(1)

9-31CA067

Date NOV 6 1979

Fee $ 50.00

ICC Washington, D. C

BayBank Middlesex, N.A.
Seven New England Executive Park
Burlington, Massachusetts

Date: November 2, 1979

RECORDATION NO. 11003 Filed 1425

NOV 6 1979 -1 15 PM

INTERSTATE COMMERCE COMMISSION

Secretary of the Interstate
Commerce Commission
Washington, D.C. 20423

Letter of Transmittal Requesting Recordation of Documents

Dear Sir:

This letter transmits the following documents to be recorded in accordance with the provisions of 49 U.S.C. §11303 and 49 C.F.R. Part 1116:

Documents

Mortgage, Collateral Assignment, and Security Agreement

Parties to Document

(a) Mortgagor, Assignor, and Debtor
William B. Bero
1285 Old Marlboro Road
Concord, Massachusetts

(b) Mortgagee, Assignee, and Secured Party
BayBank Middlesex, N.A.
Seven New England Executive Park
Burlington, Massachusetts 01803

Other Parties to Transaction

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

Lamoille Valley Railroad Company
Stafford Avenue
Morrisville, Vermont 05661

Property Covered by Document

(a) Those 50-Foot, 70-Ton truck, XM Boxcars with a capacity of 5,344 cubic feet each, manufactured or to be manufactured by the Pullman Standard Division of Pullman Incorporated, presently bearing or to bear the following reporting marks:

Counterpart Agency for Helena Medtcalfe
of Countypark

LVRC 5130, LVRC 5131, LVRC 5132

All additions, substitutions, accessions, improvements, and replacements for the above described cars.

(b) Lease dated July 24, 1979 between Rex Railways, Inc. and Lamoille Railroad Company, as lessee, recorded on September 7, 1979 at 11:50 a.m. and bearing recordation number 10796.

(c) Management Agreement between Rex Railways, Inc. and the above described Mortgagor-Assignor-Debtor.

(d) Deposit Account maintained by Rex Railways, Inc.

(e) All accounts and rights to payment which now or hereafter arise out of or in respect of the boxcars described in (a), above.

Person to whom Original Document should be Returned

Richard B. Jacobs, Esquire
Riemer & Braunstein
Three Center Plaza
Boston, Massachusetts 02108

BAYBANK MIDDLESEX, N.A.

By Robert W. Herman
Robert W. Herman
Vice President
An executive officer of one of the parties, having knowledge of the matters set forth above.

RRD1(L)

Interstate Commerce Commission
Washington, D.C. 20423

11/6/79

OFFICE OF THE SECRETARY

Richard B. Jacobs,Esq.
Riemer & Braunstein
Three Center Plaza
Boston, Mass. 02108

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 11/6/79 at 1:15pm, and assigned recordation number(s). 11003,11004,11005,11006

Sincerely yours,

Agatha L. Mergenovich

Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 11003 Filed 1425

NOV 6 1979 - 1 15 PM

INTERSTATE COMMERCE COMMISSION

BAYBANK MIDDLESEX, N.A.

MORTGAGE, COLLATERAL ASSIGNMENT, AND SECURITY AGREEMENT

Date: Oct 17, 1979

THIS AGREEMENT is made by and between

William B. Bero (hereinafter, the "Borrower"), of 1285 Old Marlboro Road, Concord, Massachusetts.

and

BayBank Middlesex, N.A. (hereinafter, the "Bank"), a national banking association with its principal office at Seven New England Executive Park, Burlington, Massachusetts

in consideration of the mutual covenants contained herein and benefits to be derived herefrom,

WITNESSETH:

1. Grant of Security Interest

1-1. To secure the Borrower's Liabilities to the Bank (as that term is defined in Article 2, below) the Borrower hereby mortgages and grants to the Bank a security interest in, first lien upon, and assigns to the Bank, the following items of the Borrower's property which are now owned or hereafter acquired by the Borrower and all products, proceeds, substitutions, and accessions thereof:

(a) Those 50-Foot, 70 Ton, truck, XM Boxcars with a capacity of 5,344 cubic feet, each manufactured or to be manufactured by the Pullman Standard Division of Pullman Incorporated, which respectively presently or are to bear the following reporting marks:
LVRC 5130, LVRC 5131, LVRC 5132

together with all additions, substitutions, accessions, improvements, and replacements therefore (all of which is referred to hereinafter as the "Cars").

(b) Lease dated July 24, 1979 between Rex Railways, Inc. as principal and/or agent for the parties to be named on the schedule referred to in Section 1B thereof, as lessor, and Lamoille Valley Railroad Company, as lessee, recorded with the Interstate Commerce Commission on _____, 1979 at _____ and bearing recordation number _____, and all rights to payment thereunder, insofar as said lease relates to the Cars.

(c) Management Agreement (hereinafter, the "Management Agreement") between Rex Railways, Inc. and the Borrower relating to the Cars and all rights, remedies, powers, and discretions, and rights, interests, powers, and benefits of the Borrower thereunder.

(d) The contents of any deposit account maintained by Rex Railways, Inc. insofar as that deposit account contains any rental, rent, income, or profit which arises out of or in respect of any one or more of the Cars;

(e) All accounts, rights to payment, rentals, rent, income, and profits which now or hereafter arise out of or in respect of any one or more of the Cars.

1-2. The proceeds in which the Bank has been granted a mortgage, security interest, and first lien hereunder include, without limitation, insurance proceeds, each type of property listed in Section 1-1, above, and accounts, inventory, equipment, contract rights, chattel paper, instruments, and documents (as each of those terms is defined in the Uniform Commercial Code).

2. Certain Definitions

As used herein, the following terms have the following meanings:

2-1. "Collateral" refers to that property in which the Bank has been granted a mortgage, security interest, and first lien pursuant to Section 1-1, above.

2-2. Except as specifically provided in the final sentence of this Section 2-2, "Liabilities" includes, without limitation, the Borrower's $110,000.00 Promissory Note of even date made in favor of the Bank, and any and all liabilities, debts, and obligations of the Borrower to the Bank, each of every kind, nature and description, whether or not any of such are liquidated, unliquidated, secured, unsecured, direct, indirect, absolute, contingent, or of any other type, nature, or description, or by reason of any cause of action which the Bank may hold against the Borrower. "Liabilities" also includes, without limitation, all notes and other obligations of the Borrower now or hereafter assigned to or held by the Bank, each of every kind, nature, and description. "Liabilities" also includes, without limitation, all interest and other charges chargeable to the Borrower and/or due from the Borrower to the Bank from time to time and all costs and expenses incurred or paid by the Bank to enforce this and any other agreement between the Borrower and the Bank (including, but not limited to costs of collection, attorneys' reasonable fees, and all court and litigation costs and expenses whether or not suit is instituted against the Borrower). Liabilities also includes, without limitation, any and all obligations of the Borrower to act or refrain from acting in accordance with the terms, provisions, and covenants of the within Agreement and of any other agreement between the Borrower and the Bank or instrument furnished by the Borrower to the Bank. As used herein, the term "indirect" includes, without limitation, all obligations and liabilities which the Bank may incur or become liable for on account of or as a result of any transactions between the Bank and the Borrower. Said terms do not include, and the security interest granted hereby does not secure, however, any indebtedness or obligation of the Borrower to the Bank incurred on account of personal, family, household, or agricultural purposes.

3. Borrower's Representations, Covenants, and Warranties

3-1. No indebtedness or obligation of the Borrower to the Bank directly secured hereby has been or will hereafter be incurred on account of personal, family, household, or agricultural purposes.

3-2. The Borrower is and shall hereafter remain the owner of the Collateral free and clear of all liens, encumbrances, security interests, purchase money security interests, mortgages, and charges other than the lease described in Section 1-1(b), above and any lease of the type described in Section 3-6, below.

3-3. The Borrower shall furnish the Bank with such financial information as the Bank may request from time to time regarding the Borrower, all of which shall be prepared in accordance with generally accepted accounting principles consistently applied.

3-4. The Borrower shall have and maintain or shall cause to be carried and maintained at all times such insurance on the Collateral as may be satisfactory to the Bank. All such insurance shall include such indorsement in favor of the Bank as the Bank may specify. In the event of failure by Borrower to provide and maintain or to cause to be carried and maintained such insurance, the Bank may, at its option, provide such insurance and any premiums paid for by the Bank on account thereof shall be deemed to have been advanced by the Bank to the Borrower and shall be a Liability. The Borrower shall furnish to Bank certificates or other evidence satisfactory to Bank regarding compliance by the Borrower with the foregoing insurance provisions. The Borrower promptly will provide the Bank with notice of any loss to the Collateral covered by any insurance thereon, and will deliver to the Bank if and when received by the Borrower, any draft or other item which the Borrower may receive with respect to or on account of any insurance on the Collateral. The Borrower hereby appoints Bank as the Borrower's attorney to obtain, adjust, settle, and cancel any insurance described in this section and to endorse in favor of the Bank any and all drafts and other instruments with respect to such insurance. The Bank shall not be liable on account of any exercise pursuant to said power except for any exercise in actual wilful bad faith.

3-5. The Borrower shall provide the Bank as and when received by the Borrower with copies of all such reports, schedules, and information as the Borrower hereafter may receive from Rex Railways, Inc. or Lamoille Valley Railroad Company.

3-6. The Borrower shall not enter into, and shall not consent or acquiesce in the establishment of, any lease, use, bailment, or other arrangement concerning the use of the Cars, other than the lease described in Section 1-1(b), above, except upon not less than sixty (60) days prior written notice given the Bank

3-7. The Borrower shall not change, and shall not consent to or acquiesce in the change of, the reporting marks on any of the Cars except upon not less than sixty (60) days prior written notice given the Bank.

3-8. At any time or times and whether or not an event of default under Article 6 has occurred, the Bank may notify any account or contract debtor or debtors of the Borrower on account of the Collateral or any other party of the Bank's mortgage, security interest and lien on the Collateral and may collect all amounts due thereon. The Borrower agrees that at the Bank's request, the Borrower will provide written notification to all or any of such account or contract debtors regarding the Bank's security interest in the Collateral and will request that such account or contract debtors forward payment thereof to the Bank. The within obligations or the part of the Borrower, being unique, shall be specifically enforceable by the Bank.

3-9. Upon notice to the Borrower from the Bank (whether or not the Liabilities secured hereby are then in default), and/or upon notification to account debtors, as provided for in Section 3-8, immediately above, (whether such notification be unilaterally by the Bank or by the Borrower and the Bank jointly), the Borrower shall hold all proceeds of and collections on the Collateral in trust for the Bank and such shall not be commingled with the Borrower's other funds or deposited in any bank account of the Borrower except as the Bank may designate. The Borrower agrees that following such notice, the Borrower will deliver to the Bank on the dates of the receipt thereof by the Borrower, duly endorsed to the Bank, or assigned to the Bank, as may in each event be appropriate, all proceeds and collections of the Collateral in the identifical form as and when received by the Borrower.

3-10. The Borrower shall

(a) Advise Rex Railways, Inc. hereafter to make to the Bank the special distributions described in Section 7(a) of the Management Agreement and to continue to make such special distributions until the Bank shall have advised said Rex Railways, Inc. that the Liabilities of the Borrower to the Bank have been paid in full.

(b) Endeaver to obtain the inclusion of a provision substantially similar to said Section 7(a) in any agreement which the Borrower enters hereafter concerning the Collateral and, if such a provision is so included, to provide advice of the type described in Subsection (a), above, to the party designated therein to make such distributions.

Any payments which are received hereafter on account of any special distribution made pursuant to this section 3-10 or on account of any insurance on the Collateral shall be applied First, to any accrued and unpaid interest on account of the Borrower's Promissory Note specifically described in Section 2-2, above, and Second, to the installment payments then next due under said Promissory Note, and Third, to the installment payments due under said Promissory Note in the inverse order of their maturity and Fourth, to any other Liability, and Fifth, to the Borrower.

3-11. In the event that the Borrower has provided the Bank with one or more assignments of life insurance on the life of the Borrower as additional collateral for the Liabilities, the Borrower shall maintain such insurance and shall pay premiums thereon as such fall due until the Liabilities have been paid in full.

4. Default

Upon the occurrence of any one or more of the following Events of Default, at the option of Bank, any and all Liabilities of the Borrower to the Bank shall become immediately due and payable without notice or demand and the Bank may exercise its rights and remedies upon default, as set forth in Article 5, herein:

4-1. The failure by the Borrower to pay when due (or upon demand, if payable on demand) any amount then owing by the Borrower to the Bank;

4-2. The failure by the Borrower to promptly, punctually, and faithfully perform, observe, or discharge any Liability;

4-3. The determination by the Bank that any representation or warranty made by the Borrower to the Bank, whether made herein, or in any other document, instrument, agreement, or paper given the Bank by the Borrower was not true or accurate in all material respects when given;

4-4. The occurrence of any event of default under any agreement between the Bank and the Borrower or instrument or paper given the Bank by the Borrower, notwithstanding that the Bank may not have exercised its rights upon default under any such other agreement, instrument, or paper;

4-5. The filing of any complaint, application, or petition by or against the Borrower initiating any matter in which the Borrower is or may be granted any relief from the Borrower's debts pursuant to the Bankruptcy Code (so-called) or the Bankruptcy Reform Act of 1978, or pursuant to any other insolvency statute or procedure; the offering by or entering into by the Borrower of any arrangement seeking relief from or extension of the Borrower's debts.

4-6. The imposition of any lien upon any assets of the Borrower, or the entry of any judgement against the Borrower, which lien is not discharged, or judgement appealed from or satisfied, within fifteen (15) days of its imposition or entry.

4-7. The failure by any party thereto to promptly, punctually, and faithfully perform any obligation imposed upon that party under the Lease described in Section 1-1(b), above, or the Management Agreement described in Section 1-1(c), above, or any lease of the type described in Section 3-6, above.

4-8. The occurrence of any event or circumstance with respect to the Borrower, the Collateral or any guarantor to the Bank of the Liabilities, such that the bank deems itself to be insecure.

4-9. The death of the undersigned.

4-10. The occurrence of any of the events described in any of Sections 4-1 through and including 4-6, above, with respect to any guarantor to the Bank of the Liabilities, as if such guarantor were the "Borrower" described therein.

5. Rights and Remedies upon Default

5-1. Upon the occurrence of any Event of Default, and at any time thereafter, the Bank shall have all of the rights and remedies of a secured party upon default under the Uniform Commercial Code as then in effect in Massachusetts, in addition to which the Bank may (a) sell, lease, assign, or otherwise dispose of the Collateral exercise and (b) exercise all rights, remedies, powers and discretions of the Borrower in connection with the Collateral, and (c) apply the proceeds of the Collateral towards (but not necessarily in complete satisfaction of) the Liabilities. The Bank may enter upon, occupy, and use any premises of the Borrower for the purpose of exercising the Bank's rights and remedies set forth in this Article. The Bank shall give the Borrower at least the greater of the minimum notice required by law or seven (7) days prior written notice of the date, time, and place of any proposed public sale, and of the date after which any private sale or other disposition of the Collateral may be made.

5-2. The Borrower hereby irrevocably constitutes and appoints the Bank as the Borrower's true and lawful attorney, with full power of substitution to covert the Collateral into cash at the sole cost and expense of Borrower, but for the sole benefit of the Bank. The within appointment includes but is not limited to the right and power to prosecute, defend, compromise, or release any action relating to the Collateral and to endorse the name of the Borrower in favor of the Bank upon any and all checks, drafts, money orders, notes, acceptances, or other instruments of the same of different nature relating to the Collateral. The Bank shall not be obligated to do any of the acts or exercise any of the powers hereinabove authorized, but if the Bank elects to do any such act or exercise any such powers, it shall not be accountable for more than it actually receives as a result thereof, and shall not be responsible to the Borrower except for the Bank's actual wilful misconduct. All powers conferred upon the Bank by this this Agreement, being coupled with an interest, shall be irrevocable until the within Agreement is terminated by a written instrument executed by a duly authorized officer of the Bank.

5-3. In addition to any other rights, remedies, powers, privileges, and discretions of the Bank pursuant to this Article 5, upon the occurrence of any Event of Default, and at any time thereafter, the Bank may exercise, to the exclusion of the Borrower, all rights, remedies, powers, privileges, and discretions and all rights, interests, powers, and benefits of Borrower under any Management Agreement entered into between the Borrower and Rex Railways, Inc. and under any management agreement of like or different tenor hereafter entered into by the Borrower with respect to any of the Collateral.

5-4. The proceeds of any collection, or of any sale or disposition of the Collateral held under this Article, shall be applied towards the Liabilities in such order and manner as the Bank determines in its sole discretion, any statute, custom, or usage to the contrary notwithstanding. The Borrower shall remain liable to the Bank for any deficiency remaining following such application.

5-5. The Bank's rights, remedies, powers, privileges and discretions set forth in this Article are in addition to any other rights which the Bank may have, or to which the Bank may be entitled and may be exercised by the Bank as to all or any portion of the Collateral as the Bank may determine.

5-6. The rights, remedies, powers, privileges, and discretions of the Bank hereunder (hereinafter, the "Bank's Rights and Remedies") shall be cumulative and not exclusive of any rights or remedies which it would otherwise have, and no delays or omissions by the Bank in exercising or enforcing any of the Bank's Rights and Remedies shall operate as or constitute a waiver thereof. No waiver by the Bank of any default hereunder or under any other agreement shall operate as a waiver of any other default hereunder or under any other agreement. No single or partial exercise of the Bank's Rights and Remedies and no other agreement or transaction, of whatever nature, entered into between the Bank and the Borrower at any time, whether before, during, or after the date hereof, shall preclude any other or further exercise of the Bank's Rights and Remedies. No waiver or modification on the Bank's part on any one occasion shall be deemed a waiver on any subsequent occasion, nor shall it be deemed a continuing waiver. All of the Bank's Rights and Remedies under this agreement or any other agreement or transaction shall be cumulative, and not alternative or exclusive, and may be exercised by the Bank at such time or times and in such order of preference as the Bank in its sole discretion may determine.

6. General

6-1. Any and all deposits or other sums at any time credited by or due from the Bank to the Borrower, and any cash, securities, instruments, or other property of the Borrower in the possession of the Bank, whether for safekeeping, or otherwise, shall at all times constitute security for any and all Liabilities, and may be applied or set off by the Bank against such Liabilities at any time, whether or not the Liabilties are then due or whether or not other collateral is available to Bank.

6-2. The Bank shall have no duty as to the collection or protection of the Collateral beyond the safe custody of such of the Collateral as may come into the possession of the Bank and shall have no duty as to the preservation of rights against prior parties or any other rights pertaining thereto. The Bank may exercise its rights with respect to the Collateral without resort or regard to other collateral or sources of satisfaction of the Liabilities.

6-3. All notices and other correspondence to the Borrower by the Bank in connection with the within Agreement shall be to the Borrower's address found at the beginning of the within Agreement, which address may be changed on seven (7) days written notice given the Bank by certified mail, return receipt requested. All notices and other correspondence to the Bank by the Borrower in connection with the within Agreement shall be to the Bank's principal office, or as the Bank may otherwise specify from time to time.

6-4. The within Agreement shall be binding upon the Borrower and the Borrower's heirs, executors, administrators representatives, successors, and

assigns and shall enure to the benefit of the Bank and the Bank's successors and assigns.

6-5. Any determination that any provision of the within Agreement or any application thereof is invalid, illegal, or unenforceable in any respect in any instance shall not affect the validity, legality, and enforceability of such provision in any other instance, or the validity, legality, or enforceability of any other provision of the within Agreement.

6-6. No modification, amendment, or waiver of any provision of the within Agreement or of any provision of any other agreement between the Borrower and the Bank is effective unless executed in writing by the party to be charged with such modification, amendment and waiver, and if such party be the Bank, then by a duly authorized officer thereof.

6-7. The Borrower shall pay on demand all expenses which the Bank may hereinafter incur in connection with the protection, or enforcement of any of the Bank's rights against the Borrower, any collateral held by the Bank, or any guarantor of the Liabilities. The Borrower specifically authorizes the Bank to pay all such fees and expenses and to charge the same to any account of the Borrower with the Bank.

6-8. The Borrower shall execute all such instruments as may be required by the Bank now and hereafter with respect to the perfection of the mortgage, security interests, and first lien granted herein. A carbon, photographic, xerographic, or other reproduction of the within agreement, or of any financing statement executed pursuant to this Section 6-8 shall be sufficient for filing to perfect the mortgage, security interests, and first lien granted herein.

6-9. The within Agreement and all documents which relate thereto which have been or may be hereinafter furnished the Bank may be reproduced by the Bank by any photographic, photostatic, microfilm, micro-card, miniature photographic, xerographic, or similar process, and the Bank may destroy any document so reproduced. Any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made in the regular course of business) and any enlargement, fascimile, or further reproduction shall likewise be admissible in evidence.

6-10. This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the laws of Commonwealth of Massachusetts. The Borrower submits itself to the

jurisdiction of the Courts of said Commonwealth for all purposes with respect to the within Agreement and the Borrower's relationship with the Bank.

6-11. The Borrower acknowledges receipt of a copy of this Agreement.

It is intended that the within Agreement take effect as a sealed instrument.

BAYBANK MIDDLESEX, N.A.
("Bank")

William B. Bero ("Borrower")

By Robert W. Herman, V.P.

Name: Robert W. Herman

Title: Vice President

State of Arizona
County of Maricopa, ss

October 12, 1979

Before me personally appeared William B. Bero to me known to be the person described in and who executed the foregoing instrument and acknowledged that such person executed said instrument as such person's free act and deed.

Notary Public
My Commission Expires:

Commonwealth of Massachusetts

Middlesex ss.

October 17, 1979

Before me personally appeared Robert W. Herman, to me personally known, who being by me duly sworn says that he is the Vice President of BayBank Middlesex, N.A., that said person executed the foregoing instrument on behalf of said bank by authority of its Board of Directors, and and acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Richard B. Jacobs
NOTARY PUBLIC
My Commission Expires Mar. 1, 1985

Notary Public
My Commission Expires:

RRD1(F)