United States
Rail Services, Inc.

A U.S. Leasing Company

330 Jackson Street
P. O. Box 3985
San Francisco, California 94119
(415) 445-7690

4-355A032

No. 1984
Date DEC
Fee $ 10.00
ICC Washington, D. C.

December 10, 1984

RECORDATION NO. 14509 Filed 1425

Mr. James H. Bayne
Secretary
Interstate Commerce Commission
Washington, DC 20423

14509/A
RECORDATION NO. Filed 1425
DEC 20 1984 - 1 05 PM
INTERSTATE COMMERCE COMMISSION

DEC 20 1984 - 1 05 PM
INTERSTATE COMMERCE COMMISSION

Dear Secretary:

I have enclosed an original and one counterpart of the document described below, to be recorded pursuant to section 11303 of title 49 of the U. S. Code.

This document is a "Assignment", dated December 3, 1984.

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

United States Rail Services, Inc., Managing Agent
P. O. Box 3985
San Francisco, Ca 94119

Green-Holstrom, a General Partnership
P. O. Box 671
Novato, Ca 94948

A description of the equipment covered by the document is as follows:

One (1), 100 ton CF4650 Center Flow Covered Hopper Car, lettered RUSX and numbered 4752.

A fee of $10.00 is enclosed. Please return the original not needed by the Commission for recordation purposes to the undersigned.

Sincerely,

Carol J. Kane

Carol J. Kane
Assistant Secretary

Encl.

United States
Rail Services, Inc.

633 Battery Street
San Francisco, California 94111
(415) 445-7690

January 3, 1985

Mrs. Mildred Lee
Interstate Commerce Commission
12th & Constitution Avenue, N. W.
Washington, D. C. 20423

Re: Assignment recorded under
Recordation #14509

Dear Mrs. Lee:

Pursuant to our telephone conversation, I am enclosing the Railroad Car Management Agreement copy that should have been attached to the Assignment (S. F. Marin to Green Holstrom, a General Partnership).

Thank you for all your assistance and knowledge.

Sincerely,

Carol J. Kane

Carol J. Kane
Assistant Secretary

Enclosure

p.s. I am also sending a copy of the Recorded Assignment.

United States
Rail Services, Inc.

A U.S. Leasing Company

633 Battery Street
San Francisco, California 94111
(415) 445-7690

January 8, 1985

Mrs. Mildred Lee
Interstate Commerce Commission
12th & Constitution Avenue, N. W.
Washington, D. C. 20423

RE: Assignment and Railroad Car Management Agreement
Recordation #14509

Dear Mrs. Lee:

As per our telephone conversation of January 8th, 1985, I am enclosing the second copy of the Railroad Car Management Agreement under the Recordation number of 14509.

I apologize for not sending this second copy along with the original packet of material.

Sincerely,

Carol J. Kane
Assistant Secretary

ENclosure

Interstate Commerce Commission

Washington, D.C. 20423

12/20/84

OFFICE OF THE SECRETARY

Carol J. Kane
Assist. Sec.
U.S.Rail Services,Inc.
330 Jackson St.
P.O.Box 3985
San Francisco,Calif. 94119

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 12/20/84 at 1:05pm and assigned re-recordation number(s). 14509

Sincerely yours,

James H. Bayne

Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 14509 Filed 1425

AUG 30 1984 5 PM

INTERSTATE COMMERCE COMMISSION

RAILROAD CAR MANAGEMENT AGREEMENT

THIS AGREEMENT, made this 23rd day of November, 1977, by and between Rail-U.S. Leasing, Incorporated, a California corporation (hereinafter called "Company") and S.F. Marin Investors, LTD of Novato, State of California (hereinafter called "Owner").

WITNESSETH:

WHEREAS, Owner holds title or will hold title to: ONE COVERED HOPPER CAR, No. RUSX 4752, (hereinafter, together with any other railroad cars made subject hereto by agreement between the parties, called "the Cars," whether there are one or more cars subject to this Agreement); and

WHEREAS, Company is engaged in the business of managing, leasing and subleasing railroad cars; and

WHEREAS, Owner desires Company to manage the operation of the Cars;

NOW THEREFORE, the parties hereby agree as follows:

1. *Employment as Manager.* Owner hereby employs Company to manage the operation of the cars in accordance with the terms and conditions hereinafter set forth and Company agrees to accept such employment.

2. *Company's Duties.* Company shall do the following (which Owner agrees shall be done by Company):

(a) Accept delivery of the Cars and operate and account for them in a Pool of cars of substantially the same type and size, under substantially the same terms and conditions as those contained in this Agreement. The age of the cars in such Pool will not vary by more than five years.

(b) Secure the assignment of Association of American Railroad's reporting marks for the Cars, to place such marks upon the Cars and to register the Cars in such tariffs as required for their operation in railroad service, and to paint the Cars any appropriate color and place on the Cars such markings or legends as it deems required or appropriate;

(c) Execute in its name, if it deems it advisable (1) all required Association of American Railroads, Interstate Commerce Commission, local Public Utility Commission and all other governmental or industry agreements it deems necessary, appropriate or required in order to operate the Cars in railroad service under this Agreement; and (2) all ad valorem and other tax filings and to pay any such taxes attaching to the Cars;

(d) Use its best efforts to lease the Cars to shippers or other users of railroad cars for lease terms of not to exceed five [5] years on such terms and conditions as it may deem satisfactory, within its discretion;

(e) Pay to Owner within 120 days after the end of each Calendar Quarter the Cars' Pro Rata Net Operating Profit as calculated under the provisions of Paragraph 5 hereof;

(f) Perform all managerial and administrative functions necessary for the operation and leasing of the Cars, including (but not limited to) the collecting of all Gross Revenue, the arranging for the maintenance and repair of the Cars for the Pool account; and keeping adequate records of the operation of the Cars.

(g) Submit unaudited quarterly reports and audited annual reports including such information as is reasonably necessary to enable Owner to complete his tax returns. The annual report will be furnished within 90 days after the end of each calendar year. Prepare Federal and State of California partnership tax returns for each calendar year and shall timely file such returns. Copies of such returns will be made available to Owner.

(h) Not assign its rights hereunder without the consent of Owner.

In performing its managerial and administrative functions hereunder, Company shall not knowlingly discriminate against or in favor of the Cars in seeking leases.

3. *Owner's Obligation.* Owner shall:

(a) Make the initial delivery of the Cars to Company at the point or points designated by Company;

(b) Allow Company to act in its name, for and on behalf of Owner, and to do all things and incur any and all obligations it deems appropriate or necessary, all at the discretion of Company, in order to operate the Cars under this Agreement;

(c) Reimburse Company promptly upon demand for (1) all Pro Rata Operating Loss Allocated to the Cars if in any Calendar Quarter Operating Expenses exceed the Gross Revenues for that quarter and (2) the cost of any improvements or modifications to any of the Cars required by the Association of American Railroads or other official authority, in excess of a total expenditure of one hundred dollars ($100) in any calendar year, provided however, that no modification or improvement costing in excess of that amount will be made on any car without Owner's permission, except that such permission will be deemed to have been granted if Owner fails to advise Company to the contrary in writing within 30 days after notice to Owner by the Company of such required modification or improvement and its estimated cost. Company may apply against payment of these charges any Net Operating Profit due Owner;

(d) Bear all loss and damage to the Cars and all claims, damages, expenses and liabilities (including attorneys' fees) arising from the operation, possession, control or use of the Cars, and indemnify and hold the Company harmless from and against any and all claims, damages, expenses or liabilities (including attorney's fees) incurred by, or asserted against Company as a result of its (or any other party's) operations, possession, control or use of the Cars, including, but not limited to, any and all loss or damage to lading, and injury or damage to persons or property;

(e) Provide policies of insurance, including (but not limited to) all risks, physical damage and public liability insurance, in kinds and amount required by Company, naming Owner and Company as beneficiaries and insuring both against liabilities deemed by Company to be required;

(f) Not sell or dispose of any of the Cars nor assign his rights hereunder without the consent of Company. For a period of two years after the termination of this Agreement Company shall have a right of first refusal to purchase the Cars from Owner at the same price which any bona fide third party offers to purchase the Cars. If within such two year period

Owner shall receive any offers to sell the Cars, he shall immediately give Company notice of such offers, and Company shall have thirty days after the giving of such notice to agree to purchase the Cars upon the same terms as contained in such offers. Except for such right of first refusal by the Company, the provisions of this sub-paragraph 3(f) shall not be deemed to affect the Owner's rights to dispose of the Cars after the termination of this Agreement.

4. *Term.*

(a) *Duration.* The term of this Agreement as to each of the Cars will commence upon the respective dates of delivery of each of them pursuant to Paragraph 3(a), and will remain in full force and effect until terminated upon the earliest of the following to occur;

(1) 90 days after either party gives the other notice of its intention to terminate; or

(2) upon purchase by the Company of any such Car; or

(3) upon the total destruction of any such Car; or

(4) at the Company's option, upon breach by Owner of any of the covenants which it is required to perform; or

(5) at the Company's option, if Owner fails to permit modifications or improvements required as provided in paragraph 3(c) of this Agreement.

(b) *Termination.* Upon termination of this Agreement Company shall

(1) Make a complete and final settlement of all Net Operating Profit due Owner from operation of the Cars, at the expiration of twelve (12) months from the actual date of termination. In calculating the final settlement, Company shall deduct from the Net Operating Profit due Owner on the settlement date the following expenses incurred prior to termination with respect to the Cars, which expenses may be estimated: adjustments for refunds, railroad tariff charges, repairs, taxes and all other expenses. Each such charge shall be calculated as of the date of the actual release of the Cars from this Agreement. Company shall have the option of making estimated quarterly payment of Net Operating Profit to Owner prior to said final settlement date. If the calculation results in an Operating Loss, Owner shall pay such Operating Loss to Company upon billing therefor.

(2) Except as to any car which has been purchased by the Company or totally destroyed, arrange for the return of the Cars to Owner, at Owner's expense, upon the expiration of all existing leases affecting any of the Cars. Company may, at its option, arrange for the termination of any such existing lease prior or subsequent to the termination of this Agreement. The Cars shall be returned in condition acceptable in railroad interchange service, but otherwise in their then existing condition, except in the event that the Agreement is terminated by Company due to Owner's instructions that modifications or improvements required by the Association of American Railroads are not to be made to his car, such improvements or modifications will not have been made.

5. *Determination of Profit or Loss.*

(a) *Definitions.* The following italicized words shall, for the purposes of this Agreement, have the meanings set forth in this sub-paragraph:

(1) *Calendar Quarter or Quarterly* shall mean the calendar quarter used by Company for accounting to Owner under this Agreement.

(2) *Car Day* shall mean the service time of one car for one day.

(3) *Company* shall mean, in addition to Rail-U.S. Leasing, Incorporated, all agents and employees thereof.

(4) *Gross Revenue* shall mean all lease rents, railroad mileage allowances received as lease rents and other moneys derived from the use of all cars in the same Pool and actually collected by Company. Funds paid out to adjust lease rents or other revenue moneys shall be deducted from Gross Revenue. Gross Revenue shall be allocated to the Calendar Quarter in which earned, but if not collected within nine months after the end of the Calendar Quarter in which earned shall be included in Gross Revenue for the Calendar Quarter in which collected.

(5) *Incentive Management Fee* shall mean that portion of Operating Profit which the Company deducts and retains as its fee under this Agreement.

(6) *Multiple Car Premium* shall mean the amount payable to the Owner of 5 or more cars determined as provided in Paragraph 5(b)(3).

(7) *Net Operating Profit* shall mean Operating Profit less the Incentive Management Fee.

(8) *Operating Expenses* shall mean all expenses of all cars in the same Pool actually paid by Company during a Calendar Quarter, though incurred prior to such Calendar Quarter, including but not limited to maintenance and repairs, cleaning, taxes of any kind except taxes on net income, fees and railroad tariff charges, but excluding insurance, sales, general and administrative expenses and charges for improvements or modifications to any car beyond the maximum amount provided for in clause 3(c)(2) hereof. Proceeds received in settlement from railroads and others or from insurance for damage to any car shall be credited to Operating Expenses, except a settlement received for a car which is totally destroyed, which shall be paid to its Owner.

(9) *Operating Profit or Operating Loss* shall mean the result of subtracting Operating Expenses from Gross Revenue.

(10) *Pool* shall mean only cars of the similar type and size operated by Company under substantially the same form of agreement, the Gross Revenues and Operating Expenses of which are pooled, as described in this Agreement.

(11) *Pro Rata* shall mean an allocation based on the numerical proportion that the service time (expressed in car days) of an individual car or group of cars bears to the total service time of all cars in the same Pool during a Calendar Quarter or other accounting period. Service time of a car in a Pool begins on the date it first earns lease revenue and continues until termination of this Agreement.

(b) *Determination.* Operating Profit and the Net Operating Profit or the Operating Loss of each Pool in which a Car is placed shall be determined by the Company for each Calendar Quarter, as follows:

(1) The Operating Expenses paid for all cars in the Pool shall be deducted from the Gross Revenue collected for use of all such cars to determine the Operating Profit.

(2) The Company shall deduct from Operating Profit and retain as its Incentive Management fee a dollar amount equal to 20% of such Operating Profit. The remainder shall be Net Operating Profit for the Quarter.

(3) If Owner owns 5 or more cars operated in such Pool, Company shall pay him the applicable following Multiple Car Premium to the extent the Company has deducted Incentive Management Fee for the operation of the Pool during such Calendar Quarter:

Number of Cars Managed	Premium per Car per Month
5 to 9 cars	$ 5.00
10 to 14 cars	6.25
15 to 19 cars	7.50
20 to 24 cars	8.75
25 or more cars	10.00

The total Net Operating Profit shall be allocated Pro Rata to each of the cars and paid to each Owner as provided in Paragraph 2(e), together with any Multiple Car Premium payable to such Owner as provided in Paragraph 5(b)(3).

6. *Breach.* In the event of a breach of this Agreement, the breaching party shall have seven (7) days after written notice thereof to cure said breach. The non-breaching party shall have all rights afforded by law or equity against the breaching party in the event said breach is not cured within said seven (7) day period. All rights and remedies herein given to a party shall be cumulative. In the event of a breach of this Agreement, or any condition thereof, by Owner, Owner agrees to pay all expenses incurred by Company arising from said breach, including reasonable attorneys' fees incurred by Company in enforcing its rights hereunder.

7. *Delay and Loss.* The obligations of Company hereunder shall be subject to all delays and contingencies beyond the control of Company. Company shall not be liable for any loss of, or damage to the cars.

8. *Miscellaneous.* This Agreement shall be deemed to have been executed in San Francisco, California. If any provision of this Agreement should be invalid, the remaining provisions hereof shall continue to be fully effective, unless a complete failure of consideration occurs thereby, or it would be unfair to thereafter continue this Agreement. Time is of the essence of this Agreement, and to each and every condition and term thereof. A failure by either party to exercise any right set forth in this Agreement shall not constitute a waiver of that right. Owner acknowledges that there are no warranties or representations, express or implied by Company as to the amount of Net Operating Profit, if any, to be derived under this Agreement. The Agreement is the complete agreement between the parties, supersedes all prior negotiations and agreements and may be amended only by a writing signed by both parties. Owner shall execute all agreements and documents as requested by Company in connection with management of the Cars. The Agreement shall be binding upon and, except as otherwise specifically provided hereby, shall inure to the benefit of the successors and heirs of the parties.

9. *Notices.* Notices hereunder shall be deemed given when placed in a sealed envelope, properly addressed to the party to whom such notice is being given, at the addresses shown below their respective signatures at the end of this Agreement, and deposited in the United States mail, as a Certified or Registered Letter, return receipt requested, with all required postage thereon fully prepaid. Either party may, by written notice in accordance with the provisions of this paragraph 9, designate a new address to which all future notices shall be addressed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

RAIL–U.S. LEASING, INCORPORATED

By

Vice President & General Manager
Address:
633 Battery Street
San Francisco, California 94111

By Kenneth L. Green, General Partner
S.F. Marin Investors Ltd.

Owner

Address:
P.O. Box 671
Novato, CA 94947
415-897-7610