



THE FAMILY LINES SYSTEM

1590 Marietta Boulevard, N.W.
Atlanta, Georgia 30318

RECORDATION NO. 10759-14 Filed 1425

SEP 10 1979 - 8 40 AM

INTERSTATE COMMERCE COMMISSION
Mrs. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, D. C. 20423

9-253A010

August 27, 1979

SEP 10 1979

50.00

FEE OPERATION BR.

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RECEIVED

Re: Seaboard Coast Line Railroad Equipment Trust Agreement, No. 12 - dated as of August 16, 1979

Dear Mrs. Mergenovich:

I am enclosing for filing and recordation under the provisions of 49 U.S.C. §11303, executed counterparts numbered 1, 2 and 3 of Sublease dated as of August 16, 1979 of Railroad Equipment subject to the above-mentioned agreement, described in detail below, filed with the Commission for recordation on August 22, 1979 at 5:05 P.M. and assigned Recordation No. 10759. Each of the enclosed counterparts constitutes an original and, accordingly, counterpart No. 3 may be treated as an original.

1. Names and addresses of the parties to the Sublease

- (a) Sublessor - Seaboard Coast Line Railroad Company,
3600 West Broad Street, Richmond, Virginia 23230
- (b) Sublessee - The Western Railway of Alabama,
1590 Marietta Boulevard, N.W., Atlanta, Georgia 30318

2. Description of the equipment covered by the Sublease

All of the equipment is marked as follows:

SEABOARD COAST LINE RAILROAD EQUIPMENT TRUST,
NO. 12—MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
BALTIMORE, MARYLAND, TRUSTEE, OWNER, LESSOR.

<u>General Description</u>	<u>Type Equipment</u>	<u>A.A.R. Mechanical Designation</u>	<u>No. of Units</u>	<u>Road Numbers</u>
Diesel-electric Locomotives	Model GP-38-2 2000 H.P.	B-B	2	WA 6045 and WA 6046

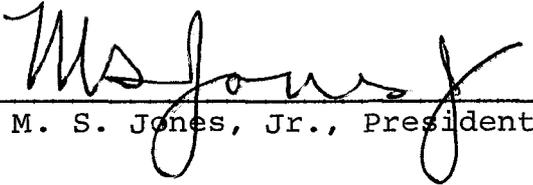
3. Both Counterparts Nos. 3 and 3 should be returned to Mr. Woodruff M. Price, Vice President of the Seaboard Coast Line Railroad Company, 1000 Connecticut Avenue, N.W., Washington, D. C. 20036, acting on my behalf.

I am enclosing this company's check for \$50.00 to cover the recordation fee for the above-mentioned sublease.

Yours very truly,

THE WESTERN RAILWAY OF ALABAMA

By


M. S. Jones, Jr., President

REGISTRATION NO. 10739-A FILED 1425

COUNTERPART NO. 1 OF
4 COUNTERPARTS.

SEP 10 1979

INTERSTATE COMMERCE COMMISSION
SUBLEASE OF RAILROAD EQUIPMENT dated as of August 16, 1979, between SEABOARD COAST LINE RAILROAD COMPANY, a Virginia corporation (hereinafter called the Sublessor), and THE WESTERN RAILWAY OF ALABAMA, an Alabama corporation (hereinafter called the Sublessee).

WITNESSETH THAT:

WHEREAS, the locomotives (hereinafter singularly called Locomotive and collectively called the Locomotives) are subject to Seaboard Coast Line Railroad Equipment Trust Agreement, No. 12, dated as of August 16, 1979 (hereinafter called the Security Document), with Mercantile-Safe Deposit and Trust Company (hereinafter called the Trustee), and bear Locomotive letters and Nos. WA 6045 and 6046; and

WHEREAS, the Sublessee desires to sublease those certain two Locomotives, described in Schedule A hereto, at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS, the Sublessor is required under the Security Document to pay to the Trustee rental sufficient to pay and discharge the amounts of principal and dividends payable on the equipment trust certificates issued under the Security Document when and as the same shall become payable.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Sublessee, the Sublessor hereby subleases the Locomotives to the Sublessee upon the following terms and conditions, subject, however, upon default of the Sublessor under the Security Document, to all the rights and remedies of the Trustee thereunder;

SECTION 1. Delivery and Acceptance of Locomotives. The Sublessor has caused each Locomotive to be delivered to the Sublessee as of the date set forth in Schedule A.

SECTION 2. Rentals. The Sublessee agrees to pay as rental for the Locomotives to the Sublessor and the Trustee 20% (in reimbursement of the like percentage advanced by Sublessor toward the cost of the Locomotives) and 80%, respectively, with such percentages being subject to change from time to time upon notification in writing by the Sublessor to the Sublessee, in the

following amounts:

(a) fifteen (15) consecutive annual payments equal to one-fifteenth (1/15th) of the total cost of the Locomotives (except for appropriate adjustments of the final payment in case the total amount payable shall not, when divided by 15, result in an amount ending in an integral cent), commencing August 16, 1980 and ending August 16, 1994, and

(b) thirty (30) consecutive semiannual payments equal to the unpaid portion of the total cost of the Locomotives multiplied by the rate of interest payable as dividends on the equipment trust certificates under the Security Document, commencing February 16, 1980 and ending August 16, 1994.

SECTION 3. Term of Sublease. This sublease shall terminate as to each Locomotive on August 16, 1994. The Sublessor agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, other than the Sublessee, will at any time during the term of the Sublease take any action or fail to take any action which will in any way disqualify the Sublessee from taking the investment credit, interest and depreciation deductions in respect of the Locomotives for Federal income tax purposes, it being the intent of the parties hereto that the Sublessee be considered the owner of each Locomotive, subject to the Security Document. Notwithstanding anything to the contrary contained herein, all rights and obligations under this sublease and in and to the Locomotives, are subject to the terms and conditions of the Security Document during the term thereof and, upon default by the Sublessor under the Security Document, are subject to the rights of the Trustee thereunder. If an event of default should occur under the Security Document, the Trustee may terminate this sublease as to the Locomotives.

SECTION 4. Purchase of Locomotives. The Sublessee will purchase the Locomotives from the Trustee. Upon termination of the sublease, title to the Locomotives shall vest in the Sublessee and the Sublessor shall cause the Trustee to execute for record in public offices, at the expense of the Sublessor, such instrument or instruments in writing as reasonably shall be requested by the Sublessor in order to make clear upon public records the Sublessee's title to the Locomotives under the laws of any jurisdiction; provided, however, that until that time title to the Locomotives shall not pass to or vest in the Sublessee, but title to

and ownership of the Locomotives shall be and remain in the Trustee, notwithstanding the delivery of the Locomotives to and the possession and use thereof by the Sublessee.

SECTION 5. Identification Marks. The Sublessee will cause each Locomotive to be kept lettered and numbered, as set forth in Schedule A hereto, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Locomotive, in letters not less than one-half inch in height, the name of the Trustee or other appropriate words designated by the Sublessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Sublessor's and Trustee's title to and property in the Locomotives, and the rights of the Sublessor under this sublease and of the Trustee under the Security Document. The Sublessee will replace promptly any such name and words which may be removed, defaced or destroyed. The Sublessee will not change the identifying letters and numbers of the Locomotives except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Trustee and the Sublessor and filed, recorded and deposited by the Sublessee in all public offices where this Sublease and the Security Document shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Sublessee will not allow the name of any person, association or corporation to be placed on the Locomotives as a designation that might be interpreted as a claim of ownership; provided, however, that the Sublessee may allow the Locomotives to be lettered with the names or initials or other insignia customarily used by the Sublessee or its subsidiaries or affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Locomotives as permitted under this Sublease.

SECTION 6. Taxes. All payments to be made by the Sublessee hereunder will be free of expense to the Sublessor for collection or other charges and will be free of expense to the Sublessor with respect to the amount of any local, state or Federal taxes [other than any United States Federal income tax payable by the Sublessor in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the Sublessor has its principal place of business without apportionment to any other state, except any such tax which

is in substitution for or relieves the Sublessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided] or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called Impositions) hereafter levied or imposed upon or in connection with or measured by this Sublease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Document, all of which Impositions the Sublessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Sublessee will also pay promptly all Impositions which may be imposed upon the Locomotives or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Sublessor solely by reason of its financing thereof and will keep at all times all and every part of the Locomotives free and clear of all Impositions which might in any way affect the rights of the Sublessor or result in a lien upon the Locomotives; provided, however, that the Sublessee shall be under no obligation to pay any Impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the opinion of the Sublessor, adversely affect the property or rights of the Sublessor and Trustee under the Security Document. If any Impositions shall have been charged or levied against the Sublessor directly and paid by the Sublessor, the Sublessee shall reimburse the Sublessor on presentation of an invoice therefor.

In the event that the Sublessor shall become obligated to make any payment to the Trustee or otherwise pursuant to Article 6 of the Security Document not covered by the foregoing paragraph of this Section 6, the Sublessee shall pay such additional amounts (which shall also be deemed Impositions hereunder) to the Sublessor as will enable the Sublessor to fulfill completely its obligations pursuant to said Article 6.

In the event any reports with respect to Impositions are required to be made, the Sublessee will either make such reports in such manner as to show the interests of the Sublessor and the Trustee in such Locomotive or notify the Sublessor and the Trustee of such requirement and make such reports in such manner as shall be satisfactory to the Sublessor and the Trustee.

In the event that, during the continuance of this sublease, the Sublessee becomes liable for the payment or reimbursement of

any Imposition, pursuant to this Section 6, such liability shall continue, notwithstanding the expiration of this sublease, until all such Impositions are paid or reimbursed by the Sublessee.

SECTION 7. Payment for Casualty Occurrences; Insurance.

In the event that either Locomotive shall be withdrawn from use for substantial repairs (other than running repairs) or become worn out, lost, stolen, destroyed, unsuitable for use, no longer needed, irreparably damaged or seized by the government (such occurrences being hereinafter called Casualty Occurrences) during the term of this sublease, the Sublessee shall promptly and fully notify the Sublessor and the Trustee with respect thereto and comply fully with the provisions of Section 4.7 of the Security Document applicable to Casualty Occurrences. Upon the compliance by the Sublessee in respect of either Locomotive, the rental for such Locomotive shall cease to accrue, the term of this sublease as to such Locomotive shall terminate and (except in the case of the loss, theft or complete destruction of such Locomotive) the Sublessee shall be entitled to retain possession of such Locomotive.

The Sublessee will, at all times while this sublease is in effect, at its own expense, cause to be carried and maintained insurance in respect of the Locomotives at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by the Sublessee on similar equipment owned by it. Any net insurance proceeds as the result of insurance carried by the Sublessee received by the Sublessor in respect of either Locomotive suffering a Casualty Occurrence shall be deducted from the amounts payable by the Sublessee to the Sublessor in respect of Casualty Occurrences pursuant to this Section 7. If the Sublessor shall receive any such net insurance proceeds or condemnation payments after the Sublessee shall have made payments pursuant to this Section 7 without deduction for such net insurance proceeds or such condemnation payments, the Sublessor shall pay such proceeds to the Sublessee.

SECTION 8. Annual Reports. On or before March 1 in each year, commencing with the calendar year 1980, the Sublessee will furnish to the Sublessor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of the Locomotives then subleased hereunder and covered by the Security Document, the amount, description and numbers of the Locomotives that have suffered a Casualty Occurrence during the preceding calendar year, the amount, description and numbers of the Locomotives then undergoing substantial repairs, other than

running repairs, or then withdrawn from use for such repairs, and such other information regarding the condition and state of repair of the Locomotives as the Sublessor may reasonably request, and (b) stating that, in the case of the Locomotives repainted or repaired during the period covered by such statement, the numbers and the markings required by Section 4.6 of the Security Document have been preserved or replaced. The Sublessor shall have the right by its agents, to inspect the Locomotives and the Sublessee's records with respect thereto at such reasonable times as the Sublessor may request during the continuance of this sublease.

SECTION 9. Disclaimer of Warranties, Compliance with Laws and Rules, Maintenance and Indemnification. THE SUBLESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION, OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE LOCOMOTIVES DELIVERED TO THE SUBLESSEE HEREUNDER, AND THE SUBLESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE LOCOMOTIVES FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE LOCOMOTIVES OR ANY COMPONENT THEREOF, (EITHER UPON DELIVERY THEREOF TO THE SUBLESSEE, OR OTHERWISE), it being agreed that all such risks, as between the Sublessor and the Sublessee, are to be borne by the Sublessee; but the Sublessor hereby irrevocably appoints and constitutes the Sublessee its agent and attorney-in-fact during the term of this sublease to assert and enforce from time to time, in the name of and for account of the Sublessor and/or the Sublessee, as their interests may appear, at the Sublessee's sole cost and expense, whatever claims and rights the Sublessor may have under the provisions of the Security Document.

The Sublessee agrees, for the benefit of the Sublessor and the Trustee, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of the Locomotives) with all laws of the jurisdictions in which its operations involving the Locomotives may extend and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Locomotives, to the extent that such laws and rules affect the title, operation or use of the Locomotives, and in the event that such laws or rules require any alteration of the Locomotives, or in the event that any equipment or appliance on the Locomotives shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on the Locomotives in order to comply with such laws or

rules, the Sublessee will make such alterations, changes, replacements and additions at its own expense; provided, however, that the Sublessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Sublessor or the Trustee, adversely affect the property or rights of the Sublessor or the Trustee under this sublease or under the Security Document.

The Sublessee agrees that, at its own cost and expense it will maintain and keep the Locomotives in good order and repair.

Any and all additions to the Locomotives and any and all parts installed on and replacements made to the Locomotives or additions thereto, shall constitute accessions to the Locomotives and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Document) shall immediately be vested in the Sublessor and the Trustee as their respective interests appear in the Locomotives; excepting, however, communications, signal and automatic control equipment or devices having a similar use which have been added to the Locomotives by the Sublessee which are not required for the operation or use of the Locomotives by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body.

The Sublessee agrees to indemnify, protect and hold harmless the Sublessor and the Trustee from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of the Security Document or this sublease, the ownership of the Locomotives, the use, operation, condition, storage or return of the Locomotives or any accident in connection with the operation, use, condition, possession, storage or return of the Locomotives resulting in damage to property. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this sublease or the termination of this sublease.

The Sublessee agrees to prepare and deliver to the Sublessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Sublessor) any and all reports (other than income tax returns) to be

filed by the Sublessor with any Federal, state or other regulatory authority by reason of the ownership by the Sublessor or the Trustee of the Locomotives or the subleasing thereof to the Sublessee.

SECTION 10. Default. If, during the continuance of this sublease an Event of Default, as defined in Article V of the Security Document, shall occur, then, in any such event, the Sublessor, acting in conformity with the provisions of said Article V, may proceed to enforce performance by the Sublessee of the applicable covenants of said Article V.

SECTION 11. Assignment, Possession and Use. This sublease shall be assignable in whole or in part by the Lessor without the consent of the Sublessee, but the Sublessee shall be under no obligation to any assignee of the Sublessor except upon written notice of such assignment from the Sublessor. All the rights of the Sublessor hereunder (including, but not limited to, the rights under Sections 6, 7 and 10 and the rights to receive the rentals payable under this sublease) shall inure to the benefit of the Sublessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively). Whenever the term Sublessor is used in this sublease it shall apply and refer to each such assignee of the Sublessor.

So long as the Sublessee shall not be in default under this sublease and so long as the Sublessor shall not be in default under the Security Document, the Sublessee shall be entitled to the possession and use of the Locomotives in accordance with the terms of this sublease and the Security Document, but, without the prior written consent of the Sublessor, the Sublessee shall not assign or transfer its leasehold interest under this sublease in the Locomotives or either of them. The Sublessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Sublessor or the Trustee not related to the ownership of the Locomotives) upon or with respect to either the Locomotives, including any accession thereto, or the interest of the Sublessor, the Trustee or the Sublessee therein, and will promptly discharge any such lien, claim, security interest or encumbrance which arises. The Sublessee shall not, without the prior written consent of the Sublessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, the Locomotives, except to the extent permitted by

the provisions of the immediately succeeding paragraph.

So long as the Sublessee shall not be in default under this sublease and so long as the Sublessor shall not be in default under the Security Document, the Sublessee shall be entitled to the possession of the Locomotives and to the use of the Locomotives by it or any subsidiary or affiliate upon lines of railroad owned or operated by it or any such subsidiary or affiliate or upon lines of railroad over which the Sublessee or any such subsidiary or affiliate has trackage or other operating rights or over which railroad equipment of the Sublessee or any such subsidiary or affiliate is regularly operated pursuant to contract, but only upon and subject to all the terms and conditions of this sublease and the Security Document. The Sublessee may receive and retain compensation for such use from other railroads so using the Locomotives.

SECTION 12. Recording, Expenses. The Sublessee will cause this sublease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with §11303 of the Interstate Commerce Act, as amended, 49 U.S.C. §11303. The Sublessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Sublessor for the purpose of proper protection, to its satisfaction, of the Sublessor's interests in the Locomotives, or for the purpose of carrying out the intention of this sublease or any assignment thereof.

The Sublessee will pay the reasonable costs and expenses involved in the preparation and filing of this sublease and any assignment thereof, amendment or supplement thereto.

SECTION 13. Execution. This sublease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

[Corporate Seal]

ATTEST:

J. S. Williams
Assistant Secretary

SEABOARD COAST LINE RAILROAD COMPANY

By

James A. Anderson
Vice President and Treasurer

THE WESTERN RAILWAY OF ALABAMA

By Ms Jones
President

[Corporate Seal]

ATTEST:
A. C. Ward
Secretary

STATE OF VIRGINIA)
CITY OF RICHMOND) ss.

On this 24th day of August, 1979, before me personally appeared LEONARD G. ANDERSON, to me personally known, who, being duly sworn, says that he is Vice President and Treasurer of SEABOARD COAST LINE RAILROAD COMPANY, and that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed 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]

CW Whitehurst
Notary Public

My Commission expires February 15, 1983.

STATE OF GEORGIA)
COUNTY OF DEKALB) ss.

On this _____ day of August, 1979, before me personally appeared M. S. JONES, JR., to me personally known, who, being duly sworn, says that he is President of THE WESTERN RAILWAY OF ALABAMA, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed 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]

Jeanne H. Glover
Notary Public
Notary Public, Georgia, State At Large
My Commission Expires Feb. 26, 1980

My Commission expires

SCHEDULE A

LOCOMOTIVE LETTERS
AND NUMBERS

DATE
RECEIVED

WA 6045

August 28, 1979

WA 6046

August 28, 1979

SCHEDULE A

LOCOMOTIVE LETTERS
AND NUMBERS

DATE
RECEIVED

WA 6045

August 28, 1979

WA 6046

August 28, 1979