

ITEL

REGISTRATION NO.

13772-F
Filed 1425**Istel Rail Corporation**55 Francisco Street
San Francisco, California 94133
(415) 984-4000

November 3, 1987 NOV 6 1987-10 25 AM

INTERSTATE COMMERCE COMMISSION

Hon. Noretta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 2042311/6/87
36.00
CC Washington, D.C.

Re: **Assignment and Assumption of Leases, dated as of August 7, 1987, between Rex Railways, Inc. and Istel Rail Corporation**

Dear Ms. McGee:

On behalf of Istel Rail Corporation, the above instrument, in four (4) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$30 recordation fee.

Please record this Assignment and Assumption of Leases under a new recordation number. In addition, please cross-index this instrument to the following two leases:

- Lease Agreement dated as of June 4, 1982, between Rex Railways, Inc., as lessor, and Illinois Central Gulf Railroad, as lessee, which was filed with the ICC on July 7, 1982, under Recordation No. 13693.
- Lease Agreement dated as of August 4, 1982, between Rex Railways, Inc. as lessor, and Missouri Pacific Railroad Company, as lessee, which was filed with the ICC on August 23, 1982, under Recordation No. 13772.

The parties to the aforementioned instrument are listed below:

Rex Railways, Inc. (Assignor)
616 Palisade Avenue
Englewood Cliffs, New Jersey 07632

Istel Rail Corporation (Assignee)
55 Francisco Street
San Francisco, California 94133

This Assignment and Assumption of Leases provides for the assignment by Assignor to Assignee of all of Assignor's interest in the leases set forth in Schedule I attached hereto.

Hon. Noreta R. McGee
November 3, 1987
Page Two

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

patricia schumacker

Patricia Schumacker
Legal Department

:ps
Enclosures

cc: Ginny Hanger

13772 F
REGISTRATION NO. _____ Filed 1428

NOV 6 1987 -10 35 AM

CERTIFICATION OF TRUE COPY

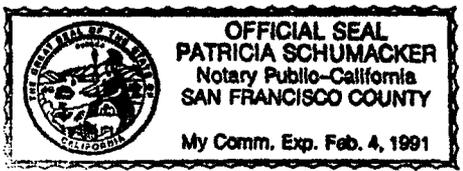
INTERSTATE COMMERCE COMMISSION

On November 3, 1987, I, Ginny Hanger, examined the original copy of the Assignment of Leases dated as of August 7, 1987 between Rex Railways, Inc. and Itel Rail Corporation and I hereby certify that I have compared the attached duplicate copy with the original, and that it is a complete, true and correct copy of the original in all respects, including the dates, signatures and acknowledgements thereof.

Ginny Hanger
Ginny Hanger

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

On November 3, 1987, before the undersigned, a Notary Public for the State of California, personally appeared Ginny Hanger, known to me to be the person whose name is subscribed to the above instrument, acknowledged that she executed the same.



Patricia Schumacker
Notary Public

ASSIGNMENT OF LEASES

Assignment and Assumption of Leases, dated as of August 7, 1987, between Rex Railways, Inc. ("Assignor") and Itel Rail Corporation ("Assignee").

WHEREAS, Assignor and Assignee have entered into an Agreement of Sale dated as of August 5, 1987 (the "Agreement of Sale") providing for the sale by Assignor to Assignee of certain XM general purpose unequipped boxcars specifically identified in the Agreement of Sale (the "Boxcars"); and

WHEREAS, the Boxcars are, and following sale by Assignor to Assignee will be, subject to the two leases identified in Schedules 1 and 1(a) hereto; and

WHEREAS, the Agreement of Sale also provides for the assignment by Assignor to Assignee of all of Assignor's right, title and interest in and to such leases, as and to the extent such leases relate to the Boxcars.

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee, intending to be legally bound, hereby agree as follows:

1. Assignor hereby assigns, transfers and sets over to Assignee all right, title, interest, powers and privileges of Assignor as lessor of the Boxcars under the leases specifically identified in Schedules 1 and 1(a) hereto (the "Leases"), as and to the extent that such Leases relate to the Boxcars, and in and to any and all amounts that may be or become owing to the lessor under the Leases with respect to ownership, operation, leasing, use or maintenance of the Boxcars from and after the Closing referred to in the Agreement of Sale (the "Closing").

2. Assignor hereby represents and warranties to Assignee as follows:

Set forth on Schedules 1 and 1(a) hereto is a description of each Lease (which term includes all amendments, riders, equipment schedules and side letters thereto relating to the Boxcars, all of which are listed on Schedule 1 hereto). None of the Boxcars is subject to any lease other than one of the Leases. Assignor has furnished Assignee a true and complete copy of each Lease (as and to the extent such Lease relates to the Boxcars). The number and reporting marks of the Boxcars subject to each Lease are set forth on Schedule 1 to the Agreement of Sale. The expiration date of each Lease as such Lease relates to the Boxcars is not later than the date set forth on Schedules 1 and 1(a) hereto. As and to the extent the Leases relate to the Boxcars, the Leases constitute the legal, valid and binding obligations of Assignor, as lessor, enforceable in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally or by equitable limitations on the availability of remedies. Neither Assignor nor either lessee is in default under any Lease and Assignor is not aware of a default

or of any event which with the giving of notice or the passage of time would constitute a default or event of default under any of the Leases and Assignor has not given or received from the lessee under any Lease any default notice.

3. Assignee shall indemnify Assignor against, and hold harmless Assignor from, any and all claims that may be asserted against Assignor, and any and all liabilities, losses, damages, costs and expenses that Assignor may suffer or incur caused by, resulting from or arising out of the Leases, at any time from and after the Closing.

Assignor shall indemnify, defend and hold harmless Assignee against any and all claims, liabilities, losses, damages, costs and expenses (including attorneys fees) caused by, resulting from, or arising out of (i) the Leases, prior to the Closing; and (ii) the untruth, inaccuracy or breach of any representations, warranties or agreements of the Assignor contained herein. The obligations of Assignor under this Section shall survive the Closing.

4. Assignor shall, at any time and from time to time after the Closing, at the request and expense of Assignee (except for attorneys fees of Assignor), do, execute, acknowledge or deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, assignments, conveyances or assurances as may be reasonably requested by Assignee, including appropriate UMLER filings, for the better transferring, assigning, conveying, granting, assuring, vesting and confirming to the Assignee, of good, valid and marketable title, interest, and right to the Leases as they relate to the Boxcars.

5. Assignor shall, if requested by Assignee, sign a notice or notices to the lessees under each Lease, to be drafted by Assignee (i) notifying such lessees that Assignor has assigned its interest in the Leases to Assignee (as the Leases relate to the Boxcars), (ii) directing such lessees to forward records and revenues pertaining to the Boxcars to Assignee and to make appropriate filings and (iii) containing such other similar matters as Assignee shall reasonably request.

6. Assignee hereby assumes and accepts, and agrees to be responsible for, from and after the Closing, all of the obligations, duties and liabilities of the lessor of the Boxcars under the Leases and agrees that it shall, from and after the Closing, be treated as the lessor of the Boxcars for all purposes under the Leases.

7. Assignor and Assignee agree that, as between themselves, Assignor shall, from and after the Closing, be released from and relieved of the obligations, duties and liabilities of the lessor of the Boxcars under the Leases; provided, however, that Assignor shall remain responsible for such obligations, duties and liabilities attributable to or arising during, and shall retain all rights accrued or arising during, the period prior to the Closing.

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption of Leases on August 7th, 1987.

REX RAILWAYS, INC.

By *Richard Patton*
Title *President*

Attest *Peter Shan*
Asst Secretary

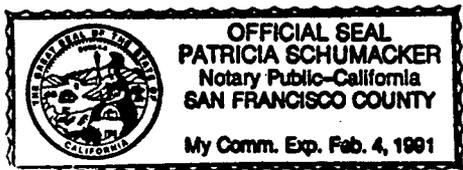
ITEL RAIL CORPORATION

By *Bill Hayes*
Title *President*

Attest *Howard L. Chisler*
Asst Secretary

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

On this 6th day of August, 1987, before me personally appeared Desmond P. Hyes, to me personally known, who being by me duly sworn says that such person is President of Itel Rail Corporation, that the foregoing Assignment of Leases 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.



Patricia Schumacker
Notary Public

STATE OF New Jersey)
) ss:
COUNTY OF Bergen)

On this 5th day of August, 1987, before me personally appeared Maria Salitan, to me personally known, who being by me duly sworn says that such person is President of Rex Railways, Inc., that the foregoing Assignment of Leases 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.

Janet Maguire
Notary Public
JANET MAGUIRE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Oct. 23, 1991

SCHEDULE 1

183-50'6" (interior length), 70-ton, Plate C, end-of-car
cushioned XM boxcars

Handwritten initials/signature

Boxcar No.

ICG 531481
ICG 531523
ICG 531542
ICG 531550
~~ICG 531573~~
ICG 531574
ICG 531588
ICG 531605
ICG 531946
ICG 531964
ICG 531985

Handwritten notes:
531563 (circled)
531573 (circled)
531574 (circled)

Boxcar No.

ICG 531521
ICG 531541
ICG 531547
ICG 531555
ICG 531565
ICG 531581
ICG 531599
ICG 531613
ICG 531961
ICG 531979
ICG 531986

CHTT005007
CHTT005012
CHTT005016
CHTT005021
CHTT005028
CHTT005035
CHTT005041
CHTT005044
ICG 531624
ICG 531627
ICG 531640
ICG 531669
ICG 531697
ICG 531721
ICG 531731
ICG 531739
ICG 531777
ICG 531790
ICG 531798
CHTT012002
CHTT012007
CHTT012019
CHTT012024
CHTT012026
CHTT012029
CHTT012031
CHTT012037
CHTT012043
CHTT012047

CHTT005003
CHTT005011
CHTT005013
CHTT005019
CHTT005023
CHTT005034
CHTT005037
CHTT005042
CHTT005048
ICG 531626
ICG 531629
ICG 531648
ICG 531685
ICG 531710
ICG 531723
ICG 531737
ICG 531742
ICG 531788
ICG 531796
CHTT012001
CHTT012005
CHTT012012
CHTT012022
CHTT012025
CHTT012027
CHTT012030
CHTT012036
CHTT012041
CHTT012045
CHTT012051

183-50'6" (interior length), 70-ton, Plate C, end-of-car
cushioned XM boxcars



Boxcar No.

Boxcar No.

CHTT012053
CHTT012055
CHTT012069
CHTT012071
CHTT012079
CHTT012082
CHTT012089
CHTT012101
ICG 531302
ICG 531304
ICG 531307
ICG 531314
ICG 531317
ICG 531321
ICG 531326
ICG 531334
ICG 531340
ICG 531343
ICG 531345
ICG 531347
ICG 531350
ICG 531357
ICG 531363
ICG 531365
ICG 531368
ICG 531370
ICG 531372
ICG 531376
ICG 531379
ICG 531383
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ICG 531906
ICG 531908
ICG 531910
ICG 531913
ICG 531916
ICG 531921
ICG 531925
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CHTT007050
CHTT007072
CHTT007093
CHTT007107
CHTT007118
CHTT007149
CHTT007169
CHTT013217
CHTT013244
ICG 531455

CHTT012054
CHTT012067
CHTT102070
CHTT012076
CHTT012081
CHTT012087
CHTT012092
CHTT012105
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ICG 531305
ICG 531310
ICG 531315
ICG 531319
ICG 531323
ICG 531333
ICG 531338
ICG 531342
ICG 531344
ICG 531346
ICG 531349
ICG 531353
ICG 531362
ICG 531364
ICG 531367
ICG 531369
ICG 531371
ICG 531374
ICG 531378
ICG 531381
ICG 531384
ICG 531387
ICG 531905
ICG 531907
ICG 531909
ICG 531911
ICG 531915
ICG 531920
ICG 531923
CHTT007017
CHTT007039
CHTT007045
CHTT007053
CHTT007074
CHTT007103
CHTT007114
CHTT007128
CHTT007168
CHTT007191
CHTT013233
ICG 531416
ICG 531466

~~SCHEDULE XXX~~ SCHEDULE 1(a)

1. Lease Agreement dated as of June 4, 1982 ("ICG Lease") between Rex Railways, Inc. ("Rex"), as lessor, and Illinois Central Gulf Railroad ("ICG"), as lessee.
 - a. Amendment dated as of August 13, 1982.
 - b. Amendment dated as August 10, 1983.
 - c. Amendment dated as of September 6, 1983.
 - d. Amendment dated as of September 6, 1985.
 - e. Amendment dated as of February 13, 1986.
 - f. Schedule executed on June 27, 1986 showing ownership of boxcars.
 - g. Schedule executed on July 2, 1986 showing ownership of boxcars.
 - h. Schedule executed on July 28, 1986 showing ownership of boxcars.
 - i. Schedule executed on August 14, 1986 showing ownership of boxcars.
 - j. Amendment dated as of November 5, 1986 between Merlease Leasing Corp., successor in interest to Rex with respect to 282 boxcars, and ICG.
 - k. See 2(a) attached hereto.Boxcars subject to ICG Lease: 107 boxcars identified by reporting marks on pages 1 through 2 of Schedule 1.

Expiration date: not later than December 31, 1987 for ICG 531300 - 531996 and not later than December 31, 1987 for ICG 532000 - 532170 (N.S.)

2. Lease Agreement dated as of August 4, 1982 ("MP Lease") between Rex, as lessor, and Missouri Pacific Railroad Company, as lessee.
 - a. Amendment dated as of March 13, 1984.
 - b. Schedule executed on June 27, 1986 showing ownership of boxcars.
 - c. Schedule executed on July 2, 1986 showing ownership of boxcars.
 - d. Schedule executed on July 29, 1986 showing ownership of boxcars.
 - e. Schedule executed on August 14, 1986 showing ownership of boxcars.
 - f. Schedule executed on November 19, 1986 showing ownership of boxcars.Boxcars subject to MP Lease: 76 boxcars identified by reporting marks on pages 1 through 2 of Schedule No. 1

Expiration date: not later than January 31, 1988.

~~XXXXXXXXXXXXX~~
~~SCHEDULE 2(a)~~

SCHEDULE 1(a) contd.

The ICG and Rex Railways, Inc. has agreed to an additional Amendment to the Leases mentioned in Schedule 2:

1. The Lease on the 107 Cars included in this Sale will expire December 31, 1987.
2. Earnings effective August 1, 1987 will be a 75/25 (Rex/ICG) split of off-line Car Hire as opposed to the present sharing arrangement, or \$275 per Car per month, based on a calendar quarter basis, whichever is the greater. This Amendment is presently being drawn up for execution.