

JUL 28 1971 -10 05 AM

INTERSTATE COMMERCE COMMISSION
SECOND MORTGAGE OF RAILROAD CARS

This Mortgage, made this 26th day of July, 1971, by Tomco Railway Car Company, Inc., a Minnesota corporation of Duluth, Minnesota, Mortgagor, to Northwestern Bank of Commerce of Duluth, Minnesota, Mortgagee, WITNESSETH:

1. That said Mortgagor does hereby mortgage to said Mortgagee one hundred three (103) railway freight cars, A.A.R. mechanical designation FMS, numbers

102, 104, 105, 107, 108, 109, 111, 113, 116, 117,
118, 119, 120, 122, 124, 125, 126, 127, 128, 129,
131, 132, 141, 142, 145, 146, 148, 149, 150, 152,
153, 154, 157, 159, 160, 161, 167, 171, 179, 181,
183, 184, 185, 186, 187, 188, 189, 190, 191, 192,
193, 194, 195, 196, 199, 201, 202, 203, 204, 205,
206, 207, 208, 209, 210, 211, 212, 213, 214, 215,
216, 217, 218, 219, 220, 221, 222, 223, 224, 225,
301, 302, 304, 306, 307, 308, 309, 310, 311, 312,
313, 314, 315, 316, 317, 318, 319, 320, 321, 324,
352, 353, and 361,

more particularly described and as registered in The Official Railway Equipment Register, "Private Car Owners", to Tomco Railway Car Company, Inc., reporting marks "KDTX", and further described in Agent Hinsch's Mileage Tariff 7-R as

"flat cars equipped with bulkheaded ends, a steel "A" frame down the center and chains, cables, and clamps providing adjustable tie-downs, for handling packaged units of lumber and building products,"

together with all replacements and substitutions therefor, improvements thereof, and all repairs and additions thereto, and any and all mileage revenue accruing therefrom.

2. This mortgage is intended to secure and does hereby secure the payments to said Mortgagee, at its banking house in Duluth, Minnesota, of the following:

2. This mortgage is intended to secure and does hereby secure the payments to said Mortgagee, at its banking house in Duluth, Minnesota, of the following:

- (a) One note for \$1,100,000.00 of even date herewith, with interest therein specified, and payable as hereinafter provided; and
- (b) All sums or amounts that are necessarily advanced or expended or advanced by the Mortgagee, its successors or assigns, for the maintenance or preservation of the property or any part thereof described in this mortgage.

3. That said Mortgagor hereby declares and warrants to said Mortgagee that it is and will continue to be the absolute owner and in control of all of said mortgaged property hereinabove described, and that except for this mortgage the said mortgaged property is and will remain free and clear of all liens, encumbrances and adverse claims.

4. That the said Mortgagor promises and agrees:

- (a) To pay interest on said note for \$1,100,000.00 in monthly installments for the first three (3) months following thirty (30) days after said note is dated and the first amount is advanced. Principal and interest payments are to commence ninety (90) days after the date of the note and the first amount advanced (probably October 26, 1971), computed on a seven (7) year amortization schedule. However, said note shall be due in three (3) years, subject to renewal as to the balance then due for an additional four (4) years. (Principal and interest payments will amount to approximately \$17,698.00 per month.) At the option of the Mortgagor, prepayment may be made, at any time, of all or any part of the total loan.
- (b) To properly care for and keep said mortgaged property herein described in first class condition, order and repair, reasonable wear and tear excepted.
- (c) To pay all taxes, mileage and otherwise, liens, or assessments of whatsoever kind or description that may be levied against said mortgaged property, or any

part thereof, when the same shall become due and prior to the time when the same, if unpaid, might become a lien or charge against any such property, provided, however, Mortgagor shall not be required to pay any such tax, lien or assessment so long as the validity thereof shall be actively contested in good faith by proper proceedings, but provided further that any such tax, lien or assessment shall be paid forthwith upon the commencement of proceedings to foreclose any lien securing the same or prevent railway use of said cars.

- (d) To comply, and use said mortgaged property and each and every part thereof, in strict conformity with all laws and regulations with reference to the use, operation and restriction thereof; not to permit the use or control of said cars without payment of applicable mileage allowances, or to sell or to attempt to sell, or further mortgage the said property without the written consent of Mortgagee.
- (e) To immediately notify the Mortgagee in the event of the destruction or substantial damage to any car from any cause whatsoever; and
- (f) To permit Mortgagee or any of its authorized agents to enter upon any premises upon which said mortgaged property or facilities for repair thereof are situated and examine said property or facilities and, upon demand of Mortgagee, to make a written report to said Mortgagee concerning the condition, use and control thereof.

5. It is recognized that approximately \$850,000.00 will be advanced immediately for payment of present creditors of Mortgagor, with the balance of approximately \$250,000.00 used to build an additional sixty (60) new cars.

6. Security:

- (a) A Security Agreement covering a first lien on 179 cars and a second position mortgage on 103 cars will be filed with the ICC and Secretary of State. Each of the 179 cars representing Northwestern Bank of Commerce first position will have a plate of notification affixed thereon.

(b) Leases: Assignment of leases covering a minimum of 122 cars providing income of \$2,250.00 per year per car contracted but not limited to the following:

1. Idaho Forest Industries	20 cars
2. Simpson Timber Co.	50 "
3. Park River Company	25 "
4. Diamond National Corp.	25 "
5. Manke and Sons	2 "
	<hr/>
	122 cars

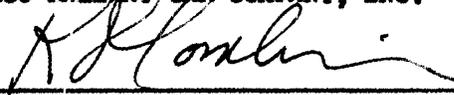
The original copy of the above leases, and any subsequent leases completed with all signatures affixed, will be retained in the bank's records. All other leases from the balance of the 179 cars (57 cars) now owned, and the 55 to be built, will also be assignable to the bank.

7. (a) The invalidity or unenforceability of any provision or provisions of this mortgage shall not render any other provision or provisions invalid or unenforceable.
- (b) The failure of Mortgagor, upon knowledge of any default or violation hereof by Mortgagor, to enforce its rights or remedies shall not be construed as a waiver of any provisions hereof, or of any right or remedy of Mortgagor. Waiver of any breach or default shall not constitute a waiver of any subsequent breach or fault.

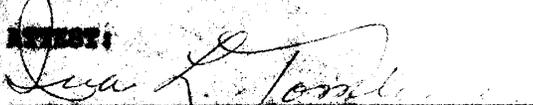
Dated this 26th day of July, 1971, and duly executed in original and three counterparts.

TOMCO RAILWAY CAR COMPANY, INC.

By


Its President

WITNESSES:


In the presence of:

