

RECORDATION NO. 11662 Filed 1425

APR 10 1980 - 3 10 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 11662 Filed 1425

APR 10 1980 - 3 10 PM

INTERSTATE COMMERCE COMMISSION

# CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

MAURICE T. MOORE  
 WILLIAM B. MARSHALL  
 RALPH L. McAFEE  
 ROYALL VICTOR  
 HENRY W. DEKOSMIAN  
 ALLEN F. MAULSBY  
 STEWARD R. BROSS, JR.  
 HENRY P. RIORDAN  
 JOHN R. HUPPER  
 SAMUEL C. BUTLER  
 WILLIAM J. SCHRENK, JR.  
 BENJAMIN F. CRANE  
 FRANCIS F. RANDOLPH, JR.  
 JOHN F. HUNT  
 GEORGE J. GILLESPIE, III  
 RICHARD S. SIMMONS  
 WAYNE E. CHAPMAN  
 THOMAS D. BARR  
 MELVIN L. BEDRICK  
 GEORGE T. LOWY  
 ROBERT ROSENMAN  
 JAMES H. DUFFY  
 ALAN J. HRUSKA  
 JOHN E. YOUNG

JAMES M. EDWARDS  
 DAVID G. ORMSBY  
 DAVID L. SCHWARTZ  
 RICHARD J. HIEGEL  
 FREDERICK A. O. SCHWARTZ, JR.  
 CHRISTINE BESHAR  
 ROBERT S. RIFKIN  
 DAVID BOIES  
 DAVID O. BROWNWOOD  
 PAUL M. DODYK  
 RICHARD M. ALLEN  
 THOMAS R. BROME  
 ROBERT D. JOFFE  
 ROBERT F. MULLER  
 ALLEN FINKELSON  
 RONALD S. ROLFE  
 JOSEPH R. SAHID  
 PAUL C. SAUNDERS  
 MARTIN L. SENZEL  
 DOUGLAS D. BROADWATER  
 ALAN C. STEPHENSON  
 RICHARD L. HOFFMAN  
 JOSEPH A. MULLINS  
 MAX R. SHULMAN

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INTERSTATE COMMERCE COMMISSION

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APR 10 1980

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INTERSTATE COMMERCE COMMISSION

CARLYLE E. MAW  
 ALBERT R. CONNELLY  
 FRANK H. DETWEILER  
 GEORGE G. TYLER

ROSWELL L. GILPATRICK  
 L. R. BRESLIN, JR.  
 GEORGE B. TURNER  
 JOHN H. MORSE  
 HAROLD R. MEDINA, JR.  
 CHARLES R. LINTON  
 ALLEN H. MERRILL

4, PLACE DE LA CONCORDE  
 75008 PARIS, FRANCE  
 TELEPHONE: 265-81-54  
 TELEX: 290530

33 THROGMORTON STREET  
 LONDON, EC2N 2BR, ENGLAND  
 TELEPHONE 01-608-1421  
 TELEX: 8814901

CABLE ADDRESSES  
 CRAVATH, N. Y.  
 CRAVATH, PARIS  
 CRAVATH, LONDON E. C. 2

April 10, 1980

The Western Pacific Railroad Company  
Reconstruction and Conditional Sale Financing  
Dated as of March 15, 1980  
Conditional Sale Indebtedness  
Due January 1, 1993

11662

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INTERSTATE COMMERCE COMMISSION

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, enclosed for filing and recordation on behalf of The Western Pacific Railroad Company are counterparts of the following:

New Number

(1) Reconstruction and Conditional Sale Agreement dated as of March 15, 1980, between Mercantile-Safe Deposit and Trust Company as Agent, Morrison-Knudsen Company, Inc. and The Connecticut Bank and Trust Company as Trustee;

(2) Transfer Agreement dated as of March 15, 1980, between The Connecticut Bank and Trust Company, as Trustee, and Mercantile-Safe Deposit Trust Company, as Agent;

(3) (a) Lease of Railroad Equipment dated as of March 15, 1980, between The Western Pacific Railroad Company and The Connecticut Bank and Trust Company, as Trustee;

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*[Handwritten signature]*  
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(b) Assignment of Lease and Agreement dated as of March 15, 1980, between The Connecticut Bank and Trust Company, as Trustee, and Mercantile-Safe Deposit and Trust Company, as Agent; and

(4) Hulk Purchase Agreement dated as of March 15, 1980, between The Connecticut Bank and Trust Company, as Trustee, and The Western Pacific Railroad Company.

The addresses of the parties to the above documents are:

Vendee-Lessor-Buyer:

The Connecticut Bank and Trust Company  
One Constitution Plaza  
Hartford, Connecticut 06115

Builder:

Morrison-Knudsen Company, Inc.  
One Morrison-Knudsen Plaza  
Boise, Idaho 83729

Lessee-Seller:

The Western Pacific Railroad Company  
526 Mission Street  
San Francisco, California 94105.

Vendor:

Mercantile-Safe Deposit and Trust Company  
Two Hopkins Plaza  
Baltimore, Maryland 21203.

Please file and record the above documents and cross-index them under the names of the Vendee-Lessor-Buyer, the Builder, the Lessee-Seller and the Vendor.

The equipment covered by the above documents consists of the following:

18 GP 35 diesel locomotives, AAR Mechanical Designation BB, bearing Railroad Road Numbers WP 3001-3006, WP 3008-3010, WP 3012-3015, WP 3017-3020 and WP 3022; and

15 GP 40 diesel locomotives, AAR Mechanical Designation BB, bearing Railroad Road Numbers WP 3501-3504 and WP 3506-3516.

Enclosed also is our check in the amount of \$200 for the required recordation fee. Please stamp all copies of the enclosed documents with your recordation number, retain one copy of each for your files and return the remaining copies to me.

Thank you for your assistance.

Sincerely,



Jacqueline B. Goodyear

As Agent for The Western Pacific Railroad Company

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

Encl.

ZZ

**Interstate Commerce Commission**  
Washington, D.C. 20423

4/10/80

OFFICE OF THE SECRETARY

**Jacqueline B. Goodyear**  
**Cravath, Swaine & Moore**  
**One Chase Manhattan Plaza**  
**New York, N.Y. 10005**

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 **4/10/80** at **3:10pm**, and assigned re-  
recording number(s). **11662, 11662-A, 11662-B, 11662-C & 11662-D**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

11662/C

RECORDATION NO. .... Filed 1425

APR 10 1980 - 3 10 PM

INTERSTATE COMMERCE COMMISSION

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[CS&M Ref. 5415-002]

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of March 15, 1980

Between

THE CONNECTICUT BANK AND TRUST COMPANY,  
not in its individual capacity but  
solely as Trustee,

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,  
not in its individual capacity but  
solely as Agent.

---

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ASSIGNMENT OF LEASE AND AGREEMENT dated as of March 15, 1980, between THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, not in its individual capacity but solely as trustee (the "Lessor") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with GENERAL ELECTRIC CREDIT CORPORATION and CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division) (the "Owners"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation, not in its individual capacity but solely as Agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement").

The Lessor and the Vendor have entered into a Reconstruction and Conditional Sale Agreement dated as of the date hereof (the "RCSA") with MORRISON-KNUDSEN COMPANY, INC. (the "Builder"), providing for the sale to the Lessor of the interest of the Vendor in such units of railroad equipment (the "Units") described in Schedule A thereto as are reconstructed by the Builder and delivered to and accepted by the Lessor thereunder.

The Lessor and THE WESTERN PACIFIC RAILROAD COMPANY (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 RCSA and as an inducement to the Investors (as defined in the Participation Agreement) to invest in the CSA Indebtedness (as defined in the RCSA), the Lessor has agreed to assign for security purposes certain of its rights under the Lease to the Vendor.

In consideration of the agreements hereinafter set forth, the parties hereto agree as follows:

1. Assignment; Application of Payments. The Lessor hereby assigns to the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the RCSA, all the Lessor's right, title and

interest, powers, privileges, and other benefits under the Lease (and those inuring to the benefit of the Owners by reason of Section 19 of the Lease), 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 pursuant to the provisions of the Lease, whether as rent, casualty payment, indemnity (except such amounts of indemnity payable to or receivable by the Owners pursuant to Section 15 of the Lease), liquidated damages, or otherwise (such moneys are called the "Payments"), and the right to make all waivers and agreements and to give all notices, consents and releases (subject to Section 12 hereof), 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 the Lessor is or may become entitled to do under the Lease. Notwithstanding the foregoing, Payments shall not be deemed to include (i) payments made by the Lessee to the Lessor pursuant to Sections 5 and 8 and the second paragraph of Section 9 of the Lease (except indemnification payments intended to satisfy the obligations of the Lessor to indemnify the Vendor pursuant to Article 5 of the RCSA or the obligation of the Lessee to indemnify the Vendor in its capacity as assignee of the Lease and except to the extent that the Lessor is obligated to pay and discharge claims, liens, charges or security interests under Paragraph 9 of this Assignment), and (ii) payments made by the Lessee to the Lessor in its individual capacity pursuant to Sections 5 and 8 of the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name or in the name of its nominee or in the name of the Lessor or as its attorney to demand, sue for and receive any and all sums 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 Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the RCSA due and payable at the time such Payments are due and payable under the Lease, and so long as no event of default (or event which with notice or lapse of time or both could constitute an event of default) under the RCSA shall have occurred and be continuing, any balance shall be paid to the Lessor or to such other party as the Lessor may direct in writing, in immediately available funds, not later than the first business day following receipt of such balance. If

the Vendor shall not receive any rental payment under Section 2 of the Lease when due, the Vendor shall promptly notify the Lessor and the Owners at the addresses set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the RCSA.

2. No Assumption of Lessor's Liabilities. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to or in any way affect or modify the liability of the Lessor under the Lease, it being agreed that all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee and its successors and assigns against and only against the Lessor or persons other than the Vendor.

3. No Modification of Lease Without Vendor's Consent. The Lessor agrees that, without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive 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 amending or terminating the Lease and the Lessor agrees that any amendment or termination thereof without such consent shall be void; provided, however, that the Lessor may amend or supplement the Lease to provide for an increase or decrease of amounts due as rentals under Section 2 thereof and/or Casualty Values under Section 6 thereof, provided that no such decrease shall reduce said amounts below that which are necessary to satisfy the obligations of the Lessor under the RCSA.

4. Vendor To Act for Lessor. The Lessor hereby constitutes the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor or otherwise), to demand and receive any and all Payments to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments in connection therewith and to file any claims or take any action or institute any proceedings which the Vendor may deem to be necessary or advisable.

5. Termination of Assignment. Upon the full discharge and satisfaction of all the Lessor's obligations under the RCSA and the Participation Agreement (without giving effect to any limitations of liability contained therein), this Assignment and all rights herein assigned to the Vendor shall terminate, and all right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. Event of Default Under RCSA. If an event of default under the RCSA shall occur and be continuing, the Vendor may declare all sums secured hereby immediately due and payable and may apply all such sums against the amounts due and payable under the RCSA.

7. Filing. The Lessor will, from time to time, perform any other act and will execute, acknowledge, deliver and file (and will refile) any and all further instruments required by law and reasonably requested by the Vendor in order to confirm or further assure the interests of the Vendor hereunder.

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

9. Liens. The Lessor will pay and discharge any and all taxes, claims, liens, charges or security interests (other than those created by the RCSA) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the RCSA or the Lease

(but including tax liens arising out of the receipt by or for the account of the Lessor of the rentals and other payments under the Lease and any other proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect such interests of the Vendor.

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

11. Notices. The Lessor shall cause copies of all notices received by it in connection with the Lease and all Payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the RCSA or at such other address as the Vendor shall designate.

12. No Action by Vendor Without Event of Default. The Vendor agrees that it will not, so long as no Event of Default under the Lease or event of default under the RCSA has occurred and is continuing, exercise or seek to exercise any of the rights, powers, privileges or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the RCSA, the Lessor may, so long as no event of default under the RCSA or Event of Default under the Lease has occurred and is continuing, exercise or seek to exercise such rights, powers, privileges, authorizations or benefits; provided, however, that the Lessor shall not take any action which would terminate the Lease without the prior written consent of the Vendor.

13. Retained Rights of Lessor; Limitation of Liability. Notwithstanding any other provision of this Assignment (including but not limited to any provision of the first paragraph of Paragraph 1 and Paragraph 3 hereof), (a) the terms of this Assignment shall not impose any obligations on the Lessor in addition to the obligations of the Lessor under the Lease or under the RCSA or in any way limit the effect of the last paragraph of Article 3 of the RCSA or Article 21 of the RCSA, (b) so long as there is no event

of default under the RCSA, and to the extent that the Vendor does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Lessor under the RCSA, the terms of this Assignment shall not limit or in any way affect the Lessor's right to receive and collect any Payments under the Lease in excess of the obligations of the Lessor under the RCSA or empower the Vendor in any way to waive or release the Lessee's obligation to pay such excess amounts, and the Lessor shall continue to be empowered to demand, sue for and receive any and all of such excess amounts, but shall not take any action under the second subparagraph (b) of Section 9 of the Lease without the prior written consent of the Vendor and (c) each and all of the warranties, representations, undertakings and agreements herein made on the part of the Lessor are made and intended not as personal representations, warranties, undertakings and agreements by The Connecticut Bank and Trust Company or for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding only the Trust Estate (as such term is used in the Trust Agreement), and this Assignment is executed and delivered by said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under the Trust Agreement, and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, except for wilful misconduct or gross negligence on the part of said Bank, or against the Owners hereunder (except pursuant to Section 1.03 and the last paragraph of Section 5.01 of the Trust Agreement) or on account of any representation, warranty, undertaking or agreement of said bank or the Owners, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under it making claim hereunder may look to said Trust Estate for satisfaction of the same.

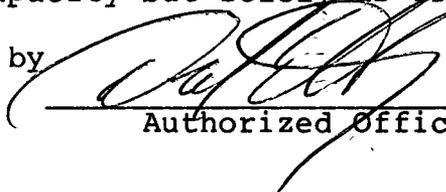
14. Execution. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first set forth above, the actual dates of execution are the dates stated in the acknowledgments hereto.

15. Headings. Section headings have been provided

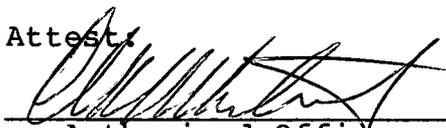
for convenience only and do not form part of this instrument.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized officers as of the date first set forth above.

THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity but solely as Trustee,

by   
\_\_\_\_\_  
Authorized Officer

[Corporate Seal]

Attest:   
\_\_\_\_\_  
Authorized Officer

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not in its individual capacity but solely as Agent,

by \_\_\_\_\_  
Assistant Vice President

[Corporate Seal]

Attest: \_\_\_\_\_  
Corporate Trust Officer

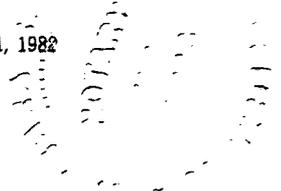
STATE OF CONNECTICUT, )  
 ) ss.:  
COUNTY OF HARTFORD, )

On this 9<sup>th</sup> day of April 1980, before me personally appeared Donald E. Smith, to me personally known, who, being by me duly sworn, says that he is ASST. VICE PRESIDENT of THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, 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.

*Barbara S. Kacich*  
\_\_\_\_\_  
Notary Public

[Notarial Seal]  
My Commission expires

**BARBARA S. KACICH**  
NOTARY PUBLIC  
MY COMMISSION EXPIRES MARCH 31, 1982



STATE OF MARYLAND, )  
 ) ss.:  
CITY OF BALTIMORE, )

On this \_\_\_\_\_ day of \_\_\_\_\_ 1980, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, 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

## LESSEE'S CONSENT AND AGREEMENT

THE WESTERN PACIFIC RAILROAD COMPANY (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Assignment"), hereby acknowledges receipt of a copy of the Assignment and consents to all the terms and conditions of the Assignment and agrees that:

(1) it will pay all Payments (as defined in the Assignment) payable under the Lease directly to Mercantile-Safe Deposit and Trust Company, as Agent (the "Vendor"), the assignee named in the Assignment, by 10:00 a.m. Baltimore time on the date such payment is due, by bank wire transfer of immediately available funds to The Annapolis Banking and Trust Company, Main Street and Church Circle, Annapolis, Maryland, for credit to the Agent's Account No. 52076-1, with a request that The Annapolis Banking and Trust Company advise Mrs. K. M. Tollberg, Assistant Vice President, Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, that the funds are "RE: WP 3/15/80" (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of and to receive and enforce performance of all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor and the Vendor shall not by virtue of the Assignment become subject to any liability or obligation under the Lease or otherwise; and

(3) the Lease shall not, without the prior written consent of the Vendor, be amended or terminated, nor shall any action be taken or omitted by the Lessee which might result in an alteration or impairment of the Lease, the Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement shall be construed in accordance with the laws of the State of California.

Dated as of March 15, 1980

THE WESTERN PACIFIC RAILROAD  
COMPANY,

[Corporate Seal]

by

Attest:

Senior Vice President-Finance

Assistant Secretary

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[CS&M Ref. 5415-002]

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of March 15, 1980

Between

THE CONNECTICUT BANK AND TRUST COMPANY,  
not in its individual capacity but  
solely as Trustee,

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,  
not in its individual capacity but  
solely as Agent.

---

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ASSIGNMENT OF LEASE AND AGREEMENT dated as of March 15, 1980, between THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, not in its individual capacity but solely as trustee (the "Lessor") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with GENERAL ELECTRIC CREDIT CORPORATION and CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division) (the "Owners"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation, not in its individual capacity but solely as Agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement").

The Lessor and the Vendor have entered into a Reconstruction and Conditional Sale Agreement dated as of the date hereof (the "RCSA") with MORRISON-KNUDSEN COMPANY, INC. (the "Builder"), providing for the sale to the Lessor of the interest of the Vendor in such units of railroad equipment (the "Units") described in Schedule A thereto as are reconstructed by the Builder and delivered to and accepted by the Lessor thereunder.

The Lessor and THE WESTERN PACIFIC RAILROAD COMPANY (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 RCSA and as an inducement to the Investors (as defined in the Participation Agreement) to invest in the CSA Indebtedness (as defined in the RCSA), the Lessor has agreed to assign for security purposes certain of its rights under the Lease to the Vendor.

In consideration of the agreements hereinafter set forth, the parties hereto agree as follows:

1. Assignment; Application of Payments. The Lessor hereby assigns to the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the RCSA, all the Lessor's right, title and

interest, powers, privileges, and other benefits under the Lease (and those inuring to the benefit of the Owners by reason of Section 19 of the Lease), 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 pursuant to the provisions of the Lease, whether as rent, casualty payment, indemnity (except such amounts of indemnity payable to or receivable by the Owners pursuant to Section 15 of the Lease), liquidated damages, or otherwise (such moneys are called the "Payments"), and the right to make all waivers and agreements and to give all notices, consents and releases (subject to Section 12 hereof), 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 the Lessor is or may become entitled to do under the Lease. Notwithstanding the foregoing, Payments shall not be deemed to include (i) payments made by the Lessee to the Lessor pursuant to Sections 5 and 8 and the second paragraph of Section 9 of the Lease (except indemnification payments intended to satisfy the obligations of the Lessor to indemnify the Vendor pursuant to Article 5 of the RCSA or the obligation of the Lessee to indemnify the Vendor in its capacity as assignee of the Lease and except to the extent that the Lessor is obligated to pay and discharge claims, liens, charges or security interests under Paragraph 9 of this Assignment), and (ii) payments made by the Lessee to the Lessor in its individual capacity pursuant to Sections 5 and 8 of the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name or in the name of its nominee or in the name of the Lessor or as its attorney to demand, sue for and receive any and all sums 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 Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the RCSA due and payable at the time such Payments are due and payable under the Lease, and so long as no event of default (or event which with notice or lapse of time or both could constitute an event of default) under the RCSA shall have occurred and be continuing, any balance shall be paid to the Lessor or to such other party as the Lessor may direct in writing, in immediately available funds, not later than the first business day following receipt of such balance. If

the Vendor shall not receive any rental payment under Section 2 of the Lease when due, the Vendor shall promptly notify the Lessor and the Owners at the addresses set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the RCSA.

2. No Assumption of Lessor's Liabilities. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to or in any way affect or modify the liability of the Lessor under the Lease, it being agreed that all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee and its successors and assigns against and only against the Lessor or persons other than the Vendor.

3. No Modification of Lease Without Vendor's Consent. The Lessor agrees that, without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive 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 amending or terminating the Lease and the Lessor agrees that any amendment or termination thereof without such consent shall be void; provided, however, that the Lessor may amend or supplement the Lease to provide for an increase or decrease of amounts due as rentals under Section 2 thereof and/or Casualty Values under Section 6 thereof, provided that no such decrease shall reduce said amounts below that which are necessary to satisfy the obligations of the Lessor under the RCSA.

4. Vendor To Act for Lessor. The Lessor hereby constitutes the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor or otherwise), to demand and receive any and all Payments to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments in connection therewith and to file any claims or take any action or institute any proceedings which the Vendor may deem to be necessary or advisable.

5. Termination of Assignment. Upon the full discharge and satisfaction of all the Lessor's obligations under the RCSA and the Participation Agreement (without giving effect to any limitations of liability contained therein), this Assignment and all rights herein assigned to the Vendor shall terminate, and all right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. Event of Default Under RCSA. If an event of default under the RCSA shall occur and be continuing, the Vendor may declare all sums secured hereby immediately due and payable and may apply all such sums against the amounts due and payable under the RCSA.

7. Filing. The Lessor will, from time to time, perform any other act and will execute, acknowledge, deliver and file (and will refile) any and all further instruments required by law and reasonably requested by the Vendor in order to confirm or further assure the interests of the Vendor hereunder.

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

9. Liens. The Lessor will pay and discharge any and all taxes, claims, liens, charges or security interests (other than those created by the RCSA) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the RCSA or the Lease

(but including tax liens arising out of the receipt by or for the account of the Lessor of the rentals and other payments under the Lease and any other proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect such interests of the Vendor.

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

11. Notices. The Lessor shall cause copies of all notices received by it in connection with the Lease and all Payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the RCSA or at such other address as the Vendor shall designate.

12. No Action by Vendor Without Event of Default. The Vendor agrees that it will not, so long as no Event of Default under the Lease or event of default under the RCSA has occurred and is continuing, exercise or seek to exercise any of the rights, powers, privileges or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the RCSA, the Lessor may, so long as no event of default under the RCSA or Event of Default under the Lease has occurred and is continuing, exercise or seek to exercise such rights, powers, privileges, authorizations or benefits; provided, however, that the Lessor shall not take any action which would terminate the Lease without the prior written consent of the Vendor.

13. Retained Rights of Lessor; Limitation of Liability. Notwithstanding any other provision of this Assignment (including but not limited to any provision of the first paragraph of Paragraph 1 and Paragraph 3 hereof), (a) the terms of this Assignment shall not impose any obligations on the Lessor in addition to the obligations of the Lessor under the Lease or under the RCSA or in any way limit the effect of the last paragraph of Article 3 of the RCSA or Article 21 of the RCSA, (b) so long as there is no event

of default under the RCSA, and to the extent that the Vendor does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Lessor under the RCSA, the terms of this Assignment shall not limit or in any way affect the Lessor's right to receive and collect any Payments under the Lease in excess of the obligations of the Lessor under the RCSA or empower the Vendor in any way to waive or release the Lessee's obligation to pay such excess amounts, and the Lessor shall continue to be empowered to demand, sue for and receive any and all of such excess amounts, but shall not take any action under the second subparagraph (b) of Section 9 of the Lease without the prior written consent of the Vendor and (c) each and all of the warranties, representations, undertakings and agreements herein made on the part of the Lessor are made and intended not as personal representations, warranties, undertakings and agreements by The Connecticut Bank and Trust Company or for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding only the Trust Estate (as such term is used in the Trust Agreement), and this Assignment is executed and delivered by said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under the Trust Agreement, and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, except for wilful misconduct or gross negligence on the part of said Bank, or against the Owners hereunder (except pursuant to Section 1.03 and the last paragraph of Section 5.01 of the Trust Agreement) or on account of any representation, warranty, undertaking or agreement of said bank or the Owners, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under it making claim hereunder may look to said Trust Estate for satisfaction of the same.

14. Execution. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first set forth above, the actual dates of execution are the dates stated in the acknowledgments hereto.

15. Headings. Section headings have been provided

for convenience only and do not form part of this instrument.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized officers as of the date first set forth above.

THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity but solely as Trustee,

[Corporate Seal]

by

Attest:

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Authorized Officer

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not in its individual capacity but solely as Agent,

[Corporate Seal]

by

Attest:

  
\_\_\_\_\_  
Assistant Vice President

  
\_\_\_\_\_  
Corporate Trust Officer

STATE OF CONNECTICUT, )  
 ) ss.:  
COUNTY OF HARTFORD, )

On this            day of            1980, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is            of THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, 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

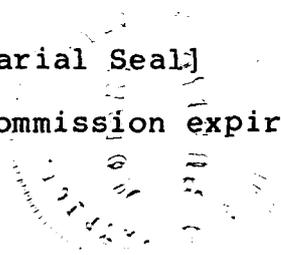
STATE OF MARYLAND, )  
 ) ss.:  
CITY OF BALTIMORE, )

On this *9th* day of *April* 1980, before me personally appeared *R. E. Schreiber*, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, 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.

*Patricia A. Shilow*  
\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires *July 1, 1982*



## LESSEE'S CONSENT AND AGREEMENT

THE WESTERN PACIFIC RAILROAD COMPANY (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Assignment"), hereby acknowledges receipt of a copy of the Assignment and consents to all the terms and conditions of the Assignment and agrees that:

(1) it will pay all Payments (as defined in the Assignment) payable under the Lease directly to Mercantile-Safe Deposit and Trust Company, as Agent (the "Vendor"), the assignee named in the Assignment, by 10:00 a.m. Baltimore time on the date such payment is due, by bank wire transfer of immediately available funds to The Annapolis Banking and Trust Company, Main Street and Church Circle, Annapolis, Maryland, for credit to the Agent's Account No. 52076-1, with a request that The Annapolis Banking and Trust Company advise Mrs. K. M. Tollberg, Assistant Vice President, Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, that the funds are "RE: WP 3/15/80" (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of and to receive and enforce performance of all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor and the Vendor shall not by virtue of the Assignment become subject to any liability or obligation under the Lease or otherwise; and

(3) the Lease shall not, without the prior written consent of the Vendor, be amended or terminated, nor shall any action be taken or omitted by the Lessee which might result in an alteration or impairment of the Lease, the Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement shall be construed in accordance with the laws of the State of California.

Dated as of March 15, 1980

THE WESTERN PACIFIC RAILROAD  
COMPANY,

[Corporate Seal]

by

Attest:

Senior Vice President-Finance

Assistant Secretary

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[CS&M Ref. 5415-002]

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of March 15, 1980

Between

THE CONNECTICUT BANK AND TRUST COMPANY,  
not in its individual capacity but  
solely as Trustee,

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,  
not in its individual capacity but  
solely as Agent.

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ASSIGNMENT OF LEASE AND AGREEMENT dated as of March 15, 1980, between THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, not in its individual capacity but solely as trustee (the "Lessor") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with GENERAL ELECTRIC CREDIT CORPORATION and CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division) (the "Owners"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation, not in its individual capacity but solely as Agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement").

The Lessor and the Vendor have entered into a Reconstruction and Conditional Sale Agreement dated as of the date hereof (the "RCSA") with MORRISON-KNUDSEN COMPANY, INC. (the "Builder"), providing for the sale to the Lessor of the interest of the Vendor in such units of railroad equipment (the "Units") described in Schedule A thereto as are reconstructed by the Builder and delivered to and accepted by the Lessor thereunder.

The Lessor and THE WESTERN PACIFIC RAILROAD COMPANY (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 RCSA and as an inducement to the Investors (as defined in the Participation Agreement) to invest in the CSA Indebtedness (as defined in the RCSA), the Lessor has agreed to assign for security purposes certain of its rights under the Lease to the Vendor.

In consideration of the agreements hereinafter set forth, the parties hereto agree as follows:

1. Assignment; Application of Payments. The Lessor hereby assigns to the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the RCSA, all the Lessor's right, title and

interest, powers, privileges, and other benefits under the Lease (and those inuring to the benefit of the Owners by reason of Section 19 of the Lease), 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 pursuant to the provisions of the Lease, whether as rent, casualty payment, indemnity (except such amounts of indemnity payable to or receivable by the Owners pursuant to Section 15 of the Lease), liquidated damages, or otherwise (such moneys are called the "Payments"), and the right to make all waivers and agreements and to give all notices, consents and releases (subject to Section 12 hereof), 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 the Lessor is or may become entitled to do under the Lease. Notwithstanding the foregoing, Payments shall not be deemed to include (i) payments made by the Lessee to the Lessor pursuant to Sections 5 and 8 and the second paragraph of Section 9 of the Lease (except indemnification payments intended to satisfy the obligations of the Lessor to indemnify the Vendor pursuant to Article 5 of the RCSA or the obligation of the Lessee to indemnify the Vendor in its capacity as assignee of the Lease and except to the extent that the Lessor is obligated to pay and discharge claims, liens, charges or security interests under Paragraph 9 of this Assignment), and (ii) payments made by the Lessee to the Lessor in its individual capacity pursuant to Sections 5 and 8 of the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name or in the name of its nominee or in the name of the Lessor or as its attorney to demand, sue for and receive any and all sums 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 Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the RCSA due and payable at the time such Payments are due and payable under the Lease, and so long as no event of default (or event which with notice or lapse of time or both could constitute an event of default) under the RCSA shall have occurred and be continuing, any balance shall be paid to the Lessor or to such other party as the Lessor may direct in writing, in immediately available funds, not later than the first business day following receipt of such balance. If

the Vendor shall not receive any rental payment under Section 2 of the Lease when due, the Vendor shall promptly notify the Lessor and the Owners at the addresses set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the RCSA.

2. No Assumption of Lessor's Liabilities. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to or in any way affect or modify the liability of the Lessor under the Lease, it being agreed that all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee and its successors and assigns against and only against the Lessor or persons other than the Vendor.

3. No Modification of Lease Without Vendor's Consent. The Lessor agrees that, without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive 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 amending or terminating the Lease and the Lessor agrees that any amendment or termination thereof without such consent shall be void; provided, however, that the Lessor may amend or supplement the Lease to provide for an increase or decrease of amounts due as rentals under Section 2 thereof and/or Casualty Values under Section 6 thereof, provided that no such decrease shall reduce said amounts below that which are necessary to satisfy the obligations of the Lessor under the RCSA.

4. Vendor To Act for Lessor. The Lessor hereby constitutes the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor or otherwise), to demand and receive any and all Payments to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments in connection therewith and to file any claims or take any action or institute any proceedings which the Vendor may deem to be necessary or advisable.

5. Termination of Assignment. Upon the full discharge and satisfaction of all the Lessor's obligations under the RCSA and the Participation Agreement (without giving effect to any limitations of liability contained therein), this Assignment and all rights herein assigned to the Vendor shall terminate, and all right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. Event of Default Under RCSA. If an event of default under the RCSA shall occur and be continuing, the Vendor may declare all sums secured hereby immediately due and payable and may apply all such sums against the amounts due and payable under the RCSA.

7. Filing. The Lessor will, from time to time, perform any other act and will execute, acknowledge, deliver and file (and will refile) any and all further instruments required by law and reasonably requested by the Vendor in order to confirm or further assure the interests of the Vendor hereunder.

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

9. Liens. The Lessor will pay and discharge any and all taxes, claims, liens, charges or security interests (other than those created by the RCSA) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the RCSA or the Lease

(but including tax liens arising out of the receipt by or for the account of the Lessor of the rentals and other payments under the Lease and any other proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect such interests of the Vendor.

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

11. Notices. The Lessor shall cause copies of all notices received by it in connection with the Lease and all Payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the RCSA or at such other address as the Vendor shall designate.

12. No Action by Vendor Without Event of Default. The Vendor agrees that it will not, so long as no Event of Default under the Lease or event of default under the RCSA has occurred and is continuing, exercise or seek to exercise any of the rights, powers, privileges or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the RCSA, the Lessor may, so long as no event of default under the RCSA or Event of Default under the Lease has occurred and is continuing, exercise or seek to exercise such rights, powers, privileges, authorizations or benefits; provided, however, that the Lessor shall not take any action which would terminate the Lease without the prior written consent of the Vendor.

13. Retained Rights of Lessor; Limitation of Liability. Notwithstanding any other provision of this Assignment (including but not limited to any provision of the first paragraph of Paragraph 1 and Paragraph 3 hereof), (a) the terms of this Assignment shall not impose any obligations on the Lessor in addition to the obligations of the Lessor under the Lease or under the RCSA or in any way limit the effect of the last paragraph of Article 3 of the RCSA or Article 21 of the RCSA, (b) so long as there is no event

of default under the RCSA, and to the extent that the Vendor does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Lessor under the RCSA, the terms of this Assignment shall not limit or in any way affect the Lessor's right to receive and collect any Payments under the Lease in excess of the obligations of the Lessor under the RCSA or empower the Vendor in any way to waive or release the Lessee's obligation to pay such excess amounts, and the Lessor shall continue to be empowered to demand, sue for and receive any and all of such excess amounts, but shall not take any action under the second subparagraph (b) of Section 9 of the Lease without the prior written consent of the Vendor and (c) each and all of the warranties, representations, undertakings and agreements herein made on the part of the Lessor are made and intended not as personal representations, warranties, undertakings and agreements by The Connecticut Bank and Trust Company or for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding only the Trust Estate (as such term is used in the Trust Agreement), and this Assignment is executed and delivered by said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under the Trust Agreement, and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, except for wilful misconduct or gross negligence on the part of said Bank, or against the Owners hereunder (except pursuant to Section 1.03 and the last paragraph of Section 5.01 of the Trust Agreement) or on account of any representation, warranty, undertaking or agreement of said bank or the Owners, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under it making claim hereunder may look to said Trust Estate for satisfaction of the same.

14. Execution. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first set forth above, the actual dates of execution are the dates stated in the acknowledgments hereto.

15. Headings. Section headings have been provided

for convenience only and do not form part of this instrument.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized officers as of the date first set forth above.

THE CONNECTICUT BANK AND TRUST  
COMPANY, not in its individual  
capacity but solely as Trustee,

[Corporate Seal]

by

Attest:

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Authorized Officer

MERCANTILE-SAFE DEPOSIT AND TRUST  
COMPANY, not in its individual  
capacity but solely as Agent,

[Corporate Seal]

by

Attest:

\_\_\_\_\_  
Assistant Vice President

\_\_\_\_\_  
Corporate Trust Officer

STATE OF CONNECTICUT, )  
 ) ss.:  
COUNTY OF HARTFORD, )

On this            day of            1980, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is            of THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, 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 MARYLAND, )  
 ) ss.:  
CITY OF BALTIMORE, )

On this            day of            1980, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, 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

## LESSEE'S CONSENT AND AGREEMENT

THE WESTERN PACIFIC RAILROAD COMPANY (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Assignment"), hereby acknowledges receipt of a copy of the Assignment and consents to all the terms and conditions of the Assignment and agrees that:

(1) it will pay all Payments (as defined in the Assignment) payable under the Lease directly to Mercantile-Safe Deposit and Trust Company, as Agent (the "Vendor"), the assignee named in the Assignment, by 10:00 a.m. Baltimore time on the date such payment is due, by bank wire transfer of immediately available funds to The Annapolis Banking and Trust Company, Main Street and Church Circle, Annapolis, Maryland, for credit to the Agent's Account No. 52076-1, with a request that The Annapolis Banking and Trust Company advise Mrs. K. M. Tollberg, Assistant Vice President, Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, that the funds are "RE: WP 3/15/80" (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of and to receive and enforce performance of all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor and the Vendor shall not by virtue of the Assignment become subject to any liability or obligation under the Lease or otherwise; and

(3) the Lease shall not, without the prior written consent of the Vendor, be amended or terminated, nor shall any action be taken or omitted by the Lessee which might result in an alteration or impairment of the Lease, the Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement shall be construed in accordance with the laws of the State of California.

Dated as of March 15, 1980

THE WESTERN PACIFIC RAILROAD  
COMPANY,

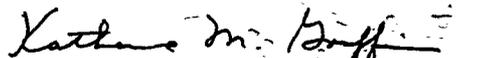
[Corporate Seal]

by



Senior Vice President-Finance

Attest:

  
Assistant Secretary