



The David J. Joseph Company



May 8, 2006

RECORDATION NO. 26024-A FILED

Mr. Vernon Williams
Recordations Unit
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0006

MAY 10 '06

4-51 PM

SURFACE TRANSPORTATION BOARD

Dear Mr. Williams:

Please find enclosed, two (2) originals of the Memorandum of Assignment and Assumption Agreement dated February 9, 2006, between the following parties:

Assignee: MacQuarie Rail, Inc.
100 Wellington Street West
Toronto, ON M5K1J3

Assignor: The David J. Joseph Company
300 Pike Street
Cincinnati, OH 45202

Please see Schedule 1 attached hereto for the equipment, (96) railcars, involved in this transaction.

This filing is to appear in the index as follows: Memorandum of Assignment and Assumption Agreement dated February 9, 2006 related to ninety-six (96) railcars bearing reporting marks: CNW 471700 – 471797, sporadic.

Please file this as a secondary document under Recordation Number 26024-A as it relates to documents previously filed with the Surface Transportation Board under Recordation Number 26024. The filing fee for this document in the amount of \$33.00 is included on the enclosed check No. 579886. Please return a stamped original to my attention.

Should you have any questions or need further information, please do not hesitate to contact me at (513) 419-6062.

Sincerely,

The David J. Joseph Company

Julie M. Woodard
Documentation Coordinator

Enclosures

**MEMORANDUM OF
ASSIGNMENT AND ASSUMPTION AGREEMENT** SURFACE TRANSPORTATION BOARD

This Memorandum of Assignment and Assumption Agreement ("Memorandum of Assignment Agreement") made and entered into as of February 9, 2006 by and between **THE DAVID J. JOSEPH COMPANY**, a Delaware Corporation ("Assignor") and **MACQUARIE RAIL, INC.**, a Delaware corporation ("Assignee").

WITNESSETH:

1. Assignor has agreed to assign to Assignee that certain lease agreement dated April 15, 1998 and Schedule No. 005 dated November 29, 2005, between Assignor, as Lessor, and Union Pacific Railroad Company for Ninety-Six (96) railcars bearing the railroad reporting markings set forth on Schedule I.
2. This Memorandum of Assignment Agreement shall be effective as of the date first set forth below and shall be subject to the Lease Term, as defined in the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Assignment Agreement to be executed and delivered by their duly authorized representatives as of the date set forth above, and shall be effective as of the Closing Date specified in Purchase and Sale Agreement by and between Assignor and Assignee dated as of February 9th, 2006.

THE DAVID J. JOSEPH COMPANY

By: 
 Name: Everett N. Martin
 Title: Asst Corp Secretary

MACQUARIE RAIL, INC.

By:  
 Name: B Mellar David Coons
 Title: Director Director

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

On this 7th day of February, 2006, before me the subscriber, Angela Denise Watts, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Everett N. Martin, to me personally known, who stated and acknowledged that he is the Asst Corp Secretary of The David J. Joseph Company, a Delaware corporation, and duly authorized by authority of the Board of Directors or By-laws of said corporation in his capacity as such officer to execute and acknowledge this document for and in the name and on behalf of said corporation and further stated and acknowledged that he has so signed, executed and delivered this document as the free and voluntary act and deed of said corporation, for the consideration, uses and purposes therein mentioned and set forth and desired that the same might be recorded as such.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 7th day of February, 2006.

Angela Denise Watts
(Notary Signature)

My commission expires:

ANGELA DENISE WATTS
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Date Section 147.03 O.R.C

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of San Diego } ss.

On April 6, 2006 before me, Marcella Radoovich, Notary Public
Date Name and Title of Officer (e.g., Jane Doe, Notary Public)
personally appeared Bruce Mellon and David Coors
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ she/they executed the same in ~~his~~ her/their authorized capacity(ies), and that by ~~his~~ her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Marcella Radoovich
Signature of Notary Public



OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Memorandum of Assignment and Assumption Agreement
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

STATE OF _____)
) SS:
COUNTY OF _____)

On this ___ day of _____, 2006, before me the subscriber, _____, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named _____, to me personally known, who stated and acknowledged that he/she is the _____ of MacQuarie Rail, Inc., a Delaware corporation, and duly authorized by authority of the Board of Directors or By-laws of said corporation in his/her capacity as such officer to execute and acknowledge this document for and in the name and on behalf of said corporation and further stated and acknowledged that he/she has so signed, executed and delivered this document as the free and voluntary act and deed of said corporation, for the consideration, uses and purposes therein mentioned and set forth and desired that the same might be recorded as such.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this ___ day of _____, 2006.

(Notary Signature)

My commission expires:

SCHEDULE I
TO
MEMORANDUM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

CARS

Ninety-six (96) railcars bearing reporting marks as follows:

CNW 471700 – CNW 471731, inclusive
CNW 471733 – CNW 471748, inclusive
CNW 471750 – CNW 471797, inclusive

LEASE: Dated April 15, 1998 by and between DJJ Transportation Services, Inc. (n/k/a The David J. Joseph Company) and Union Pacific Railroad Company, and Schedule No. 005 dated November 29, 2005.