

# BRAE CORPORATION

RECORDATION NO. 9875-B, C, D, E, F Filed 1423

March 1, 1979

MAR 5 1981 10 40 AM

INTERSTATE COMMERCE COMMISSION

H. G. Homme, Jr.  
Secretary  
Interstate Commerce  
Commission  
Washington, D.C. 20423

Dear Sir:

Enclosed for filing and recordation pursuant to former Section 20c of the Interstate Commerce Act, 49 U.S.C. § 11303, are the following Lease Agreements relating to the railroad equipment described and marked in accordance with Schedule I attached hereto:

- (1) Lease Agreement dated as of June 23, 1978 between BRAE Corporation and Ashley, Drew & Northern Railway Company, including Equipment Schedules Nos. 1 and 2 thereto. ✓
- (2) Lease Agreement dated as of March 8, 1978 between BRAE Corporation and Port of Tillamook Bay Railroad, including Equipment Schedule No. 1 and Rider No. 1 thereto. ✓
- (3) Lease Agreement dated as of July 21, 1978 between BRAE Corporation and Delta Valley & Southern Railway Company, including Equipment Schedule 1 and Rider No. 1 thereto. ✓
- (4) Lease Agreement dated as of June 26, 1978 between BRAE Corporation and Galveston Wharves, including Equipment Schedule No. 1 thereto. ✓
- (5) Lease Agreement dated as of July 14, 1978 between BRAE Corporation and Sierra Railroad Company, including Equipment Schedule No. 1 and Rider No. 1 thereto, and Amendment No. 1 dated as of December 8, 1978. ✓

*Letter of Connection Filed  
4/23/81*

The names and addresses of the parties of the above transactions are as follows:

(1) Lease Agreement

- (a) Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111
- (b) Lessee: Ashley, Drew & Northern  
Railway Company  
Crossett, Arkansas 71635
- (c) Assignee: Morgan Guaranty Trust Company  
of New York  
30 West Broadway  
New York, New York 10015

(2) Lease Agreement

- (a) Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111
- (b) Lessee: Port of Tillamook Bay Railroad  
Tillamook, Oregon 97141
- (c) Assignee: Morgan Guaranty Trust Company  
of New York  
30 West Broadway  
New York, New York 10015

(3) Lease Agreement

- (a) Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111
- (b) Lessee: Delta Valley & Southern  
Railway Company  
Wilson, Arkansas 72395
- (c) Assignee: Morgan Guaranty Trust Company  
of New York  
30 West Broadway  
New York, New York 10015

(4) Lease Agreement

- (a) Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111
- (b) Lessee: Galveston Wharves  
Galveston, Texas
- (c) Assignee: Morgan Guaranty Trust Company  
of New York  
30 West Broadway  
New York, New York 10015

(5) Lease Agreement

- (a) Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111
- (b) Lessee: Sierra Railroad Company  
Sonora, California 95370
- (c) Assignee: Morgan Guaranty Trust Company  
of New York  
30 West Broadway  
New York, New York 10015

BRAE Corporation, the corporation which originally executed the Lease Agreements, was merged into its wholly-owned subsidiary, Brae Corporation (then known as BraeLease Corporation), on September 27, 1978. Pursuant to such merger, Brae Corporation assumed all of the rights and obligations of BRAE Corporation. Accordingly, Brae Corporation, as the successor to BRAE Corporation, is now party to the Lease Agreements.

Brae Corporation's interest in the enclosed Lease Agreements was assigned to the Trustee under an Equipment Trust Agreement dated as of November 1, 1978 between Morgan Guaranty Trust Company of New York, as Trustee, and Brae Corporation, which was duly filed and recorded at 11:05 a.m. on November 30, 1978 and assigned recordation number 9875.

H. G. Homme, Jr.

-4-

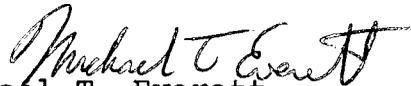
March 1, 1979

Also enclosed is a check payable to the Interstate Commerce Commission in the amount of \$250, the prescribed fee for filing and recordation of the enclosed Lease Agreements.

Please file and record the enclosed Lease Agreements under the first available subletters under Recordation No. 9875, and cross index them under the names of the Lessor (Brae Corporation, BraeLease Corporation and BRAE Corporation), the Lessee and the Assignee.

Return to the person presenting this letter, together with your letter confirming such filing and recordation and your fee receipt therefor, all copies of the enclosed documents not required for filing.

Very truly yours,



Michael T. Everett  
Assistant Secretary

SCHEDULE I

<u>Lease</u>	<u># of Boxcars</u>	<u>Date of Lease</u>	<u>Term</u>	<u>Equipment Identification Numbers (Both Inclusive)</u>
Oregon, Pacific & Eastern Railway Company	100 XM	3/29/78	15 Years	OPE 15101- OPE 15200
Ashley, Drew & Northern Railway Company	300 XM 300 XP	9/26/78	15 Years	ADN 9400-9699 ADN 5600-5899
Port of Tillamook Bay	50 XM	3/17/78	15 Years	POTB 101-150
Delta Valley & Southern Railway Company	50 XM	8/4/78	15 Years	DVS 1001-1050
Galveston Wharves	250 XM	10/23/78	15 Years	GSF 1001-1250
Sierra Railroad Company	50 XM	7/26/78	15 Years	SERA 5000-5049

**BRAE CORPORATION**

9-033AC10

RECORDATION NO. 9875-C Filed 1425

MAR 5 1979-10 40

Date MAR 05 1979

Fee \$ 250.00

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 9875-D Filed 1425

MAR 5 1979-10 40

INTERSTATE COMMERCE COMMISSION

March

RECORDATION NO. 9875-E Filed 1425

MAR 5 1979-10 40

INTERSTATE COMMERCE COMMISSION

CC Washington, D. C.

H. G. Homme, Jr.  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

RECORDATION NO. 9875-F Filed 1425

MAR 5 1979-10 40

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 9875-B Filed 1425

MAR 5 1979-10 40

INTERSTATE COMMERCE COMMISSION

Dear Sir:

Enclosed for filing and recording pursuant to former Section 20c of the Interstate Commerce Act, 49 U.S.C. § 11303, is a First Amendment dated as of March 1, 1979 to an Equipment Trust Agreement dated as of November 1, 1978 between Morgan Guaranty Trust Company of New York, as Trustee, and Brae Corporation relating to the railroad equipment described and marked in accordance with Schedule I attached hereto. The Equipment Trust Agreement was duly filed and recorded at 11:05 a.m. on November 30, 1978 and assigned recordation No. 9875.

The names and addresses of the parties to the First Amendment are as follows:

- (a) Trustee: Morgan Guaranty Trust Company  
of New York  
30 West Broadway  
New York, New York 10015
- (b) Company: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111

Also enclosed is a check payable to the order of the Interstate Commerce Commission in the amount of \$10 for the filing fee. Please file and record the First Amendment and cross-index it under the names of the Trustee and the Company (Brae Corporation, BraeLease Corporation and BRAE Corporation). Kindly return to the person present-

NO 11 1979

11 1979

*Handwritten signatures and notes on the left margin, including 'Baldrey' and 'Donald'.*

SCHEDULE I

<u>Lease</u>	<u># of Boxcars</u>	<u>Date of Lease</u>	<u>Term</u>	<u>Equipment Identification Numbers (Both Inclusive)</u>
Oregon, Pacific & Eastern Railway Company	100 XM	3/29/78	15 Years	OPE 15101- OPE 15200
Ashley, Drew & Northern Railway Company	300 XM 300 XP	9/26/78	15 Years	ADN 9400-9699 ADN 5600-5899 ✓
Port of Tillamook Bay	50 XM	3/17/78	15 Years	POTB 101-150 ✓
Delta Valley & Southern Railway Company	50 XM	8/4/78	15 Years	DVS 1001-1050 ✓
Galveston Wharves	250 XM	10/23/78	15 Years ✓	GWF 1001-1250 ✓
Sierra Railroad Company	50 XM	7/26/78	15 Years	SERA 5000-5049 ✓

Interstate Commerce Commission  
Washington, D.C. 20423

3/5/79

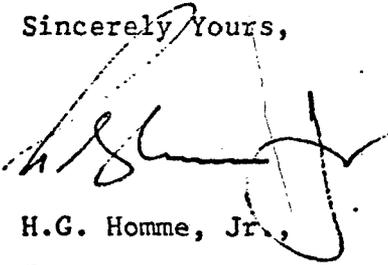
OFFICE OF THE SECRETARY

Michael F. Everett  
Assistant Secretary  
Inco Corporation  
Three Embarcadero Center  
San Francisco, Calif. 94111

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 3/5/79 at 10:40am, and assigned recordation number(s) 9875-A, 9875-C, 9875-D, 9875-E, 9875-F

Sincerely Yours,



H.G. Homme, Jr.,  
Secretary

Enclosure(s)

SE-30-T  
(2/78)

# STEPTOE & JOHNSON

1250 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

(202) 862-2000

TELEX: 89-2503

WRITER'S DIRECT DIAL NUMBER

(202) 862-2053

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WILLIAM E. MILLER  
HENRY WEAVER  
STEPHEN AILES  
HENRY C. IKENBERRY  
LAIDLER B. MACKALL  
RICHARD A. WHITING  
ROBERT J. CORBER  
CALVIN H. COBB, JR.  
STANLEY C. MORRIS, JR.  
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MONROE LEIGH  
RICHARD P. TAYLOR  
JOHN E. NOLAN, JR.  
ROBERT D. WALLICK  
THOMPSON POWERS  
WILLIAM K. CONDRILL  
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MARTIN D. SCHNEIDERMAN  
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MARK JAY SILVERMAN  
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THOMAS P. BARLETTA  
CHARLENE BARSHFESKY  
JOHN M. BRYSON, II  
EDMUND BURKE  
DARYL A. CHAMBLEE  
CHARLES G. COLE  
SALLY J. CUMMINS  
ELLEN D'ALELIO  
SUSAN DILLON  
SUSAN G. ESSERMAN  
STEPHEN A. FENNELL  
THOMAS M. GANNON  
BETH GOLDBERG  
MARK B. GOODWIN  
W. GEORGE GRANDISON  
JAMES V. HACKNEY, III  
DOUGLAS C. HERBERT  
MORGAN D. HODGSON  
CLIFFORD G. HOLDERNESS  
ALAN F. HOLMER  
GARY N. HORLICK  
MARK F. HORNING  
DAVID M. IFSHIN

DEBORAH D. KENNEDY  
LOREN KIEVE  
JANET LAMMERSEN KUHN  
CHARLES J. LANDY  
ABBOTT B. LIPSKY, JR.  
KENNETH D. LUDWIG  
CHRISTOPHER T. LUTZ  
LIZBETH LYONS  
SUZANNE ROSS McDOWELL  
ELLEN MARIE McNAMARA  
LOUISE A. MATHEWS  
ALICE MATTICE  
MICHAEL C. MILLER  
MARGUERITE S. MILLHAUSER  
MARLYN MOHRMAN-GILLIS  
JEFFREY P. MORAN  
F. JOSEPH NEALON  
PAUL J. ONDRASIK, JR.  
SAMUEL T. PERKINS  
BEVERLY PURDUE  
SALLY J. SCHORNSTHEIMER  
CAROL M. SCHWAB  
SUSAN H. SERLING  
DIANE L. SILBERSTEIN  
SAMUEL M. SIPE, JR.  
CHERYL A. SKIGIN  
VALERIE AMY SLATER  
JESSIE C. SOUTHWICK  
HELEN POLLOCK STARR  
GARY G. STEVENS  
LAURA E. STONE  
RALPH A. TAYLOR, JR.  
E. PAMELA TROW  
TIMOTHY M. WALSH  
MAUREEN WARD  
PETER L. WELLINGTON  
OLIN WETHINGTON  
JAMES R. YOUNG

April 17, 1981

Mrs. Mildred R. Lee  
Interstate Commerce Commission  
Room 2303  
12th Street and Constitution Avenue  
Washington, D.C. 20423

Dear Mrs. Lee:

I recently discovered an error in the recordation file and indexing of one of the financial transactions filed on behalf of our client Brae Corporation under recordation 9875. As a result, several leases filed on March 5, 1979, have not been appropriately indexed in the ICC files. To assure the availability of these documents to any party searching the recordation files, it is requested that the appropriate indexing be accomplished as soon as possible.

On March 5, 1979, five leases were filed bearing the recordation numbers 9875-B, 9875-C, 9875-D, 9875-E, and 9875-F. At the time of filing, two transmittal letters were inadvertently included with the documents. One referred to the leases mentioned above and the second referred to another document which was not filed until two days later. While a copy of the correct transmittal letter was stamped and returned with the stamped copies of the documents, the second transmittal letter describing a different document was retained by the ICC for filing purposes. Therefore, when the documents were indexed, a notation of the leases, names and the respective car numbers was not included in the ICC indexing system.

Mrs. Mildred R. Lee  
April 17, 1981  
Page Two

Attached hereto is a copy of the original transmittal letter, stamped on March 5, 1979 listing the documents and appropriate indexing instructions. Please insert this transmittal letter in the file and index the leases pursuant to the instructions contained therein.

If this procedure presents any problems, please call me at your earliest convenience.

Sincerely,

  
Cheryl A. Skigin

Enclosure

LEASE AGREEMENT

RECORDATION NO. 9875-B Filed 1425

MAR 5 1979 -10 40

THIS LEASE AGREEMENT, made as of this 23 day of June, 1978, between BRAE Corporation, Three Embarcadero Center, San Francisco, CA. 94111 a California Corporation, (Lessor), as Lessor, and Ashley, Drew & Northern Railway Company, Crossett Arkansas, an Arkansas Corporation (Lessee) as Lessee.

INTERSTATE COMMERCE COMMISSION

1. Scope of Agreement

A. BRAE agrees to lease to Lessee and Lessee agrees to lease from BRAE, boxcars and/or other railroad equipment of the types and descriptions as set forth in any lease schedules executed by the parties concurrently herewith or hereafter and made a part of this Agreement. The word "Schedule" as used herein includes the Schedule or Schedules executed herewith and any additional Schedules and amendments thereto whether for boxcars or other railroad equipment, each of which when signed by both parties shall be a part of this Agreement. The scheduled items of equipment are hereinafter called collectively the "Boxcars".

B. It is the intent of the parties to this Agreement that BRAE shall at all times be and remain the lessor of all Boxcars. Lessee agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and that it will take such action and execute such documents as may be necessary to accomplish this intent.

C. BRAE and Lessee agree that, as between themselves, Lessee shall be entitled to claim the benefits of any available Investment Tax Credit for Federal Income Tax purposes in connection with the acquisition of all the Boxcars on Equipment Schedules Nos. 1 and 2 of the Agreement. Such Boxcars shall be new equipment when delivered to Lessee hereunder and BRAE agrees to execute such documents or otherwise cooperate in such ways as may be required to permit Lessee to claim any Investment Tax Credits relating to such Boxcars.

2. Term

A. This Agreement shall remain in full force until it shall have been terminated as to all of the Boxcars as provided herein. The term of lease with respect to all of the Boxcars described on each Schedule shall be for fifteen (15) years commencing upon the date when all Boxcars on such Schedule have been delivered as set forth in Section 3A hereof.

B. If this Agreement has not been earlier terminated and no default has occurred and is continuing, it shall automatically be extended for not more than five separate and consecutive periods of twelve months each with respect to all of the Boxcars described on each Schedule, provided, however, that BRAE or

Lessee may terminate this Agreement as to all, but not fewer than all, of the Boxcars on any such Schedule by written notice delivered to the other not less than twelve months prior to the end of the initial lease term or any extended lease term.

### 3. Supply Provisions

A. BRAE will inspect each of the Boxcars tendered by the manufacturer for delivery to Lessee. Prior to such inspection, however, Lessee shall confirm in writing to BRAE that the sample Boxcar which will be made available for Lessee's inspection prior to the commencement of deliveries conforms to the specifications of the equipment as shown in the Schedule. Upon such approval by Lessee and BRAE's determination that the Boxcar conforms to the specifications ordered by BRAE and to all applicable governmental regulatory and AAR specifications, and this Agreement has not been terminated, BRAE will accept delivery thereof at the manufacturer's facility and shall notify Lessee in writing of such acceptance. Each of the Boxcars shall be deemed delivered to Lessee upon acceptance by BRAE. The Boxcars shall be moved to Lessee's railroad line at no cost to Lessee as soon after acceptance of delivery by BRAE as is consistent with mutual convenience and economy, in a manner which is acceptable to the Lessee. Notwithstanding that Lessee may not have immediate physical possession of the Boxcars leased hereunder, Lessee agrees to pay to BRAE the rent set forth in this Agreement. To move the Boxcars to Lessee's railroad line and insure optimal use of the Boxcars after the first loading of freight for each Boxcar on the railroad line of Lessee (the "initial loading"), BRAE agrees to assist Lessee in monitoring Boxcar movements and, when deemed necessary by Lessee and BRAE, to issue movement orders with respect to such Boxcars to other railroad lines in accordance with ICC and AAR interchange agreements and rules.

B. With respect to placement for loading by shippers on Lessee's railroad tracks, Lessee shall place the Boxcars prior to loading all boxcars subsequently leased or purchased by Lessee or interchanged with railroads; provided, however, that this shall in no event prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor to shippers on its railroad tracks.

C. Additional Boxcars may be leased from BRAE by Lessee only upon the mutual agreement of the parties hereto. Upon such agreement, such additional Boxcars shall be identified in Schedules to this Agreement and shall benefit from and be subject to this Agreement upon execution of the Schedules by BRAE and Lessee.

#### 4. Railroad Markings and Record Keeping

A. BRAE and Lessee agree that on or before delivery of any Boxcars to Lessee, said Boxcars will be lettered with the railroad markings of Lessee and may also be marked with the name and/or other insignia used by Lessee. Such name and/or insignia shall comply with all applicable regulations.

B. Lessee shall, or if requested by Lessee, BRAE shall at no cost to Lessee, during the term of this Agreement prepare for Lessee's signature and filing all documents relating to the registration, maintenance and record keeping functions involving the Boxcars. Such documents shall include but are not limited to the following: (i) appropriate AAR documents including (at Lessee's option) an application for relief from AAR Car Service Rules 1 and 2; (ii) registration in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; and (iii) such reports as may be required from time to time by the ICC and/or other regulatory agencies.

C. Each Boxcar leased hereunder shall be registered at no cost to Lessee in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. Lessee shall perform all record keeping functions related to the use of the Boxcars by Lessee and other railroads in accordance with AAR railroad interchange agreements and rules, such as car hire reconciliation unless Lessee elects BRAE to perform these record keeping functions without cost to Lessee. Correspondence from railroads using such Boxcars shall be addressed to Lessee at such address as Lessee, or BRAE at Lessee's request, shall select.

D. All record keeping performed by Lessee or BRAE as the case may be, hereunder and all record of payments, charges and correspondence related to the Boxcars shall be separately recorded and maintained by Lessee or BRAE in a form suitable for reasonable inspection by the other from time to time

during regular business hours of the party maintaining the records. Lessee shall supply BRAE with such reports; including daily telephone reports of the number of Boxcars on Lessee's tracks, regarding the use of the Boxcars by Lessee on its railroad line as BRAE may reasonably request.

5. Maintenance, Taxes and Insurance

A. Except as otherwise provided herein, BRAE will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each of the Boxcars during its lease term and any extension thereof, including but not limited to repairs, maintenance, inspection and servicing, unless the same was occasioned by the fault of Lessee while such Boxcar is in the physical possession of Lessee. Lessee shall inspect all Boxcars interchanged to it to insure that such Boxcars are in good working order and condition and shall be liable to BRAE for any repairs required for damage not noted at the time of interchange. Lessee hereby transfers and assigns to BRAE for and during the lease term of each Boxcar all of its right, title and interest in any warranty in respect to the Boxcars. All claims or actions on any warranty so assigned shall be made and prosecuted by BRAE at its sole expense and Lessee shall have no obligation to make any claim on such warranty. Any recovery under such warranty shall be payable solely to BRAE, providing however, if Lessee sustains any damages as a result of any breach of warranty on said Boxcars, this assignment shall not be effective but BRAE and Lessee shall have joint right, title and interest to said warranty and to any such recovery thereunder as their interests may appear.

B. Except as provided above, BRAE shall make or cause to be made such inspections of, and maintenance and repairs to, the Boxcars as may be required, including, but not limited to, requirements of any governmental or AAR regulations. Upon request of BRAE, Lessee shall perform, for BRAE's account, any necessary maintenance and repairs to Boxcars on Lessee's railroad tracks as may be reasonably requested by BRAE and which Lessee has, in its opinion, the ability to perform. BRAE shall also make, at its expense, all alterations, modifications or replacement of parts, as shall be necessary to maintain the Boxcars in good operating condition throughout the term of the lease of such Boxcars. Lessee may make running repairs to facilitate continued immediate use of a Boxcar, but shall not otherwise make any repairs, alterations, improvements or additions to the Boxcars without BRAE's prior written consent.

If Lessee makes an alteration, improvement or addition to any Boxcar without BRAE's prior written consent, Lessee shall be liable to BRAE for any revenues lost due to such alteration. Title to any such alteration, improvement or addition shall be and remain with BRAE.

C. Lessee will at all times while this Agreement is in effect be responsible for the Boxcars while on Lessee's railroad tracks in the same manner that Lessee is responsible under Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Service Rules-- Freight for cars not owned by Lessee on Lessee's railroad tracks. Lessee shall protect against the consequences of an event of loss involving the Boxcars while on Lessee's railroad tracks by either obtaining insurance or maintaining a self insurance program which conforms to sound actuarial principles. If Lessee elects to carry insurance, it shall furnish BRAE concurrently with the execution hereof and thereafter at intervals of not more than 12 calendar months with a certificate of insurance with respect to the insurance carried on the Boxcars signed by an independent insurance broker. All insurance shall be taken out in the name of Lessee and BRAE (or its assignee) as their interests may appear.

D. BRAE agrees to reimburse Lessee for all taxes, assessments and other governmental charges of whatsoever kind or character paid by Lessee relating to each Boxcar and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Boxcar to Lessee or which may be accrued, levied, assessed or imposed during the lease term, except taxes on income imposed on Lessee. BRAE shall forward to Lessee all sales and use tax payments received by it on behalf of Lessee. BRAE and Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Boxcars. BRAE shall review all applicable tax returns prior to filing, it being understood that such review will be made in a prompt fashion in order to prevent late filings and charges.

E. BRAE will at all times while this Agreement is in effect and at its own expense cause to be carried and maintained, liability insurance in an amount and coverage satisfactory to Lessee. Such insurance shall be taken out in the name of BRAE and Lessee as their interests may appear. The policies

or certificates shall provide that there shall be no recourse against Lessee for the payment of premiums, and shall provide for at least ten (10) business days' prior written notice to be given to Lessee by the underwriters in the event of cancellation or changes in amounts or coverages. If BRAE shall default in the payment of any premium in respect of any such insurance policies, Lessee may, but shall not be obligated to, pay such premium, and deduct the amount of such premium or premiums from the Rental Charges.

6. Lease Rental

A. Lessee agrees to pay the following rental charges as full payment for the use of the Boxcars and BRAE's performance hereunder:

(i) BRAE shall receive all payments made to Lessee by other railroad companies for their use or handling of the Boxcars, including but not limited to mileage charges, straight car hire payments and incentive car hire payments (all of which payments made to Lessee are hereinafter collectively referred to as "payments"). For the purpose of this Agreement, utilization of the Boxcars shall be determined by a fraction, the numerator of which is the aggregate number of days in each calendar year that car hire payments are earned by Lessee on the Boxcars, and the denominator of which is the aggregate number of days in each year that the Boxcars are on lease to Lessee (such term referred to as "utilization").

(ii) It is the intent of the parties to this Agreement that the 300 Boxcars described in Equipment Schedule No. 2 dated as of the date hereof and bearing the identifying numbers ADN 5600 through 5899 ("XP Boxcars") will be used in assigned service off the Lessee's railroad line under AAR rules governing the assignment of freight cars. However, Lessee may, at its option, assign up to two-thirds of these XP Boxcars for loading on its own railroad line. In this event, for every two XP Boxcars assigned for loading on Lessee's railroad line, Lessee will change the mechanical designation on one of the remaining XP Boxcars, at BRAE's sole cost and expense, so as to qualify for incentive car hire payments. As long as this ratio is maintained, BRAE will receive all payments provided for in Subsection 6A (i) as stated above. The above relates to the changing of the mechanical designation of XP to XM for up to one-third of the XP Boxcars.

(iii) The rental charges payable to BRAE by Lessee shall be paid from the payments received by Lessee in the following order until BRAE receives the amounts due it pursuant to this section: (1) incentive car hire payments; (2) straight car hire payments; (3) mileage charges; and (4) other.

(iv) In the event damage beyond repair or destruction of a Boxcar has been reported in accordance with Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules -- Freight and the appropriate amount due as a result thereof is received by BRAE, said damaged or destroyed Boxcar will be removed from the coverage of this Agreement as of the date that payment of car hire payments ceased.

B. The calculations required above shall be made within five months after the end of each calendar year. However, since the parties desire that rental payments shall be made currently so that BRAE may meet its financial commitments, payments to BRAE shall be made as follows:

(i) In the event Lessee elects to perform all record keeping functions respecting the Boxcars as provided in Section 4C, Lessee will remit to BRAE in as expeditious a manner as is reasonable but no later than the first business day of the third month after the end of each month in which they are earned (the "Service Month") an amount equal to 85% of the total payments earned by the Boxcars based on usage reported for the Service Month and including actual car mileage earnings when available. At the time a Service Month's first remittance is made, Lessee shall report for the same month the dollar figure for 100% of the payments earned. An amount equal to 10% of the payments earned in the Service Month plus any adjustments shall be remitted to BRAE within 30 days after the initial payment and the remaining 5% shall be remitted to BRAE within 60 days of the initial payment. Subsequent to the final payment of a Service Month and after the Lessee has on a best efforts basis been unable to collect 100% of car hire earnings an adjustment to the Lessee's account will be made in the amount determined to be uncollectable. In the case of a bankrupt railroad an adjustment will be made to the Lessee's account in the amount determined to be uncollectable and such adjustment shall be made at the time such bankruptcy is filed. Lessee agrees to continue for a reasonable period on a best efforts basis to attempt collection of all car hire earnings.

(ii) In the event BRAE is to perform record keeping functions respecting the Boxcars as provided in Section 4C, and as a result Lessee receives car hire reports from other railroads respecting the Boxcars, Lessee shall deposit drafts or other payment forms covering car hire payments and on the 5th and 25th of each month remit all amounts collected respecting the Boxcars to BRAE. However, Lessee may deduct any payments authorized to be made by Lessee under this Agreement. Lessee shall also forward to BRAE all car hire reports respecting the Boxcars and other supporting documentation which BRAE may reasonably request.

(iii) Lessee may deduct from rent required by B (i) and B (ii) above, any amounts due Lessee authorized by this Agreement.

C. In the event a fraction, the numerator of which is the aggregate number of days that per diem is earned on the Boxcars in the immediately preceding four (4) calendar quarters commencing with the first full four (4) calendar quarters after receipt of the last Boxcar on the Schedule executed concurrently herewith, and the denominator of which is the aggregate number of days that the Boxcars were available to the Lessee during such period less the aggregate number of days the Boxcars were out of service on foreign railroads not earning car hire revenues for any reason, is less than 87.5 percent, BRAE may, at its option and upon not less than thirty (30) days prior written notice to Lessee, terminate this Agreement with respect to such number of Boxcars up to ninety (90) percent; provided, however, that prior to such termination Lessee may have the option of paying BRAE an amount equal to the difference between the amount BRAE actually received during said four (4) calendar quarters and the amount BRAE would have received had a utilization rate for the Boxcars of 87.5 percent been achieved.

D. BRAE may, at its option, terminate this Agreement upon thirty days' written notice to Lessee if the ICC shall, at any time, (1) issue an order reducing incentive car hire for Boxcars on an annual basis to three months or less without a corresponding increase in straight car hire or other monies available to both BRAE and Lessee at least equal in amount to such reduction, (2) determine that Lessee may not apply its incentive car hire receipts in payment of the rental charges set forth in this section or (3) require that Lessee spend funds not earned by the Boxcars in order for Lessee to continue to meet its obligations set forth in this section. Lessee may, in any event, terminate this Agreement without liability to BRAE if for any reason governmental regulations or orders prohibit the payment of the Rental Charges described in this Section 6.

E. Subsequent to the initial loading, if any Boxcar remains on Lessee's railroad tracks for more than seven consecutive days because Lessee has not placed said Boxcar for loading, BRAE may, at its option and upon not less than 24 hours' prior written notice, terminate this Agreement as to such Boxcar and withdraw such Boxcar from Lessee's railroad tracks. Placed for loading means Boxcar has been placed at a particular loading location where the Boxcar will be loaded. If any such Boxcar remains on Lessee's railroad tracks more than seven consecutive days because Lessee has not complied with the provisions of Section 3B, Lessee shall be liable for and remit to BRAE an amount equal to the car hire revenues Lessee would have earned if such Boxcars were in the physical possession and use of another railroad for the period such car was replaced by an out of sequence car until loaded provided however that such payments shall be included in car hire payments earned by Lessee on the Boxcars as described in those days Lessee is required to hold Boxcars at the direction of, or due to action taken or used by BRAE.

## 7. Possession and Use

A. So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Boxcars in accordance with the terms of this Agreement and in the manner and to the extent Boxcars are customarily used in the railroad freight business. Lessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by BRAE in connection with the acquisition of Boxcars, i.e., upon acknowledgement of receipt of notice to Lessee from any such secured party or owner that an event of default has occurred and is continuing under such financing agreement, such party may require that all rent shall be made directly to such party and/or that the Boxcars be returned to such party, notwithstanding however, Lessee's rights and obligations under this Lease shall not be altered in any manner. Lessee agrees that to the extent it has physical possession and can reasonably control use of the Boxcars, the Boxcars will at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance with all lawful acts, rules and regulations and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either BRAE or Lessee may in good faith and by appropriate proceedings contest the application of any such rule, regulation or order in any reasonable manner at the expense of the contesting party, and upon prior communication to the other party.

B. Lessee will not directly or indirectly create, incur or assume any mortgage, pledge, lien, charge, encumbrance or other security interest or claim on or with respect to the Boxcars or any interest therein or in this Agreement or schedule thereto. Lessee will promptly at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest or claim if the same shall arise at any time.

## 8. Default

A. The occurrence of any of the following events shall be an Event of Default:

(i) The nonpayment by Lessee or BRAE of any sum required herein to be paid by Lessee or BRAE within thirty days after the date written notice of any such payment is due.

(ii) The breach by Lessee or BRAE of any other term, covenant or condition of this Agreement, which is not cured within thirty days after written notice thereof by either party to the other.

(iii) Any affirmative act of insolvency by Lessee or BRAE, or the filing by Lessee or BRAE of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors.

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against Lessee or BRAE that is not dismissed within sixty (60) days thereafter, or the appointment of any receiver or trustee to take possession of the properties of Lessee or BRAE, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty (60) days from the date of said filing or appointment.

(v) The subjection of any of BRAE's property which is the subject of this Agreement, or any of Lessee's property, to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency.

(vi) Any action by Lessee to discontinue rail service on all or a portion of its tracks or abandon any of its rail properties pursuant to applicable provisions of the Interstate Commerce Act or the laws of any state if it would materially decrease Boxcar utilization as defined in Section 6A.

(vii) The failure of BRAE to comply with the provisions of section 4 and Section 6B.

B. Upon the occurrence of an Event of Default by Lessee, and such Event of Default is not cured within 30 days, BRAE at its option may terminate this Agreement. Upon the occurrence of an Event of Default by BRAE which has the effect of delaying for a period of greater than 30 days payments otherwise due Lessee pursuant to the terms of this Agreement or which causes Lessee to lose the right to utilize the Boxcars for a period of greater than 30 days, and such Event of Default is not cured (including the reinstatement of Lessee's right to utilize the Boxcars and the payment in full of any delayed payments) within 30 days, Lessee may at its option terminate this Agreement. Upon the occurrence of any Event of Default, BRAE or Lessee if not then in default may, at its respective option, proceed by appropriate court action to enforce performance by the defaulting party of its obligations under the terms of this Agreement or to recover damages for the breach thereof. Lessee and BRAE agree that the defaulting party shall bear the costs and expenses, including reasonable attorney's fees, of any such action. Upon an Event of Default solely of Lessee, BRAE may, by notice in writing to Lessee, terminate Lessee's right of possession of the Boxcars, whereupon all right and interest of Lessee in the Boxcars shall terminate; and thereupon BRAE may by its agent enter upon any premises where the Boxcars may be located and take possession of them and thenceforth hold, possess and enjoy the same free from any rights of Lessee. BRAE shall nevertheless have a right to recover from Lessee any and all Rental Charges which under the terms of this Agreement may then be due or which may have accrued to that date.

#### 9. Termination

A. At the expiration or termination of this Agreement as to any Boxcars, Lessee will surrender possession of such Boxcars to BRAE by delivering the same to BRAE. When all other requirements for expiration or termination have occurred, a Boxcar shall be deemed terminated and no longer subject to this Agreement upon the removal of Lessee's railroad markings from the Boxcar and the placing thereon of such markings as may be designated by BRAE, either, at the option of BRAE, (1) by Lessee upon return of such Boxcars to Lessee's railroad line or (2) by another railroad line which has physical possession of the Boxcar at the time of or subsequent to termination of the lease term as to such Boxcar. If such Boxcars are not on the railroad line of Lessee upon termination, any cost of assembling, delivering, storing and transporting such Boxcars to Lessee's railroad line or the railroad line of a subsequent lessee shall be borne by BRAE. If such Boxcars are on the railroad line of Lessee upon such expiration or termination or are subsequently returned to Lessee's railroad line, Lessee shall at its own expense (except when the termination of the Agreement is due to the fault of BRAE, then at BRAE's expense) within ten working days remove Lessee's railroad markings from the Boxcars and place thereon such minimum railroad identification markings as may be required by AAR and as designated by BRAE. After the removal and replacement of markings, Lessee shall use its best efforts to load such Boxcars with freight and deliver them to a connecting carrier for shipment. Lessee shall provide up

to ten(10) days's free storage on its railroad tracks for BRAE or the subsequent lessee of any terminated Boxcar. For any storage after the tenth day hereunder, Lessee may charge BRAE published storage charges as a reasonable cost for such storage, or may, at its option, arrange for suitable storage of such Boxcar with persons not a party to this Agreement at the sole risk, cost, and expense of BRAE. If any Boxcar is terminated pursuant to Section 8, due to the fault of Lessee, prior to the end of its lease term, Lessee shall be liable to BRAE for all costs and expenses incurred by BRAE to repaint the Boxcars and place thereon the markings and name or other insignia of BRAE's subsequent lessee.

10. Indemnities

A. BRAE will defend, indemnify and hold Lessee harmless from and against (1) any and all loss or damage of or to the Boxcars, usual wear and tear excepted, unless occurring while Lessee has physical possession of Boxcars, and (2) any claim, (patent or otherwise) cause of action, damage, liability, fines, cost or expense (including legal fees and cost) which may be asserted against Lessee, its affiliate Companys, officers, employees and agents and those of its affiliate companys, with respect to the Boxcars (other than loss or physical damage to the Boxcars of the kind Lessee insures against or self insures, pursuant to Section 5C) unless occurring through the fault of Lessee, including without limitation the construction, purchase and delivery of the Boxcars to Lessee's railroad line, ownership, leasing or return of the Boxcars, or as a result of or arising out of the use, maintenance, repair, replacement, operation or the condition thereof, (whether-defects, if any, are latent or are discoverable by BRAE or Lessee).

B. Any expense of any kind whatsoever incurred by Lessee, which is required under the terms of this Agreement to be borne by BRAE, shall be paid promptly by BRAE to Lessee upon written request therefore by Lessee, including, but not limited to, costs, expenses, fees and charges relating to maintenance, repair or inspection performed or caused to have performed pursuant to governmental or AAR regulations as a result of this Agreement.

11. Representations, Warranties and Covenants

Lessee and BRAE respectively represent, warrant and covenant that:

(i) Lessee and BRAE are corporations duly organized, validly existing and in good standing under the laws of the state

where they are incorporated and have the corporate power, authority and are duly qualified and authorized to do business wherever necessary, to carry out their present business and operations and to own or hold under lease their properties and to perform their obligations under this Agreement.

(ii) The entering into and performance of this Agreement as of the initial Boxcar date of delivery will not violate any judgment, order, law or regulation applicable to Lessee or BRAE, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or BRAE or on the Boxcars pursuant to any instrument to which Lessee or BRAE is a party or by which they or their assets may be bound.

(iii) There is no action or proceeding pending or threatened against Lessee or BRAE before any court or administrative agency or other governmental body which might result in any material adverse affect on the business, properties and assets, or conditions, financial or otherwise, of Lessee or BRAE.

(iv) There is no fact which either party has not disclosed to the other, nor is either party a party to any agreement or instrument which, so far as can now be reasonably foreseen, will materially adversely affect the ability of such party to perform its obligations under this Agreement.

(v) Lessee has during the years 1964-1968 neither leased any boxcars nor purchased any new or rebuilt boxcars.

## 12. Inspection

BRAE shall at any time during normal business hours have the right to enter the premises where the Boxcars may be located for the purpose of inspecting and examining the Boxcars to insure Lessee's compliance with its obligations hereunder. Lessee shall immediately notify BRAE of any accident connected with the malfunctioning or operation of the Boxcars, including in such report the time, place and nature of the accident and the damage caused, the names and addresses of any persons injured and of witnesses, and other information pertinent to Lessee's investigation of the accident. Lessee shall also notify BRAE in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Boxcar. Lessee, upon BRAE's written request shall furnish to BRAE promptly upon its becoming available, a copy of its annual report submitted to the ICC and, when requested, copies of any other income or balance sheet statements required to be submitted to the ICC.

13. Miscellaneous

A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and assigns. Except for an assignment by BRAE to its parent or a subsidiary or affiliate or an assignment to a financial or banking institution for indebtedness incurred by BRAE, neither BRAE nor Lessee may, without the prior written consent of the other, assign this Lease Agreement or any of its rights hereunder or sublease the Boxcars to any party, and any purported assignment or sublease in violation hereof shall be void.

B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of any financing agreement entered into by BRAE in connection with the acquisition of the Boxcars in order to confirm the financing party's interest in and to the Boxcars, this Agreement and Schedules hereto and to confirm the subordination provisions contained in Section 7 and in furtherance of this Agreement.

C. It is expressly understood and agreed by the parties hereto that this Agreement constitutes a lease of the Boxcars only and no joint venture or partnership is being created. Notwithstanding the calculation of rental payments, nothing herein shall be construed as conveying to Lessee any right, title or interest in the Boxcars except as a lessee only.

D. No failure or delay by BRAE or Lessee shall constitute a waiver or otherwise affect or impair any right, power or remedy available to BRAE or Lessee nor shall any waiver or indulgence by BRAE or Lessee or any partial or single exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

E. This Agreement shall be governed by and construed according to the laws of the State of California.

F. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

BRAE CORPORATION

BY: \_\_\_\_\_

TITLE: PRESIDENT

DATE: September 26, 1978

ASHLEY, DREW & NORTHERN RY. CO.

BY: \_\_\_\_\_

TITLE: President

DATE: June 23, 1978

Rider No. 1 to the Lease Agreement made of June 23, 1978 between BRAE Corporation and Ashley, Drew & Northern Railway Company.

In the event Lessee changes the mechanical designation on more than one-third of the XP Boxcars from XP to XM, Subsections 6A (i) and 6A (ii) to the Agreement will apply only to the XP Boxcars and the following will apply only to the XM Boxcars which is hereby added:

*M*  
*820*  
6A. (v) BRAE shall receive all payments made to Lessee by other railroad companies for their use or handling of the XM Boxcars, (excluding mileage charges) including but not limited to straight car hire payments and incentive car hire payments (all of which payments made to Lessee are hereinafter collectively referred to as daily payments) if the utilization of all of the XM Boxcars delivered to Lessee on an aggregate basis for each calendar year shall be equal to or less than 87.5 per cent. For the purpose of this Agreement, utilization of the XM Boxcars shall be determined by a fraction the numerator of which is the aggregate number of days in each calendar year that car hire payments are earned by Lessee on the XM Boxcars, and the denominator of which is the aggregate number of days in each year that the XM Boxcars are on lease to Lessee, (such term referred to as "utilization"). In addition, BRAE will receive mileage charges up to 60 miles per day, mileage charges on the XM Boxcars shall be determined by a fraction the numerator of which is the aggregate number of miles in each calendar year that mileage charges are earned by Lessee on the XM Boxcars, and the denominator of which is the aggregate number of days in each calendar year that the XM Boxcars are on lease to Lessee (such term referred to as "mileage").

(vi) In the event utilization exceeds 87.5 per cent in any calendar year, BRAE shall receive an amount equal to the BRAE Base Rental plus an amount equal to one-half of the payments earned when utilization exceeds 94 per cent. For the purpose hereof, BRAE Base Rental shall be an amount equal to the total daily payments for the calendar year multiplied by a fraction, the numerator of which is 87.5 per cent and the denominator of which is utilization, expressed as a per cent, for such calendar year. In addition, BRAE receives all mileage charges in excess of 75 miles per day. (The above determination of BRAE Base Rental insures that Lessee will, if utilization is greater than 87.5 per cent in any calendar year, receive all the daily payments made by other railroads for use or handling of the XM Boxcars in excess of the BRAE Base Rental up to 94 per cent and 50 per cent of the excess over 94 per cent. Lessee will also receive all mileage charges between 60 and 75 miles per day.

(vii) If BRAE pays other railroads to move any of the Boxcars in accordance with Section 3A, except for any payments incurred to deliver such Boxcars to Lessee's railroad line, Lessee shall reimburse BRAE for such payments only from and out of the monies received by Lessee pursuant to Subsection 6A (vi).

BRAE CORPORATION

BY: \_\_\_\_\_

TITLE: PRESIDENT

DATE: September 26, 1978

ASHLEY, DREW & NORTHERN RAILWAY CO.

BY: \_\_\_\_\_

TITLE: President

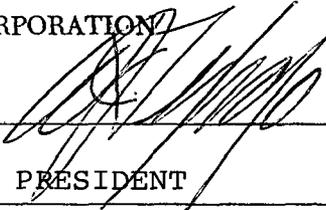
DATE: September 28, 1978

**EQUIPMENT SCHEDULE No. 1**

BRAE CORPORATION hereby leases the following Cars to Ashley, Drew & Northern Railway pursuant to that certain Lease Agreement dated as of June 23, 1978.

A.A.R. Mech. Design	Description	Numbers	Length	Dimensions Inside Width	Height	Doors Width	No. of Cars
XM	70 Ton, Plate C, nailable steel floor, 50K capacity floor, free rolling door, with 20" sliding sill (ACF Freight-Saver) full complement lading anchors	ADN 9400-9699	52'6"	9'6"	11'1"	12' single	300

BRAE CORPORATION

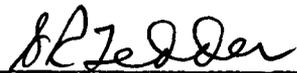
BY: 

TITLE: PRESIDENT

DATE: September 26, 1978

BC-10/77

ASHLEY, DREW & NORTHERN

BY: 

TITLE: President

DATE: June 23, 1978

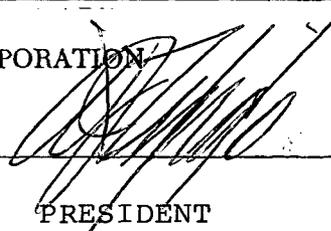
EQUIPMENT SCHEDULE No. 2

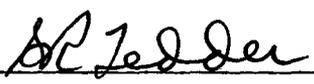
BRAE CORPORATION hereby leases the following Cars to Ashley, Drew & Northern Railway pursuant to that certain Lease Agreement dated as of JUNE 23, 1978.

A.A.R. Mech. Design	Description	Numbers	Dimensions			Doors Width	No. of Cars
			Length	Inside Width	Height		
XP	70 Ton, Plate C, nailable steel floor, 50K capacity floor, free rolling door, with 20" sliding sill (ACF Freight-Saver) full complement lading anchors	ADN 5600-5899	52'6"	9'6"	11'1"	12' Single	300

BRAE CORPORATION

ASHLEY, DREW & NORTHERN RAILWAY

BY: 

BY: 

TITLE: PRESIDENT

TITLE: President

DATE: September 26, 1978

DATE: June 23, 1978

STATE OF Arkansas  
COUNTY OF Asheley

On this 25 day of June, 1978, before me personally appeared S. R. Tedder,  
to me personally known, who being by me duly sworn says that such person is President of  
A. D. & N., that the foregoing Equipment Schedule No. 3 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 such corporation.

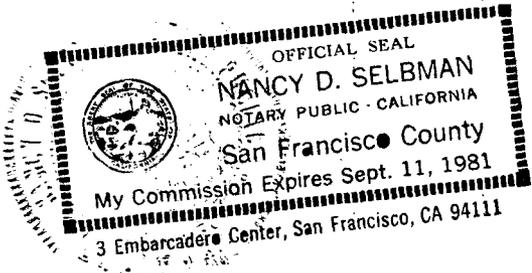


My Commission Expires: 6-14-80

Mertie L. Children  
Notary Public

STATE OF California  
COUNTY OF San Francisco

On this 27 day of Sept, 1978, before me personally appeared William J. Texido  
to me personally known, who being by me duly sworn says that such person is President of  
BRAE CORPORATION, that the foregoing Equipment Schedule 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 such corporation.



Nancy D. Selbman  
Notary Public

STATE OF Arkansas  
COUNTY OF Ashtley

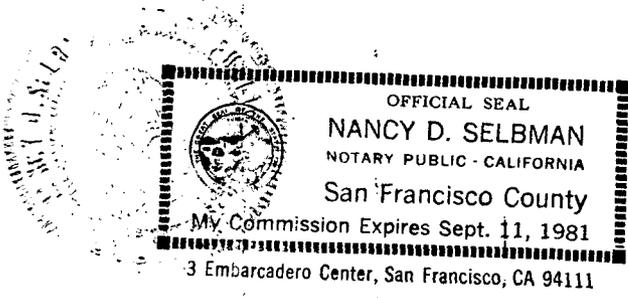
On this 23rd day of June, 1978, before me personally appeared J. R. Feller,  
to me personally known, who being by me duly sworn says that such person is President of  
A. D. & N., that the foregoing Equipment Schedule No. 2 was signed on behalf  
of said corporation by authority of its board of directors, and such person acknowledged that the  
execution of the foregoing instrument was the free act and deed of such corporation.



Reckia J. Childress  
Notary Public

STATE OF California  
COUNTY OF San Francisco

On this 27 day of Sept, 1978, before me personally appeared William J. Texido,  
to me personally known, who being by me duly sworn says that such person is President of  
BRAE CORPORATION, that the foregoing Equipment Schedule 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 such corporation.



Nancy D. Selbman  
Notary Public