

RECORDATION NO. 11633 Filed 1425

APR 8 1980 -2 45 PM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref: 5471-003]

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of February 15, 1980

between

FIRST SECURITY STATE BANK,
not in its individual capacity but solely as Owner-Trustee

as Lessor,

and

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity but solely as Agent under
the Participation Agreement dated as of the date hereof,

as Agent.

Rec No 11633-C
(Recorded on April 8, 1980)

AL-1

ASSIGNMENT OF LEASE AND AGREEMENT dated as of February 15, 1980 (the "Lease Assignment"), by and between FIRST SECURITY STATE BANK, not in its individual capacity but solely as Owner-Trustee (the "Lessor") under a Trust Agreement dated as of the date hereof with THE PROVIDENT BANK (the "Owner") and FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Agent (the "Agent") for certain institutional investors (the "Investors") under a Participation Agreement dated as of the date hereof among the Lessor, the Owner, the Investors, and Delaware and Hudson Railway Company (the "Lessee").

The Lessor entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with Bethlehem Steel Corporation (the "Builder") providing for the sale to the Lessor of such units of railroad equipment (the "Units") described in the Annex B thereto as are delivered to and accepted by the Lessor thereunder, and the CSA is being assigned to the Agent by the Builder;

The Lessor and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease"), providing for the leasing by the Lessor to the Lessee of the Units;

In order to provide security for the obligations of the Lessor under the CSA and as an inducement to the Investors to invest in the Conditional Sale Indebtedness as defined in the CSA, the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Agent.

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

1. Subject to the provisions of Paragraph 10 hereof, the Lessor hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the Lessor's obligations under the CSA, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease (including those inuring to the benefit of the Owner), including, without limitation, the immediate right to receive and collect all rentals, profits

and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease (other than payments by the Lessee to the Owner under § 16 of the Lease) whether as rent, casualty payment, indemnity, liquidated damages, or otherwise, (such rights, title, interests, powers, privileges, moneys and other benefits, being hereinafter called the "Payments"), and the right 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 do any and all other things whatsoever which Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Agent in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Agent agrees to accept for the account of the Lessor any Payments made by the Lessee pursuant to the Lease. To the extent received, the Agent will apply such Payments, first, to satisfy such obligations of the Lessor under the CSA as are then due and payable and, second, so long as no event of default (or event which with the lapse of time and/or demand provided for in the CSA could constitute default thereunder) shall have occurred and be continuing, any balance shall be paid to the Lessor or such other party as the Lessor may direct in writing, on the first business day following receipt by the Agent of such balance, at the Lessor's address specified in § 18 of the Lease or at such other address as may be specified by the Lessor in writing. If the Agent shall not receive any rental payment under the first paragraph of § 3 of the Lease or any payment of Casualty Values under § 7 of the Lease when due, the Agent shall promptly notify the Lessor and the Owner at their addresses set forth in the Participation Agreement. Failure to so notify the Lessor or the Owner shall not affect the rights and remedies of the Agent hereunder or under the CSA.

2. This Assignment of Lease and Agreement is executed only as security for the obligations of the Lessor under the CSA and, therefore, the execution and delivery of this Lease Assignment shall not subject the Agent to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and

agreed that notwithstanding this Lease Assignment or any subsequent assignment, all obligations of the Lessor under the Lease to the Lessee shall be and remain enforceable by Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Agent.

3. To protect the security afforded by this Lease Assignment, subject to the provisions of Paragraph 10 hereof, the Lessor agrees as follows:

(a) The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Lessor; without the written consent of the Agent, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement so amending, modifying or terminating the Lease and the Lessor agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Lessor fail to make any payment or to do any act which this Lease Assignment requires the Lessor to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Lessor and affording the Lessor a reasonable period of time within which to make such payment or do such act, but without releasing the Lessor from any obligation hereunder, may make or do the same in such manner and to such extent as the Agent 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 Agent, and also the right to perform and discharge each and every obligation, covenant and agreement of the Lessor contained in the Lease; and in exercising any such powers, the Agent may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Lessor will reimburse the Agent for such costs, expenses and fees; provided, however, that the obligations of the Lessor to

make reimbursements under this Paragraph 3 are subject to the last paragraph of Article 4 of the CSA.

4. Subject to the provisions of Paragraph 10 hereof, the Lessor does hereby constitute the Agent the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee of all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Agent may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessor's obligations under the CSA and Participation Agreement, this Lease Assignment and all rights herein assigned to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Lessor without further act or deed, but the Agent shall execute and deliver such documents as the Lessor may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge, and deliver any and all further instruments required by law or reasonably requested by the Agent in order to confirm or further assure the interests of the Agent hereunder.

7. The Agent 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 Agent hereunder; provided, however, the Lessor and the Lessee shall not be bound to honor such assignment until they have received written notice thereof from the Agent. Payment to the assignee of any Payments shall constitute full compliance with the terms of this Lease Assignment and the Lease. The Lessor and the Lessee may rely on instruments and documents of assignment which they believe in good faith to be true and authentic.

8. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all Payments thereunder received in connection with the Lease and all Payments thereunder to be promptly delivered or made to the Agent at its address set forth in Paragraph 11 of the Participation Agreement or at such other address as the Agent shall designate.

10. The Agent hereby agrees with the Lessor that (i) so long as no event of default, or any event which with lapse of time or notice or both would constitute such an event of default, under the CSA has occurred and is then continuing, the Agent will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessor to the Agent by this Lease Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, (ii) subject to the terms of the Lease and the CSA, the Lessor may, so long as no event of default or event which with notice or lapse of time or both would constitute such an event of default under the CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges, and remedies arising out of subparagraph (a) of the first paragraph of § 10 of the Lease; provided, however, the Lessor shall not, without the prior written consent of the Agent, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of subparagraph (b) of said § 10 of the Lease.

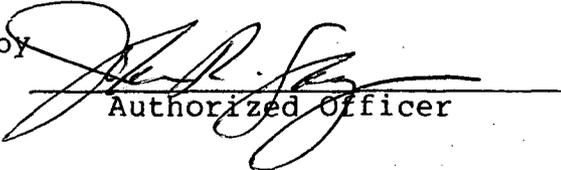
11. No recourse shall be had in respect of any obligation due under this Assignment of Lease and Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Lessor, the Agent, any Investor or the Owner, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, as such, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease Assignment.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by the Lessor, or for the purpose or with the intention of binding the Lessor personally but are made and intended for the purpose of binding only the Trust Estate (as defined in the Trust Agreement) and this Assignment of Lease and Agreement is executed and delivered by the Lessor solely in the exercise of the powers expressly conferred upon the Lessor as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Lessor or the Owner on account of any representation, undertaking or agreement hereunder of the Lessor, or the Owner, either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 of the CSA and subparagraph (a) of the third paragraph of Article 4 of the CSA; all such personal liability, if any, being expressly waived and released by the Agent and by all persons claiming by, through or under the Agent; provided, however, that the Agent, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

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

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee
and Lessor,

by


Authorized Officer

[CORPORATE SEAL]

Attest:


Authorized Officer

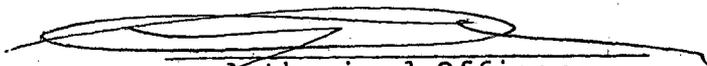
FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity,
but solely as Agent,

by


Authorized Officer

[SEAL]

Attest:


Authorized Officer

COMMERCIAL BANK OF UTAH
SALT LAKE CITY, UTAH

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

On this 4th day of April 1980, before me personally appeared John R. Sager, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed 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.

Bandy R. Marvant
Notary Public

[NOTARIAL SEAL]

My Commission Expires:
2-8-82



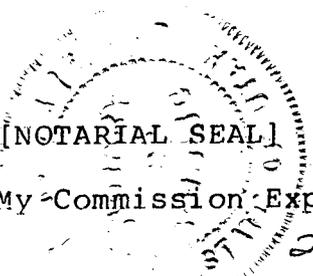
STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this 4th day of April 1980, before me personally appeared FUCHIA B. EICHERS, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its By-laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Bandy R. Marvant
Notary Public

[NOTARIAL SEAL]

My Commission Expires:
2-8-82



LESSEE'S CONSENT AND AGREEMENT

The undersigned, DELAWARE AND HUDSON RAILWAY COMPANY, a Delaware corporation (the "Lessee"), the lessee named in the Lease of Railroad Equipment (the "Lease"), referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby acknowledges receipt of a copy of the Lease Assignment, and consents to all the terms and conditions of the Lease Assignment and agrees:

(1) subject to the terms and conditions of the Lease Assignment, to pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease and assigned to the Agent by the Lease Assignment (which moneys are hereinafter called the Payments) due and to become due under the Lease or otherwise in respect of the Units (as defined in the Lease) leased thereunder, directly to the First Security Bank of Utah, N.A., as Agent (the "Agent"), the assignee named in the Lease Assignment, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the Lessee by the Agent);

(2) subject to the terms and conditions of the Lease Assignment, that the Agent shall be entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by the undersigned under the Lease as though the Agent were named therein as the Owner-Trustee;

(3) that the Agent shall not, by virtue of the Lease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Agent, be amended, terminated or modified, nor shall any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the Lease or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement may be executed in

several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of New York and, for all purposes, shall be construed in accordance with the laws of said state.

Dated as of February , 1980.

DELAWARE AND HUDSON RAILWAY
COMPANY,

by

[CORPORATE SEAL]

Authorized Officer

Attest:

Authorized Officer

Accepted:

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity
but solely as Agent under the
Participation Agreement referred
to above,

by



Authorized Officer

[SEAL]

Attest:



Authorized Officer

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of February 15, 1980

between

FIRST SECURITY STATE BANK,
not in its individual capacity but solely as Owner-Trustee
as Lessor,

and

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity but solely as Agent under
the Participation Agreement dated as of the date hereof,
as Agent.

ASSIGNMENT OF LEASE AND AGREEMENT dated as of February 15, 1980 (the "Lease Assignment"), by and between FIRST SECURITY STATE BANK, not in its individual capacity but solely as Owner-Trustee (the "Lessor") under a Trust Agreement dated as of the date hereof with THE PROVIDENT BANK (the "Owner") and FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Agent (the "Agent") for certain institutional investors (the "Investors") under a Participation Agreement dated as of the date hereof among the Lessor, the Owner, the Investors, and Delaware and Hudson Railway Company (the "Lessee").

The Lessor entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with Bethlehem Steel Corporation (the "Builder") providing for the sale to the Lessor of such units of railroad equipment (the "Units") described in the Annex B thereto as are delivered to and accepted by the Lessor thereunder, and the CSA is being assigned to the Agent by the Builder;

The Lessor and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease"), providing for the leasing by the Lessor to the Lessee of the Units;

In order to provide security for the obligations of the Lessor under the CSA and as an inducement to the Investors to invest in the Conditional Sale Indebtedness as defined in the CSA, the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Agent.

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

1. Subject to the provisions of Paragraph 10 hereof, the Lessor hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the Lessor's obligations under the CSA, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease (including those inuring to the benefit of the Owner), including, without limitation, the immediate right to receive and collect all rentals, profits

and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease (other than payments by the Lessee to the Owner under § 16 of the Lease) whether as rent, casualty payment, indemnity, liquidated damages, or otherwise, (such rights, title, interests, powers, privileges, moneys and other benefits, being hereinafter called the "Payments"), and the right 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 do any and all other things whatsoever which Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Agent in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Agent agrees to accept for the account of the Lessor any Payments made by the Lessee pursuant to the Lease. To the extent received, the Agent will apply such Payments, first, to satisfy such obligations of the Lessor under the CSA as are then due and payable and, second, so long as no event of default (or event which with the lapse of time and/or demand provided for in the CSA could constitute default thereunder) shall have occurred and be continuing, any balance shall be paid to the Lessor or such other party as the Lessor may direct in writing, on the first business day following receipt by the Agent of such balance, at the Lessor's address specified in § 18 of the Lease or at such other address as may be specified by the Lessor in writing. If the Agent shall not receive any rental payment under the first paragraph of § 3 of the Lease or any payment of Casualty Values under § 7 of the Lease when due, the Agent shall promptly notify the Lessor and the Owner at their addresses set forth in the Participation Agreement. Failure to so notify the Lessor or the Owner shall not affect the rights and remedies of the Agent hereunder or under the CSA.

2. This Assignment of Lease and Agreement is executed only as security for the obligations of the Lessor under the CSA and, therefore, the execution and delivery of this Lease Assignment shall not subject the Agent to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and

agreed that notwithstanding this Lease Assignment or any subsequent assignment, all obligations of the Lessor under the Lease to the Lessee shall be and remain enforceable by Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Agent.

3. To protect the security afforded by this Lease Assignment, subject to the provisions of Paragraph 10 hereof, the Lessor agrees as follows:

(a) The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Lessor; without the written consent of the Agent, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement so amending, modifying or terminating the Lease and the Lessor agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Lessor fail to make any payment or to do any act which this Lease Assignment requires the Lessor to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Lessor and affording the Lessor a reasonable period of time within which to make such payment or do such act, but without releasing the Lessor from any obligation hereunder, may make or do the same in such manner and to such extent as the Agent 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 Agent, and also the right to perform and discharge each and every obligation, covenant and agreement of the Lessor contained in the Lease; and in exercising any such powers, the Agent may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Lessor will reimburse the Agent for such costs, expenses and fees; provided, however, that the obligations of the Lessor to

make reimbursements under this Paragraph 3 are subject to the last paragraph of Article 4 of the CSA.

4. Subject to the provisions of Paragraph 10 hereof, the Lessor does hereby constitute the Agent the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee of all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Agent may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessor's obligations under the CSA and Participation Agreement, this Lease Assignment and all rights herein assigned to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Lessor without further act or deed, but the Agent shall execute and deliver such documents as the Lessor may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge, and deliver any and all further instruments required by law or reasonably requested by the Agent in order to confirm or further assure the interests of the Agent hereunder.

7. The Agent 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 Agent hereunder; provided, however, the Lessor and the Lessee shall not be bound to honor such assignment until they have received written notice thereof from the Agent. Payment to the assignee of any Payments shall constitute full compliance with the terms of this Lease Assignment and the Lease. The Lessor and the Lessee may rely on instruments and documents of assignment which they believe in good faith to be true and authentic.

8. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all Payments thereunder received in connection with the Lease and all Payments thereunder to be promptly delivered or made to the Agent at its address set forth in Paragraph 11 of the Participation Agreement or at such other address as the Agent shall designate.

10. The Agent hereby agrees with the Lessor that (i) so long as no event of default, or any event which with lapse of time or notice or both would constitute such an event of default, under the CSA has occurred and is then continuing, the Agent will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessor to the Agent by this Lease Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, (ii) subject to the terms of the Lease and the CSA, the Lessor may, so long as no event of default or event which with notice or lapse of time or both would constitute such an event of default under the CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges, and remedies arising out of subparagraph (a) of the first paragraph of § 10 of the Lease; provided, however, the Lessor shall not, without the prior written consent of the Agent, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of subparagraph (b) of said § 10 of the Lease.

11. No recourse shall be had in respect of any obligation due under this Assignment of Lease and Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Lessor, the Agent, any Investor or the Owner, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, as such, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease Assignment.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by the Lessor, or for the purpose or with the intention of binding the Lessor personally but are made and intended for the purpose of binding only the Trust Estate (as defined in the Trust Agreement) and this Assignment of Lease and Agreement is executed and delivered by the Lessor solely in the exercise of the powers expressly conferred upon the Lessor as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Lessor or the Owner on account of any representation, undertaking or agreement hereunder of the Lessor, or the Owner, either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 of the CSA and subparagraph (a) of the third paragraph of Article 4 of the CSA; all such personal liability, if any, being expressly waived and released by the Agent and by all persons claiming by, through or under the Agent; provided, however, that the Agent, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

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

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee
and Lessor,

by

[CORPORATE SEAL]

Authorized Officer

Attest:

Authorized Officer

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity,
but solely as Agent,

by

Authorized Officer

[SEAL]

Attest:

Authorized Officer

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

On this day of 1980, before me
personally appeared , to me personally
known, who, being by me duly sworn, says that he is an Autho-
rized Officer of FIRST SECURITY STATE BANK, that one of the
seals affixed to the foregoing instrument is the corporate
seal of said Corporation and that said instrument was signed
and sealed 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.

Notary Public

[NOTARIAL SEAL]

My Commission Expires:

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

On this day of 1980, before me
personally appeared , to me personally
known, who, being by me duly sworn, says that he is an Autho-
rized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one
of the seals affixed to the foregoing instrument is the
seal of said national banking association and that said
instrument was signed and sealed on behalf of said national
banking association by authority of its By-laws and he
acknowledged that the execution of the foregoing instrument
was the free act and deed of said national banking association.

Notary Public

[NOTARIAL SEAL]

My Commission Expires:

LESSEE'S CONSENT AND AGREEMENT

The undersigned, DELAWARE AND HUDSON RAILWAY COMPANY, a Delaware corporation (the "Lessee"), the lessee named in the Lease of Railroad Equipment (the "Lease"), referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby acknowledges receipt of a copy of the Lease Assignment, and consents to all the terms and conditions of the Lease Assignment and agrees:

(1) subject to the terms and conditions of the Lease Assignment, to pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease and assigned to the Agent by the Lease Assignment (which moneys are hereinafter called the Payments) due and to become due under the Lease or otherwise in respect of the Units (as defined in the Lease) leased thereunder, directly to the First Security Bank of Utah, N.A., as Agent (the "Agent"), the assignee named in the Lease Assignment, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the Lessee by the Agent);

(2) subject to the terms and conditions of the Lease Assignment, that the Agent shall be entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by the undersigned under the Lease as though the Agent were named therein as the Owner-Trustee;

(3) that the Agent shall not, by virtue of the Lease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Agent, be amended, terminated or modified, nor shall any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the Lease or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement may be executed in

several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of New York and, for all purposes, shall be construed in accordance with the laws of said state.

Dated as of February 15, 1980.

DELAWARE AND HUDSON RAILWAY COMPANY,

by W.W. Clark
Authorized Officer

[CORPORATE SEAL]

Attest:

R.E. Long
Authorized Officer

Accepted:

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity
but solely as Agent under the
Participation Agreement referred
to above,

by _____
Authorized Officer

[SEAL]

Attest:

Authorized Officer