

# ITEL

REGISTRATION NO. 14810-B  
FORM 1428

DEC 16 1985 5 52 PM  
INTERSTATE COMMERCE COMMISSION

**ITel Rail Corporation**  
55 Francisco Street  
San Francisco, California 94133  
(415) 984-4000

5-350A082

December 10, 1985

*FILE SECOND*

Honorable James H. Bayne, Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

No. \_\_\_\_\_  
Date DEC 16 1985  
Fee \$ 10.00  
ICC Washington, D.C.

Dear Mr. Bayne:

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 Rail Corporation for filing and recordation under the Lease Agreement dated as of October 1, 1985 between Itel Rail Corporation and Canadian Pacific Limited which was filed with the I.C.C. on October 15, 1985 and given I.C.C. Recordation No. 14810, four counterparts of the following document:

*This one  
# 14810-B  
C. Bennett Michael Farrell*

Assignment to First Security Bank of Utah, N.A., as Trustee, of the October 1, 1985 Lease between Itel Rail Corporation and Canadian Pacific Limited and Amendment No. 1 to the Lease.

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

1. Itel Rail Corporation (Assignor)  
55 Francisco, 5th Floor  
San Francisco, CA 94133
2. First Security Bank of Utah, N.A. (Assignee)  
Corporate Trust Division  
79 South Main Street  
Salt Lake City, Utah 84111

The equipment covered by this Assignment is two hundred fifty (250) 50', 70-ton, XM boxcars bearing reporting marks QC 76000-76156 and QC 76257-~~76439~~  
76349

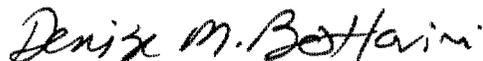
Also enclosed is a check in the amount of \$10.00 for the required recording fee.

DEC 16 1985  
HONORABLE JAMES H. BAYNE  
SECRETARY  
INTERSTATE COMMERCE COMMISSION  
WASHINGTON, D.C. 20423

Mr. Bayne, Secretary  
December 10, 1985  
Page Two

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

Sincerely,



Denise M. Bottarini  
Senior Legal Assistant

DMB/vdv/'86-I/5

cc: Robert S. Clark  
J. Michael Kelly  
Ginny Hanger

14810-B

REGISTRATION NO. 14810-B Filed 1985

10/25/85  
Supplement No. 36

DEC 16 1985 - 1 45 PM

INTERSTATE COMMERCE COMMISSION

**ASSIGNMENT TO FIRST SECURITY BANK OF UTAH, N.A.,  
AS TRUSTEE, OF THE OCTOBER 1, 1985 LEASE  
BETWEEN ITEL RAIL CORPORATION AND  
CANADIAN PACIFIC LIMITED AND  
AMENDMENT NO. 1 TO THE LEASE.**

**ASSIGNMENT OF LEASE AND AGREEMENT** dated as of December 10, 1985 (hereunder called this "Assignment"), by and between **ITEL RAIL CORPORATION**, a Delaware corporation ("IteI Rail") and **FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION**, a national banking association, incorporated and existing under the laws of the United States of America (the "Trustee").

**WHEREAS**, IteI Rail has entered into a Consolidated, Amended, and Restated Equipment Trust Agreement, dated January 1, 1982, among First Security Bank of Utah, N.A., IteI Corporation and IteI Rail Corporation (the "ETC Modification Agreement"), and pursuant to the ETC Modification Agreement, IteI Rail has certain obligations with respect to the IteI Corporation, IteI Rail Corporation 9-1/4% Amended Equipment Trust Certificates, 1978 Series 2, due 1993 as set forth in Schedule 2 E of the ETC Modification Agreement (the "Amended 1978 Series 2 Trust Certificates"); and

**WHEREAS**, IteI Rail is the successor in interest to IteI Corporation, Rail Division pursuant to IteI Corporation's Amended Plan of Reorganization which became effective on September 19, 1983; and

**WHEREAS**, IteI Rail and the **CLARENDON & PITTSFORD RAILROAD COMPANY** ("CLP") are parties to a Lease (as defined in the ETC Modification Agreement) of Equipment (as defined in the ETC Modification Agreement) dated as of October 18, 1976 (such Lease, together with any amendments or supplements thereto, called the "CLP Lease"), pursuant to which IteI Rail leased to CLP certain units of Trust Equipment (as defined in the ETC Modification Agreement) among which are units bearing reporting marks from within the series CLP 3061 through and including 3260. Subsequently four units of Trust Equipment bearing reporting mark CLP 3063, CLP 3069, CLP 3189 and CLP 3209 were destroyed; and

**WHEREAS**, pursuant to a termination letter dated October 14, 1985, the CLP Lease was terminated with respect to certain Equipment including one hundred fifty-seven (157) units of Trust Equipment bearing reporting marks from within the series CLP 3061 through and including CLP 3260 ("Terminated Trust Equipment"); and

**WHEREAS**, IteI Rail and the **VERMONT RAILWAY, INC.** ("VTR") are parties to a Lease of Equipment which is undated (such Lease, together with any amendments or supplements thereto, called the "VTR Lease"), pursuant to which IteI Rail leased to VTR certain units of Trust Equipment among which are units bearing reporting marks from within the series VTR 3501 through and including 3550.

Subsequently one unit of Trust Equipment bearing reporting mark VTR 3508 was destroyed; and

**WHEREAS**, pursuant to Amendment No. 4 of the VTR Lease, the VTR Lease was terminated with respect to certain Equipment including forty-nine (49) units of Trust Equipment bearing reporting marks VTR 3501 through and including 3507 and VTR 3509 through and including 3550 ("Terminated Trust Equipment"); and

**WHEREAS**, Itel Rail and the **NEW ORLEANS PUBLIC BELT RAILROAD** ("NOPB") are parties to a Lease of Equipment dated as of June 14, 1977 (such Lease, together with any amendments or supplements thereto, called the "NOPB Lease"), pursuant to which Itel Rail leased to NOPB certain units of Trust Equipment among which are units bearing reporting marks from within the series NOPB 3100 through and including 3299; and

**WHEREAS**, pursuant to a termination letter dated October 7, 1985, the NOPB Lease was terminated with respect to certain Equipment including forty-four (44) units of Trust Equipment bearing reporting marks from within the series NOPB 3100 through and including 3299 ("Terminated Trust Equipment"); and

**WHEREAS**, Itel Rail and the **CANADIAN PACIFIC LIMITED** (hereinafter called the "Lessee") have entered into a Lease of Equipment dated as of October 1, 1985 (such Lease together with any amendments and supplements thereto called the "Lease") and into Amendment No. 1 dated December 1, 1985 (the "Amendment") to the Lease, providing for the leasing by Itel Rail to the Lessee of these above-referenced two hundred fifty (250) units of Terminated Trust Equipment; and

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

**WHEREAS**, in order to provide security for the obligations of Itel Rail under the ETC Modification Agreement, Itel Rail agrees to assign for security purposes its rights to and under the Lease, as amended, to the Trustee as and only to the extent that the Lease relates to the Trust Equipment;

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

1. Itel Rail hereby assigns, transfers, and sets over unto the Trustee, as collateral security for the payment and performance of Itel Rail's obligations under the ETC Modification Agreement with respect to the Amended 1978 Series 2 Trust Certificates, all of Itel Rail's rights, title, and interest, powers, privileges, and other benefits under the Lease as and only to the extent that the Lease relates to the Trust Equipment set forth in Annex A hereto, including, without limitation, all rights to receive and collect all rentals, profits, and other sums payable to or receivable by Itel Rail from the Lessee under or pursuant

to the provisions of the Lease to the extent that the same are payable in respect of such Trust Equipment, whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"); provided, however, that until a Default (as defined in the ETC Modification Agreement) or an Event of Default (as defined in the ETC Modification Agreement) shall occur, it is understood that Itel Rail shall be entitled to collect and receive all the 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 Lease, and to apply all Payments to which Itel Rail is entitled to the payment of any and all of Itel Rail's obligations under the ETC Modification Agreement and to retain the balance, if any. In furtherance of the foregoing assignment, but subject to the foregoing provisions of this paragraph, Itel Rail hereby irrevocably authorizes and empowers the Trustee in its own name, in the name of its nominee or in the name of Itel Rail or as its attorney, to ask, demand, sue for, collect, and receive any and all the Payments to which Itel Rail is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof. Whenever a Lease covers other Equipment not included as part of the Trust Equipment and the amount of any payment due to Itel Rail under such 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 such Trust Equipment leased under such 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 such Trust Equipment leased under such Lease and the denominator of which shall be the aggregate number of units of Equipment (including such units of Trust Equipment) at the time leased under such Lease.

2. This Assignment is executed only as security for the obligations of Itel Rail with respect to the Amended 1978 Series 2 Trust Certificates under the ETC Modification 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 Rail under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of Itel Rail to the Lessee shall be and remain enforceable by the Lessee, its successor and assigns, against, and only against Itel Rail or persons other than the Trustee or any holder of Amended 1978 Series 2 Trust Certificates.
3. To protect the security afforded by this Assignment, Itel Rail agrees as follows:
  - (a) Itel Rail will faithfully abide by, perform and discharge each and every obligation, covenant, and agreement which the Lease provides is to be performed by Itel Rail;

- (b) At Itel Rail's sole cost and expense, Itel Rail 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 Rail under the Lease; and
  - (c) Should Itel Rail fail to make any payment or to do any act which this Assignment requires Itel Rail to make or do, then the Trustee may, but without obligation so to do, after first making written demand upon Itel Rail and affording Itel Rail a reasonable period of time within which to make such payment or do such act, but without releasing Itel Rail from any obligation hereunder, 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 Rail contained in the Lease, and in exercising any such powers, the Trustee may pay necessary costs and expenses, employ counsel, and incur and pay reasonable attorneys' fees, and Itel Rail will reimburse the Trustee for such costs, expenses, and fees.
4. Upon the full discharge and satisfaction of all of Itel Rail's obligations under the ETC Modification 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 Lease shall revert to Itel Rail.
  5. Itel Rail will, from time to time, do and perform any other act and will execute, acknowledge, and 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 ETC Modification Agreement, the Trustee may assign all or any of the rights assigned to it hereby or arising under the Lease, 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 Rail and the Lessee of any such assignment.
  7. This Assignment shall be governed by the laws of the State of New York, 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 RAIL CORPORATION

By: *AP Hayes*

(Seal)

Attest: *Howard S. Chelmer*  
Asst. Secretary

FIRST SECURITY BANK OF UTAH,  
NATIONAL ASSOCIATION

By: *Val T. Ostr*  
Authorized Officer

(Seal)

Attest: *Ronald D. Jansworth*  
Authorized Officer

ANNEX A

<u>No. of Units</u>	<u>Old Reporting Marks</u>	<u>New Canadian Pacific Limited Reporting Marks</u>	<u>Trust Equipment Description</u>	<u>AAR Mechanical Designation</u>
157	CLP 3061-3062, 3064-3068, 3070-3103, 3106-3107, 3110-3111, 3113,3115, 3117-3118, 3120-3121, 3123-3129, 3133, 3136-3140, 3142-3144, 3147-3150, 3153, 3156-3157, 3159,3162, 3165-3169, 3171-3172, 3174, 3176-3177, 3182-3184, 3187-3188, 3190, 3192-3194, 3196, 3199-3208, 3210-3260	QC 76000- 76074  QC 76075- 76156	50'7", 70-ton, Cushioned Underframe, Plate C; 50'6", 70-ton, Cushioned Underframe, Plate C	XM
49	VTR 3501-3507 3509-3550	QC 76257- 76305	50'6", Cushioned Underframe, Plate B;	XM
44	NOPB 3100- 3299 (N.S.)	QC 76306- 76349	50'6", 70-ton, Cushioned Underframe Plate B	XM

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

On this 10th day of December, 1985, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn, says that such person is President of IteI Rail Corporation, that the foregoing instrument was signed and sealed today on behalf of said corporation by authority of its board of directors, and that such person acknowledged today that the execution of the foregoing instrument was the free act and deed of said corporation.



Ginny E. Hanger  
Notary Public

(Notarial Seal)

My commission expires: May 6, 1988

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

On this 12th day of Nov, 1985, before me personally appeared VAL T. ORSON, to me personally known, who being by me duly sworn, says that such person is an authorized officer of First Security Bank of Utah, N.A., a national banking association, that the foregoing instrument was signed and sealed today on behalf of said national banking association by authority of its board of directors and that such person acknowledged today that the execution of the foregoing instrument was the free act and deed of said national banking association.

Elizabeth M. Webb  
Notary Public

(Notarial Seal)

My commission expires: MAY 31 1989