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**GRAHAM & JAMES**

ONE MARITIME PLAZA

THIRD FLOOR

SAN FRANCISCO, CALIFORNIA 94111

TELEPHONE (415) 954-0200

TELEX

W. U. 340143 CHALGRAY SFO

M. C. I. 67565 GJ SFO

FACSIMILE

(415) 391-2493

(415) 391-5906

CABLE

CHALGRAY, SAN FRANCISCO, CA

WRITER'S DIRECT DIAL NUMBER

(415) 954-0366

OTHER OFFICES  
LOS ANGELES, CA  
LONG BEACH, CA  
NEWPORT BEACH, CA  
PALO ALTO, CA  
NEW YORK, NY  
WASHINGTON, DC  
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AFFILIATED OFFICE  
KUWAIT

September 29, 1989

10163-C  
FILED 10/2

10/2 1989 - 11 25 AM

The Honorable Noretta R. McGee  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

INTERSTATE COMMERCE COMMISSION

9-275A006

Attention: Mildred Lee

Dear Madam Secretary:

We enclose for recordation pursuant to 49 U.S.C. § 11303 the original and a counterpart of an Assignment and Assumption Agreement, dated as of September 29, 1989.

The Assignment is a secondary document, as defined in 49 C.F.R. § 1177.1(b). It relates to the following primary documents:

1. Equipment Lease, dated as of October 1, 1978, filed with ICC on February 28, 1979, at 4:35 p.m., Recordation No. 10163; and
2. Security Agreement - Trust Deed, dated as of October 1, 1978, filed with ICC on February 28, 1979, at 4:35 p.m., Recordation No. 10163-A.

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

Assignor: Wells Fargo Leasing Corporation  
101 California Street  
Suite 2800  
San Francisco, California 94111

Attention: Operations Department

NOV 29 11 27 AM '89  
RECORDATION UNIT

The Honorable Noreta R. McGee  
September 29, 1989  
Page 2

Assignee: Delos Leasing Corporation  
101 California Street  
Suite 2800  
San Francisco, California 94111

A general description of the railroad equipment covered by the Assignment is as follows:

Two hundred and thirty (230) high side gondola rotary dump railroad cars bearing identification marks and numbers PGEX1 through PGEX4 and PGEX101 through PGEX326.

We request that this Assignment also be indexed under the name of the assignee, Delos Leasing Corporation.

A brief summary of the Assignment to appear in the index follows:

Same units as in above primary documents, bearing identification marks and numbers PGEX1 through PGEX4 and PGEX101 and PGEX326.

We enclose the fee of \$15.00 for recordation. Please file-stamp and return to Delos Leasing Corporation, c/o BA Leasing & Capital Corporation, Two Embarcadero Center, San Francisco, California 94111, the original Assignment and the enclosed copy of this transmittal letter.

Very truly yours,

GRAHAM & JAMES

By

  
John P. Breedlove

JPB:RSB:amb  
WFBN 1.103  
Enclosures  
cc: Robert Darling  
John D. Wright  
David V. Biesemeyer

10163-C  
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INTERSTATE COMMERCE COMMISSION

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of September 29, 1989, is entered into by and among WELLS FARGO LEASING CORPORATION (the "Assignor"), a California corporation, DELOS LEASING CORPORATION (the "Assignee"), a Delaware corporation, and BA LEASING & CAPITAL CORPORATION (the "Successor Assignee"), a California corporation.

WHEREAS, in a simultaneous closing: a) the Assignor wishes to assign, transfer, and convey to the Assignee, and the Assignee wishes to receive and accept, all of the Assignor's right, title and interest in and to the assets set forth in Appendix 1 (the "Assets"), b) the Assignor wishes to sell and transfer to the Successor Assignee, and the Successor Assignee wishes to receive and accept, all of the capital stock of the Assignee, and c) the Assignee wishes to grant the Successor Assignee, and the Successor Assignee wishes to obtain, the right to acquire all of the Assignee's right, title and interest in and to the Assets.

W I T N E S S E T H:

NOW THEREFORE, the parties agree as follows:

Section 1. Assignment of Assets. The Assignor assigns, transfers and conveys to Assignee as of the date hereof all its right, title and interest in and to the Assets. The Assignee accepts and receives all such right, title and interest in and to the Assets.

Section 2. Assumption of Liabilities. The Assignee assumes and agrees to pay when due all liabilities, debts and obligations of the Assignor and its Affiliates (as defined below) hereafter arising incident to the Assets and any agreements and notes related thereto. The Assignor and its Affiliates are released from all such liabilities, debts and obligations, including, without limitation, those arising under any guaranties. The Assignee confirms that as of the date hereof it shall be deemed a party to those agreements and notes set forth in Appendix 1 to which the Assignor is a party, and the Assignee agrees to be bound by all the terms of, and to undertake all such obligations of, the Assignor contained therein. For purposes of this agreement, an "Affiliate" of a party shall mean a person controlling, controlled by, or under common control with such

party, provided, however, that the Assignee shall not be an Affiliate of the Assignor.

Section 3. Exception. Notwithstanding the foregoing, the Assignor and the Assignee shall each be entitled, as their respective interests may appear, to pursue claims, and all their rights and remedies related to claims, for (a) payments of indemnity now or hereafter due under the agreements related to the Assets from any obligor thereunder, and/or (b) insurance payments or proceeds, provided, however, that any obligor's liability for such claims shall not exceed the liability it would have incurred if the assignment had not been made.

Section 4. Guaranty. Upon the execution and delivery of this agreement, the Successor Assignee shall execute and deliver to the parties referred to therein the Guaranty attached as Attachment A.

Section 5. Right to Acquire. The Assignee hereby grants the Successor Assignee the right, exercisable by written notice to the Assignee and to the parties listed in Appendix 2, to succeed to all of the Assignee's rights and obligations under this agreement. Effective upon such exercise:

(a) Subsequent Assignment. The Assignee assigns, transfers and conveys to the Successor Assignee as of the date of such notice all its right, title and interest in and to the Assets. The Successor Assignee accepts and receives all such right, title and interest in and to the Assets.

(b) Subsequent Assumption. The Successor Assignee assumes and agrees to pay when due all liabilities, debts and obligations of the Assignee hereafter arising incident to the Assets and any agreements and notes related thereto. The Assignee is released from all such liabilities, debts and obligations. The Successor Assignee confirms that as of the date of such notice it shall be deemed a party to those agreements and notes set forth in Appendix 1 to which the Assignee is deemed a party, and agrees to be bound by all the terms of, and to undertake all such obligations of, the Assignee contained therein.

(c) Subsequent Assignment Exception. Notwithstanding the foregoing, the Assignee and the Successor Assignee shall each be entitled, as their respective interests may appear, to pursue claims, and all their rights and remedies related to, claims for (a) payments of indemnity now or hereafter due under the agreements related to the Assets from any obligor thereunder, and/or (b) insurance payments or

proceeds, provided, however, that any obligor's liability for such claims shall not exceed the liability it would have incurred if the assignment had not been made.

Section 6. Representations and Warranties. The Assignee and, effective upon its exercise (if any) of the right contained in Section 5 of this agreement, the Successor Assignee represent and warrant as follows, with capitalized terms having the meanings set forth in the agreements related to the Assets:

(a) Organization and Authority; No Violation of Charter, By-laws, Indentures, etc. It is a corporation duly organized, legally existing and in good standing under the laws of its state of incorporation, and has full right, power and authority to enter into and perform this agreement and to assume and perform the Participation Agreement, the Assignment, the Lease, the Security Agreement and the Notes, and its performance or observance of any of its obligations hereunder or thereunder does not violate any provisions of any law (other than any law, rule, regulation or order of, under or pertaining to the Public Utility Holding Company Act of 1935, the Federal Power Act of 1935, the Interstate Commerce Act of 1887, the Securities Act of 1933, the Securities Exchange Act of 1934, the California Corporate Securities Act of 1968 or state laws governing the issuance and sale of securities [as all of the foregoing have been amended to the date hereof], or the Oregon Public Utilities Commission, or the Interstate Commerce Commission, or the Federal Energy Regulatory Commission, it hereby representing that, although it has made no independent investigation, it has no knowledge of any such violation of any of said laws), any order of any court or governmental agency applicable to it, its Certificate of Incorporation or By-laws, or any indenture, agreement or other instrument to which it is a party or by which it, or any of its property, may be bound, and will not be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its property or assets other than Permitted Encumbrances.

(b) Pending Litigation. There are no proceedings pending or, to its knowledge threatened, and to its knowledge there is no existing basis for any proceedings, against or affecting it in any court or before any governmental authority or arbitrator, arbitration board or tribunal which if adversely determined would materially and adversely affect its ability to perform its obligations under this agreement or the Operative Agreements.

(c) Title to the Equipment. The Equipment is free and clear of any liens or encumbrances which result from claims against it other than Permitted Encumbrances and the Security Agreement. It has not by affirmative act conveyed title to the Equipment to any Person or subjected the Equipment to any lien or encumbrance other than the Lease and the Security Agreement.

(d) No Defaults. To its knowledge, no Event of Default or event which with the passing of time or the giving of notice, or both, would constitute an Event of Default under the Security Agreement, has occurred and is continuing. It is not in violation in any material respect of any term of any of the Operative Agreements.

(e) Governmental Consent. No relationship between it and any other Person nor any circumstance in connection with its assumption of the Notes or the execution and delivery of this Agreement, or its assumption of the Participation Agreement, the Assignment, the Lease or the Security Agreement is such as to require a consent, approval or authorization of or filing, registration or qualification with, any governmental authority on its part (other than pursuant to any law, rule, regulation or order of, under or pertaining to the Public Utility Holding Company Act of 1935, the Federal Power Act of 1935, the Interstate Commerce Act of 1887, the Securities Act of 1933, the Securities Exchange Act of 1934, the California Corporate Securities Act of 1968 or state laws governing the issuance and sale of securities [as all of the foregoing have been amended to the date hereof], or the Oregon Public Utilities Commission, or the Interstate Commerce Commission, or the Federal Energy Regulatory Commission, it hereby representing that, although it has made no independent investigation, it has no knowledge of any such requirement) in connection with such actions or any other aspect of the transactions contemplated hereby.

(f) Purchase for Investment. Subject to the right contained in Section 5 of this agreement, it is purchasing the Assets for its account for investment and not with a view to distribution or resale thereof, but subject, nevertheless, to any requirement of law that the disposition of its property shall at all times be within its control, provided, in the case of the Equity Interest, that such disposition shall comply with the provisions of Section 3.4(d) of the Participation Agreement. It acknowledges that none of the Interests has been registered under the

Securities Act of 1933, as amended, and that neither it nor the Lessee contemplates filing, or is legally required to file, any such registration; and it has been advised that each interest must be held indefinitely unless the sale or other disposition of such interest is subsequently registered under said Securities Act or an exemption from such registration is available. It acknowledges that neither the Owner nor the Lessee has made any representation that Rule 144 under the Securities Act of 1933 may be relied upon at any time in the future in connection with any proposed sale of any Interest. It understands that, as a practical matter, the conditions contained in Rule 144 will make Rule 144 generally unavailable for securities such as the Interest.

(g) Employee Retirement Income Security Act of 1974 ("ERISA"). It represents and warrants that, for the sole purpose of determining whether any party hereto may be liable under Section 4975 of the Internal Revenue Code of 1954 (the "Code") or may violate Section 406 of ERISA, it is not acquiring the Assets, directly or indirectly, with the assets of or in connection with any arrangement by it in any way involving an employee benefit plan (or its related trust) as defined in Section 3(3) of ERISA or with the assets of any plan (or its related trust) as defined in Section 4975(e)(1) of the Code, other than a plan, if any, which is a governmental plan (or its related trust) as defined in Section 3(32) of ERISA or in Section 414(d) of the Code.

Section 7. Miscellaneous. Each party to this agreement shall execute and deliver such instruments, documents and other written information and take such other actions as the other parties may reasonably require in order to carry out the intent of this agreement. This agreement and all the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. This agreement is made and entered into in California, and the laws of California shall govern the validity and interpretation hereof

and the performance of the parties hereto of their respective duties and obligations.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement.

WELLS FARGO LEASING CORPORATION

By: Robert F. Darling  
Its:

By: Joseph B. Schubert  
Its:

DELOS LEASING CORPORATION

By: John D. Wright  
Its:

BA LEASING & CAPITAL CORPORATION

By: Peri L. Kivick  
Its:

**ACKNOWLEDGMENT**

State of California                    )  
  ) ss.  
County of San Francisco            )

On this 29<sup>th</sup> day of September, in the year 1989, before me, the undersigned, a Notary Public, in and for the State of California, duly commissioned and sworn, personally appeared TERRI KWIATEK, personally known to me (or proved on the basis of satisfactory evidence) to be the person who executed the within instrument as Vice President of BA Leasing & Capital Corporation, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date set forth above in this certificate.



Larry P Meres  
Notary Public in and for said  
State

My Commission Expires Mar 14, 1993

OFFICIAL SEAL  
LARRY P. WELLS  
Notary Public - California  
SAN FRANCISCO COUNTY  
My Comm. Expires Mar. 14, 1991



ACKNOWLEDGMENT

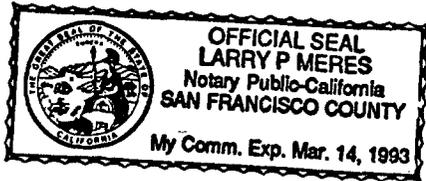
State of California            )  
  ) ss.  
County of San Francisco        )

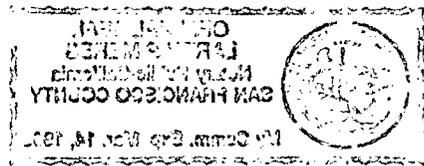
On this 29<sup>TH</sup> day of September, in the year 1989, before me, the undersigned, a Notary Public, in and for the State of California, duly commissioned and sworn, personally appeared JOHN D. WRIGHT, personally known to me (or proved on the basis of satisfactory evidence) to be the person who executed the within instrument as Secretary of Delos Leasing Corporation, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date set forth above in this certificate.

Larry P Meres  
Notary Public in and for said State

My Commission Expires Mar 14, 1993





ACKNOWLEDGMENT

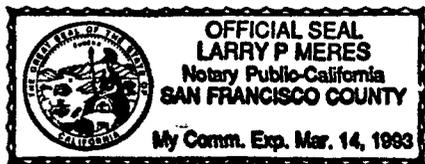
State of California            )  
  ) ss.  
County of San Francisco        )

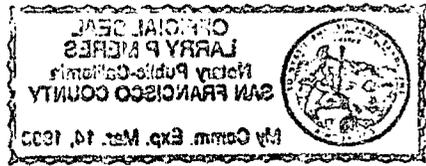
On this 29<sup>th</sup> day of September, in the year 1989, before me, the undersigned, a Notary Public, in and for the State of California, duly commissioned and sworn, personally appeared ROBERT F. DARLING, personally known to me (or proved on the basis of satisfactory evidence) to be the person who executed the within instrument as President of Wells Fargo Leasing Corporation, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date set forth above in this certificate.

Larry P Meres  
Notary Public in and for said State

My Commission Expires Mar 14, 1993



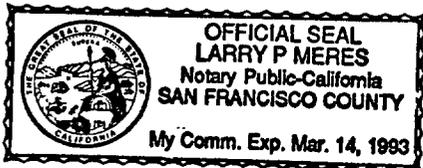


**ACKNOWLEDGMENT**

State of California                    )  
  ) ss.  
County of San Francisco            )

On this 29<sup>th</sup> day of September, in the year 1989, before me, the undersigned, a Notary Public, in and for the State of California, duly commissioned and sworn, personally appeared JOSEPH B. SCHUBERT, personally known to me (or proved on the basis of satisfactory evidence) to be the person who executed the within instrument as Vice President of Delos Leasing Corporation, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date set forth above in this certificate.



Larry P Meres  
Notary Public in and for said  
State

My Commission Expires Mar 14, 1993

Appendix 1

ASSETS

All right, title and interest of the Owner, as defined in the Participation Agreement dated as of October 1, 1978 (the "Participation Agreement") in and to:

- (1) The Participation Agreement;
- (2) The Security Agreement-Trust Deed dated as of October 1, 1978;
- (3) The Equipment Lease dated as of October 1, 1978, and the rents and other sums due and to become due thereunder;
- (4) The Equipment (as defined in the Participation Agreement);
- (5) The Purchase Order Assignment dated as of October 1, 1978; and
- (6) All notes, documents, agreements, certificates and opinions delivered pursuant thereto with all amendments and supplements thereof.

Appendix 2

Notice Parties

The Connecticut Bank and Trust Company  
One Constitution Plaza  
Hartford, Connecticut 06115

Attention: Mason LeMont, Vice President  
Corporate Trust Department

Portland General Electric Company  
121 S.W. Salmon Street  
Portland, Oregon 97204  
Telephone: 503-464-8000

Attention: C. D. Hobbs  
Chief Financial Officer

American United Life Insurance Company  
One American Square  
3rd Floor - Securities Division  
Indianapolis, Indiana 46204  
Telephone: 317-263-1380

Attention: Terri Davis  
Securities Division

Jefferson Pilot  
Securities Department  
101 North Elm Street  
Greensboro, North Carolina 27402  
Telephone: 919-378-2000

Attention: Dan Parker, Counsel