

RECORDATION NO. 22538-M FILED

JAN 25 '10

2-43 PM

SURFACE TRANSPORTATION BOARD



## 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

VIA UPS 2<sup>nd</sup> DAY AIR

January 20, 2010

Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W., Suite 100  
Washington, DC 20423-0001

**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 30, 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 22538.

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: Dakota, Missouri Valley & Western Railroad, Inc.  
3501 E. Rosser Avenue  
Bismarck, ND 58501

A description of the railroad equipment covered by the enclosed document is for twenty five (25) gondola cars; having NOKL 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.

Sincerely,

Marcia Dunne  
Senior Documentation Specialist

Enclosures  
(DMVW046)

JAN 25 '10 2-43 PM

ASSGN. NO.: DMVW046

SURFACE TRANSPORTATION BOARD

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (the "Memorandum") is made and entered into as of this the 30th day of November, 2009, by and between First Union Rail Corporation ("Lessor"), a North Carolina corporation, and DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.

WITNESSETH:

The undersigned Lessor and Lessee have entered into that certain Lease Agreement (the "Lease"), dated as of March 24, 1997, whereby Lessor has agreed to lease to Lessee certain railcars pursuant to Rider No. 36 to the Lease (the "Rider"), as described in more particular on Exhibit A attached hereto, effective as of November 1, 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

Title: VICE PRESIDENT SALES & CONTRACTING

ATTEST:

By: [Signature]

Name: K.A. Dambrowski

Title: DIRECTOR OF DOCUMENTATION Executed on this 30th day of November, 2009.

[CORPORATE SEAL]

STATE OF ILLINOIS

COUNTY OF COOK

I, Janice L. Enolva, 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 30th day of NOVEMBER, 2009.

*Janice L. Enolva*

Notary Public

My Commission Expires:

5-18-2010

(Notary Public)



**LESSEE:**

DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.

ATTEST:

By:

*Dennis Mings*

Name:

*Dennis Mings*

Title:

*VP*

By: \_\_\_\_\_

Name: \_\_\_\_\_

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

Executed on this \_\_\_\_\_ day of \_\_\_\_\_

[CORPORATE SEAL]

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ 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 \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Commission Expires:

\_\_\_\_\_  
(Notary Public)

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

- I. NUMBER OF CARS: Twenty-five (25)
- II. DESCRIPTION OF CARS: 52'6" and 2244 c.f. capacity gondola Cars equipped with 4'6" sides and 263 GWR (Car Type: E534)
- III. CAR NUMBERS:
- NOKL 310814
  - NOKL 310831
  - NOKL 310900
  - NOKL 310903
  - NOKL 310946
  - NOKL 310952
  - NOKL 310953
  - NOKL 310956
  - NOKL 310962
  - NOKL 310992
  - NOKL 311017
  - NOKL 311028
  - NOKL 311044
  - NOKL 311053
  - NOKL 311054
  - NOKL 311089
  - NOKL 311103
  - NOKL 311107
  - NOKL 311117
  - NOKL 311126
  - NOKL 311144
  - NOKL 311178
  - NOKL 311266
  - NOKL 311274
  - NOKL 311294
  - Count: 25