

CONRAIL

RECORDATION NO. 10375-B Filed 1425

FEB 1 1980 -2 55 PM

INTERSTATE COMMERCE COMMISSION

0-032A075

Date FEB 1 1980

Fee \$ 10.06

ICC Washington, D. C.

February 1, 1980

Agatha L. Mergenovich, Secretary
Interstate Commerce Commission
Room 2215
12th & Constitution Avenue
Washington, D. C. 20423

Dear Ms. Mergenovich:

Pursuant to 49 USC §11303 and as provided by Volume 49 Code of Federal Regulations Section 1116.1 through 1116.4, the following documents were filed and stamped as indicated:

Agreement and Lease, dated as of April 16, 1979.
Recordation No. 10375

Lessor: Melcorp Leasing, Inc.
Suite 3629
Mellon Bank Building
Pittsburgh, Penna. 15219

Lessee: Consolidated Rail Corporation
Six Penn Center Plaza
Philadelphia, Penna. 19104

First Amendment to Agreement and Lease, dated as of July 15, 1979. Recordation No. 10375-A

Lessor: Melcorp Leasing, Inc.
Suite 3629
Mellon Bank Building
Pittsburgh, Penna. 15219

Lessee: Consolidated Rail Corporation
Six Penn Center Plaza
Philadelphia, Penna. 19104

We are currently presenting a Second Amendment to the above document to be filed as part of the original document pursuant to 49 USC §11303.

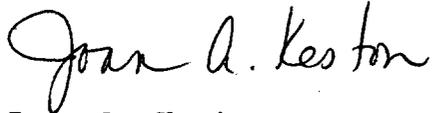
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I.C.C.
FEE OPERATION BR.

Open Verpart - William O Clark

Enclosed is our check for \$10 to cover the recordation fee.
After recording a counterpart original of this document,
please return the remaining copies, stamped with your recordation
number to the individual presenting them for recordation.

Thank you for your assistance.

Very truly yours,



Joan A. Keston
Associate Corporate Counsel

JAK:ld

Enclosures

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INTERSTATE COMMERCE COMMISSION

SECOND AMENDMENT TO
AGREEMENT AND LEASE

ENTERED INTO as of January 25, 1980 between MELCORP LEASING, INC., a Pennsylvania corporation ("Lessor"), and CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation ("Lessee"),

W I T N E S S E T H T H A T :

WHEREAS, Lessor and Lessee have heretofore entered into the Agreement and Lease dated as of April 16, 1979 (the "Original Agreement"), pursuant to which Lessor agreed to purchase and lease to Lessee the personal property described in the Lease Schedule attached thereto; and

WHEREAS, Lessor and Lessee have heretofore entered into a First Amendment to Agreement and Lease dated as of July 15, 1979 (the "First Amendment") pursuant to which Lessor and Lessee agreed to amend certain terms and provisions of the Original Agreement (the Original Agreement as amended by the First Amendment being hereinafter referred to as the "Amended Agreement"); and

WHEREAS, Lessee has requested that Lessor purchase and lease to Lessee the personal property described in Lease Schedule III (attached hereto) or other personal property of like nature which may be leased pursuant to the Amended Agreement as amended hereby, and Lessor is willing to do so upon the terms and subject to the conditions hereinafter set forth;

NOW THEREFORE, the parties hereto, in consideration of the premises and intending to be legally bound hereby, agree as follows:

Section 1. Certain Definitions. The following words and terms, as used in this Amendment, shall have the following meanings, respectively, unless the context hereof clearly otherwise requires:

"Amendment" shall mean this Second Amendment to Agreement and Lease and shall include Lease Schedule III. Each reference herein to "this Amendment", "herein", "hereunder", "hereof" or other like words shall include this Amendment, Lease Schedule III and any annex, exhibit or schedule attached hereto or thereto.

"Lease Schedule III" shall mean the Lease Schedule III executed and delivered by Lessor and Lessee as of the date hereof, attached hereto and hereby incorporated herein and in the Agreement.

Any word or term defined in the Amended Agreement and not in this Section 1 shall have the meaning ascribed to it in the Amended Agreement.

Section 2. Amendment of Certain Defined Terms in Amended Agreement. The following words and terms, as used in the Amended Agreement, are hereby amended to read as follows:

"Lease Schedule" shall mean Lease Schedule III (as defined in the Second Amendment to Agreement and Lease dated as of January 25, 1980 between Lessor and Lessee).

Section 3. Amendment of Amended Agreement. The Amended Agreement is hereby amended by deleting the Lease Schedule attached thereto and substituting therefor Lease Schedule III.

Section 4. Amendment of Lessee's Representations and Warranties. Subsection 5.2(d) of the Amended Agreement is hereby amended by deleting therefrom the words "February 15, 1979" and inserting in lieu thereof the words "January 14, 1980".

Section 5. Conditions to Lessor's Obligations. Lessor's duties and obligations under the Agreement and this Amendment are subject to the fulfillment of the condition precedent, in form, substance and manner satisfactory to Lessor and its counsel, that prior to or on the date of the execution and delivery of this Amendment (the "Amendment Closing Date"), Lessee shall have furnished to Lessor:

(a) A copy of the resolutions of the Board of Directors (and if applicable the shareholders) of Lessee, certified as of the Amendment Closing Date by the Secretary or an Assistant Secretary of Lessee, duly authorizing the lease of the Equipment under the Agreement and the execution, delivery and performance of the Agreement and this Amendment.

(b) A certificate of the Secretary or an Assistant Secretary of Lessee dated the Amendment Closing Date as to the incumbency and signatures of the person or persons authorized to execute the Agreement, this Amendment and the other documents contemplated hereby or thereby on behalf of Lessee.

(c) An opinion of counsel for Lessee dated the Amendment Closing Date as to the matters set forth in Section 5.2 of the Agreement other than subparagraph (e) thereof and as to such other matters as Lessor may reasonably request.

(d) A certificate dated the Amendment Closing Date signed by its chief engineer stating that the Term (including the Interim Term and the Base Term) will not

exceed 80% of the useful economic life of the Equipment listed in Annex 1 to Lease Schedule III and that such Equipment will have an expected residual value at the end of the Term of at least 20% of Lessor's Cost, disregarding inflation or deflation.

Section 6. Miscellaneous. This Amendment shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Pennsylvania. This Amendment, together with the First Amendment, constitute as of the date hereof the only amendments to the Original Agreement. Lessor and Lessee confirm that the Original Agreement, as amended by the First Amendment and this Amendment, remains in full force and effect on the date hereof.

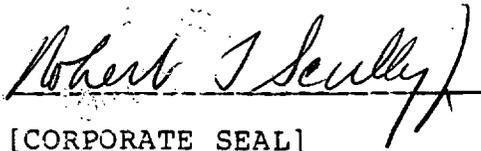
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above written.

MELCORP LEASING, INC.
Lessor

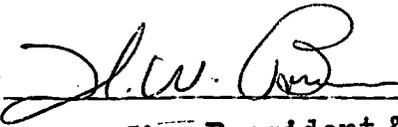
By 
Title Harry R. Leggett
President

Address: 3629 Mellon Bank Building
Pittsburgh, Pennsylvania 15219

Attest:


[CORPORATE SEAL]

CONSOLIDATED RAIL CORPORATION
Lessee

By 
Title Vice President & Treasurer

Address: 1310 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

Attest:


ASSISTANT SECRETARY
[CORPORATE SEAL]

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF ALLEGHENY

)
) ss:
)

On this, the 30 day of January, 1980, before me, a Notary Public, the undersigned officer, personally appeared HARRY R. LEGGETT, who acknowledged himself to be the PRESIDENT of MELCORP LEASING, INC., a corporation, and that he as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I hereto set my hand and official seal.

Marilyn R. Malingowski
Notary Public

(Notarial Seal)

My Commission Expires:

MARILYN R. MALINGOWSKI, Notary Public
Pittsburgh, Allegheny County, PA
My Commission Expires April 4, 1981

COMMONWEALTH OF PENNSYLVANIA

)
)
)

ss:

COUNTY OF PHILADELPHIA

On this, the 1st day of ~~January~~ February, 1980, before me, a Notary Public, the undersigned officer, personally appeared H. W. BROWN, who acknowledged himself to be the Vice President and Treasurer of CONSOLIDATED RAIL CORPORATION, a corporation, and that he as such Vice President and Treasurer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Vice President and Treasurer.

IN WITNESS WHEREOF, I hereto set my hand and official seal.

Eileen C. Baker
Notary Public

(Notarial Seal)

My Commission Expires: EILEEN C. BAKER
Notary Public Philadelphia, Philadelphia Co.
My Commission Expires October 11, 1982

LEASE SCHEDULE III
to
AGREEMENT AND LEASE
dated as of April 16, 1979
as amended by
FIRST AMENDMENT TO
AGREEMENT AND LEASE
dated as of July 15, 1979
as further amended by
SECOND AMENDMENT TO
AGREEMENT AND LEASE
dated as of January 25, 1980
between
MELCORP LEASING, INC., Lessor
and CONSOLIDATED RAIL CORPORATION, Lessee

1. Description of Equipment: See Annex 1 hereto; provided, however, that items of personal property not shown on Annex 1 but of like nature to the items of personal property shown thereon may be leased hereunder, subject to the prior approval of Melcorp, to compliance with the other provisions of this Lease Schedule III (including paragraph 5) and to the satisfaction of the conditions set forth in Section 6.3 of the Agreement with respect to such items.
2. Location of Equipment: Tracks or other premises owned by Lessee or public highways within the Lessee's Service Area.
3. Final Delivery Date: March 31, 1980
4. Term:
 - a. Interim Term. From the first day of the first month following the month in which delivery of a Unit is accepted by Lessee as set forth in Attachment 1 to the Certificate of Acceptance with respect to such Unit executed and delivered by the parties until the commencement of the Base Term with respect to the Unit.
 - b. Base Term. A period of 84 months beginning (i) January 1, 1980 for Units listed in Part A of Annex 1 hereto and (ii) April 1, 1980 for Units listed in Part B of Annex 1 hereto.
5. Lessor's Cost: Not to exceed \$8,250,000 in the aggregate.

6. Rent:

a. Interim Rent. On the Interim Rental Payment Date, Lessee shall pay to Lessor by wire transfer Interim Rent with respect to each Unit determined as follows:

$$C \times \frac{1.2 \times P}{360} \times D$$

As used in this formula, "C" means the Lessor's Cost of the Unit; "D" means the number of days in the Interim Term of the Unit, and "P" means the average during the Interim Term of the prime rate of interest per annum (expressed as a decimal) announced from time to time by Mellon Bank, N.A. at its principal office in Pittsburgh, Pennsylvania for new 90-day loans to commercial borrowers of substantial size and high credit standing.

b. Basic Rent. On the first Basic Rental Payment Date and on each of the 27 succeeding Basic Rental Payment Dates Lessee shall pay to Lessor by wire transfer Basic Rent equal to the percentage of Lessor's Cost of each Unit set forth below:

For Units listed in Part A
of Annex 1 hereto 4.1122%;

For Units listed in Part B
of Annex 1 hereto 4.2293%.

Each installment of Basic Rent shall be for the quarter immediately preceding the Basic Rental Payment Date on which such installment is due and payable.

7. Rental Payment Dates:

a. Interim Rental Payment Date: The first day of the Base Term.

b. Basic Rental Payment Dates: The ninetieth day of the Base Term and the last day of each succeeding quarter during the Base Term.

8. Bases for Computation of ITC and Depreciation Deductions:

a. ITC. 10% of Lessor's Cost of each Unit available to Lessor in the calendar year in which Lessee and Lessor accept the Unit pursuant to Section 3.1 of the Agreement.

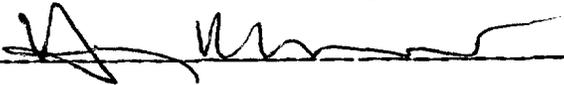
b. Depreciation Deduction. Double declining balance switching to straight-line over a "Useful Life" of 7 years. Salvage value 20% of Lessor's Cost, 10% ignored per Section 167(f) of the Code.

9. Stipulated Loss Value. See Annex 2 to this Lease Schedule.

Stipulated Loss Values set forth in Part A of Annex 2 shall apply to Units listed in Part A of Annex 1 and Stipulated Loss Values set forth in Part B of Annex 2 shall apply to Units listed in Part B of Annex 1.

APPROVED AND AGREED TO as of the 25th day of January as the Lease Schedule to and forming a part of the above-described Agreement and Lease.

MELCORP LEASING, INC.
Lessor

By 
Title Harry R. Leggett
President

CONSOLIDATED RAIL CORPORATION
Lessee

By 
Title Vice President & Treasurer

ANNEX I

Part A

<u>Eq. No.</u>	<u>Quantity</u>	<u>Description</u>	<u>Per Unit</u>	<u>Cost</u>	<u>Total</u>
Production Gang Equipment)					
NK 463	8	Auto Spikers	\$ 49,875.00		\$ 399,000.00
NK 467	20	Track Wrench	5,515.00		110,300.00
NK 472	1	Abrasive Saw (26")	13,899.00		13,899.00
NK 474	4	Anchor Machines	14,800.00		59,200.00
NK 475	2	Reel Heaters	17,500.00		35,000.00
NK 476	2	Tie Sprayers	3,785.00		7,570.00
					<u>\$ 624,369.00</u>
Track Maintenance Gang Equipment)					
NK 440	145	Air Compressors	\$ 9,481.33		\$1,374,792.00
NK 442	3	On-Track Cranes (12 1/2 Ton)	170,000.00		510,000.00
NK 446	3	Speed Swings	106,850.00		320,550.00
NK 448	4	Brush Cutters (Off-track)	60,915.00		243,660.00
NK 450	3	Jet Snow Blowers	83,491.80		250,475.40
NK 453	30	Grinders (P22)	3,155.00		94,650.00
NK 481	11	Backhoes w/Trailer	29,000.00		319,000.00
NK 482	4	Backhoes 1-1/2 cu.yd.	33,561.00		134,244.00
NK 484	3	Front End Loaders (with snow fighting equipment)	161,672.00		485,016.00
NK 483	35	Backhoes - 1 yd.	22,621.00		791,735.00
					<u>\$1,524,123.00</u>
			TOTAL		<u>\$5,140,492.00</u>

ANNEX 1

Part B

<u>I.W. No.</u>	<u>Quantity</u>	<u>Description</u>	<u>Per Unit</u>	<u>Cost</u> <u>Total</u>
MW 442	9	Burro Crane	\$170,000.00	\$1,530,000.00
MW 470	10	Dual Spikers	11,437.00	114,370.00
MW 476	2	Tie Sprayers	3,785.00	7,570.00
MW 455	22	Hydraulic Rail Pullers	5,127.00	112,794.00
MW 482	6	Backhoes	33,561.00	201,366.00
MW 466	4	Ballast Regulator	51,500.00	206,000.00
MW 444	1	Crawler Crane	72,235.00	72,235.00
MW 483	14	Backhoes	22,621.00	316,694.00
MW 485	2	Rotary Dump Trucks	61,000.00	<u>122,000.00</u>
				<u>\$2,683,020.00</u>

ANNEX 2 TO LEASE SCHEDULE III

MELCORP LEASING, INC.

"STIPULATED LOSS VALUES" OF ANY UNIT OF THE EQUIPMENT AS OF ANY PARTICULAR DATE SHALL MEAN THE PRODUCT DERIVED FROM MULTIPLYING (1) THE PERCENTAGE FIGURE OPPOSITE THE NOTATION FOR THE APPROPRIATE TIME PERIOD AS SET FORTH IN THE TABLE BELOW BY (2) THE PURCHASE PRICE OF SUCH UNIT.

CONRAIL

PART A

<u>Rental Payment Number</u>	<u>% of Price</u>
1	99.6305%
2	99.1257
3	98.4856
4	97.7103
5	96.7996
6	95.7537
7	94.5725
8	93.2561
9	91.8043
10	90.2173
11	88.4950
12	86.6374
13	78.4718
14	76.3436
15	74.0802
16	71.6815
17	69.1476
18	66.4783
19	63.6738
20	60.7340
21	51.4861
22	48.2758
23	44.9301
24	41.4492
25	37.8331
26	34.0816
27	30.1949
28	20.0000

ANNEX 2 TO LEASE SCHEDULE III

MELCORP LEASING, INC.

"STIPULATED LOSS VALUES" OF ANY UNIT OF THE EQUIPMENT AS OF ANY PARTICULAR DATE SHALL MEAN THE PRODUCT DERIVED FROM MULTIPLYING (1) THE PERCENTAGE FIGURE OPPOSITE THE NOTATION FOR THE APPROPRIATE TIME PERIOD AS SET FORTH IN THE TABLE BELOW BY (2) THE PURCHASE PRICE OF SUCH UNIT.

CONRAIL

PART B

<u>Rental Payment Number</u>	<u>% of Price</u>
1	99.7421%
2	99.3406
3	98.7956
4	98.1070
5	97.2749
6	96.2992
7	95.1800
8	93.9173
9	92.5110
10	90.9612
11	89.2678
12	87.4309
13	79.2776
14	77.1536
15	74.8861
16	72.4750
17	69.9204
18	67.2222
19	64.3805
20	61.3952
21	52.0936
22	48.8213
23	45.4054
24	41.8460
25	38.1430
26	34.2965
27	30.3064
28	20.0000

Interstate Commerce Commission
Washington, D.C. 20423

2/1/80

OFFICE OF THE SECRETARY

Joan A. Keston
Associate Corporate Counsel
Consolidated Rail Corporation
Six Penn Center Plaza
Phila. Pa. 19104

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 2/1/80 at 2:55pm, and assigned re-
recording number(s). 10375-B

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

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(7/79)