

**THE WESTERN PACIFIC RAILROAD COMPANY**

WESTERN PACIFIC BUILDING, 526 MISSION STREET  
 SAN FRANCISCO, CALIFORNIA 94105  
 TELEPHONE: (415) 982-2100

WALTER G. TREANOR  
 VICE PRESIDENT-LAW

KATHERINE M. GRIFFIN  
 GENERAL ATTORNEY  
 MICHAEL P. HEARNEY  
 EUGENE J. TOLER  
 ATTORNEYS

July 18, 1979

File: 6116-57

DELIVERED TO:

RECORDATION NO. 7446-B Filed 1425 9-2044036

Honorable H. G. Homme, Jr.  
 Secretary  
 Interstate Commerce Commission  
 Washington, D.C. 20423

JUL 23 1979 - 12 50 PM Date JUL 23 1979

INTERSTATE COMMERCE COMMISSION Fee \$ 10.00

ICC Washington, D.C.

Dear Sir:

Enclosed for recording with the Interstate Commerce Commission are the original and two (2) certified true copies of an Assignment and Assumption Agreement dated April 4, 1979 between the Western Pacific Railroad Company, a California corporation, 526 Mission Street, San Francisco, California 94105 as Assignor and The Western Pacific Railroad Company, a Delaware corporation (formerly Newrail Company, Inc.) as Assignee, 526 Mission Street, San Francisco, California 94105 wherein the Assignor assigned and the Assignee assumed that certain Conditional Sale Agreement dated as of February 1, 1974 among PACCAR, Inc., 1400 North Fourth Street, Renton, Washington 98055 as Vendor, Wells Fargo Bank National Trust and Savings Association, 475 Sansome Street, San Francisco, California 94111 as Vendee and The Western Pacific Railroad Company (Assignor) as Guarantor. The Vendor's interest in such Conditional Sale Agreement was assigned to United States Trust Company of New York, 130 John Street, New York, New York 10038. Prior recording data:

<u>Document</u>	<u>Date</u>	<u>Recordation No.</u>
Conditional Sale Agreement	February 1, 1974	7446
Amendment Agreement	June 15, 1974	7446-A

The document relates to the following railroad equipment:

122 THE OPERATION BR. I.C.C. 67. 79 12 47 PM 79  
 52' 6" 70-ton insulated box cars with air bag load dividers manufactured by PACCAR Inc.; AAR mechanical designation XLI; Road numbers WP 65279 - 65400, both inclusive.

50 RECEIVED  
 60' 100-ton insulated box cars with air bag load dividers and cushioned underframe manufactured by PACCAR inc.; AAR mechanical designation XLI; Road numbers WP 66501-66550, both inclusive.

Honorable H. G. Homme, Jr.  
July 18, 1979  
Page 2

Identifying marks on all of the foregoing equipment:  
The words "Ownership subject to a Security Agreement  
Filed under the Interstate Commerce Act, Section 20C"  
printed on each side of each unit.

Also enclosed is this Company's voucher in the sum of  
\$10.00 payable to the Interstate Commerce Commission being  
the prescribed fee for filing and recording the  
foregoing document.

Please return the original and counterpart with  
recordation data stamped thereon to the representative  
of the office of Kunkel Transportation Services, Inc.,  
425 - 13th Street, N.W., Suite 523, Washington, D.C. 20004,  
who will be delivering this letter on our behalf.

Yours very truly,

*Katherine M. Griffin*  
Katherine M. Griffin

KMG:jc

Attachments

RECORDATION NO. 744

JUL 23 1979 - 12 50

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT AND ASSUMPTION AGREEMENT

1. PARTIES

This Assignment and Assumption Agreement is made this fourth day of April, 1979, between THE WESTERN PACIFIC RAILROAD COMPANY, a California corporation (Assignor), and THE WESTERN PACIFIC RAILROAD COMPANY, a Delaware corporation, formerly named Newrail Company, Inc. (Assignee).

2. FACTS

2.1 Assignor is party to a Conditional Sale Agreement with Paccar, Inc. which assigned its interest to United States Trust Company of New York, and Wells Fargo Bank and Trust Company, effective February 1, 1974, recorded with the Interstate Commerce Commission on March 26, 1974, Recordation No. 7446, which was supplemented by an Amendment Agreement between Paccar, Inc. and United States Trust Company of New York, dated June 15, 1974, recorded with the Interstate Commerce Commission on July 1, 1974, Recordation No. 7446-A, hereinafter collectively referred to as the "Agreement."

2.2 By a Purchase and Sale Agreement dated February 16, 1978, Assignor has agreed to sell substantially all of its assets, properties and rights of every kind and description,

and business as a going concern to Assignee, and Assignee has agreed to assume, with certain exceptions, all of the duties, liabilities and obligations of Assignor.

2.3 Pursuant to the Agreement described in Paragraph 2. Assignor desires to assign its interest in the Agreement, and Assignee desires to assume the obligations of Assignor thereunder.

### 3. ASSIGNMENT AND ASSUMPTION

3.1 Assignment. Assignor hereby sells, assigns and transfers to Assignee, its successors and assigns, all of its right, title and interest under the Agreement.

3.2 Assumption. Assignee hereby assumes and agrees to perform, fulfill and discharge in accordance with the terms of the Agreement, at the sole cost of Assignee, each and all of the obligations, covenants, terms and conditions to be kept or performed by Assignor under the Agreement, including, but not limited to (if applicable), Basic Rent, all Supplemental Rent and Casualty Value. Assignee will, at its sole cost and expense, appear in and defend every action or proceeding arising under, growing out of, or in any way resulting from, the Agreement, or the duties, obligations or covenants of Assignor thereunder, and to pay any and all amounts for which Assignor or Assignee

may be held liable in respect thereof, including the payment of all reasonable attorneys' fees incurred by Assignor in any such action or proceeding.

4. APPOINTMENT OF ATTORNEY IN FACT

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney, irrevocably, with full power to ask for, and receive, any property, or refund monies to which Assignor is entitled under the Agreement, or to enforce any and all other rights or privileges of Assignor under the Agreement.

5. MISCELLANEOUS

5.1 Assignee shall notify all other parties to the Agreement of this Assignment and Assumption Agreement, and shall cause this Assignment and Assumption Agreement to be recorded with the Interstate Commerce Commission promptly after the execution and delivery hereof.

5.2 Any provision of this Assignment and Assumption Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction

shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, Assignor hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

ASSIGNOR:

THE WESTERN PACIFIC RAILROAD COMPANY, a California corporation

By *J. W. Skumbo, Jr.*  
Its  Sr. Vice President Finance

Attest *H. D. Brew*  
Its  SECRETARY

ASSIGNEE:

THE WESTERN PACIFIC RAILROAD COMPANY, a Delaware corporation (formerly named Newrail Company Inc.)

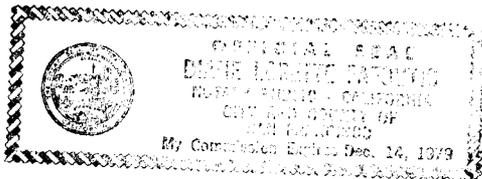
By *J. W. Skumbo, Jr.*  
Its  Sr. Vice President Finance

Attest *H. D. Brew*  
Its  SECRETARY

STATE OF CALIFORNIA )  
 ) SS  
CITY AND COUNTY OF SAN FRANCISCO )

ON April 2, 1979, before me, the undersigned, a Notary Public in and for the said State, personally appeared R. W. STUMBO, JR. and W. D. BREW, known to me to be the persons who executed the within Instrument, on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within Instrument pursuant to its bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

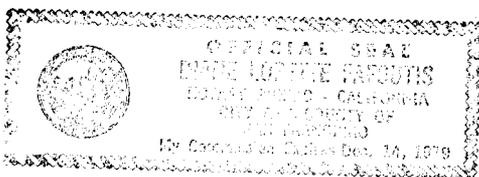


Diane Lorette Fajoules  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 ) SS  
CITY AND COUNTY OF SAN FRANCISCO )

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