

BATTLE, FOWLER, JAFFIN, PIERCE & KHEEL 10268A

RECORDATION NO. 10268 Filed 1425
280 PARK AVENUE
NEW YORK, N.Y. 10017

RECORDATION NO. 10268A Filed 1425
APR 9 1979 - 12 55 PM

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INTERSTATE COMMERCE COMMISSION

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Fee \$ 210.00

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INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 10268 Filed 1425

Washington

RECORDATION NO. 10268/B Filed 1425

Secretary of the Interstate
Commerce Commission
Washington, D.C. 20423
APR 9 1979 - 12 55 PM
INTERSTATE COMMERCE COMMISSION

APR 9 1979 - 12 55 PM

INTERSTATE COMMERCE COMMISSION

Re: Box Cars Nos. 4050-4099

Dear Sir:

Enclosed for recordation in the order listed below pursuant to 49 U.S.C. 11303 please find the original and three counterparts of each of the following documents:

1. Letter (Purchase Order Assignment) dated as of April 6, 1979, from Rex Railways, Inc., a Delaware corporation (Rex) to McDonnell Douglas Finance Corporation (MDFC), pursuant to which Rex assigns to MDFC certain rights under a purchase order with Pullman Standard Division of Pullman, Incorporated relating to the captioned Box Cars.

2. Lease Agreement (Lease Agreement) dated as of October 12, 1978, between Rex, as lessor, and the Lamoille Valley Railroad Company, the railroad which will lease the Box Cars (Lessee).

3. Conditional Sale Agreement (Conditional Sale Agreement) dated as of April 6, 1979, between MDFC, as Vendor, and Rex, as Vendee, pursuant to which Vendee will purchase and pay for the Box Cars and MDFC will retain security title thereto.

4. Assignment of Lease (Lease Assignment) dated as of April 6, 1979, from Rex to MDFC, pursuant to which Rex assigns to MDFC all the leasehold rights under the Lease Agreement as security for the Conditional Sale Agreement indebtedness.

RECEIVED
APR 9 12 40 PM '79

Countersigned Rodolfo Hernandez

Secretary of the Interstate
Commerce Commission

April 9, 1979

5. Cross-Collateralization Agreement (Cross-Collateralization Agreement) dated as of April 6, 1979 between MDFC and Rex, pursuant to which Rex is granting MDFC a second security interest in 50 box cars, purchased previously under a certain conditional sale agreement between same parties, dated as of March 9, 1979 and recorded with the Interstate Commerce Commission on March 12, 1979 (Recordation No. 10192-C).

Also enclosed is a check for \$210.00 payable to Interstate Commerce Commission in payment of the fee for recording of the Lease Agreement (\$50.00), the Conditional Sale Agreement (\$50.00), Purchase Order Assignment (\$50.00), Assignment of Lease (\$10.00) and Cross-Collateralization Agreement (\$50.00).

The names and addresses of the parties to the enclosed Agreements are as follows:

Rex Railways, Inc.
616 Palisade Avenue
Englewood Cliffs, New Jersey 07632

McDonnell Douglas Finance Corporation
3855 Lakewood Boulevard
Long Beach, California 90846

Lamoille Valley Railroad Company
RFD #1
Stafford Avenue
Morrisville, New Jersey 05661

Rex-Noreco, Inc., the parent of Rex Railways, Inc., proposed to enter into a guaranty agreement pursuant to which it will guarantee the performance by Rex of its obligations under the Conditional Sale Agreement. The address of Rex-Noreco, Inc. is 616 Palisade Avenue, Englewood Cliffs, New Jersey 07632.

The equipment covered by the enclosed Agreements consists of 50 70-ton 50' 6" XM box cars, having A.A.R. mechanical designation "XM" and lessee identifying marks of LVRC 4050 through and including 4099. The cars will be further marked with a legend stating "Title to this Car Subject to Documents Recorded with the Interstate Commerce

Secretary of the Interstate
Commerce Commission

April 9, 1979

Commission."

Please return stamped copies of the enclosed documents to the undersigned.

Very truly yours,



David D. Griffin

DDG/ds
Enclosures
cc: Howard Meyers, Esq.

10268-C

RECORDATION NO. Filed 1425

APR 9 1979 -12 55 PM

~~INTERSTATE COMMERCE COMMISSION~~

LEASE AGREEMENT ASSIGNMENT

DATED AS OF APRIL 6, 1979

FROM

REX RAILWAYS, INC., as ASSIGNOR

TO

MCDONNELL DOUGLAS FINANCE CORPORATION,
as ASSIGNEE

(COVERING 50 GENERAL PURPOSE BOX CARS)

Filed and recorded with the Interstate Commerce
Commission pursuant to 49 U.S.C. 11303 on _____,
1979 at _____, recordation number _____.

LEASE AGREEMENT ASSIGNMENT dated as of April 6, 1979 given by REX RAILWAYS, INC., a New Jersey corporation (hereinafter called the "Assignor"), to MCDONNELL DOUGLAS FINANCE CORPORATION, a Delaware corporation (hereinafter called the "Vendor" or "Assignee").

WHEREAS the Vendor and the Assignor have entered into a conditional sale agreement dated as of the date hereof (hereinafter the "Conditional Sale Agreement") covering the sale and delivery, on the conditions therein set forth, by the Vendor and the purchase by the Assignor of the railroad equipment described in the Conditional Sale Agreement (said equipment being hereinafter called collectively the "Equipment" or "Units" and individually a "Unit"), the obligations of the Assignor under the Conditional Sale Agreement being guaranteed by Rex-Noreco, Inc., a New Jersey corporation (hereinafter the "Guarantor"); and the Assignor is entering into a lease agreement dated as of October 12, 1978 with Lamaille Valley Railroad Company, Morrisville, Vermont, a Vermont corporation, as Lessee, providing for the Lease of the Equipment on the terms and conditions therein set forth (hereinafter the "Lease Agreement"); and

WHEREAS, it is a condition to the obligations of the Vendor under the Conditional Sale Agreement that the Vendor shall have executed and delivered this Assignment in order to assign and transfer to the Assignee, as collateral security, the security title, rights, and interests of the Vendee as lessor under the Lease Agreement in the Units, all upon and subject to the terms and conditions more fully set forth herein:

NOW, THEREFORE, WITNESSETH:

That in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the Assignor, the receipt of which is hereby acknowledged, and the mutual covenants herein contained:

1. The Assignor hereby assigns, transfers and sets over unto the Assignee, as collateral security for the payment and performance of the obligations of the Assignor under the Conditional Sale Agreement, all the Assignor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, but subject to the provisions of paragraph 12 below, the immediate right to receive and collect all rentals, profits, proceeds and other sums payable to or receivable by

the lessor under or pursuant to the provisions of the Lease whether as rent, mileage credits, purchase prices, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of a default specified in the Lease, and to do any and all other things whatsoever which the lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Assignor hereby irrevocably authorizes and empowers the Assignee in its own name, or in the name of its nominee, or in the name of the Assignor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Assignee agrees to accept any Payments for the account of the lessor pursuant to the Lease. To the extent received, the Assignor will apply such Payments to satisfy the obligations of the Assignor under the Conditional Sale Agreement and remit any balance to the Assignor in the manner and subject to the terms and conditions set forth in the Conditional Sale Agreement.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of the lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the lessor to the lessee under the Lease shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the lessor or persons other than the Assignee.

3. The Assignor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the lessor; without the written consent of the Assignee, the Assignor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Assignor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. The Assignor does hereby constitute the Assignee the Assignor's true and lawful attorney, irrevocably, with full power (in the name of the lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Assignee may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Assignor to the Assignee under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Assignee shall terminate, and all estate, right, title and interest of the Assignee in and to the Lease shall revert to the Assignor.

6. The Assignor will pay and discharge any and all claims, liens, charges or security interests (other than those created by the Conditional Sale Agreement or this Assignment) on the Lease or the Payments due or to become due thereunder claimed by any party from, through or under the Assignor, or its successors and assigns (other than the Assignee), including tax liens arising out of the receipt of the income and proceeds from the Units, which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such Payments, but the Assignor shall not be required to pay or discharge any such claims, liens, charges or security interests so long as it is contesting the same in good faith by appropriate proceedings and the nonpayment thereof does not, in the opinion of the Assignee, adversely affect such interests of the Assignee.

7. The Assignor represents to the Assignee that the Lease is in full force and effect without default by the Assignor thereunder or to the best of the Assignor's knowledge, by the Lessee thereunder, and the Assignor further represents to the Assignee that the Assignor has not executed, made or consented to any other assignment, pledge, encumbrance of or security interest on, the subject matter of the assignment hereby made to the Assignee. The Assignor will, from time to time, execute, acknowledge and deliver any and all further instruments and assurances required by law or reasonably requested by the Assignee in order to confirm or further assure the interest of the Assignee hereunder.

8. The Assignee may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

9. This Assignment shall be governed by the laws of the State of New Jersey, but the parties shall be entitled to all rights conferred by 49 U.S.C. 11303.

10. The Assignor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Assignee at its address set forth in Article 24 of the Conditional Sale Agreement or at such other address as the Assignee shall designate.

11. The Assignee hereby agrees with the Assignor that the Assignee will not, so long as no default under the Conditional Sale Agreement has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or remedies conferred by Paragraph 11 of the Lease upon the occurrence of a default by the Lessee thereunder, without the prior consent of the Assignor.

12. Notwithstanding anything else contained in this Assignment, Assignor shall cause all checks, drafts and remittances constituting Payments under the Lease of any kind or character or arising from or in connection with the Equipment (other than payments which are required to be paid directly to the Assignee in accordance with the Conditional Sale Agreement) to be delivered to Post Office Box 968, Englewood Cliffs, New Jersey (hereinafter the "Post Office Box") and so long as no default under the Conditional Sale Agreement has occurred and is continuing, Assignor shall cause such Payments to be removed from the Post Office Box at regular intervals of not more than three business days and to be immediately deposited in Account Number 119-026-27-9 entitled "Lamoille Valley Railroad Company Special Account" at the United Jersey Bank located at 750 Palisade Avenue, Englewood Cliffs, New Jersey (hereinafter the "Bank Account"). Assignee (and its officers from time to time authorized by it) shall have the right to withdraw funds from the Bank Account to pay amounts then due and owing to Assignor under the Conditional Sale Agreement. The arrangements provided for herein shall be irrevocable, except that upon not less than 90 days prior written notice to the Assignee, Assignor

may change the place and number of the Post Office Box and the Bank Account. The Post Office Box shall at all times be rented and paid for in advance and evidence thereof shall be furnished to Assignee. Assignee may terminate Assignor's access to the Post Office Box and to the Bank Account at any time after a default has occurred and is continuing under the Conditional Sale Agreement, provided that Assignor shall remain obligated to assist Assignee in the collection of Payments for application under the Conditional Sale Agreement in all reasonable ways Assignee may request. It is understood and agreed that if at any time after the date of this Assignment it shall become feasible, as a result of changes in the rules or the Interstate Commerce Commission or the American Association of Railroads or otherwise, to make Payments arising under the Lease payable directly to Assignee, the parties will make such arrangements, will execute and deliver any supplement hereto or other documents or instruments, and take such other actions, including recordations or filings as may be reasonably requested by Assignee in order to provide for the same and to protect and publish notice of Assignee's security interest hereunder and thereunder.

IN WITNESS WHEREOF, the parties hereto, pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, all as of the date first above written.

REX RAILWAYS, INC., as Assignor

Witness:

C. de Fernal

By *Robert W. Chubb, Pres.*
Title:

MCDONNELL DOUGLAS FINANCE CORPORATION, as Assignee

Witness:

C. de Fernal

By *Jerome J. Luff*
Title: *JRM*

CONSENT AND AGREEMENT

The undersigned, Lamoille Valley Railroad Company, a Vermont corporation (hereinafter called the Lessee), the lessee named in the Lease Agreement (hereinafter called the Lease) referred to in the foregoing Lease Agreement Assignment (hereinafter called the Lease Assignment), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consent to all the terms and conditions of the Lease Assignment, and agrees that:

(1) the Lessee will pay all rentals, casualty payments, purchase prices, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter called the Payments) due and to become due under the Lease or otherwise in respect of the Units leased thereunder, without any set-off, abatement, counterclaim, deduction or defense whatsoever, in the manner provided in the Lease Assignment;

(2) the Assignee shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Assignee were named therein as the Lessor;

(3) the Assignee shall not, by virtue of the Lease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Assignee, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Assignee by signing the acceptance at the foot hereof, shall be deemed to be a contract, effective as of the date of acceptance, under the laws of the State of New Jersey and, for all purposes, shall be construed in accordance with the laws of said State.

LAMOILLE VALLEY RAILROAD COMPANY

By _____
(Title)

Accepted as of the 6th day of April, 1979

MCDONNELL DOUGLAS FINANCE CORPORATION, Assignee

By: _____
Title:

STATE OF)
 : SS.
COUNTY OF)

On this day of April, 1979, personally ap-
peared before me
to me personally known, who being by me duly sworn, says
he is President of Lamoille Valley Railroad Company, that
said instrument was signed 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.

[seal]

Notary Public in and
for said County and State

My commission expires _____