

RECORDATION NO. 27347 FILED

JAN 15 '08 -12 10 PM

SURFACE TRANSPORTATION BOARD

OF COUNSEL  
URBAN A LESTER

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
1050 SEVENTEENTH STREET, N.W.  
SUITE 301  
WASHINGTON, D.C.  
20036  
\_\_\_\_\_  
(202) 393-2266  
FAX (202) 393-2156  
E-MAIL alvordlaw@aol.com

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

January 15, 2008

Anne K. Quinlan, Esquire  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0001

Dear Ms. Quinlan:

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 January 15, 2008, 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, NY 10017

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

Anne K. Quinlan, Esquire  
January 15, 2008  
Page 2

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

75 covered hopper railcars: BNBX 122320 - BNBX 122394.

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

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$35.00 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,

A handwritten signature in black ink, appearing to read "Alvord", with a long horizontal flourish extending to the right.

Robert W. Alvord

RWA/sem  
Enclosures

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SURFACE TRANSPORTATION BOARD

**MEMORANDUM OF MORTGAGE**

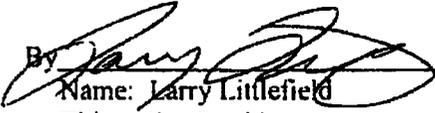
Memorandum of Mortgage, made and entered into as of January 15, 2008 between **BABCOCK & BROWN RAIL FUNDING LLC** (the "Debtor") and **BAYERISCHE HYPO-UND VEREINSBANK AG**, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "Secured Party"). Terms used in this instrument have the meanings assigned thereto in the Second Amended and Restated Security Agreement dated as of September 21, 2007 (as supplemented, including by Security Agreement Supplement No. 69 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 document 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: Larry Littlefield  
Title: Vice President



*Exhibit A  
to Memorandum of Mortgage*

**EQUIPMENT**

<u>Lessee</u>	<u>#</u> <u>Cars</u>	<u>Year</u> <u>Built</u>	<u>Manufacturer</u>	<u>AAR</u> <u>Code</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty</u> <u>Marks</u>
None	75	2007 (BNBX 122320 – 122367) and 2008 (BNBX 122368 – 122394)	Trinity North American Freight Car, Inc.	C 612	3230 CF, pressure differential covered hopper railcars, 286,000 lbs. GRL	BNBX 122320 -122394, inclusive	None

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.

**LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS**

Letter Agreement dated August 6, 2006 between Trinity North American Freight Car, Inc. and Babcock & Brown Rail Funding LLC to the extent the same relates to the Equipment described in Exhibit A hereto.

Letter Agreement dated October 11, 2007 between Trinity North American Freight Car, Inc. and 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 January 15, 2008 from Trinity North American Freight Car, Inc. to Babcock & Brown Rail Funding LLC and Certificates of Inspection executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in such Warranty Bill of Sale.

Together with all substitutions, replacements and renewals of 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: 1/15/08



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Robert W. Alvord