

RECORDATION NO 27221-B FILED

JAN 04 '10

2-16 PM

SURFACE TRANSPORTATION BOARD



December 30, 2009

## FIRST UNION RAIL

One O'Hare Centre  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Tel 847.318.7575  
Fax 847.318.7588  
www.firstunionrail.com

Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street S.W., Suite 100  
Washington, DC 20423-0001  
Attn: Documents for Rail Recordation

**Re: Memorandum of Lease Agreement**

Dear Section Chief:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) originals and one (1) copy of a Memorandum of Lease Agreement, dated November 25, 2009, a secondary document as defined in the Board's Rules for the Recordation of Documents. The enclosed document relates to the Lease Agreement which was duly filed with the Surface Transportation Board under Recordation Number 27221.

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

Lessor: First Union Rail Corporation  
One O'Hare Centre  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Lessee: Nebraska, Kansas & Colorado Railway, Inc.  
c/o Ormitrax, Inc.  
50 S. Steele St, Suite 250  
Denver, CO 80209

A description of the railroad equipment covered by the enclosed document is for sixteen (16) 4750 cu. ft. covered hopper cars; with FURX and NDYX marks (see Exhibit A for car numbers).

A short summary of the document to appear in the index follows: Memorandum of Lease

Also enclosed is a check in the amount of \$41.00 payable to the order of the Surface Transportation Board covering the required recordation fee. Kindly return one (1) stamped original of the enclosed document to the undersigned along with the additional copies.

If you have any questions regarding the above-referenced matter, please contact me at (847) 384-5397. Thank you for your cooperation in this matter.

Best regards,

Marcia Dunne  
Senior Rail Documentation Specialist

Enclosures

(NKCR004)

ASSGN. NO.: NKCR004

MEMORANDUM OF LEASE

SURFACE TRANSPORTATION BOARD

THIS MEMORANDUM OF LEASE (the "Memorandum") is made and entered into as of this the 25th day of November, 2009, by and between First Union Rail Corporation ("Lessor"), a North Carolina corporation, and Nebraska, Kansas & Colorado Railway, INC ("Lessee"), a Delaware corporation.

WITNESSETH:

The undersigned Lessor and Lessee have entered into that certain Lease Agreement (the "Lease"), dated as of August 13, 2007, whereby Lessor has agreed to lease to Lessee certain railcars pursuant to Rider No. 4 to the Lease (the "Rider"), as described in more particular on Exhibit A attached hereto, effective as of September 10, 2009, and subject to the terms, conditions and provisions of the above-mentioned Lease and Rider.

IN WITNESS WHEREOF, the parties hereto have each caused this Memorandum to be duly executed under seal by their respective officers duly authorized as of the date and year first above written.

LESSOR:

FIRST UNION RAIL CORPORATION

By: Richard F. Seymour

Name: RICHARD F. SEYMOUR  
VICE PRESIDENT SALES & MARKETING

Title: \_\_\_\_\_

ATTEST:

By: Susan Grokulska

Name: SUSAN GROKULSKY

Title: ASSISTANT DIRECTOR OF DOCUMENTATION

Executed on this 25th day of November, 2009.

[CORPORATE SEAL]

STATE OF ILLINOIS

COUNTY OF COOK

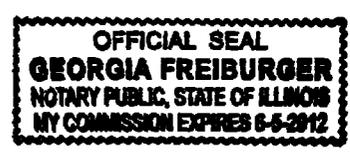
I, GEORGIA FREIBURGER, a Notary Public of the County and State aforesaid, certify that RICHARD F. SEYMOUR personally appeared before me this day and acknowledged his/her due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal, this 25th day of November, 2009.

Georgia Freiburger  
Notary Public

My Commission Expires:

6-2012  
(Notary Public)



**LESSEE:**

NEBRASKA, KANSAS & COLORADO RAILWAY, INC

**ATTEST:**

By: Larry W Bush  
Name: Larry W Bush  
Title: CFO

By: Mary J Hill  
Name: Mary J. Hill  
Title: Exec. Asst.

Executed on this 9<sup>th</sup> day of November, 2009.

[CORPORATE SEAL]

STATE OF Colorado

COUNTY OF Denver

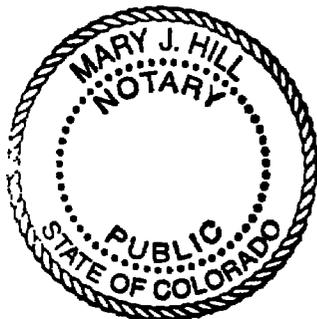
I, Mary J. Hill, a Notary Public of the County and State aforesaid, certify that Larry W. Bush personally appeared before me this day and acknowledged his/her due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal, this 9<sup>th</sup> day of November, 2009.

Mary J. Hill  
Notary Public

Commission Expires:

11/01/2012  
(Notary Public)



My Commission Expires 11/01/2012

**EXHIBIT A**  
**to**  
**MEMORANDUM OF LEASE**

**NUMBER OF CARS:** Sixteen (16)

**DESCRIPTION OF CARS:** 4750 cu. ft. covered hopper cars, loading to 268,000 lbs. GWR.

**CAR NUMBERS:**

FURX	824592
NDYX	823610
NDYX	827307
NDYX	827315
NDYX	827326
NDYX	827331
NDYX	827338
NDYX	827344
NDYX	827345
NDYX	827354
NDYX	827362
NDYX	827371
NDYX	827372
NDYX	827378
NDYX	827868
NDYX	827881
Count:	16