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RECORDATION NO. 11327 A
Filed 1425

JAN 7 1980 10 30 PM

INTERSTATE COMMERCE COMMISSION

LEON C. BAKER
C. LEONARD GORDON
COUNSEL

January 8, 1980

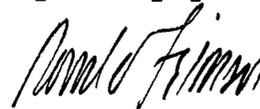
BY HAND

Mrs. Mildred Lee
Interstate Commerce Commission
Room 2303
Washington, D.C. 20423

Dear Mrs. Lee:

Enclosed please find two copies of the Assignment, Consent and Amendment to Lease which inadvertently was not included with the transmittal letter from American Leasing Investors dated January 4, 1980. Please return the Purchase Order Assignment with the messenger delivering these documents.

Very truly yours,



Ronald M. Feiman

RMF/mm
Encs.

Interstate Commerce Commission
Washington, D.C. 20423

1/8/80

OFFICE OF THE SECRETARY

Ronald Feiman, Esq.
Gordon Hurwitz, Butowsky
Baker Weitzen & Shalov
299 Park Avenue
New York, N.Y. 10017

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 1/7/80 at 10:50am, and assigned re-
recording number(s). 11326, 11327 & 11327-A, 11327-B, 11328, 11328-A

11328-B
11328-C

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. 11337-A
Filed 1425

JAN 7 1980 - 10 50 PM

ASSIGNMENT, CONSENT AND AMENDMENT
TO LEASE

INTERSTATE COMMERCE COMMISSION

WHEREAS, Brae Corporation, a Delaware corporation ("Brae"); and Green Mountain Railroad Corporation, a Vermont corporation ("Green"), entered into a railcar lease agreement dated as of November 20, 1979 (as amended, as hereinafter provided, the "Lease"), with Brae (nominally, as agent for an individual principal), as lessor and Green as lessee, relating to 25 box cars bearing identification numbers GMRC 875 through GMRC 899 (the "Railcars"); and

WHEREAS, pursuant to the terms of the Lease, Brae is authorized and empowered to assign all of its rights and obligations under the Lease to any other party; and

WHEREAS, Brae desires to assign all of its rights under the Lease to American Leasing Investors, a California limited partnership ("ALI"); and

WHEREAS, ALI has entered into an agreement to become the owner of the Railcars and has entered into a management agreement for the management of the Railcars by Brae Railcar Management, Inc., an affiliate of Brae;

NOW, THEREFORE, in consideration of the premises contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, ALI, Brae and Green hereby agree as follows:

1. Green and Brae acknowledge and agree that, anything in the preamble to the Lease to the contrary notwithstanding, the Lease was executed by Brae for its own account and not as agent for an undisclosed principal and, accordingly, the term BRAE as used in the Lease means, for all purposes, Brae, for its own account, and not Brae, as agent for an undisclosed principal.

2. The Lease is hereby further amended, as follows:

(a) The first sentence of subparagraph B of Section 1 is deleted and the following is inserted in its place and stead:

"A. It is the intention of the parties hereto that, by execution and delivery of this Lease Agreement, Lessee obtains no interest in the Cars whatsoever, other than its interest as Lessee hereunder."

(b) The third and fourth lines of subsection B of Section 3 are deleted and the following is substituted in their place and stead:

"on the Schedule or Schedules. Lessee shall give preference to BRAE under this Lease Agreement and shall load the Cars leased from BRAE hereunder prior to loading substantially similar freight cars leased"

(c) A new sentence is added to subsection B of Section 3, as follows:

"Lessee warrants and represents to BRAE that: (i) it does not currently own, lease, manage or operate freight cars ("Similar Cars") of substantially the same type as the Cars (except for 75 of such cars ("Current Cars") currently leased from BRAE (or from parties that have granted to BRAE exclusive management control) and except for 313 freight cars (the "Priority Cars") owned or leased by Lessee (13 of such cars are owned by Lessee and 300 of such cars are leased by Lessee under leases ("Priority Car Leases") with fixed terms of ten years or more, the remaining fixed terms of which expire no sooner than January 1, 1985); (ii) with respect to loading on Lessee's line, the Priority Cars are entitled to priority over all other cars, including the Cars and the Current Cars, and the Cars, together with the Current Cars are entitled to priority over all other cars (other than the Priority Cars); (iii) the priorities referred to in (ii) above shall not prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor to shippers on Lessee's line; and (iv) Lessee is not a party to any agreement or understanding requiring Lessee to give priority over the Cars with respect to loadings on Lessee's line to any Similar Cars acquired (whether

by purchase, lease, management agreement or otherwise) by Lessee in the future. Lessee hereby agrees not to modify, amend or terminate any of the Priority Car Leases."

✓ (d) Subparagraph C of Section 3 is deleted in its entirety.

✓ (e) The sixth line of subsection A of Section 4 is deleted and the following is inserted in its place and stead:

"entered into by BRAE in connection with the financing or refinancing of the purchase price paid for the Cars (it being understood and agreed that any such financing or refinancing may be made at any time, or from time to time, before or after delivery of the Cars to Lessee hereunder). All such"

✓ (f) Subsection A of Section 6 is deleted in its entirety and the following is inserted in its place and stead:

"6. Lease Rental

"A. Lessee agrees to pay rent to BRAE for the use of the Cars in such amounts as are set forth below:

(X) The lesser of:

(i) an amount equal to all payments made by others for the use or handling of the Cars, including but not limited to, mileage charges, straight car hire payments and incentive car hire payments (all of which payments are hereinafter collectively referred to as "payments"), but exclusive of payments made by others on account of damage to, or destruction of, Cars; or

(ii) so long as the event referred to in subsection D shall not have occurred, the amount that would be payable under (i) above if Utilization in any year was exactly 89%; plus

(Y) Amounts equal to all payments earned by Cars prior to initial loading.

The rental hereinabove provided for, shall (subject to the provisions of subsection B, below) be due and payable as and when payments are collected, subject to readjustment on account of Utilization as hereinafter provided.

For purposes of this Agreement, "Utilization" shall mean, with respect to any period, a fraction, the numerator of which is (a) the aggregate number of Car Hours for which payments are earned by the Lessee during such period, and the denominator of which is (b) the aggregate number of Car Hours during such period. For the purpose of determining Utilization, "Car Hour" shall mean one hour on which one Car is on lease hereunder commencing on the initial loading of such Car.

If BRAE pays other railroads to move Cars in accordance with Section 3A hereof, except for any payments incurred to deliver such Cars to Lessee's railroad line, Lessee shall reimburse BRAE for such payments, but only from and out of monies derived by Lessee from the Cars in excess of the corresponding amount of rentals required to be paid by Lessee hereunder.

If damage beyond repair or destruction of a Car 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 amounts ("Damage Amounts") due as a result thereof is received by BRAE, said damage or destroyed Car will be removed from the coverage of this Lease Agreement, and shall not be deemed to be a Car hereunder, effective from and after the date that payment of car hire payments ceased.

(g) Subsection B of Section 6 of the Lease is deleted and the following is inserted in its place and stead:

"B. Lessee shall cause all payments to be made (either from the payors directly, or through Itel Corporation or an affiliate thereof ("Itel"), which, it is intended, will perform car accounting services for the Cars) to a bank account owned by and over which BRAE, or its designee, shall be

the sole signatory. No other funds shall be deposited in such account. The calculations required above shall be made within five months after the end of each calendar year (for this purpose the date upon which this Lease Agreement is terminated or expires shall be deemed to be the end of a calendar year). However, BRAE shall, prior to such calculations, retain the payments received by it on behalf of Lessee and disburse such funds from such account to any other account, owned or controlled by it, whether for the purpose of applying the sum to rental payments hereunder or otherwise. Further, since the parties desire to determine on a quarterly basis the approximate amount of the rental charges due BRAE, BRAE shall within three months after the end of each calendar quarter, calculate on a quarterly basis rather than a yearly basis the amount due it pursuant to this Section 6. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, provided, however, that following the yearly calculation, any amount paid to either party in excess of the amounts required by the yearly calculation shall be promptly refunded to the appropriate party. Lessee agrees that in the event ITEL, for whatever reason, is unable or unwilling to provide car accounting service, Lessee shall retain BRAE, or its designee, to perform such car accounting. Further, Lessee agrees that, so long as ITEL is performing the pertinent car accounting services, it will cause all payments to be made directly to an account over which ITEL has exclusive control, and so long as BRAE, or its designee, is performing such car accounting services, it will cause all payment to be made directly to an account over which BRAE, or such designee, as the case may be, has exclusive control.

(h) Subsection D of Section 6 is deleted and the following is inserted in its place and stead:

"D. If the ICC shall, at any time, issue an order reducing incentive car hire payments for Cars on an annual basis to less than three months without a corresponding increase in straight car hire payments or other monies available to both BRAE and Lessee at least equal in amount to such reduction, BRAE may, at its election which shall be effective promptly upon written notice to Lessee, either (i) terminate this Lease Agreement, or (ii) keep this Lease Agreement in effect except that it shall be modified so that thereafter the rent which Lessee shall pay to

BRAE for the use of the Cars, notwithstanding anything contained in Section 6A hereof to the contrary, shall be the amount set forth in subparagraph (i) of subsection A to Section 6, notwithstanding anything in said subsection A to the contrary. If BRAE determines to keep this Lease Agreement in effect, as above provided, then for purposes of computing Utilization for the period immediately preceding the issuance of the aforesaid order, the calendar year shall be deemed to have ended on the date which is the day immediately preceding the date on which such order becomes effective.

(i) The ninth line of subsection A of Section 7 is deleted and the following is inserted in its place and stead:

"connection with the financing or refinancing of the purchase price paid for the Cars (it being understood and agreed that any such financing or refinancing may be made at any time, or from time to time, before or after delivery of the Cars to Lessee hereunder); i.e., upon notice to Lessee from any such"

3. Brae hereby sells, assigns, conveys, transfers and delivers to ALI all of the right, title and interest of Brae in, to and under the Lease, which right, title and interest Brae represents and warrants to ALI, has not previously been sold, assigned, transferred or otherwise encumbered.

4. ALI hereby accepts the assignment contained in Section 3 hereof and covenants with Brae to assume, faithfully perform, satisfy and/or discharge all of the terms, conditions, obligations and/or responsibilities which were to have been performed, satisfied or discharged by Brae under the Lease; provided, however, that ALI's obligations hereunder are conditioned on Brae's representation that the Cars shall be delivered to ALI for acceptance not before December 12, 1979, nor after December 15, 1979.

IN WITNESS WHEREOF, Brae and ALI have caused this Assignment, Consent and Amendment to be duly executed as of this _____ day of December, 1979.

BRAE CORPORATION

By Joseph
Title Vice President

AMERICAN LEASING INVESTORS
by its Managing General Partner

By Stephen J. [Signature]
Title evp

GREEN MOUNTAIN RAILROAD
CORPORATION

By Clayton E. Davis [Signature]
Title President

COUNTY OF)

STATE OF)

On this 12th day of December, 1979, before me personally appeared Jerry A. Riessen, to me personally known, who being by me duly sworn says that such person is Vice President of Brae Corporation, and that the foregoing Assignment, Consent and Amendment was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

Robert S. Nash

Notary Public

ROBERT S. NASH
Notary Public, State of New York
No. 41-4649501
Qualified in Queens County
Commission Expires March 30, 1981

COUNTY OF)

STATE OF)

On this 12th day of December, 1979, before me personally appeared Stephen Goldsmith, to me personally known, who being by me duly sworn says that such person is Executive Vice President of ALI Management Corp., which is the Managing General Partner of American Leasing Investors, a Connecticut limited partnership, and that the foregoing Assignment, Consent and Amendment was signed on behalf of said partnership by authority of its Managing General Partner, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such partnership.

Robert S. Nash

Notary Public

ROBERT S. NASH
Notary Public, State of New York
No. 41-4649501
Qualified in Queens County
Commission Expires March 30, 1981

COUNTY OF VERMONT)
STATE OF WINDSOR)

On this 11TH day of DECEMBER, 1979, before me personally appeared GLENN E. DAVIS, to me personally known, who being by me duly sworn says that such person is PRESIDENT of Green Mountain Railroad Corporation and that the foregoing Assignment, Consent and Amendment was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

Mahan A. Sprung
Notary Public

My Commission Expires February 10, 1984.