

ITEL

REGISTRATION NO. 14545-A FILE NO.

IteI Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000

AUG 5 1985 - 1 25 PM

INTERSTATE COMMERCE COMMISSION

5-217A043

July 17, 1985

Honorable James H. Bayne, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

No.

Date AUG 5 1985

Fee \$ 10.00

ICC Washington, D.C.

Dear Mr. Bayne:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith on behalf of IteI Rail Corporation for filing and recordation under the Sublease Agreement dated as of November 1, 1984 between the Texas Mexican Railway Company and the Atchison, Topeka & Santa Fe Railway Company which was filed with the I.C.C. on January 14, 1985 and given I.C.C. Recordation No. 14545, four counterparts of the following document:

Have this one will be 14545-A

Assignment of November 1, 1984 Sublease between the Texas Mexican Railway Company and the Atchison, Topeka & Santa Fe Railway Company to IteI.

The names and addresses of the parties to the aforementioned are:

1. Texas Mexican Railway Company (Assignor)
P.O. Box 419
Laredo, Texas
2. IteI Rail Corporation (Assignee)
55 Francisco, 5th Floor
San Francisco, California 94133

The equipment covered by this Assignment is one hundred eighty-six (186) 70-ton flush deck flatcars bearing reporting marks SFLC 901295 - 901480.

Also enclosed is a check in the amount of \$10.00 for the required recording fee.

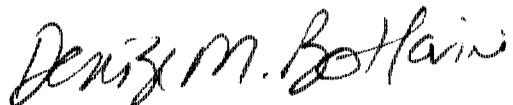
John Howard
C. Duncan

**ICC OFFICE OF THE SECRETARY
AUG 5 1 09 PM '85
MOTOR OPERATING UNIT**

Hon. James H. Bayne, Secretary
July 17, 1985
Page 2

Please stamp all counterparts of the enclosed Assignment with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining three (3) counterparts be returned to the bearer of this document.

Sincerely,

A handwritten signature in cursive script that reads "Denise M. Bottarini".

Denise M. Bottarini
Senior Legal Assistant

DMB/wf
encl.

cc: Howard Chabner
Robert S. Clark
J. Michael Kelly, Esq.
Virginia Hanger

RECORDATION NO. 14546A Filed 1425

AUG 5 1985 - 1 15 PM

INTERSTATE COMMERCE COMMISSION

12/06/84
Sublease Assignment
relating to Supplement #13

**ASSIGNMENT OF NOVEMBER 1,
1984 SUBLEASE BETWEEN TEXAS MEXICAN RAILWAY COMPANY
AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY TO ITEL**

ASSIGNMENT OF SUBLEASE AND AGREEMENT dated as of November 29, 1984 (hereunder called this "Assignment"), by and between **THE TEXAS MEXICAN RAILWAY COMPANY** a Texas corporation ("TM") and **ITEL RAIL CORPORATION**, a Delaware corporation ("Itel").

WHEREAS, Itel has entered into a Consolidated, Amended, and Restated Equipment Trust Agreement, dated January 1, 1982, (the "ETC Modification Agreement"), and pursuant to the ETC Modification Agreement, Itel has certain obligations with respect to the Itel Corporation, Itel Rail Corporation 10% Amended Equipment Trust Certificates, 1978 Series 3, due 1994 as set forth in Schedule 2F of the ETC Modification Agreement (the "Amended 1978 Series 3 Trust Certificates"); and

WHEREAS, Itel is the successor in interest to Itel Corporation, Rail Division, pursuant to the ETC Modification Agreement which is part of Itel Corporation's Amended Plan of Reorganization which became effective on September 19, 1983; and

WHEREAS, Itel and TM have entered into a Lease (as defined in the ETC Modification Agreement) of Equipment (as defined in the ETC Modification Agreement) dated as of March 15, 1978, (such Lease, together with any amendments or supplements thereto, called the "Lease") providing for the leasing by Itel to TM of certain units of the Trust Equipment (as defined in the ETC Modification Agreement); and

WHEREAS, the Lease may also cover the leasing to TM of other Equipment not included as part of the Trust Equipment; and

WHEREAS, in order to provide security for the obligations of Itel under the ETC Modification Agreement, Itel assigned for security purposes its rights, to and under the Lease, as amended, to First Security Bank of Utah, National Association, as trustee ("Trustee") as and only to the extent that the Lease relates to the Trust Equipment by means of ~~an~~ Assignment ~~(as defined in the ETC Modification Agreement) dated as of November 15, 1978;~~ and

December 28, 1978 and March 28, 1979

Handwritten initials and marks

WHEREAS, TM has entered into a Sublease (as defined in the ETC Modification Agreement) with the **ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY** (hereinafter called the "Sublessee") dated as of November 1, 1984 (such Sublease together with any amendments and supplements thereto called the "Sublease") (providing for the subleasing by TM to the Sublessee of certain units of the Trust Equipment (the "Subleased Trust Equipment"); and

WHEREAS, in order to provide security for the obligations of TM under the Lease, TM agrees to assign to Itel for security purposes only, TM's rights

in, to and under the Sublease as and only to the extent that the Sublease relates to the Subleased Trust Equipment.

NOW, THEREFORE, in consideration of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto hereby agree as follows:

1. TM hereby assigns, transfers, and sets over unto Itel, as collateral security for the payment and performance of TM's obligations under the Lease, with respect to the 1978 Series 3 Trust Certificates, all of TM's rights, title and interest, powers, privileges and other benefits under the Sublease as and only to the extent that the Sublease relates to the Subleased Trust Equipment set forth in Annex A hereto, including, without limitations, all rights to receive and collect all rentals, profits and other sums payable to or receivable by TM from the Sublessee under or pursuant to the provisions of the Sublease, whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such monies being hereinafter called the "Payments"); provided, however, that until a Default (as defined in the Lease) or an Event of Default (as defined in the Lease) shall occur, it is understood that TM shall be entitled to collect and receive all the Payments and to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Sublease, and to apply all Payments to which TM is entitled hereunder to the payment of any and all of TM's obligations under the Lease and to retain the balance, if any. Also provided, however, that after the occurrence of a Default or an Event of Default, both as defined in the Lease, and until a Default (as defined in the ETC Modification Agreement) or an Event of Default (as defined in the ETC Modification Agreement) shall occur, it is understood that Itel shall be entitled to collect and receive all Payments and to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease and to apply all Payments to which Itel is entitled hereunder to the payment of any and all of Itel's obligations under the ETC Modification Agreement and to retain the balance, if any. In furtherance of the foregoing assignment, but subject to the foregoing provisions of this paragraph, TM hereby irrevocably authorizes and empowers Itel in its own name, in the name of its nominee or in the name of TM or as its attorney, to ask, demand, sue for, collect and receive any and all the Payments to which TM is or may become entitled under the Sublease, and to enforce compliance by the Sublessee with all the terms and provisions thereof. Whenever a Sublease covers other Equipment not included as part of the Subleased Trust Equipment and the amount of any payment due to TM under such Sublease as car hire payments (including both straight and incentive per diem), mileage charges, or other rental revenues is calculated on an aggregate basis for all Equipment subleased thereunder, for the purposes of this Assignment an amount equal to the Assigned Fraction (as hereinafter defined) of each such payment shall be deemed to be payable with respect to such Subleased Trust Equipment subleased under such Sublease. The term "Assigned Fraction" as used herein shall mean a fraction the numerator of which shall be the number of units of Equipment comprising such Subleased Trust Equipment subleased under such Sublease and the denominator of which shall be the aggregate number of

units of Equipment (including such units of Subleased Trust Equipment) at the time subleased under such Sublease.

2. This Assignment is executed only as security for the obligations of TM pursuant to the Lease and to Paragraphs 8 and 14 of the Sublease with respect to the Amended 1978 Series 3 Trust Certificates under the Lease and, therefore, the execution and delivery of this Assignment shall not subject Itel to, or transfer or pass, or in any way affect or modify, the liability of TM under the Sublease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of TM to the Sublessee shall be and remain enforceable by the Sublessee, its successor and assigns, against, and only against TM or persons other than Itel, the Trustee or any holder of Amended 1978 Series 3 Trust Certificates.
3. To protect the security afforded by this Assignment, TM agrees as follows:
 - (a) TM will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Sublease provides is to be performed by TM; and
 - (b) At TM's sole cost and expense, TM will appear in and defend every action or proceeding arising under, growing out of, or in any manner connected with the obligations, duties or liabilities of TM.
 - (c) Should TM fail to make any payment or to do any act which this Assignment requires TM to make or do, then Itel may, but without obligation so to do, first making written demand upon TM and affording TM a reasonable period of time within which to make such payment or do such act, but without releasing TM from any obligation hereunder, make or do the same in such manner and to such extent as Itel may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of Itel, and also the right to perform and discharge each and every obligation, covenant and agreement of TM contained in the Sublease, and in exercising any such powers, Itel may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorney's fees and TM will reimburse Itel for such costs, expenses and fees.
4. Upon the full discharge and satisfaction of all of TM's obligations under the Lease and this Assignment, all rights herein assigned to Itel shall terminate and all estate, right, title and interest of Itel in and to the Sublease shall revert to TM.
5. TM will, from time to time, do and perform any other act and will execute, acknowledge and deliver and file, register, deposit and record (and will refile, reregister, rerecord, or redeposit whenever required) any and all further instruments required by law or reasonably requested

by Itel in order to confirm or further assure the interests of Itel hereunder.

6. Itel may assign all or any of the rights assigned to it hereby or arising under the Sublease, 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 Itel hereunder. Itel will give written notice to TM and the Sublessee of any such assignment.
7. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by the laws of the United States permitting filing with the Interstate Commerce Commission.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names, by officers thereunto duly authorized, and their respective seals to be affixed and duly attested, all as of the date first above written.

ITEL RAIL CORPORATION

(Seal)

Attest: Howard L. Chabner
Assistant Secretary

By: *[Signature]*

THE TEXAS MEXICAN RAILWAY COMPANY

(Seal)

Attest: *[Signature]*
Secretary

By: *[Signature]*
Chairman of the Board
& Chief Executive Officer

ANNEX A

<u>No. of Units</u>	<u>Reporting Marks</u>	<u>Subleased Trust Equipment Description</u>	<u>AAR Mechanical Designation</u>
186	SFLC 901295- 901480	70-ton flush deck flatcar	FC

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 27th day of January, 1984, before me personally appeared Reginald Lopez, to me personally known, who being by me duly sworn says that such person is President of IteI Rail Corporation, that the foregoing Assignment was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Vivian A. De Vera

Notary Public



STATE OF TEXAS)
) ss:
COUNTY OF WEBB)

On this 26th day of December, 1984, before me personally appeared A. R. Ramos, to me personally known, who being by me duly sworn says that such person is Chairman & CEO of Tex Mex Rwy Co., that the foregoing assignment was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sandra Sue Webber
Notary Public