

ITEL

September 28, 1988

Istel Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000

Hon. Noretta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 20423

RECORDATION NO. 11922-A FROM 1988

OCT 6 1988 3 44 PM

INTERSTATE COMMERCE COMMISSION

Re: Amendment No. 2 to Lease Agreement dated March 18, 1980,
between Istel Railcar Corporation and Texas Oklahoma &
Eastern Railroad Company

Dear Ms. McGee:

On behalf of Istel Rail Corporation, the above instrument, in three (3) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$13 recordation fee.

Please record this Amendment under the Lease Agreement dated March 18, 1980, between Istel Railcar Corporation, as successor in interest to Evans Railcar Leasing Company, and Texas Oklahoma & Eastern Railroad Company, which was filed with the ICC on June 23, 1980, under Recordation No. 11922.

The parties to the aforementioned instrument are listed below:

Istel Railcar Corporation (Lessor)
55 Francisco Street
San Francisco, California 94133

Texas Oklahoma & Eastern Railroad Company (Lessee)
412 E. Lockesburg
DeQueen, Arkansas 71832

This Amendment provides for priority loading of cars bearing reporting marks TOE 4500-4524 and TOE 8000-8074 over cars bearing reporting marks TOE 4100-4324 (n.s.).

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

Very truly yours,



Patricia Schumacker
Legal Department

AMENDMENT NO. 2 OCT 6 1988-3 20 PM

THIS AMENDMENT NO. 2 (the "Amendment") to the ~~Lease Agreement~~ ^{INTERSTATE COMMERCE COMMISSION} dated as of March 18, 1980, as amended, (the "Agreement") between ITEL RAILCAR CORPORATION, as successor in interest to Evans Railcar Leasing Company ("Lessor"), and TEXAS, OKLAHOMA AND EASTERN RAILROAD COMPANY ("Lessee") is made as of this 16th day of September, 1988 between Lessor and Lessee.

R E C I T A L S:

- A. Lessor and Lessee are parties to the Agreement pursuant to which two hundred twenty-five flatcars (the "Cars") described therein have been leased by Lessor to Lessee.
- B. The five (5) Cars bearing reporting marks TOE 4118, TOE 4155, TOE 4176, TOE 4263 and TOE 4295 were destroyed on March 23, 1983, May 1, 1982, February 26, 1987, February 26, 1987 and March 23, 1983, respectively.
- C. The parties desire to amend the terms of Section 5 and Section 9 of the Agreement to allow Lessee to load the railcars bearing the reporting marks TOE 4500-4524 and TOE 8000-8074 prior to loading the Cars and to amend Lessor's rights to withdraw Cars under the Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree to amend the Agreement as follows:

1. All terms defined in the Agreement shall have the meanings defined therein when used in this Amendment.
2. The defined word "United" is replaced by the word "Lessor" each time it appears in the Agreement.
3. A new sentence as set forth below is added to Section 5 of the Agreement immediately following the fourth sentence of such Section:

"If Lessee demonstrates to Lessor that the Cars are below ~~average~~ average utilization as a result of Lessee loading the flatcars bearing the reporting marks TOE 4500-4524 and TOE 8000-8074 ('Centerbeam Cars'), then Lessee is not required to take action to increase the utilization of the Cars to ~~average~~ to the extent that the utilization was lowered by use of the Centerbeam Cars. Notwithstanding anything in this Section 5 to the contrary, Lessee shall have no obligation to load the Cars prior to loading the Centerbeam Cars regardless of the utilization of the Cars."

4. Section 9 of the Agreement is hereby deleted and replaced with the following:

"This Agreement shall terminate upon expiration of its term, at the election of either party hereto by reason of default or breach of the other party in the terms

hereof, or upon the election of Lessor as hereinafter provided. If at any time during a calendar quarter, the number of days that the Cars have not earned car hire payments is such as to make it mathematically certain that the utilization in such calendar quarter cannot be equal to or greater than [REDACTED], Lessor may, at its option and upon not less than thirty (30) days' prior written notice to Lessee, terminate from the Agreement enough Cars in increments of [REDACTED] Cars each to cause the utilization for such period, after giving effect to the removal of such Cars, to be equal to just above or [REDACTED]; provided, however, that prior to such termination Lessee shall have the option of paying to Lessor an amount equal to the difference between the amount Lessor actually received during said calendar quarter and the amount Lessor would have received had a utilization rate for the Cars of [REDACTED] been achieved. Lessee shall at the termination of the Agreement with respect to any Cars return such Cars to Lessor in the same condition (except as to Casualty Cars) in which the Cars were furnished and maintained by Lessor during the term hereof, ordinary wear and tear excepted. Upon the termination of this Agreement with respect to any or all Cars, Lessee shall at its sole cost and expense forthwith surrender possession of such Cars to Lessor at a point to be designated by Lessor. If requested by Lessor, Lessee shall provide free storage for a period of up to twenty (20) days for Cars as to which the Agreement is terminated, provided that risk of loss during such storage shall be Lessor's. This Agreement may be terminated as to all Cars or as to any group of Cars covered by a Schedule without termination of the Agreement as to Cars covered by any other Schedule. From and after termination of this Agreement with respect to any Car and until its return to Lessor, all amounts earned by such Car shall be paid to Lessor as additional rental for use of the Cars during the term hereof."

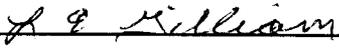
5. The number of Cars on the Schedule to the Agreement is reduced from 225 to 220.
6. The Reporting Numbers and Marks on the Schedule to the Agreement are: TOE 4100-4117, TOE 4119-4154, TOE 4156-4175, TOE 4177-4262, TOE 4264-4294, and TOE 4296-4324.
7. Except as expressly modified by the Amendment, all terms and provisions of the Agreement shall remain in full force and effect with respect to all of the Cars subject to the Agreement.

8. This Amendment may be executed by the parties hereto in any number of counterparts, and all said counterparts taken together shall be deemed to constitute one and the same instrument.

ITEL RAILCAR CORPORATION

**TEXAS, OKLAHOMA AND EASTERN RAILROAD
COMPANY**

By: 
Title: President
Date: 9-16-88

By: 
Title: V P & Gen Mgr
Date: 9-8-88

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

On this 16th day of September, 1988, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Railcar Corporation, that the foregoing Amendment No. 2 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said of corporation.

Sharon L. Van Fossan
Notary Public



STATE OF Oklahoma)
) ss:
COUNTY OF Garland)

On this 8th day of September, 1988, before me personally appeared RE Geelhan, to me personally known, who being by me duly sworn (says that such person is W & Gen Hqs of Texas, Oklahoma and Eastern Railroad Company that the foregoing Amendment No. 2 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said of corporation.

Regina M Miller
Notary Public

My Commission Expires 5-13-95