

The Kansas City Southern Railway Company
Louisiana & Arkansas Railway Company

114 West 11th Street, Kansas City, Missouri 64105

RICHARD P. BRUENING
General Counsel

No. **0-170A052** June 17, 1980

Date JUN 18 1980

Fee \$ 10.00

ICC Washington, D. C.

RECORDATION NO. 11873-A FILED 1425

JUN 18 1980 - 1 00 PM

INTERSTATE COMMERCE COMMISSION

Ms. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, DC 20423

RE: Consent and Agreement, dated as of May 22, 1980, between The Kansas City Southern Ry. Co., Louisiana & Arkansas Ry. Co. and City Bank & Trust Co. of Kansas City, Mo.

Dear Ms. Mergenovich:

Pursuant to Section 11303 of the Interstate Commerce Act, and the Commission's Rules and Regulations (as amended) promulgated thereunder, The Kansas City Southern Railway Company and Louisiana & Arkansas Railway Company transmit herewith five (5) executed counterparts of the above mentioned Consent and Agreement which is a part of the financing transaction involving Lease No. 1000 among KCS, L&A and Carland, Inc., and the Assignment thereof to City Bank & Trust Company of Kansas City, Missouri, each being recorded with the Interstate Commerce Commission on June 4, 1980, under Recordation No. 1187.3

The names and addresses of the parties to the Consent and Agreement are:

1. The Kansas City Southern Railway Company
and Louisiana & Arkansas Railway Company
114 West 11th Street
Kansas City, MO 64105
2. City Bank & Trust Company of Kansas City, Mo.
2401 Grand Avenue
Kansas City, MO 64108

A general description of the equipment covered by the Consent and Agreement is:

Counterparts - Michael H. Huppel

RECEIVED
JUN 18 11 30 AM '80
FEE OPERATOR
I.C.C.



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11/11/11

Dear Sir,
I am writing to you regarding the matter of the...

I have been informed that you are currently...

Yours faithfully,

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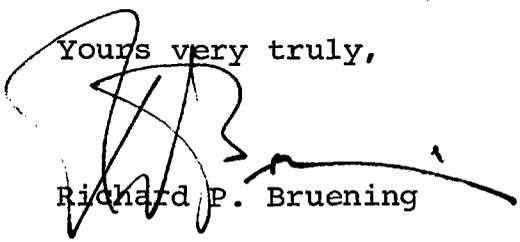
<u>TYPE</u>	<u>QUANTITY</u>	<u>RAILROAD ROAD NOS.</u>
Cabooses	3	KCS 324, KCS 329, KCS 353
Bunk Cars (Housing Units for Crews Mounted on Flat Cars)	7	KCS 903 through KCS 909

The above identified Consent and Agreement concerns and is a part of the financing involving Lease No. 1000 among The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company and Carland, Inc., dated as of May 1, 1980, and the Assignment thereof, dated as of May 22, 1980, previously recorded with the Commission on June 4, 1980, under Recordation No. 11872.

Kansas City Southern Lines check in the amount of \$10.00 is enclosed to cover the filing fee.

We request all copies of the Consent and Agreement not required for your files be marked with the Commission's filing stamp and returned to the party tendering same.

Yours very truly,



Richard P. Bruening

RPB:cm
Encl.

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The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, regarding the land in question. The land was acquired by the Government in 1941 and is now owned by the United States of America. The land is located in the State of California and is situated in the County of Santa Clara. The land is bounded on the north by the State of California, on the south by the State of California, on the east by the State of California, and on the west by the State of California. The land is situated in the County of Santa Clara and is bounded on the north by the State of California, on the south by the State of California, on the east by the State of California, and on the west by the State of California.

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June 18, 1980

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Richard P. Bruening
The Kansas City Railway Company
Louisiana & Arkansas Railway Company
114 West 11th Street
Kansas City, Mo. 64105

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 6/18/80 at 1:00 pm, and assigned re-
recording number(s). 11872* and 11873-A

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION

11873-A
Filed 1980

JUN 18 1980 - 1 00 PM

INTERSTATE COMMERCE COMMISSION

CONSENT AND AGREEMENT

LEASE NO. 1000

LESSEE THE KANSAS CITY SOUTHERN RAILWAY COMPANY
LOUISIANA & ARKANSAS RAILWAY COMPANY

1. General. The undersigned, the Lessee named in the above-referenced Lease, which Lease is also referred to in a certain Security Agreement and Assignment dated as of May 22, 1980, between CITY BANK AND TRUST COMPANY OF KANSAS CITY ("Assignee") and CARLAND, INC. ("Carland"), and being one of Lessees referred to in a certain Revolving Credit and Term Loan Agreement ("the Loan Agreement") between Assignee and Carland dated as of May 22, 1980, (said Lease, Security Agreement and Loan Agreement, as the same may be supplemented or amended, being hereinafter called the "Lease", the "Security Agreement" and the "Loan Agreement," respectively) hereby (a) acknowledges receipt of a copy of the Security Agreement, a copy of the Loan Agreement, and a copy of the Lease, (b) consents to, and agrees to abide by, all the terms and conditions of the Security Agreement and the Loan Agreement, (c) acknowledges that the units of Equipment covered by Schedule B attached to the Lease, were in good condition and repair when received and that it has accepted said units of Equipment under the Lease and (d) will, by delivery to Assignee of each Schedule B evidencing delivery of Equipment hereafter, acknowledge that the units of Equipment covered by each Schedule B were in good condition and repair when received and were accepted by Lessee under the Lease.

2. Covenants. As an inducement to the Assignee to make the loans evidenced by the Note or Notes (as such terms are defined in the Loan Agreement and the Security Agreement), and for good and valuable consideration, receipt of which is hereby acknowledged from the Assignee, the undersigned agrees that:

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

(b) notwithstanding anything to the contrary in the Lease, the undersigned acknowledges that the confiscation, condemnation or other loss of any of the Equipment (as defined in the Security Agreement) shall not relieve Lessee from its obligations to pay rentals or the other amounts required to be paid by it thereunder or hereunder;

(c) notwithstanding anything in the Lease to the contrary, if any of the following events shall occur and be continuing:

(1) if Lessee shall default in the payment of any Rental (as defined in the Security Agreement) or other charge payable by Lessee under the Lease or hereunder as and when the same shall become due and payable, or shall default in the performance of any other term, covenant or condition of the Lease or herein, or

(2) if final judgment for the payment of money in excess of \$50,000 shall be rendered against Lessee and Lessee shall not discharge nor obtain a stay of same or cause it to be discharged or stayed within thirty (30) days from the date upon which such judgment becomes final, or a writ or warrant of attachment or any similar process shall be issued by any court against all or any substantial portion of the property of Lessee and such writ, warrant of attachment or any similar process is not released within thirty (30) days after its entry or levy, or

(3) if Lessee shall abandon any units of the Equipment, or

(4) if Lessee shall assign, mortgage or encumber its interest in the Equipment or the Lease, or

(5) if Lessee institutes any proceedings for relief from its creditors under any law pertaining to bankruptcy, reorganization, arrangement or insolvency, or if Lessee makes any general assignment for the benefit of its creditors, or if Lessee be adjudicated a bankrupt, or if a petition for reorganization of Lessee under the bankruptcy law be filed (other than by Lessee) and be not dismissed within ninety (90) days, or if, pursuant to such petition for reorganization, a trustee be appointed by the court, or if a receiver of all of Lessee's property be appointed and shall not be discharged within sixty (60) days after such appointment, or

(6) if Carland shall default under the Security Agreement or the Loan Agreement;

then Assignee may immediately, or at any time thereafter, while such default continues to exist, terminate the Lease by notice in writing to Lessee, whereupon all rights of Lessee to the possession and use of the Equipment shall absolutely cease and terminate, but Lessee shall remain liable as hereinafter provided. If Assignee elects to terminate the Lease pursuant to the foregoing provisions, thereupon Assignee may take immediate possession of any and all the Equipment in the possession or control of Lessee, without demand or further notice and without process and for this purpose Assignee shall have the right to employ any available facilities or means of possessing same and to cause Lessee to assist in effectuating the re-taking of the Equipment. Any and all Equipment re-taken may be held, possessed and used by the Assignee free from any right of Lessee to use same for any purposes whatsoever; but Assignee shall, neverthe-

less, have the right to recover from Lessee any and all amounts which under the terms of the Lease may be then due or which may become due and are unpaid at the time of re-taking, including rent accruing thereunder after the date of default up to the date of repossession by Assignee, for the possession and use of the Leased Equipment. In case of any such termination (or in case of any termination of the Lease by operation of law or otherwise) prior to the expiration of the term of the Lease, Assignee shall be entitled to receive from Lessee as and for Liquidated Damages an amount (said amount of damages being hereinafter called the "Liquidated Damages") equal to the sum of (i) the amount of any rents under the Lease then accrued and unpaid (including rents accrued hereunder after the date of any default by Lessee), and (ii) an amount equal to the aggregate rental set forth in the Lease for the remaining term thereof (not including renewal periods) not yet paid or payable discounted at the rate of six percent (6%) per annum calculated annually over a period of time equal to the remaining term of the Lease (not including renewal periods) on the day prior to its termination; provided, however, that if Lessor or Assignee shall repossess the Equipment and sell it, there shall be allowed to Lessee, as an offset against the amount of Liquidated Damages, but not as an affirmative claim against Lessor or Assignee, that amount by which the proceeds of sale of the Equipment by Assignee shall exceed the aggregate of the costs and expenses (including reasonable counsel fees and disbursements) incurred or paid by Assignee in connection with the default or defaults resulting in the termination of the Lease, including but not limited to, removing the Equipment and reselling the same. Assignee agrees that in the event of repossession of the Equipment, it shall use its best efforts to sell the Equipment within six (6) months from the date of repossession thereof;

(d) notwithstanding anything in the Lease to the contrary, in case of the destruction, confiscation, condemnation or other loss (hereinafter called a "Casualty Occurrence") of any unit of the Equipment, Lessee shall either replace said unit at its own expense with a similar unit of equipment of a value at least equal to the value at the time of the Casualty Occurrence with respect to the unit which suffered the Casualty Occurrence, conveying title thereto to Lessor, or shall pay to the Assignee an amount equal to the aggregate balance of the unpaid rentals over the remaining term of the Lease (not including renewal periods) on the unit which has suffered the Casualty Occurrence, discounted over the remaining term of the Lease at the rate of six percent (6%) per annum calculated annually. After such payment is made by Lessee, no rentals shall be payable under the Lease with respect to the unit of the Equipment which suffered the Casualty Occurrence;

(e) the Lease is and shall be subordinated to the Security Agreement and Lessee will, upon request of the Assignee, execute any instrument or instruments which Assignee deems necessary or desirable to evidence such subordination;

(f) the rentals, amounts and other monies due or to become due hereunder or under the Lease or otherwise in respect of the property leased thereunder shall not be subject to any right of setoff or counterclaim or other defense which the undersigned might have against Carland or otherwise and the payment thereof to the Assignee shall be final and shall not be subject to, and the undersigned hereby agrees to indemnify the Assignee against any liens, charges or claims of any nature whatsoever (other than liens, charges or claims created or incurred by the Assignee), prior to or pari passu with the right of the Assignee to apply such rentals, amounts and other monies as provided in the Assignment;

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

(h) the Lease will not, without the prior written consent of the Assignee, be terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease or the Security Agreement or this Consent and Agreement or of any of the rights created by any thereof;

(i) it will take all steps reasonably necessary or appropriate in the opinion of Assignee to cause the Assignee's security interests to be filed or recorded in any public office (including but not limited to the Interstate Commerce Commission) as a lien on the Equipment.

The foregoing agreement shall remain binding upon the undersigned until receipt of written notice from the Assignee that the Security Agreement or any further assignment of right in and to the Lease as contemplated by the Security Agreement has become void and of no effect. This Consent and Agreement, when accepted by the Bank by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Missouri, and for all purposes, shall be construed in accordance with the laws of said State. All terms used herein shall have the same meaning provided in the Lease, Security Agreement and Loan Agreement.

THE KANSAS CITY SOUTHERN RAILWAY COMPANY
LOUISIANA & ARKANSAS RAILWAY COMPANY

Lessee

Date: MAY 22, 1980

By Robert E. Zimmerman
Its VICE PRESIDENT

(CORPORATE SEAL)

ATTEST:

E. F. James

The foregoing Consent and Agreement is hereby accepted. The undersigned agrees to notify the above named Lessee, in writing, when the Assignment above has become void and of no effect, upon request in writing so to do from Carland.

Date May 29, 1980

CITY BANK AND TRUST COMPANY OF KANSAS CITY

By John D. Novak
Its Senior Vice President

(CORPORATE SEAL)

ATTEST:

Barbara Leudlitz
Secretary

STATE OF Missouri)
COUNTY OF Jackson) ss.

On this 29th day of May, 1980, before me personally appeared Robert L. Zimmerman to me personally known who being by me duly sworn, says that he is the Vice President of the Kansas City Southern, Louisiana & Ark. Ry. Co. that one of the seals affixed to the foregoing instrument is the 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.

G. B. Niedermeyer
Notary Public

My Commission Expires:

May 29, 1983

G. B. NIEDERMEYER
Notary Public, State of Missouri
Commissioned in Jackson County
My Commission Expires May 29, 1983

STATE OF MISSOURI)
COUNTY OF JACKSON) ss.

On this 29th day of May, 1980, before me personally appeared John D. Novak, to me personally known, who, being duly sworn, says that he is Senior Vice President of CITY BANK AND TRUST COMPANY OF KANSAS CITY, 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.

Thompson
Notary Public

My Commission Expires:

August 1, 1981