

Carl C. Opperthausen
General Counsel

John C. Danielson
General Attorney

Allan M. Charlton
Trial Attorney

Dennis W. Krakow
Trial Attorney

John A. Ponitz
Attorney

Mary P. Sclawy
Attorney

*5811
5360
9825
5559
Cross
index
number*

9-2321020

AUG 20 1979

Date

Fee \$ 50.00

CC Washington, D. C.



Grand Trunk Western Railroad Co

Law Department

131 West Lafayette Boulevard
Detroit, Michigan 48226
(313) 962-2260

August 14, 1979

10755

RECORDATION NO. Filed 1425

AUG 20 1979 - 9 09 AM

INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Madam:

Enclosed for recordation pursuant to 49 USC §11303 (formerly Section 20c of the Interstate Commerce Act) are counterparts of a letter of acknowledgment and an agreement dated as of August 13, 1979 between Grand Trunk Western Railroad Company and Burlington Northern, Inc. for the lease of ten (10) locomotives.

The addresses of the parties to said letter and agreement are:

Lessor: Grand Trunk Western Railroad Company
131 West Lafayette Boulevard
Detroit, Michigan 48226

Lessee: Burlington Northern, Inc.
Burlington Northern Building
176 East Fifth Street
St. Paul, Minnesota 55101

Equipment covered by said letter and agreement is 10 S.D. 40 locomotives bearing Grand Trunk Western Railroad Company's road numbers:

5900	5912
5913	5915
5916	5920
5924	5921
5927	5928

The aforesaid agreement is a sublease of certain equipment leased under primary leases recorded with the Commission and involving the parties and assigned recordation numbers as follows:

Lease dated as of August 1, 1969 (locomotive No. 5900)
Recorded: No. 5360-A on August 26, 1969 at
3:35 p.m.

Cross index and recorded was

Secretary
Interstate Commerce Commission
August 14, 1979

PAGE TWO

Certain collateral and supplemental agreements assigned recordation numbers 5360 through 5360-F and No. 9825.

Lessor:

C.I.T. Corporation, acting through its agent C.I.T. Leasing Corporation, 650 Madison Avenue, New York, N.Y. 10022

Lessee:

Grand Trunk Western Railroad Company
131 West Lafayette Boulevard
Detroit, Michigan 48226

Assignee of Lessor:

Mercantile - Safe Deposit & Trust Company
Two Hopkins Plaza
Baltimore, Maryland 21203

Lease dated as of December 1, 1969 (locomotive Nos. 5913, 5915, 5916, 5920).

Recorded: No. 5559-A on January 30, 1970 at 9:50 a.m.
Collateral assignment of lease recorded as No. 5559-B.

Lessor:

C.I.T. Corporation, acting through its agent C.I.T. Leasing Corporation, 650 Madison Avenue, New York, N.Y. 10022

Lessee:

Grand Trunk Western Railroad Company
131 West Lafayette Boulevard
Detroit, Michigan 48226

Assignee of Lessor:

Mercantile - Safe Deposit & Trust Company
Two Hopkins Plaza
Baltimore, Maryland 21203

Lease dated as of August 1, 1970 (locomotive Nos. 5924, 5926, 5927, 5928).

Recorded: No. 5811-B on August 25, 1970 at 3:40 p.m.

Lessor:

Secretary
Interstate Commerce Commission
August 14, 1979

PAGE THREE

C.I.T. Corporation, acting through its agent C.I.T.
Leasing Corporation, 650 Madison Avenue, New York,
N.Y. 10022.

Lessee:

Grand Trunk Western Railroad Company
131 West Lafayette Boulevard
Detroit, Michigan 48226

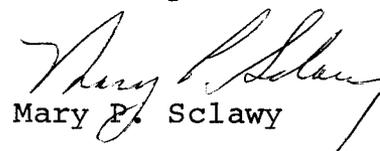
Assignee of Lessor:

First Pennsylvania Banking & Trust N.A.
15th & Chestnut Streets
Philadelphia, Pennsylvania 19101

Enclosed is our check for \$50 for the required recordation fee.
Please accept for recordation one counterpart of each of the
enclosed documents, stamp the remaining counterparts with your
recordation number and return them to the undersigned.

The undersigned is the attorney for Grand Trunk Western Railroad
Company mentioned in the enclosed documents and has knowledge of
the matters set forth therein.

Sincerely,


Mary P. Sclawy

MPS:jcw
enclosures

Interstate Commerce Commission
Washington, D.C. 20423

9/11/79

OFFICE OF THE SECRETARY

Mary P. Selavy, Atty.
Grand Trunk Western RR. Co.
131 W. Lafayette Blvd.
Detroit, Michigan 48226

Dear

Sir:

The enclosed document (s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on _____ at _____, and assigned re-
recordation number (s). ^{8/20/79} 9:00am

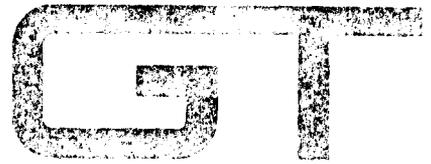
10755

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure (s)

SE-30
(7/79)



Grand Trunk Western Railroad Co

E. R. Adams
Vice President Operations

131 West Lafayette Boulevard
Detroit, Michigan 48226

July 23, 1979

RECORDATION No. 10755 Filed 1425

AUG 20 1979 - 9 00 AM

INTERSTATE COMMERCE COMMISSION

Mr. John H. Hertog
Senior Vice President-Operations
Burlington Northern
176 East Fifth Street
St. Paul, MN 55101

Dear Mr. Hertog:

Further the agreement by which your company is leasing 10 locomotives numbered: 5900, 5912, 5913, 5915, 5916, 5920, 5924, ~~5926~~, 5927 and 5928 from Grand Trunk Western Railroad Company:

As stated in the agreement, the locomotives are subject to various primary leases. The Lessor on said primary leases wishes Burlington Northern to acknowledge the primary leases in more detail. The information sought to be acknowledged is that C.I.T. Corporation by C.I.T. Leasing Corporation, as agent, is the Lessor of the above mentioned locomotives pursuant to Leases dated as of:

August 1, 1969	locomotive	5900
December 1, 1969	locomotives	5912, 5913, 5915, 5920 5916
August 1, 1970	"	5924, 5926 , 5927, 5928

The leases have been assigned for security purposes to Mercantile-Safe Deposit & Trust Company (in the case of the 1969 leases) and to First Pennsylvania Banking & Trust N.A. (in the case of the 1970 lease), acting as agents for various institutional investors.

Will you please acknowledge these facts by signing the four (4) copies of this letter and returning them to me.

Very truly yours,

Vice President-Operations

BURLINGTON NORTHERN INC.

John H. Hertog

ATTEST:

Asst. SECRETARY

RECORDATION No. 10755 Filed 1425

AUG 30 1979 - 9 00 AM

INTERSTATE COMMERCE COMMISSION

LEASE AND AGREEMENT made this 13th day of August, 1979, between GRAND TRUNK WESTERN RAILROAD COMPANY, hereinafter called "Lessor", and BURLINGTON NORTHERN INC., hereinafter called "Lessee".

1. Lessor hereby leases and lets to Lessee and Lessee hereby hires and takes from Lessor, for the term and upon the conditions hereinafter stated, ten (10) locomotive units, hereinafter called "units". The engine number, builder, type, and horsepower of each of said units leased to Lessee hereby are set forth in Schedule A dated July 11, 1979, attached hereto and made a part hereof.

2. Lessor shall deliver said units to Lessee at Chicago, Illinois. At the time of said delivery to Lessee, representatives of each of the parties hereto shall perform a joint inspection of each unit and except as otherwise determined by said joint inspection, each unit shall be considered to be in good repair and operating condition at the time of delivery. Lessee shall have the right to refuse to accept any unit.

3. Lessee shall pay to Lessor as rental Four Hundred Twenty-Five Dollars (\$425.00) per day per unit. The rental charge will apply on the day of delivery but not on the day of return. Rental shall not apply on any unit undergoing Lessor responsibility heavy repairs as defined in Schedule C attached hereto and made a part hereof. Also, upon notice by Lessee to Lessor that a unit has been lost, destroyed or damaged beyond economical repair, rental on such unit shall abate as of the date of such notice. Lessor shall render a monthly bill against Lessee for said rental and Lessee shall pay same within thirty (30) days of receipt thereof.

4. The fuel level in each unit shall be recorded upon delivery to Lessee and again upon return to Lessor, and upon return of all units to Lessor

The party in deficit shall accept billing and pay for fuel furnished such deficit party by the other party. Billing for fuel settlement shall be in accordance with GMA Rules as hereinafter defined.

5. Lessee shall, at its own expense, maintain said units in good repair and operating condition and shall return the same to Lessor, upon termination of this lease and agreement or as otherwise agreed, at Chicago, Illinois, in the same condition as when received by Lessee, normal wear and tear excepted, subject to the limitations described in Schedule C. At the time of the return of each unit to Lessor, representatives of each of the parties hereto shall perform a joint inspection and except as otherwise determined by said joint inspection, each unit shall be considered to be in good repair and operating condition at the time of return. If Lessee shall return any of said units to Lessor in an inoperative condition or in other than good repair, Lessor shall have the option, except for Lessor responsibility for heavy repairs as provided for in Schedule C, of (1) requiring Lessee to repair the unit before accepting return of same from Lessee, or (2) accepting return of the unit from Lessee and making the repairs at Lessee's expense. Lessee's obligation to pay for such repairs shall be limited to its responsibility under Section C. In the event Lessor shall elect to repair said unit, Lessor shall be privileged to add the applicable additives as provided in the Rules Covering Preparation of Joint Facility and Other Bills between Carriers, including the Schedule of Equipment Rental and Other Rental Rates, as promulgated by the General Managers' Association of Chicago or any successor association, hereinafter called "GMA Rules". Lessee shall pay to Lessor the amount billed for such repairs upon receipt of bills therefor.

6. Lessee shall, at its own expense, perform all inspections in accordance with any applicable federal or state laws or regulations.

7. Lessee shall be solely responsible for each of said units and for all loss or damage thereto, except for "heavy repairs" as defined in paragraph C of Schedule C which are due to ordinary wear and tear and regardless of insurance carried thereon by Lessor, if any, from the time each unit is delivered to Lessee

until that unit is returned to Lessor. The agreed casualty value of each unit at the time of delivery to Lessee shall be as set forth in Schedule B attached hereto and made a part hereof. Such casualty value shall be paid for any unit which is lost, destroyed or damaged beyond economical repair.

8. Lessee shall not sublet, assign or transfer any interest in any of said units or this agreement without the written consent of Lessor.

9. Lessor does not warrant that the units are suitable for the purpose intended. Lessee does hereby, for itself, its successors and assigns, covenant and agree that it will forever indemnify and save harmless Lessor from and against all damages, claims, claims for damages, suits, actions, losses, costs, judgments, and expenses arising out of injury to or death of any persons whomsoever (including the employees, officers, agents or contractors of the parties hereto); or arising out of the damage to any property (including the units, but except for heavy repairs to the units as defined in paragraph C of Schedule C due to ordinary wear and tear) of any persons whomsoever (including the parties hereto, their employees, officers, agents or contractors) in any manner resulting from or growing out of the condition of any of said units or out of their use, operation or existence from the time each of said units is delivered to Lessee until that unit is returned to Lessor, whether such loss, damage, injury or death is caused by or contributed to by the negligence of Lessor, its employees, officers, agents, contractors or otherwise.

10. Lessee shall at no time permit any mechanic's or other liens or claims to accrue or exist against any of said units and shall protect, indemnify and save harmless Lessor on account of any such liens or claims.

11. Each of said units shall, for the purpose of this lease and agreement, be deemed to be in the sole possession, custody and control of the Lessee from the time that unit is delivered by Lessor to Lessee as aforesaid until it is returned to Lessor by Lessee at Chicago, Illinois.

12. Lessee shall not obliterate, alter or change any lettering or serial number applied to any of said units when delivered to Lessee.

13. The term of this lease shall commence as to each unit on the date the unit is delivered to Lessee and shall remain in full force and effect until terminated with regard to all of the units. This lease may be terminated as to any or all of the units upon not less than five (5) days' written notice by either party of its intent to do so (except as to liabilities incurred hereunder prior thereto). Lessee shall return the units so terminated to Lessor no later than the date of termination. The parties agree that liquidated damages shall be payable for each unit for each day that delivery is delayed beyond the termination date. The amount of said liquidated damages shall be \$105.00 per unit per day in addition to the daily rental payable as aforesaid. Lessee shall pay such additional rental and liquidated damages upon receipt of bills therefor.

14. It is understood and agreed that Lessor is leasing the locomotive units from other parties, the rights of Lessee hereunder are expressly subordinate to all the rights and interests of the lessors under such primary leases and Lessee shall have no right to or interest in the locomotive units by virtue of this agreement which are equal or superior to those of said lessors.

IN WITNESS WHEREOF, the parties hereto have caused this lease and agreement to be executed, in duplicate, the day and year first hereinabove written.

Attest: E. S. J. Intaine
Secretary

(SEAL)

Attest: G. P. Seidman
Asst Secretary

(SEAL)

GRAND TRUNK WESTERN RAILROAD COMPANY

BY E. Adams
Vice President-Operations

BURLINGTON NORTHERN INC.

BY J. M. [Signature]
SENIOR VICE PRESIDENT OPERATIONS

APPROVED AS TO FORM
MPS
7-19-79

STATE OF MICHIGAN,)
) ss.:
COUNTY OF WAYNE)

On this 13th day of August 1979, before me personally appeared E. K. Adams, to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

J. Isabelle Matusko
Notary Public

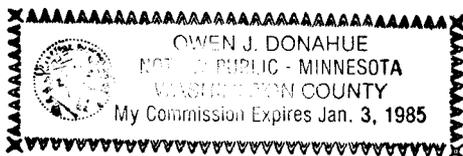
(Notarial Seal)

J. ISABELLE MATUSKO
Notary Public, Oakland County, Michigan
Acting in Wayne County, Michigan
My Commission Expires March 14, 1983

STATE OF MINNESOTA,))
) ss.:
COUNTY OF RAMSEY)

On this 7th day of Aug. 1979, before me personally appeared J. H. Hertog, to me personally known, who, being by me duly sworn, says that he is a Vice President of BURLINGTON NORTHERN INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Owen J. Donahue
Notary Public



(Notarial Seal)

SCHEDULE A

Lease Ten (10) S.D. 40 Locomotives

	<u>Unit Numbers</u>	<u>Horsepower</u>
1.	5900	3000
2.	5912	3000
3.	5913	3000
4.	5915	3000
5.	5916	3000
6.	5920	3000
7.	5924	3000
8.	5921	3000
9.	5927	3000
10.	5928	3000

July 11, 1979

SCHEDULE B

Amounts to be paid by Lessee to Lessor if a locomotive unit is destroyed or damaged beyond economical repair when such loss is the responsibility of Lessee are as follows:

The total of the daily rental rate which Lessor is obligated to pay to its lessor under the primary leases from the date of the loss until settlement therefor may first be made pursuant to the terms of the primary leases plus for locomotive number:

5900	\$312,935.22
5912)	
13)	
15)	\$313,013.43
16)	
20)	
5924)	
21)	\$308,131.42
27)	
28)	

The total amount shall be payable 30 days after receipt of bill from Lessor.

SCHEDULE C

ACCOMPANYING LEASE OF DIESEL - ELECTRIC LOCOMOTIVES

Dated August 13, 1979.

Burlington Northern Inc. (Lessee) hereby agrees to assume maintenance and repair responsibility for diesel-electric locomotive units under above lease while in Lessee's possession as follows:

- A. Lessee will, at its expense, perform all running repair maintenance work, lubrication, and inspection on locomotive units in accordance with manufacturer's recommendations and FRA requirements, or as may be agreed to in writing between the two parties.
- B. Lessee will be required to perform and pay for any repairs to the diesel-electric locomotives which are the responsibility of Lessee under Section 9 of the Lease and Agreement.
- C. Except as otherwise in this agreement provided, heavy repairs shall be the responsibility of Lessor and the term "heavy repairs" shall mean the removal, repair or replacement and reinstallation of any of the following parts of a unit:

- Traction motor and wheel combination
- Auxiliary generator
- Main generator
- Amplidyne
- Complete reverser
- Lube oil cooler
- Lube oil pump
- Complete power assembly five (5) or more (head, liners and pistons)
- Turbo charger
- Air compressor
- Cooling fans
- Eddy-current clutch
- Complete radiator bank
- Basic engine (exclusive of auxiliaries) regardless of whether removal is required

Upon consent of Lessor, Lessee may perform required heavy repairs at expense of Lessor, or, at Lessee's option, such units requiring Lessor responsibility heavy repairs may be returned to Lessor.

Bills for repairs made at Lessor's expense shall include, in addition to direct labor and material, those amounts allowed by the GMA Rules.