

Matthews, Nowlin, Macfarlane & Barrett
Attorneys at Law

RECORDATION NO. **9867** Filed 1425
NOV 27 1978 - 3 02 PM

INTERSTATE COMMERCE COMMISSION

1500 Alamo National Building

San Antonio, Texas - 78205

Telephone 226-4211

(Area Code 512)

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RECORDATION NO. **9867** Filed 1425

NOV 27 1978 - 2 29 PM

INTERSTATE COMMERCE COMMISSION

November 20, 1978

8-331 A049

NOV 27 1978

Date

Fee \$ 100.⁰⁰

Ms. Mildred Lee
Office of the Secretary of the
Interstate Commerce Commission
Washington, D. C. 20423

ICC Washington, D. C.

Re: Recordation Pursuant to
49 U.S.C.A. § 20c of
Security Agreement
Relating to Railroad Cars

Dear Ms. Lee:

Pursuant to 49 U.S.C.A. § 20c, and in accordance with
49 C.F.R. § 1116, enclosed for recordation are the original
and two executed counterparts of each of the two Security
Agreements described below. Also enclosed is a check in the
amount of \$100.00 in payment of the recordation fee. The
original documents are to be file-stamped and returned to:

Hixon Venture Company
341 Milam Building
San Antonio, Texas 78205.

One file-stamped counterpart of each agreement is to be
returned to:

RailTex, Inc.
300 Elizabeth Road
San Antonio, Texas 78209.

The parties to each of the Security Agreements are as
follows:

Debtor:

RailTex, Inc.
300 Elizabeth Road
San Antonio, Texas 78209

RECEIVED
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I.C.C.
FEE OPERATION BR.

Matthews, Nowlin, Macfarlane & Barrett

Ms. Mildred Lee
November 20, 1978
Page Two

Secured Party/Lender: Hixon Venture Company
 341 Milam Building
 San Antonio, Texas 78205.

One of the Security Agreements relates to 50 "Open-Top Hopper" railroad cars bearing identification numbers "TRAX 120" through "TRAX 169," inclusive.

The second Security Agreement relates to all leases of the same 50 "Open-Top Hopper" railroad cars bearing identification numbers "TRAX 120" through "TRAX 169," inclusive.

Should you have any questions or need further information please contact the undersigned by collect telephone call at (512) 226-4211.

Very truly yours,

MATTHEWS, NOWLIN, MACFARLANE
& BARRETT

By 
John D. Fisch

JDF/set
Enclosures

CERTIFIED MAIL NO. 249493
RETURN RECEIPT REQUESTED

Interstate Commerce Commission
Washington, D.C. 20423

11/28/78

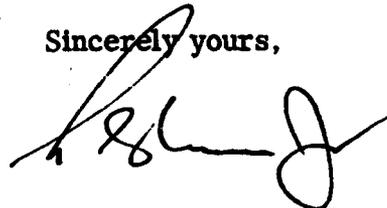
OFFICE OF THE SECRETARY

John D. Fisch
Matthews, Nowlin, Macfarlane & Barrett
1500 Alamo National Building
San Antonio, Texas 78205

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 11/27/88 at 3:00pm, and assigned recordation number(s) 9867 & 9867-A

Sincerely yours,



H.G. Homme, Jr.,
Secretary

Enclosure(s)

SE-30-T
(2/78)

SECURITY AGREEMENT

REF 9867
NOV 27 1978 - 2:22 PM
INTERSTATE COMMERCE COMMISSION

RailTex, Inc., 300 Elizabeth Road, San Antonio, Bexar County, Texas 78209, (hereinafter called, in accordance with the terms and provisions of the Uniform Commercial Code, "Debtor") for value received hereby grants to Hixon Venture Company, (hereinafter called, in accordance with the terms and provisions of the Uniform Commercial Code, "Secured Party") whose address is 341 Milam Building, San Antonio, Bexar County, Texas 78205, a security interest in the following described equipment of Debtor (said equipment is hereinafter referred to as "Collateral") to-wit:

50 "Open-Top Hopper" railroad cars purchased by Debtor from the proceeds of the borrowings secured hereby, bearing Debtor's identification numbers "TRAX 120" through "TRAX 169," inclusive.

The security interest hereby granted secures the payment of a note in the original principal sum of \$150,000.00, of even date herewith executed by Debtor and payable to Secured Party and bearing interest and payable as provided therein.

Debtor represents and warrants as follows:

1. Collateral is rolling stock which shall be used from time to time within the United States of America.
2. Collateral is being acquired with the proceeds of the advance evidenced by this Agreement and will be used for business purposes.

Debtor and Secured Party as used in this Security Agreement include the heirs, executors and administrators, successors or assigns of those parties.

Any provision on the face or reverse hereof notwithstanding, Secured Party and Debtor specifically agree as follows:

1. It is agreed that, provided there is then no outstanding default in the payment of the hereinabove mentioned note or this Agreement, Debtor shall be entitled to have released from the terms of this Security Agreement one of the railroad cars described above for each \$3,000.00 of principal of such note paid or prepaid by it after payment of then accrued interest. Railroad cars released hereunder shall be selected by Debtor and Secured Party shall execute any document to evidence such release reasonably requested by Debtor.
2. Debtor may, in the ordinary course of its business and at rates and under terms standard for its business, lease all or part of Collateral from time to time and Secured Party's rights hereunder shall be subject to any such lease. However, Debtor's rights under any such lease covering one or more railroad cars which are part of Collateral shall be included in Collateral.

The warranties, covenants, terms and agreements on the reverse side hereof are incorporated herein and made a part hereof for all intents and purposes.

RAILTEX, INC.

DATED November 20, 1978

By Bruce Flohr
Bruce Flohr, President

STATE OF TEXAS §

COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared Bruce Flohr, President of RailTex, Inc., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN under my hand and seal of office on this the 20th day of November, 1978.

My Commission Expires:

June 1, 1979

Susan E. Tyree
Notary Public in and for
Bexar County, Texas

SUSAN E. TYREE
Notary Public, Bexar County, Texas

DEBTOR WARRANTS, COVENANTS AND AGREES:

Title—Except for the security interest hereby granted, Debtor has, or upon acquisition will have, full fee simple title to Collateral free from any lien, security interest, encumbrance, or claim, and Debtor will, at Debtor's cost and expense defend any action which may affect Secured Party's security interest in or Debtor's title to Collateral.

Financing Statement—That no Financing Statement covering Collateral or any part thereof or any proceeds thereof is on file in any public office and at Secured Party's request Debtor will join in executing all necessary Financing Statements in forms satisfactory to Secured Party and will pay the cost of filing same and will further execute all other necessary instruments deemed necessary by Secured Party and pay the cost of filing same.

Sale, lease or disposition of Collateral—Debtor will not, without written consent of Secured Party sell, contract to sell, ~~lease~~, encumber or dispose of Collateral or any interest therein until this Security agreement and all debts secured thereby have been fully satisfied.

Insurance—Debtor will insure the Collateral with companies acceptable to Secured Party against such casualties and in such amounts as Secured Party shall require with a standard mortgage clause in favor of Secured Party and Secured Party is hereby authorized to collect sums which may become due under any of said policies and apply same to the obligations hereby secured.

Protection of Collateral—Debtor will keep the Collateral in good order and repair and will not waste or destroy Collateral or any part thereof. Debtor will not use the Collateral in violation of any statute or ordinance and Secured Party will have the right to examine and inspect Collateral at any reasonable time.

Taxes—Debtor will pay promptly when due all taxes and assessments upon the Collateral or for its use and operation.

~~Debtor will not use the Collateral in violation of any statute or ordinance and Secured Party will have the right to examine and inspect Collateral at any reasonable time.~~

Additional Security Interest—Debtor hereby grants to Secured Party a security interest in and to all proceeds, increases, substitutions, replacements, additions, and accessions to the Collateral. ~~Debtor hereby grants to Secured Party a security interest in and to all proceeds, increases, substitutions, replacements, additions, and accessions to the Collateral.~~

Change of Residence or Place of Business—Debtor will promptly notify Secured Party in writing of any addition to, change in, or discontinuance of the place where Collateral is to be kept, or Debtor's chief place of business or Debtor's residence.

Future Indebtedness—The security interest hereby granted secures the indebtedness described on the front page hereof ~~and any other indebtedness~~ ^{only.}

Decrease in Value of Collateral—Debtor will, if in Secured Party's judgment the Collateral has materially decreased in value or if Secured Party shall at any time deem that Secured Party is insecure, either provide enough additional Collateral to satisfy Secured Party or reduce the total indebtedness by an amount sufficient to satisfy Secured Party.

Re-imbursment of expenses—At Secured Party's option, Secured Party may discharge taxes, liens, interest, or perform or cause to be performed for and in behalf of Debtor any actions and conditions, obligations or covenants which Debtor has failed or refused to perform and may pay for the repair, maintenance, and preservation of Collateral and all sums so expended, including but not limited to, attorney's fees, court costs, agent's fees, or commissions, or any other costs or expenses shall bear interest from the date of payment at the rate of 10% per annum and shall be payable at the place designated in the above described note and shall be secured by this Security Agreement.

Payment—Debtor will pay the note secured by this Security Agreement and any renewal or extension thereof and any other indebtedness hereby secured in accordance with the terms and provisions thereof and will repay immediately all sums expended by Secured Party in accordance with the terms and provisions of this Security Agreement.

Attorney-in-Fact—Debtor hereby appoints Secured Party Debtor's attorney-in-fact to do any and every act which Debtor is obligated by this Security Agreement to do and to exercise all rights of Debtor in Collateral and to make collections and to execute any and all papers and instruments and to do all other things necessary to preserve and protect Collateral and to protect Secured Party's security interest in said Collateral.

Time-Waiver—Debtor agrees that in performing any act under this Security Agreement and the note secured thereby that time shall be of the essence and that Secured Party's acceptance of partial or delinquent payments, or failure of Secured Party to exercise any right or remedy shall not be a waiver of any obligation of Debtor or right of Secured Party or constitute a waiver of any other similar default subsequently occurring.

Default—Debtor shall be in default under this Security Agreement upon the happening of any of the following events or conditions:

1. Default in the payment or performance of any obligation, covenant or liability contained or referred to herein;
2. Any warranty, representation or statement made or furnished to Secured Party by or in behalf of Debtor proves to have been false in any material respect when made or furnished;
3. Any event which results in the acceleration of the maturity of the indebtedness of Debtor to others under any indenture, agreement or undertaking;
4. Loss, theft, substantial damage, destruction, sale or encumbrance to or of any of the Collateral, or the making of any levy, seizure or attachment thereof or thereon;
5. Any time the Secured Party believes that the prospect of payment of any indebtedness secured hereby or the performance of this Security Agreement is impaired;
6. Death, dissolution, termination of existence, insolvency, business failure, appointment of a receiver for any part of the Collateral assignment for the benefit of creditors or the commencement of any proceeding under any bankruptcy or insolvency law by or against Debtor or any guarantor or surety for Debtor.

Remedies—Upon the occurrence of any such event of default, and at any time thereafter, Secured Party may declare all obligations secured hereby immediately due and payable and may proceed to enforce payment of the same and exercise any and all of the rights and remedies provided by the Uniform Commercial Code as well as all other rights and remedies possessed by Secured Party. Secured Party may require Debtor to assemble the Collateral and make it available to Secured Party at any place to be designated by Secured Party which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party will give Debtor reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The requirements of reasonable notice shall be met if such notice is mailed, postage prepaid, to the address of Debtor shown at the beginning of this Security Agreement at least five days before the time of the sale or disposition. Expenses of retaking, holding, preparing for sale, selling or the like shall include Secured Party's reasonable attorney's fees and legal expenses.

