

ITEL

Rail Division

Two Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234

April 10, 1981

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

RECORDATION NO. 13048 Filed 1428
No. 1-103A104
Date... APR 13 1981
Fee \$... 60.00

APR 13 1981 - 2 25 PM
INTERSTATE COMMERCE COMMISSION
Washington, D. C.

Dear Ms. Mergenovich:

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 Itel Corporation, Rail Division, for filing and recordation, four (4) counterparts of the following document:

New Number

Car Lease Agreement, dated as of February 25, 1981, between Itel Corporation, Rail Division, and Southern Pacific Transportation Company and St. Louis Southwestern Railway Company (the "Lease").

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

1. Itel Corporation,
Rail Division
Two Embarcadero Center
San Francisco, CA 94111
2. Southern Pacific Transportation Company
Southern Pacific Building
One Market Plaza
San Francisco, California 94105
3. St. Louis Southwestern Railway Company
1517 West Front Street
Tyler, Texas 75710

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APR 13 2 26 PM '81
I.C.C.
FEE OPERATION BR.

Cindy Attemiss
Cross INDEX
Campbell

Please cross-index the above Lease with the following document, which was filed under Recordation No. 9932 on December 22, 1978 at 10:00 A.M.

Equipment Trust Agreement, dated November 1, 1978 between Citibank, N.A. as Trustee, and Itel Corporation

The Equipment covered by the Lease is two hundred eighty five (285) 70 ton Flush Deck Flatcars (A.A.R. mechanical designation FC or FMS; 89'4" in length) bearing the reporting marks described on Annex A attached hereto.

Ms. Agatha Mergenovich
April 10, 1981
Page Two

Enclosed also is a check for \$60.00 for the required recordation fee (\$50.00) and cross-indexing (\$10.00) fee.

Please stamp all counterparts of the enclosed document 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 delivered to the bearer of this letter.

Sincerely,



Patricia Salas Pineda
Counsel

PSP:sc

enclosures

cc: Michael Walsh, Esq.
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10020

John Byrnes
Senior Trust Officer
Citibank, N.A., Trustee
Hanover Square
New York, New York 10004

Phillip Jackson, Esq.
Shearman & Sterling
53 Wall Street
New York, New York 10005

Margaret MacKenzie
Itel Corporation

Interstate Commerce Commission
Washington, D.C. 20423

4/13/81

OFFICE OF THE SECRETARY

Patricia Salas Pineda
Counsel
IteI Rail Division
Two Embarcadero Center
San Francisco, Calif. 94111

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 4/13/81 at 2:35pm, and assigned re-
recording number (s). 13048

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

L-0141
2/25/81

13048
RECORDATION NO. _____ Filed 1425

APR 13 1981 -2 35 PM

INTERSTATE COMMERCE COMMISSION

CAR LEASE AGREEMENT

THIS CAR LEASE AGREEMENT ("Agreement") made this 25th day of February, 1981, between ITEL CORPORATION, RAIL DIVISION, a Delaware corporation, Two Embarcadero Center, San Francisco, California, 94111, as the lessor and agent ("Lessor") and SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation, Southern Pacific Building, One Market Plaza, San Francisco, California, 94105, and the ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, a Missouri corporation, 1517 W. Front Street, Tyler, Texas, 75710, jointly and severally liable, as co-lessees (hereinafter collectively referred to as the "Lessee").

RECITALS:

Lessor has leased to Providence and Worcester Company ("P&W") under a lease dated as of September 1, 1978, seven hundred (700) freight cars. By supplemental agreement entered into between Lessor and P&W, P&W has (a) appointed Lessor as its agent with full power and authority and in the name of Lessor (but on behalf of P&W) to enter into one or more sublease agreements with third parties covering some or all of such freight cars, (b) empowered Lessor to deliver possession of such freight cars to such third parties, and (c) granted Lessor the right to negotiate such subleases with any terms and conditions which are satisfactory to Lessor.

Lessee desires to lease a portion of such freight cars from Lessor upon the terms and conditions hereunder.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties agree as follows:

1. Lease of Equipment.

Lessor agrees to furnish and lease to Lessee and Lessee agrees to lease from Lessor upon the terms and conditions set forth herein a number of items of equipment of the number, type, construction and other description as set forth in any lease schedules executed by the parties concurrently herewith or hereafter and made a part of this Agreement. The word "schedule" as used herein includes the schedule or schedules executed herewith and any additional schedules and amendments thereto each of which when signed by both parties shall be a part of this Agreement. The scheduled items of equipment are hereinafter called collectively "Cars" and each individual scheduled item of equipment is hereinafter called "Car."

2. Term.

The term ("Term") of this Agreement shall commence as to each Car upon the signing by both parties of a Joint Inspection Certificate as to such Car ("Commence Date") and shall continue until terminated as hereinafter provided. Five (5) months following the average start-up date (as hereinafter defined), either party to this Agreement may, at its option,

upon not less than thirty (30) days prior written notice to the other party terminate this Agreement as to all or any portion of the Cars in groups of fifty (50). Average start-up date is defined as the arithmetic weighted average of the first loading (as hereinafter defined) of the Cars. The first loading of the Cars is defined as the actual loading of the Cars or May 1, 1981, whichever is sooner.

3. Delivery.

- A. Lessor shall deliver the Cars to Lessee free on track ("FOT") as promptly as is reasonably possible following execution hereof, at any point on the railroad line of Lessee. Delivery with respect to a Car shall be deemed to have taken place on the date that such Car is interchanged to any point on the railroad line of Lessee ("Delivery Date"). Lessor shall notify Lessee of the reporting marks and numbers of the Cars immediately upon the delivery of the Cars to Lessee.
- B. Each Car shall be inspected by representatives of both Lessor and Lessee on the lines of the Boston and Maine Corporation or Railway and Industrial Services, Inc. The representatives of both Lessor and Lessee shall prepare and execute for each Car, a Joint Inspection Certificate ("JIC") as used under Rule 103 of the Interchange Rules of the Association of American Railroad Rules ("AAR"). Each Car found following inspection to be in mechanical and safety compliance with all applicable AAR and Federal Railway Association ("FRA") rules and specifications and otherwise meeting the description specification contained in the attached schedule, shall be accepted for all purposes of this Agreement by the execution by both representatives of Lessor and Lessee of the JIC, so noting the acceptance ("Acceptance"). Any Car not meeting the standards set forth in the preceding sentence may be rejected by Lessee and such objection shall be set forth in the JIC and thereupon Lessor shall take what steps it deems appropriate to cure such defect and when Lessor has corrected such defect, such Car shall thereupon be reinspected by Lessor and Lessee, and if such Car then meets such standards it shall be so noted on the JIC and thereupon be subject to all terms and conditions of this Agreement.
- C. Upon the delivery of the Cars to Lessee's railroad tracks, Lessee shall have the right to inspect the Cars, and shall have defect card protection from the delivering carrier as appropriate. Lessor shall have the right to be represented at such inspection, and shall be provided with statements of condition by Lessee with respect to the Cars upon such inspection.

4. Railroad Markings and Car Modification.

- A. Lessor and Lessee agree that the Cars shall be modified to the specifications as set forth on Exhibit A attached and made a part hereof. All modifications are subject to the approval of Lessor

and shall comply with all applicable AAR regulations. The modifications shall be performed so as not to incur any damage to the hitches and container pedestal pockets. Lessor or its representative may inspect the Cars at any reasonable time during the modifications to insure compliance with the specifications as set forth herein.

- B. Lessee shall, at its expense, perform or have performed the modification to the Cars; provided, however, that upon three (3) weeks written notice by Lessee, Lessor shall perform or have performed the modification for up to but not more than one hundred (100) of the Cars. Modifications performed by Lessor shall be made in a timely fashion at a rate of not less than twelve (12) cars per week, providing Lessee maintains a minimum of twenty (20) Cars at Quick Car facility at Fort Worth, Texas. Upon Lessor's written notice to Lessee, which shall not occur prior to delivery of the Cars to Quick Car facility, Lessee shall have thirty (30) days from the invoice date to pay to Lessor one thousand dollars (\$1,000) for each Car Lessor is required to modify. Lessee, or its representative may inspect the Cars modified by Lessor at any reasonable time during such modifications to insure compliance with the specifications as set forth herein.
- C. Lessor shall, at its expense, be responsible for marking the Cars with the railroad markings of Lessee prior to delivery. Such markings shall comply with all applicable regulations. Any Car hire revenue earned prior to delivery of Cars which are marked with Lessee's railroad markings shall be paid to Lessor within two (2) months after the end of the month in which such payments were earned.
- D. Cars delivered to Lessee after May 1, 1981, will not require modifications be made thereto for pipe service, but may at Lessee's option, be used as TOFC/COFC Cars at the same rental rate.

5. Force Majeure.

Neither party to this Agreement will be liable for nonperformance or delay in the performance due to any cause not in its control ("Force Majeure"). If affected by Force Majeure, the party so affected will give notice to the other party hereto as promptly as possible of the nature and probable duration of such Force Majeure. If, because of Force Majeure, either party hereto is unable to carry out any of its obligations under this Agreement, then the obligations of such party will be suspended to the extent made necessary by Force Majeure. Force Majeure will include, without limitation, acts of God, legislation or regulations of any governmental body, court decrees, acts of the public enemy, riots, strikes, labor disputes, labor or material shortages, fires, explosions, floods, breakdown of or damage to plants, equipment or facilities. The effect of any event of Force Majeure will be eliminated by the party affected as promptly as possible.

6. Record Keeping.

- A. Lessee shall, at its expense, during the Term of this Agreement prepare and file, with respect to the Cars, all documents relating to the registration, maintenance and record-keeping functions normally performed by a railroad with respect to railroad equipment of the type subject to this Agreement. Such matters shall include, but are not limited to, the preparation of the following documents: (a) appropriate AAR interchange Agreements with respect to the Cars; (b) registration of the Cars in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; and (c) such reports as may be required from time to time by the Interstate Commerce Commission ("ICC") and/or any other regulatory agencies with respect to the Cars.
- B. Lessee shall perform all record-keeping functions relating to the use of the Cars by Lessee and other railroads, including but not limited to car hire reconciliation, maintenance and repair, and billing in accordance with AAR railroad interchange agreements and rules. All record-keeping performed by Lessee hereunder and all records of payments, charges and correspondence relating to the Cars shall be separately recorded and maintained by Lessee in a form suitable for reasonable inspection by Lessor from time to time during regular business hours. Lessee shall supply Lessor with copies of such records as Lessor may reasonably request.

7. Maintenance, Taxes and Insurance.

- A. Except as herein otherwise provided, Lessor shall pay all costs, expenses, fees and charges incurred by Lessee in connection with the use and operation of each of the Cars during the Term of this Agreement, including but not limited to, repairs, maintenance and servicing, unless the same was occasioned by the fault of Lessee or relates to the repair or servicing of the modifications to the Cars as set forth herein.
- B. Lessor shall make or cause to be made, at its expense, all repairs, inspections, maintenance, alterations, modifications or replacement of parts as shall be necessary to maintain the Cars in good operating condition as specified in the AAR Interchange Rules through the Term hereof, provided, that Lessee shall be responsible for any repairs required to maintain the modifications to the Cars as set forth herein. Lessee shall forward to Lessor immediately upon receipt all correspondence relating to maintenance and repair of the Cars, including invoices for repair and requests for disposition. Lessee shall also, as may be required, upon having knowledge thereof, immediately notify Lessor of any accidents causing substantial damage to the Cars. Lessee may, at its option, make running repairs to the Cars to facilitate the continued immediate use of said Cars, but shall not make any other repairs, alterations, improvements or additions, except as provided herein, without Lessor's prior written consent, which shall not be unreasonably

withheld, unless such repairs, alterations, improvements or additions are required by an appropriate regulatory agency. If Lessee makes such repairs, alterations, improvements or additions without Lessor's prior written consent, Lessee shall be liable to Lessor for the costs to restore said Cars to the condition in which they existed at the time of Acceptance less normal wear and tear. Lessor shall reimburse Lessee for all cost and expense incurred by Lessee in performing running repairs in accordance with current AAR billing rates. As between Lessee and Lessor, title to any such repairs shall be and remain with Lessor.

- C. Lessor shall reimburse Lessee for all costs incurred as a result of repairs made to Cars by other railroad companies in accordance with current interchange rules and regulations.
- D. Lessor hereby authorizes Lessee to perform such repairs necessary to restore the Cars to the condition in which they existed at the time of Acceptance.
- E. During the Term of this Agreement, Lessee shall be responsible for the Cars while in Lessee's possession or control, in the same manner that Lessee is responsible under AAR Interchange Rules for similar equipment not owned or controlled by Lessee. Lessee shall, at all times while this Agreement is in effect, self-insure such Cars against property and public liability to the extent it self-insures equipment similar to the Cars and to the extent such self-insurance is consistent with prudent industry practice.
- F. Lessor agrees to reimburse Lessee for all taxes paid by Lessee resulting from ad valorem tax assessments on the Cars and on the lease or delivery thereof which may be levied or assessed during that portion of the Term prior to May 1, 1982, except taxes on Lessee's income or gross receipts, lease rental taxes or sales/use tax imposed on per diem or mileage payments. Lessor and Lessee will comply with all state and local laws, rules or regulations requiring filing of ad valorem tax returns on the Cars. In the event this Agreement remains in effect beyond May 1, 1982, Lessee shall assume responsibility for all ad valorem tax assessments levied or imposed after that date.

8. Rent.

- A. Lessee shall pay to Lessor during the Term of this Agreement as rent for each Car the following:
 - (i) On May 1, 1981, an amount equal to \$13.60 multiplied by the number of days from and including the First Loading of freight on such Car subsequent to the modification as set forth herein to and including April 30, 1981 (Lessee shall also submit with such payment any pertinent loading records to substantiate such calculation).

(ii) On June 1, 1981, and on the first day of each month thereafter to and including May 1, 1982 (or upon the earlier termination of this Agreement as set forth herein) an amount equal to \$13.60 multiplied by the number of days in the immediately preceding month or the number of days subsequent to the Delivery Date hereof, whichever is less.

(iii) On June 1, 1982, and on the first day of each month thereafter to and including May 1, 1983, an amount equal to \$15.00 multiplied by the number of days in the immediately preceding month.

(iv) In the event this Agreement remains in effect beyond May 1, 1983, the parties shall mutually agree upon the applicable rental amount.

B. If in any calendar month following delivery of any Cars to Lessee, those Cars which were delivered to Lessee travel an aggregate distance ("Actual Mileage") in excess of an amount equal to two hundred (200) miles multiplied by (a) the number of Cars subject to this Agreement and (b) the number of days in such month ("Minimum Mileage"), Lessee shall pay to Lessor within seventy-five (75) days after the end of the calendar quarter in which such month shall occur, an additional amount equal to three cents (3¢) multiplied by the difference of the Actual Mileage less the Minimum Mileage.

C. **Loss or Destruction**

In the event it is determined that a Car is lost, destroyed, or damaged beyond repair in accordance with Rule 107 of the AAR Field Manual of the Interchange Rules and Rule 7 of the AAR Code of Car Hire Rules and Interpretations — Freight, said Car shall be removed from the rental calculations of this Agreement on the date Lessee requests a depreciated value statement from Lessor.

9. **Possession and Use.**

A. So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Cars in accordance with the terms of this Agreement and in the manner and to the extent the Cars are customarily used in the railroad freight business. However, Lessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by Lessor in connection with the acquisition of the Cars which are the subject of this Agreement. Accordingly, following notice to Lessee from any such secured party or owner that an event of default has occurred at any time (including at a time prior to the effective date of this Agreement), and is continuing under such financing agreement, such secured party may require either or both that all rent shall be made directly to such secured party and that the Cars immediately

be returned to such party. Lessee agrees that to the extent it has physical possession and can control use of the Cars, the Cars shall at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance with all lawful acts, rules and regulations and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either Lessor or Lessee may in good faith and by appropriate proceedings, contest the application of any such act, rule, regulation or order in any reasonable manner at the expense of the contesting party.

- B. Lessee will not directly or indirectly create, incur any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Cars, or any interest therein or in this Agreement or Schedule thereto. Lessee will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest, or claim if the same shall arise at any time.

10. Default.

- A. The occurrence of any of the following events shall be an event of default:
- (i) The nonpayment by Lessee of any sum required herein to be paid by Lessee within ten (10) days after the date any such payment is due.
 - (ii) The breach by Lessee of any other term, covenant or condition of this Agreement, which is not cured within ten (10) days thereafter.
 - (iii) Any act of insolvency by Lessee, or the filing by Lessee of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors.
 - (iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against Lessee that is not dismissed within sixty (60) days thereafter, or the appointment of any receiver or trustee to take possession of the properties of Lessee, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty (60) days from the date of said filing or appointment.
- B. Upon the occurrence of any event of default hereunder, without limiting Lessor's rights and remedies otherwise provided by law, which shall be available to Lessor in addition to the following rights and remedies (no right or remedy of Lessor being exclusive but all such rights and remedies being available at all times to Lessor and Lessor in any case being entitled to recover all costs, expenses

and attorney fees incurred by Lessor in enforcing its rights and remedies hereunder), Lessor may, at its option, terminate this Agreement and/or may

- (i) Proceed by any lawful means to enforce performance by Lessee of this Agreement or to recover damages for a breach thereof, and/or
- (ii) By notice in writing to Lessee, terminate Lessee's right of possession and use of the Cars, whereupon all right and interest of Lessee in the Cars shall terminate; and thereupon Lessor may enter upon any premises where the Cars may be located and take possession of the Cars and henceforth hold, possess and enjoy the same free from any right of Lessee. Lessor shall in addition have the right to recover from Lessee any and all rental amounts which under the terms of this Agreement may then be due or which may have accrued to that date, together with Lessor's costs and expenses, including reasonable attorney fees incurred in securing such enforcement hereof.

II. Termination.

- A. Within sixty (60) days after the termination of this Agreement, Lessee, at its sole expense and at Lessor's option and subject to the terms and conditions of this Agreement unless otherwise provided below, shall remove all modifications described in Section 4 herein, repair all holes, gouges and other structural changes created by such modification, reinstall any lading devices which were removed from the Cars in order to complete such modification, place all TOFC/COFC lading devices (including but not limited to trailer hitches, container pedestal brackets and bridge plates) in operative condition, and otherwise return the Cars to the condition in which they existed upon delivery, less normal wear and tear. Upon termination, Lessor shall cause Lessee's railroad markings to be removed from the Cars prior to the outbound load as set forth in Section IIE below. Lessee shall not remove Lessee's railroad marks from the Cars without the prior written consent of Lessor. Should Lessee be required to permanently remove bearing pieces from the Cars in order to remove the modifications, such items shall become the sole property and responsibility of Lessee.
- B. If Lessor does not request Lessee to remove all modifications as set forth above, Lessee shall return to Lessor all TOFC/COFC lading devices including but not limited to trailer hitches, container pedestal brackets and bridge plates which were removed from the Cars in order to complete the modifications.
- C. All modifications remaining on the Cars at Lessor's option shall thereafter become the sole property and responsibility of Lessor.

- D. During the sixty (60) day period set forth above in Section 11A, Lessee shall not be required to pay to Lessor rental or car hire payments with respect to the Cars. Unless storage is requested by Lessor as provided below in Section 11E, Lessee shall be required to pay to Lessor car hire payments with respect to the Cars, commencing on the 61st day following termination of this Agreement.
- E. Upon completion of any reconditioning under Section 11A, Lessee shall, at its expense and as designated by Lessor, deliver one or more of the Cars to a destination on Lessee's railroad tracks acceptable to Lessor and Lessee, and provide outbound loads for one or more of the Cars. Prior to delivering such Cars, Lessor may request that Lessee provide storage for the Cars for up to ninety (90) days, at no cost to Lessor. During the ninety (90) day storage period set forth herein, Lessee shall not be required to pay Lessor car hire payments with respect to the Cars. Any expense incurred to mark the Cars with the railroad markings of a subsequent lessee shall be borne by Lessor.
- F. Notwithstanding any of the above, Lessee shall have thirty (30) days free on track from Lessor's notification to load the Cars. Under no circumstances shall Lessee have less than sixty (60) days free on track from termination of the Agreement.

12. Indemnities.

- A. LESSEE SHALL DEFEND, INDEMNIFY AND HOLD LESSOR HARMLESS AGAINST ANY LOSS, DAMAGE, DESTRUCTION OR LIABILITY WITH RESPECT TO THE CARS WHICH IS OCCASIONED BY THE FAULT OF LESSEE, WHICH OCCURS WHILE THE CARS ARE IN LESSEE'S POSSESSION OR CONTROL OR IN THOSE INSTANCES IN WHICH THE AAR INTERCHANGE RULES WOULD ASSIGN RESPONSIBILITY FOR SUCH LOSS, DAMAGE, DESTRUCTION OR LIABILITY TO LESSEE.
- B. SUBJECT TO SECTION 12A, LESSOR WILL DEFEND, INDEMNIFY AND HOLD LESSEE HARMLESS AGAINST ANY AND ALL LOSS, DAMAGE OR DESTRUCTION OF OR TO THE CARS, USUAL WEAR AND TEAR EXCEPTED, AND ANY CLAIM, CAUSE OF ACTION, DAMAGE, LIABILITY, COST OR EXPENSE WHICH MAY BE ASSERTED AGAINST LESSEE WITH RESPECT TO THE CARS, EXCEPT FOR THOSE CLAIMS, CAUSES OF ACTION, DAMAGES, LIABILITIES, COSTS OR EXPENSES FOR WHICH LESSEE SHALL BE RESPONSIBLE AS SET FORTH HEREIN, INCLUDING WITHOUT LIMITATION THE LEASING OR RETURN OF THE CARS, LESSEE'S MODIFICATION, USE, MAINTENANCE, REPAIR, REPLACEMENT OR OPERATION OF THE CARS OR THE CONDITION OF THE CARS.

13. Representations Warranties and Covenants.

Lessee represents, warrants and covenants that:

- (i) Lessee is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power, authority and, insofar as is material to Lessor's rights under this Agreement, is duly authorized to do business wherever necessary, to carry out its present business and operations and to own or hold under lease its properties and to perform its obligations under this Agreement.
- (ii) The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to Lessee, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon the assets of Lessee or on the Cars pursuant to any instrument to which Lessee is a party or by which it or its assets may be bound.
- (iii) There is no action or proceeding pending or threatened against Lessee before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Lessee such that Lessee's ability to perform its obligations hereunder would be materially and adversely affected.
- (iv) There is no fact which Lessee has not disclosed to Lessor in writing, nor is Lessee a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as Lessee can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of Lessee or the ability of Lessee to perform its obligations under this Agreement.

14. Inspection.

Lessor shall upon prior notice to Lessee and during normal business hours have the right to enter the premises of Lessee where the Cars may be located for the purpose of inspecting and examining the Cars to insure Lessee's compliance with its obligations hereunder, provided Lessor hereby releases and agrees to indemnify Lessee, its agents, successors and assigns from all liability, cost and expense (including but not limited to loss of or damage to the property of either party and injury to or death of agents or employees of either party) resulting from or arising in any manner from Lessor's presence upon the property of Lessee. Lessee shall be notified in advance of any entrance upon Lessee's premises and shall have the option of being represented at any such inspection.

15. Miscellaneous.

- A. This Agreement and the schedules contemplated hereby shall be binding upon and inure to the benefit of the parties hereto and

their respective successors and assigns, except that Lessee may not without the prior written consent of Lessor assign this Agreement or any of its rights hereunder or sublease any Cars to any party, and any purported assignment or sublease in violation hereof shall be void.

- B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of any financing agreement entered into by Lessor or its assignees in connection with the acquisition or financing or use of the Cars in order to confirm the financing party's interest in and to the Cars, this Agreement and schedules hereto and to confirm the subordination provisions contained in Section 9 of this Agreement.
- C. It is expressly understood and agreed by the parties that this Agreement constitutes a lease of the Cars only and no joint venture or partnership is being created. Notwithstanding the calculation of rental payments, nothing herein shall be construed as conveying to Lessee any right, title or interest in the Cars except as a lessee only.
- D. No failure or delay by Lessor shall constitute a waiver or otherwise affect or impair any right, power or remedy available to Lessor, nor shall any waiver or indulgence by Lessor or any partial or single exercise of any right, power or remedy preclude any other of further exercise thereof or the exercise of any other right, power or remedy.
- E. This Agreement shall be governed by and construed according to the laws of the State of California.
- F. Lessee shall notify Lessor as soon as is practicable of any accident connected with the malfunctioning or operation of the Cars when such accident occurred while the Car was not in Lessee's possession or control, including in such report, where available, the time, place and nature of the accident and the damage caused, the names and addresses of any persons injured and of witnesses, and other information pertinent to Lessor's investigation of the accident.
- G. Lessee shall also notify Lessor in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any item. Lessee shall furnish to Lessor promptly upon its becoming available, a copy of its annual report submitted to the ICC and, when requested, copies of any other income or balance sheet statements required to be submitted to the ICC.
- H. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth.

- I. The obligations and liabilities of Lessor and Lessee hereunder shall survive the expiration or earlier termination of this Agreement.
- J. This Agreement represents the entire Agreement. This Agreement shall not be modified, altered, or amended, except by an agreement in writing signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the day and year first herein written.

ITEL CORPORATION
RAIL DIVISION

By: *Edward M. De...*

Title: *President*

Date: *Feb 25, 1981*

SOUTHERN PACIFIC TRANSPORTATION
COMPANY

By: *Fetto*

Title: *Vice President*

Date: *FEB 25 1981*

ST. LOUIS SOUTHWESTERN
RAILWAY COMPANY

By: *Fetto*

Title: *Vice President*

Date: *FEB 25 1981*

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

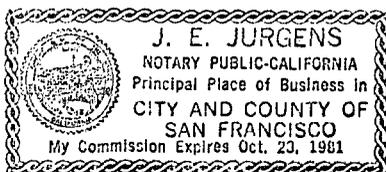
On this 26th day of February, 1981, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President of ITEL Corporation, Rail Division, that the foregoing Car Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Randi C. Smith
Notary Public

STATE OF California)
) ss:
COUNTY OF San Francisco)

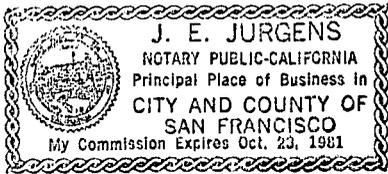
On this 25th day of February, 1981, before me personally appeared L. E. Hoyt, to me personally known, who being by me duly sworn says that such person is VICE PRESIDENT of Southern Pacific Transportation Company, that the foregoing Car Lease Agreement was signed on behalf of said corporation by authority 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.



J. E. Jurgens
Notary Public

STATE OF California)
COUNTY OF San Francisco) ss:

On this 25th day of February, 1981, before me personally appeared L.E. Hoyt, to me personally known, who being by me duly sworn says that such person is Vice President of St. Louis Southwestern Railway Company, that the foregoing Car Lease Agreement 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.



J. E. Jurgens
Notary Public

EXHIBIT A

MODIFICATION SPECIFICATION

TOFC/COFC 89'-6" flats will be modified for the shipment of 40'-0" and 80'-0" long pipe by the following procedure per Lessee Drawing DF-76329:

1. Apply 8 each 10" x 10" x 9' long at various spacing, transverse bearing pieces to the deck. Cope bearing pieces as required to fit over bulb angle guide rails and hitches.
2. Bearing pieces are to be secured to deck by welding 32 angle clips (8" x 4" x 1/2") to deck and bolting bearing pieces to angle clips. Nuts are to be tack welded to bolts or chisel checked (3/4" dia. bolts to be used).

EQUIPMENT SCHEDULE NO. 1

Itel Corporation, Rail Division hereby leases the following Cars to Southern Pacific Transportation Company and St. Louis Southwestern Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of February 25, 1981.

A.A.R. Mech. Desig.	Description	Numbers	Dimensions Inside			Doors Width	No. of Cars
			Length	Width	Height		
FC or FMC	70-Ton Flush Deck Flatcar	SP 105301-105600 SP 105701-105800	89' 4"	N/A	N/A	N/A	285 (in random numbers)

ITEL CORPORATION, RAIL DIVISION

BY: *Edmond M. Deo*

TITLE: *President*

DATE: *Feb 25, 1981*

SOUTHERN PACIFIC TRANSPORTATION COMPANY

BY: *J. Elroy*

TITLE: *Vice President*

DATE: *FEB 25 1981*

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

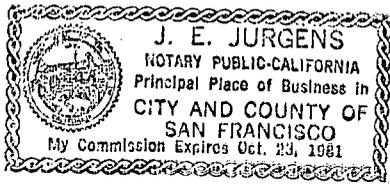
BY: *J. Elroy*

TITLE: *Vice President*

DATE: *FEB 25 1981*

STATE OF California)
COUNTY OF San Francisco) ss:

On this 25th day of February, 1981, before me personally appeared L. E. Hoyt, to me personally known, who being by me duly sworn says that such person is VICE PRESIDENT of St. Louis Southwestern Railway Company, that the foregoing Equipment Schedule 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.



[Signature]
Notary Public

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

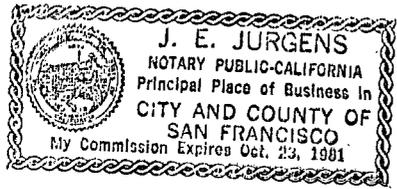
On this 25th day of February, 1981, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President of ITEL Corporation, Rail Division, that the foregoing Equipment Schedule was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Randi C. Smith
Notary Public

STATE OF California)
) ss:
COUNTY OF San Francisco)

On this 25th day of February, 1981, before me personally appeared L. E. HOYT, to me personally known, who being by me duly sworn says that such person is VICE PRESIDENT of Southern Pacific Transportation Company, that the foregoing Equipment Schedule 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.



J. E. Jurgens
Notary Public

ANNEX A

NEW CAR
NUMBER

SP 105301
SP 105302
SP 105303
SP 105304
SP 105305
SP 105306

SP 105308
SP 105309
SP 105310
SP 105311
SP 105312
SP 105313
SP 105314
SP 105315
SP 105316

SP 105318
SP 105319

SP 105321
SP 105322

SP 105324

SP 105326
SP 105327
SP 105328
SP 105329
SP 105330
SP 105331

NEW CAR
NUMBER

SP 105332
SP 105333
SP 105334

SP 105336
SP 105337
SP 105338

SP 105340

SP 105343

SP 105345
SP 105346
SP 105347
SP 105348
SP 105349
SP 105350
SP 105351
SP 105352

SP 105354
SP 105355
SP 105356
SP 105357
SP 105358
SP 105359

NEW CAR
NUMBER

SP 105362
SP 105363
SP 105364
SP 105365
SP 105366

SP 105368
SP 105369
SP 105370
SP 105371
SP 105372

SP 105374

SP 105376
SP 105377

SP 105380
SP 105381

SP 105383
SP 105384
SP 105385
SP 105386
SP 105387
SP 105388

SP 105390

NEW CAR
NUMBER

SP 105391
SP 105392

SP 105394

SP 105396

SP 105398
SP 105399

SP 105403

SP 105405
SP 105406

SP 105409

SP 105411

SP 105413
SP 105414
SP 105415
SP 105416
SP 105417
SP 105418

SP 105420

<u>NEW CAR NUMBER</u>	<u>NEW CAR NUMBER</u>	<u>NEW CAR NUMBER</u>	<u>NEW CAR NUMBER</u>
SP 105421		SP 105482	SP 105512
SP 105422	SP 105452	SP 105483	SP 105513
SP 105423	SP 105453	SP 105484	
SP 105424	SP 105454		
SP 105425		SP 105486	SP 105516
	SP 105456		
		SP 105488	
	SP 105458	SP 105489	SP 105519
	SP 105459	SP 105490	
SP 105430			SP 105521
	SP 105461	SP 105492	SP 105522
SP 105432		SP 105493	SP 105523
SP 105433	SP 105463		SP 105524
SP 105434	SP 105464		SP 105525
SP 105435	SP 105465	SP 105496	SP 105526
	SP 105466	SP 105497	SP 105527
SP 105437	SP 105467	SP 105498	SP 105528
SP 105438		SP 105499	
		SP 105500	SP 105530
SP 105440		SP 105501	
	SP 105471	SP 105502	
SP 105442	SP 105472	SP 105503	SP 105533
	SP 105473	SP 105504	SP 105334
SP 105444	SP 105474	SP 105505	SP 105535
SP 105445		SP 105506	SP 105536
SP 105446		SP 105507	SP 105537
SP 105447	SP 105477	SP 105508	
	SP 105478	SP 105509	SP 105539
SP 105449		SP 105510	SP 105540
SP 105450	SP 105480		SP 105541

<u>NEW CAR NUMBER</u>	<u>NEW CAR NUMBER</u>	<u>NEW CAR NUMBER</u>	<u>NEW CAR NUMBER</u>
	SP 105572	SP 105701	SP 105730
SP 105543	SP 105573	SP 105702	
	SP 105574	SP 105703	SP 105732
	SP 105575	SP 105704	SP 105733
SP 105546	SP 105576	SP 105705	SP 105734
SP 105547	SP 105577		SP 105735
	SP 105578	SP 105707	SP 105736
	SP 105579	SP 105708	SP 105737
SP 105550	SP 105580	SP 105709	
		SP 105710	SP 105739
SP 105552		SP 105711	
SP 105553	SP 105583		SP 105741
SP 105554	SP 105584	SP 105713	
		SP 105714	
SP 105556	SP 105586	SP 105715	SP 105744
SP 105557		SP 105716	
SP 105558		SP 105717	SP 105746
SP 105559	SP 105589	SP 105718	SP 105747
SP 105560	SP 105590	SP 105719	SP 105748
SP 105561	SP 105591	SP 105720	SP 105749
SP 105562		SP 105721	
	SP 105593	SP 105722	SP 105751
SP 105564		SP 105723	SP 105752
SP 105565	SP 105595		
	SP 105596	SP 105725	SP 105754
			SP 105755
SP 105568		SP 105727	SP 105756
SP 105569	SP 105599	SP 105728	
SP 105570	SP 105600	SP 105729	SP 105758
SP 105571			SP 105759

NEW CAR
NUMBER

SP 105761

SP 105764

SP 105765

SP 105766

SP 105767

SP 105768

DESTROYED

SP 105771

SP 105772

SP 105774

SP 105775

SP 105776

SP 105778

SP 105779

SP 105781

SP 105782

SP 105783

SP 105784

SP 105786

SP 105787

SP 105789

NEW CAR
NUMBER

SP 105790

SP 105792

SP 105793

SP 105794

SP 105796

SP 105797

SP 105800