

ITEL
Pullman
July 28, 1989

RECORDATION NO 101290 FILED 1435

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INTERSTATE COMMERCE COMMISSION

Istel Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000
(415) 781-1035 Fax

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Hon. Noretta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 20423

9-214A026

Re: Amendment No. 8 to Lease Agreement dated July 26, 1978,
between Istel Rail Corporation and Minnesota, Dakota and
Western Railway Company

Dear Ms. McGee:

On behalf of Istel Rail Corporation, the above instrument, in three (3) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$13 recordation fee.

Please record this Amendment under the Lease Agreement dated July 26, 1978, between Istel Rail Corporation and Minnesota, Dakota and Western Railway Company, which was filed with the ICC on February 22, 1979, under Recordation No. 10129.

The parties to the aforementioned instrument are listed below:

Istel Rail Corporation (Lessor)
55 Francisco Street
San Francisco, California 94133

Minnesota, Dakota and Western Railway Company (Lessee)
One Jefferson Square
Boise, Idaho 83728

This Amendment deletes six (6) destroyed boxcars bearing reporting marks MDW 9023, MDW 9028, MDW 10063, MDW 10132, BN 377143 and BN 377154, and adds the ninety-eight (98) boxcars subject to the Lease Agreement (only one hundred were delivered) to an assignment pool with Union Pacific Railroad and Missouri Pacific Railroad.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

patricia schumacker

Patricia Schumacker
Legal Department

REGISTRATION NO 20129-0 FILED 1425

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AMENDMENT NO. 8

INTERSTATE COMMERCE COMMISSION

THIS AMENDMENT No. 8 ("Amendment") to that certain Lease Agreement, as amended, (the "Agreement") made as of July 26, 1978 between ITEL RAIL CORPORATION, as successor in interest to Itel Corporation, Rail Division, as lessor ("Lessor"), and MINNESOTA, DAKOTA & WESTERN RAILWAY COMPANY, as lessee ("Lessee"), is made this 20th day of June, 1989, between Lessor and Lessee.

R E C I T A L S:

- A. Lessor and Lessee are parties to the Agreement pursuant to which seven hundred ninety-nine (799) boxcars (together with the boxcars listed on the Equipment Schedule attached hereto, the "Boxcars") described therein have been leased and delivered to Lessee.
- B. Lessor and Lessee desire to remove from the Equipment Schedules the Boxcars bearing the reporting marks MDW 9023, MDW 9028, MDW 10063, MDW 10132, BN 377143 and BN 377154, which were destroyed on July 6, 1987, April 20, 1988, February 23, 1987, July 8, 1987, April 29, 1986, and February 4, 1988, respectively.
- C. Lessor consented to Lessee's entering into an assignment pool with Union Pacific Railroad and Missouri Pacific Railroad (collectively the "Assignee") for up to one hundred sixteen (116) Boxcars bearing the reporting marks MDW 1800-1915. Only the one hundred Boxcars bearing reporting marks MDW 1800-1899 were delivered and made subject to Schedule H.
- D. Lessor and Lessee desire to add ninety-eight (98) Boxcars to the Agreement to be placed into the assignment agreement with Assignee.
- E. Lessor and Lessee also desire to extend the term of the Agreement with respect to the 100 boxcars bearing the reporting marks MDW 1800 - 1899 described on Schedule H.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, Lessor and Lessee agree to amend the Agreement as follows:

- 1. All capitalized terms defined in the Agreement shall have the meanings defined therein when used in this Amendment No. 8, except that the terms "Boxcars" as used herein shall only refer to the equipment described in this Amendment and "Payments" as used herein, with respect to the Boxcars described in Schedule I shall only refer to per diem payments unless otherwise indicated.
- 2. Schedule I is hereby added to the Agreement.

3. Schedule H attached to the Agreement is replaced by Schedule H.1. attached hereto and all references to "Schedule H" in Amendment No. 7 dated as of August 23, 1988 to the Agreement shall be deemed to refer to "Schedule H.1. and Schedule I", except that the references to "Schedule H" in Paragraphs 2 and 8 of Amendment No. 7 which shall be deemed to refer solely to "Schedule H.1."
4. With respect to the Boxcars described on Schedule H.1. only, Section 3 of Amendment No. 7 is hereby replaced by the following:

"The term of the Agreement with respect to the Boxcars described on Schedule H.1. shall expire seven (7) years from the full execution of this Amendment No. 8."
5. Subsections 2.I.(i) and (ii) of Schedule A, attached and incorporated into the Agreement, as amended, are hereby amended by the deletion of the words "one hundred eighty-seven (187) Boxcars" and "ninety-eight (98) Boxcars" and the replacement of such words with the words "one hundred eighty-five (185) Boxcars" and "ninety-six (96) Boxcars", respectively.
6. Subsection 2.J. of Schedule A, attached and incorporated into the Agreement, is hereby amended to delete the Boxcars bearing the railroad reporting marks MDW 9023, MDW 9028, MDW 10063 and MDW 10132.
7. Subsection 2.J. of Schedule C, attached and incorporated into the Agreement, is hereby amended to delete the Boxcars bearing the railroad reporting marks MDW 6019 (presently marked BN 377143) and MDW 6030 (presently marked BN 377154).
8. With respect to the Boxcars described on Schedule I only, Subsection 2 of the Agreement is replaced by the following:

"The term of the Agreement with respect to each Boxcar described in Schedule I shall commence at 12 noon on the date such Car is remarked ('Delivery') and shall expire as to all Boxcars described in Schedule I seven (7) years from the earlier of (i) the date that the last Boxcar was interchanged to the lines of Assignee or sixty (60) days after the first was remarked (the 'Term'). Upon the delivery of the final Boxcar, Lessor shall provide Lessee with a Certificate of Delivery, in the form of Exhibit B attached hereto that shall contain the expiration date of the Term, with respect to all Boxcars on Schedule I, as determined by Lessor. "
9. Lessor consents to Lessee entering into Amendment No. 1 to the assignment agreement with Assignee ("UP Assignment") in the form of Exhibit C attached hereto.
10. With respect to the Boxcars described on Schedule I Lessee agrees to waive its payment share while the Boxcars are subject to the UP Assignment.

11. At the end of the first sentence of Section 8 of Amendment No. 7 the words "described on Schedule H only" shall be replaced by "described on Schedules H.1 and I only" and with respect to the Boxcars described on Schedule I only, the words "six thousand one hundred sixty-seven dollars and four cents (\$6,167.04)" shall be replaced by "six thousand nine hundred sixteen dollars and seventy-five cents (\$6,916.75)" in Subsection 7.A.(i), as set forth in Amendment No. 7 of the Agreement.
12. With respect to the Boxcars described on Schedule I only, the sentence "The ITEL Base Rent shall be prorated at eighteen dollars and ninety-five cents (\$18.95) per day for any Boxcar not subject to the Agreement for an entire calendar year." shall be added to end of Subsection 7.A.(i) of the Agreement as amended by Amendment No.7.
13. With respect to the Boxcars described on Schedule I only, the words "one thousand five hundred forty-one dollars and seventy-six cents (\$1,541.76)" are replaced by the words "one thousand eight hundred thirty-seven dollars and thirty cents (\$1,837.30)" in Subsection 7.J., as set forth in Amendment No. 7 of the Agreement.
14. With respect to the Boxcars described on Schedule I only, Subsection 7.K is hereby added to the Agreement as follows:

"All mileage payments ('Mileage Payments') shall be for the account of Lessor"
15. Nothing herein contained shall (i) be deemed to constitute a waiver or otherwise modify, affect or impair any sums due to Lessor or Lessee with respect to any Boxcar, including the Boxcars described on Schedule I, under the terms and conditions of the Agreement or (ii) be deemed to constitute a waiver or otherwise modify, affect or impair the powers, rights or remedies vested in or available to Lessor or Lessee with respect to any Boxcar under the terms and conditions of the Agreement.
16. Except as expressly modified by this or any other Schedule, all terms and provisions of the Agreement shall remain in full force and effect with respect to all Cars subject to the Agreement.
17. This Schedule may be executed by the parties hereto in any number of counterparts, and all counterparts taken together shall be deemed to constitute one instrument.

ITEL RAIL CORPORATION

MINNESOTA, DAKOTA & WESTERN
RAILWAY COMPANY

By: *J. H. Hayes*
Title: *President*

By: *Colman W. Walker*
Title: *Vice President*

Date: 6/30/89

Date: 5/15/89

SCHEDULE H.1

Itel Rail Corporation hereby leases the following Boxcars to Minnesota, Dakota & Western Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of July 26, 1978, as amended.

AAR Mech Desig	Description	Numbers	Length	Dimensions			No. of Cars
				Inside Width	Height	Doors Width	
XP	60', 100-ton Plate E, cushion underframe	MDW 1800- 1899	60'8"	9'6"	11'6"	16'	100

THIS SCHEDULE H.1. REPLACES SCHEDULE H WHICH WAS FULLY EXECUTED ON AUGUST 23, 1988

ITEL RAIL CORPORATION

By: *D. D. Hayes*

Title: *President*

Date: *June 30, 1989*

MINNESOTA, DAKOTA & WESTERN RAILWAY
COMPANY

By: *R. L. Walker*

Title: *Vice President*

Date: *5/15/89*

SCHEDULE I

Itel Rail Corporation hereby leases the following Boxcars to Minnesota, Dakota & Western Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of July 26, 1978, as amended.

AAR Mech Desig	Description	Numbers	Length	Dimensions			No. of Cars
				Inside Width	Height	Doors Width	
XP	60', 100-ton Plate E, cushion underframe	MDW 1900- 1997	60'8"	9'6"	11'4"	16'	98

ITEL RAIL CORPORATION

By: *D. P. Hayes*
Title: *President*
Date: *June 30, 1989*

MINNESOTA, DAKOTA & WESTERN RAILWAY
COMPANY

By: *Robert M. Waller*
Title: *Vice President*
Date: *5/15/89*

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

On this 30th day of JUNE, 1989, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Rail Corporation, that the foregoing Schedules H.1. and I were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.



Patricia Schumacker
Notary Public

STATE OF Idaho)
) ss:
COUNTY OF Ada)

On this 15 day of May, 1989, before me personally appeared Robert W. Walters, to me personally known, who being by me duly sworn says that such person is Vice President of Minnesota, Dakota & Western Railway Company, that the foregoing Schedules H.1. and I were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

Carl P. Ingram
Notary Public

EXHIBIT B

CERTIFICATE OF DELIVERY DATE

Exhibit A to Amendment No. 8 dated as of _____ to Lease Agreement dated as of July 26, 1978, by and between ITEL RAIL CORPORATION ("Lessor") and MINNESOTA, DAKOTA & WESTERN RAILWAY COMPANY ("Lessee").

<u>DATE</u>	<u>CAR REPORTING MARKS AND NUMBER</u>	<u>DELIVERY</u>
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ITEL RAIL CORPORATION

By: _____

Title: _____

Date: _____

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

On this 30th day of JUNE, 1989, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Rail Corporation, that the foregoing Amendment No. 8 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.



Patricia Schumacker
Notary Public

STATE OF Idaho)
) ss:
COUNTY OF Ada)

On this 15 day of May, 1989, before me personally appeared Robert W. Walters, to me personally known, who being by me duly sworn says that such person is Vice President of Minnesota, Dakota & Western Railway Company, that the foregoing Amendment No. 8 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.

Carl K. Larson
Notary Public