

ITEL

RECORDATION NO. 13077-D FEB 24 1983 2 11 PM

220
3-055-136
No. FEB 24 1983
Date
Fee \$ 20.00
ON
ICC Washington, D. C.

INTERSTATE COMMERCE COMMISSION
Rail Division
Two Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234

December 22, 1982

RECORDATION NO. 13077-E FEB 24 1983 2 12 PM
INTERSTATE COMMERCE COMMISSION

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

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 ("Itel") for filing and recordation as additional filings under the Lease Agreement dated March 10, 1981 between Itel and the Detroit, Toledo and Ironton Railroad, which was filed on April 30, 1981 and given recordation No. 13077, four counterparts each of the following documents:

13077-D
13077-E

1. Assignment of Lease and Agreement dated April 15, 1982 by and between Itel and First Security Bank of Utah, N.A. as Trustee ("Assignment No. 1").
2. Assignment of Lease and Agreement dated April 15, 1982 by and between Itel and Providence and Worcester Company, through Itel as authorized agent ("Assignment No. 2").

RECEIVED
FEB 24 12 49 PM '83
I.C.C.
OPERATION RR.

The names and addresses of the parties to Assignment No. 1 are:

1. First Security Bank of Utah, N.A.
Corporate Trust Division
79 South Main Street
Salt Lake City, Utah 84125
2. Itel Corporation, Rail Division
Two Embarcadero Center, 24th Floor
San Francisco, California 94111

The names and addresses of the parties to Assignment No. 2 are:

1. Itel Corporation, Rail Division - Assignee
Two Embarcadero Center, 24th Floor
San Francisco, California 94111

Ms. Agatha Mergenovich, Secretary
December 22, 1982
Page Two

2. Providence and Worcester Company
One Depot Square
Woonsocket, Rhode Island 02895
3. Itel Corporation, Rail Division - Authorized Agent
Two Embarcadero Center, 24th Floor
San Francisco, California 94111

The equipment covered by Assignment No. 1 is one hundred (100) flatcars (AAR mechanical designation FC, 89'4" in length) bearing reporting marks DTI 90135 through and including DTI 90234.

The equipment covered by Assignment No. 2 is twenty two (22) flatcars (AAR mechanical designation FC, 89'4" in length) bearing reporting marks DTI 90200 through and including DTI 90221.

Also enclosed are two checks in the amount of \$10.00 each for the required recording fees.

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

Sincerely,



Patricia Salas Pineda
Counsel

PSP:dmm
Enclosures

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

Robert S. Clark, Esq.
Senior Trust Officer
First Security Bank of Utah, N.A.
Corporate Trust Division
79 South Main Street
Salt Lake City, Utah 84125

13077-D
62

RECORDATION NO. 13077-D
FILED 1983

FFB 24 1983 - 2 55 PM

INTERSTATE COMMERCE COMMISSION

L-0386
10/26/82

ASSIGNMENT OF LEASE AND AGREEMENT, dated as of and effective as of April 15, 1982 (hereinafter called the "Assignment"), by and between **ITEL CORPORATION**, a Delaware corporation (together with its successors and assigns, being hereinafter called "Itel"), and **FIRST SECURITY BANK OF UTAH, N.A. as Trustee**, a national banking association, incorporated and existing under the laws of the United States of America (hereinafter called the "Trustee").

WHEREAS, Itel and the Trustee has entered into an Equipment Trust Agreement, dated as of November 1, 1978 (such Equipment Trust Agreement, together with any amendments or supplements thereto, being hereinafter called the "Agreement"); and

WHEREAS, Itel and American Rail Heritage, d/b/a Crab Orchard and Egyptian Railroad (hereinafter called "COER") entered into a lease dated as of June 21, 1978 (such lease, together with any amendment(s) or supplement(s) thereto, being hereinafter called the "COER Lease"), providing for the leasing by Itel to COER of certain units of Trust Equipment as defined in the Equipment Trust Agreement; and

WHEREAS, pursuant to Subsection 6.C. of the COER Lease and termination letters to COER from Itel dated as of July 22, 1982 and August 12, 1982, Itel has terminated the COER Lease as to sixty (60) units of Trust Equipment bearing reporting marks within the two series COER 100031 through and including COER 100049 and COER 250050 through and including COER 250099 (the "COER Terminated Equipment"); and

WHEREAS, Itel and the Providence and Worcester Company (hereinafter called "P&W") entered into a lease of Equipment (as defined in the Agreement), dated as of September 1, 1978 (such lease, together with any amendments or supplements thereto, being hereinafter called the "P&W Lease"), providing for the leasing by Itel to P&W of certain units of the Trust Equipment (as defined in the Agreement); and

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

WHEREAS, in order to provide security for the obligations of Itel under the Agreement, Itel assigned to Trustee for security purposes all of Itel's rights, title and interest in, to and under the P&W Lease as and only to the extent that the P&W Lease relates to the Trust Equipment by means of six documents, each entitled Assignment of Lease and Agreement, three of which are dated December 28, 1978, two of which are dated March 22, 1979 and one of which is dated September 1, 1978; and

WHEREAS, pursuant to Rider No. 3 to the P&W Lease, dated September 18, 1979 (hereinafter called the "Rider"), the P&W Lease has been terminated with respect to 300 units of the Trust Equipment bearing reporting marks PW 105001 through and including PW 105300 (such Equipment being hereinafter called the "P&W Terminated Equipment"); and

WHEREAS, by an agreement dated as of September 12, 1980 (hereinafter called the "Agency Agreement"), P&W appointed Itel as its agent, with respect to certain units of Trust Equipment under the P&W Lease bearing reporting marks PW 105301-105600 and PW 105701-105800, (hereinafter the "Flatcars"), to enter into one or more sublease agreements with third parties covering some or all of the Flatcars; and

WHEREAS, under the Agency Agreement, as clarified by letter (hereinafter the "Fee Letter") from P&W to Itel, dated September 12, 1980, Itel shall receive all rentals generated by the Flatcars pursuant to any sublease agreement as a fee for acting as P&W's agent; and

WHEREAS, the Agency Agreement operates to assign to Itel; (1) certain rights under the P&W Lease which would otherwise accrue to and only to P&W, including, inter alia, rentals reserved to the P&W, and (2) certain rights under the P&W Lease which would otherwise ultimately accrue to Itel as lessor under the P&W Lease, including, inter alia, rentals to be paid under the P&W Lease; and in order to (a) more specifically identify the existing security for the obligations of Itel under the Agreement as previously assigned by means of the six documents described above, and (b) provide further security for the obligations of Itel under the Agreement, Itel, by means of a document entitled Assignment of Agreement dated as of January 8, 1981, assigned for security purposes only its rights in, to and under the Agency Agreement, including, but not limited to, its rights to act as P&W's agent and receive rentals generated by the Flatcars, to the Trustee as and only to the extent that the Agency Agreement relates to the Trust Equipment; and

WHEREAS, by means of the Agency Agreement, Itel, as agent for P&W, entered into a sublease with the Southern Pacific Transportation Company and St. Louis Southwestern Railway Company (hereinafter collectively called "SP") dated as of February 25, 1981 (such sublease, together with any amendments or supplements thereto, being hereinafter called the "SP Sublease") pursuant to which two hundred eight-five (285) units of Agency Equipment were subleased to SP; and

WHEREAS, pursuant to Section 2 thereof, the SP Sublease has expired with respect to the Agency Equipment bearing road marks within the series SP 105301 through SP 105800 (such Agency Equipment hereinafter being called the "SP Terminated Equipment"); and

WHEREAS, Itel and the Texas Mexican Railway Company (hereinafter called "TM") entered into a lease dated as of June 21, 1978 (such lease, together with any amendments or supplements thereto, hereinafter being called the "TM Lease") providing for the leasing by Itel to TM of certain units of Trust Equipment; and

WHEREAS, pursuant to Subsection 6.C. of the TM Lease and a termination letter to TM from Itel dated August 4, 1982, Itel has terminated the TM Lease with respect to twelve (12) units of Trust Equipment bearing reporting marks within the series TM 400226-TM 400225 (hereinafter called the "TM Terminated Equipment"); and

WHEREAS, Itel and Detroit, Toledo and Ironton Railroad Company (hereinafter called "DTI") entered into a lease of Trust Equipment dated March 10, 1981 (hereinafter called the "DTI Lease") providing for the leasing by Itel to DTI of certain units of Trust Equipment; and

WHEREAS, pursuant to Amendment No. 2 to the DTI Lease, dated as of April 15, 1982, one hundred (100) units of Trust Equipment were added to the DTI Lease as follows: (i) Itel, on its own behalf, added the 60 units of COER Terminated Equipment, 6 units of the P&W Terminated Equipment, and the 12 units of TM Terminated Equipment; and (ii) Itel, as agent for P&W, added 7 units of Agency Equipment and 15 units of the SP Terminated Equipment; and the reporting marks of the one hundred (100) units of Trust Equipment subject to DTI Lease Amendment No. 2 have been changed by remarking as is fully set forth in Annex I attached hereto (such 100 units being hereinafter called the "Flatcars"); and

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

WHEREAS, in order to continue to provide security for the obligations of P&W under the P&W Lease and the Agency Agreement, as clarified by the Fee Letter (hereinafter the "Clarified Agency Agreement"), P&W assigned to Itel, for security purposes only, P&W's rights in, to and under the DTI Lease as and only to the extent that the DTI Lease relates to Agency Equipment and SP Terminated Equipment, by way of a document entitled Assignment of Lease and Agreement, of even date herewith (hereinafter the "P&W Assignment"); and

WHEREAS, in order to continue to provide security for the obligations of Itel under the Agreement, Itel agrees to assign for security purposes only, its rights in, to and under the DTI Lease and the P&W Assignment to the Trustee as and only to the extent that the DTI Lease and the P&W Assignment relate to the Flatcars;

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

- I. Itel hereby assigns, transfers and sets over unto the Trustee, as collateral security for the payment and performance of Itel's obligations under the Agreement, all of Itel's right, title and interest, powers, privileges and other benefits under the Lease and the P&W Assignment as and only to the extent that the DTI Lease and the P&W Assignment relate to the Flatcars set forth in Annex I hereto, including, without limitation, all rights to receive and collect all rentals, profits and other sums payable to or receivable by Itel from DTI under or pursuant to the provisions of the DTI Lease and the P&W Assignment to the extent that the same are payable in respect of such Flatcars, whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such monies being hereinafter called the Payments); **PROVIDED, HOWEVER**, that until an Event of Default under the Agreement, or any event which, with notice or lapse of time or both, could constitute such an Event of Default, shall occur, it is understood that Itel shall be entitled to collect and receive all such Payments and to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the DTI Lease and the P&W Assignment, and to apply all Payments to which Itel is entitled to the payment of any and all of Itel's obligations under the Agreement and to retain the balance, if any. In furtherance of the foregoing assignment, but subject to the foregoing provisions of this paragraph, Itel hereby irrevocably authorizes and empowers the Trustee in its own name, or in the name of its nominee, or in the name of Itel or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which Itel is or may become

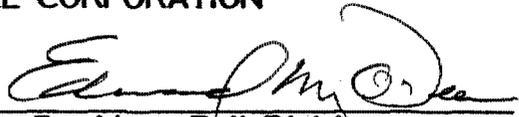
entitled under the DTI Lease and the P&W Assignment, and to enforce compliance by DTI with all the terms and provisions thereof. Whenever the DTI Lease covers other equipment not included as part of the Trust Equipment and the amount of any payment due to Itel under the DTI Lease as car hire payments (including both straight and incentive per diem), mileage charges or other rental revenues is calculated on an aggregate basis for all equipment leased thereunder, for the purposes of this Assignment an amount equal to the Assigned Fraction (as hereinafter defined) of each such payment shall be deemed to be payable with respect to the Flatcars leased under the DTI Lease. The term "Assigned Fraction" as used herein shall mean a fraction the numerator of which shall be the number of units of equipment comprising the Flatcars leased under the DTI Lease and the denominator of which shall be the aggregate number of units of equipment (including the Flatcars) at the time leased under the DTI Lease.

2. This Assignment is executed only as security for the obligations of Itel under the Agreement and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify, the liability of Itel under the DTI Lease and the P&W Assignment, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of Itel to DTI shall be and remain enforceable by DTI, its successor and assigns, against, and only against Itel or persons other than the Trustee.
3. To protect the security afforded by this Assignment, Itel agrees as follows:
 - (a) Itel will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the DTI Lease and the P&W Assignment provide is to be performed by Itel.
 - (b) At Itel's sole cost and expense, Itel will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of Itel under the DTI Lease and the P&W Assignment.
 - (c) Should Itel fail to make any payment or to do any act which this Assignment requires Itel to make or do, then the Trustee, but without obligation so to do, after first making written demand upon Itel and affording Itel a reasonable period of time within which to make such payment or do such act, but without releasing Itel from any obligation hereunder, may make or do the same in such manner and to such extent as the Trustee may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Trustee, and also the right to perform and discharge each and every obligation, covenant and agreement of Itel contained in the DTI Lease and the P&W Assignment; and in exercising any such powers, the Trustee may pay necessary costs and expense, employ counsel and incur and pay reasonable attorneys' fees, and Itel will reimburse the Trustee for such costs, expenses and fees.

4. Upon the full discharge and satisfaction of all of Itel's obligations under the Agreement and this Assignment, all rights herein assigned to the Trustee shall terminate, and all estate, right, title and interest of the Trustee in and to the DTI Lease and the P&W Assignment shall revert to Itel.
5. Itel will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Trustee in order to confirm or further assure, the interests of the Trustee hereunder.
6. If an Event of Default shall occur and be continuing under the Agreement, the Trustee may assign all or any of the rights assigned to it hereby or arising under the DTI Lease and the P&W Assignment, including without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Trustee hereunder. The Trustee will give written notice to Itel and DTI of any such assignment.
7. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by the laws of the United States permitting filing with the Interstate Commerce Commission.

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

ITEL CORPORATION

By: 
President, Rail Division

Date: 11-18-82

FIRST SECURITY BANK OF UTAH, N.A.
as Trustee

By: 
Senior Trust Officer

Date: 2/16/83

ROBERT S. CLARK

VICE PRESIDENT AND MANAGER
CORPORATE TRUST DEPARTMENT

ANNEX I

<u>Previous Reporting Marks</u>		<u>Current Reporting Marks</u>	
COER	250000	DTI	90135
	250002		90136
	250003		90137
	250005		90138
	250006		91039
	250007		91040
	250009		90141
	250010		90142
	250012		90143
	250013		90144
	250014		90145
	250015		90146
	250016		90147
	250018		90148
	250020		90149
	250021		90150
	250023		90151
	250024		90152
	250025		90153
	250026		90154
	250028		90155
	250029		90156
	250030		90157
	250031		90158
	250036		90159
	250038		90160
	250040		90161
	250041		90162
	250042		90163
	250043		90164
	250045		90165
	250046		90166
	250047		90167
	250048		90168
	250049		90169
	250070		90170
	250072		90171
	250084		90172
	250085		90173
	250087		90174
	250091		90175
COER	100032		90176
	100033		90177
	100034		90178
	100035		90179
	100036		90180
	100037		90181
	100038		90182
	100039		90183
	100040		90184

ANNEX I (Continued)

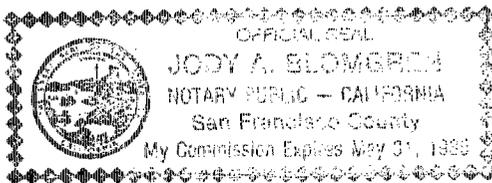
<u>Previous Reporting Marks</u>		<u>Current Reporting Marks</u>	
COER	100041	DTI	90185
	100042		90186
	100043		90187
	100044		90188
	100045		90189
	100046		90190
	100047		90191
	100048		90192
	100049		90193
PW	105052	DTI	90194
	105053		90195
	105063		90196
	105065		90197
	105071		90198
	105072		90199
	105515		90200
	105548		90201
	105555		90202
	105706		90203
	105785		90204
	105791		90205
	105799		90206
SP	105318	DTI	90207
	105326		90208
	105355		90209
	105371		90210
	105384		90211
	105386		90212
	105416		90213
	105425		90214
	105433		90215
	105447		90216
	105459		90217
	105463		90218
	105497		90219
	105527		90220
	105556		90221
COER	100031	DTI	90222
TM	400226	DTI	90223
	400228		90224
	400229		90225
	400230		90226
	400231		90227
	400232		90228
	400234		90229

ANNEX I (Continued)

<u>Previous Reporting Marks</u>		<u>Current Reporting Marks</u>	
TM	400235	DTI	90230
	400240		90231
	400241		90232
	400242		90233
	400245		90234

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

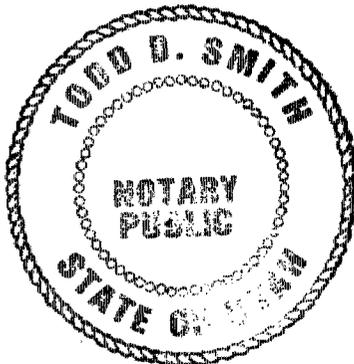
On this 18th day of November 1982, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that he is President of ITEL Corporation, Rail Division, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Jody A. Blomgren
Notary Public

STATE OF UTAH)
) ss:
COUNTY OF SALT LAKE)

On this day 16 of Feb, 1982, before me personally appeared ROBERT S. CLARK, to me personally known, who being by me duly sworn says that such person is a Senior Trust Officer of First Security Bank of Utah, N.A., a national banking association, and that the foregoing instrument was signed and sealed on behalf of said national banking association 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 national banking association.



Todd D. Smith
Notary Public
8/13/85