rail Funding LLC and Greenbrier Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described in Exhibit A hereto.

Warranty Bill of Sale dated as of October 31, 2005, from FreightCar America, Inc. to Greenbrier Babcock & Brown Rail Funding LLC and Certificates of Acceptance executed by Greenbrier Babcock & Brown Rail Funding LLC in relation to the railcars identified in the Warranty Bill of Sale.

Bill of Sale dated October 31, 2005 from Greenbrier Babcock & Brown Rail Funding LLC to Babcock & Brown Rail Funding LLC, in relation to the Equipment described in Exhibit A hereto.

Assignment and Assumption Agreement dated as of October 31, 2005, between Greenbrier Babcock & Brown Rail Funding LLC and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described 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, 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