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11363
REC'D
JAN 14 1980 - 11 55 AM
INTERSTATE COMMERCE COMMISSION

0-144032
No.
Date JAN 14 1980
Fee \$ 50.00

11362
RECORDATION NO. 11362
Filed 1425
JAN 14 1980 - 11 55 AM
NEW YORK, N. Y. 10022
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ICC Washington, D. C. January 10, 1980

11364
RECORDATION NO. 11364
Filed 1425
JAN 14 1980 - 11 55 AM
INTERSTATE COMMERCE COMMISSION

Office of the Secretary
Recordation Office
Interstate Commerce Commission
Twelfth and Constitution Avenue, N. W.
Washington, D. C. 20423

Re: Recordation and filing of documents
pertaining to 50 Special Purpose Boxcars
Class "XP" bearing Atlantic and Western
Railway Company (AWR) markings ATW 4150
to 4199 inclusive (the "Equipment")

Dear Sir:

Documents refer to 4150-4164 only

In accordance with the provisions and procedures of Section 11303 of the Revised Interstate Commerce Act, 49 U.S.C. § 11303, and Part 1116 of Title 49 of the Code of Federal Regulations, it is hereby respectfully requested that the documents enclosed with this letter of transmittal, and more fully described hereinbelow, pertaining to the granting of a security interest in and assignment of a lease of the Equipment, be recorded and filed by the Interstate Commerce Commission (the "Commission") pursuant to Section 1116.5 of said Title 49 of the Code of Federal Regulations.

A. Description of the Documents and the Parties Thereto

Enclosed herein are four sets of each of the following documents, one of which is to be recorded and filed in the order listed below. We respectfully request that the three additional copies be stamped by your office and returned to us in the post-paid envelope provided.

- (1) "Lease Agreement" between Atlantic & Western Financial Corporation ("A&W") and AWR dated December 28, 1980 (the "Lease").

Donna Kelly
[Signature]

Office of the Secretary

-2-

January 10, 1980

(2) Chattel Mortgage, Assignment, and Security Agreement between A&W and Marine Midland Bank (the "Bank") dated January 10, 1980. Four originals of this document are provided.

(3) Agreement of Subordination between A&W and AWR dated as of January 10, 1980.

B. The Transaction

On January 10, 1980, A&W leased the Equipment to AWR pursuant to the Lease (Document 1). A&W, in connection with a borrowing under a Loan Agreement dated as of January 8, 1979 by and between A&W and the Bank, entered into a Chattel Mortgage, Assignment and Security Agreement granting the Bank a security interest in and assigning the Lease (Document 2). AWR entered into an Agreement of Subordination in connection with the Chattel Mortgage, Assignment, and Security Agreement (Document 3).

C. Procedural Matter

It is hereby respectfully requested that each of the following names be inserted in the Commission index established pursuant to Section 1116.5(c) of Title 49 of the Code of Federal Regulations.

- (1) Marine Midland Bank.
- (2) Atlantic & Western Financial Corporation.
- (3) Atlantic and Western Railway Company.

It is also respectfully requested that the recordation numbers assigned to the enclosed documents be noted in the Commission index under the name of each of the parties shown above.

A check in the amount of \$150 has been enclosed with this letter of transmittal to cover the recordation fee prescribed by Section 1116.3(d) of Title 49 of the Code of Federal Regulations.

Kindly stamp the enclosed copy of this letter of transmittal and return such copy and the extra original documents enclosed herewith to the undersigned in the envelope provided.

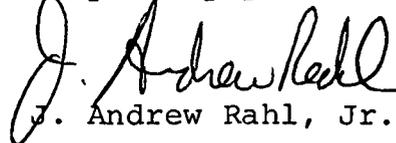
Office of the Secretary

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January 10, 1980

If there are any questions with respect to the enclosed or the transactions described therein, please feel free to telephone the undersigned or Melvin S. Slade of this office collect.

Very truly yours,



J. Andrew Rahl, Jr.

JARjr:LG
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

1/14/80

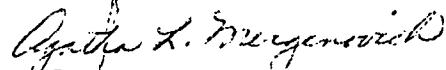
OFFICE OF THE SECRETARY

J. Andrew Rahl, Jr.
Greenberg, Irwin, Pellman & Slade
540 Madison Avenue
New York, N.Y. 10022

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 1/14/80 at 11:55am, and assigned re-
recording number(s). 11362.11363.11364

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

LEASE AGREEMENT

JAN 14 1980 - 11 55 AM

INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT is made this 28th day of December, 1979, between ATLANTIC & WESTERN FINANCIAL CORPORATION (hereafter AWF), a Delaware corporation, as Lessor and ATLANTIC AND WESTERN RAILWAY COMPANY (hereafter ATW), a North Carolina corporation, as Lessee.

1. Scope of Agreement

A. AWF agrees to lease to ATW, and ATW agrees to lease from AWF, fifteen (15) 50 ft. 6 in., 70 ton XP boxcars bearing recording numbers and marks as follows: ATW4150 to and including 4164 (hereinafter referred to collectively as the Cars). //

B. It is the intent of the parties to this Agreement that AWF shall be and remain at all times the Lessor of all Cars unless this status changes in accordance with the provisions of this Agreement. ATW agrees that it will at no time take any action or file any document which is in conflict with this intent.

2. Term

A. This Agreement shall be for a period of ten (10) years commencing upon the date when all Cars have been delivered as set out in Section 3.

B. AWF shall have the right to cancel this Agreement upon written notice to ATW in the event car utilization does not meet the expectations of AWF. In the event of such cancellation AWF shall have the right to possession of all Cars heretofore leased to ATW under the terms of this Agreement, and shall have the option to enter the premises owned, or under the control of, ATW where said Cars are located for the purpose of taking possession of said Cars.

3. Delivery

The Cars shall be considered as delivered to ATW when AWF accepts delivery at the manufacturer's plant.

4. Agent

AWF shall act as ATW's agent in handling car registration, maintenance and record keeping functions involving the Cars including but not limited to AAR Billing and Car Hire. Correspondence from railroads using or repairing such Cars shall be addressed to ATW at such address as AWF shall elect.

5. Maintenance and Taxes

AWF shall be responsible for all costs, expenses, fees and charges incurred in connection with the use of the Cars except that in the event any Car is damaged or destroyed after delivery to ATW its repair or replacement shall be the responsibility of ATW pursuant, where applicable, to the Association of American Railroads Interchange Rules.

6. Lease Rental

ATW agrees to pay to AWF the following rent for the use of the Cars:

Rental shall be the greater of (a) mileage revenues, straight car hire (hourly time) revenues, if any, and any other revenues earned by the Cars less \$1.00 per car per day while the Cars are off line of ATW and in service subject to the Association of American Railroad Car Hire and Car Service Rules, or (b) \$3,600.00 per car per year (\$300.00 per car monthly).

The rent calculations required herein shall be made on a monthly basis and again within 90 days after the end of each calendar year. Any amounts payable shall be paid promptly following such calculations. Provided, however, that following the annual calculation adjustments and additional payments, if any, shall be promptly made so that the maximum rental, according to the above formula, shall be paid on an annual basis to AWF.

IN WITNESS WHEREOF, AWF and ATW have duly executed this Agreement.

ATLANTIC & WESTERN FINANCIAL CORPORATION

By W. B. Joyce
President

Attest:

O. Troy Park, Jr.
Secretary

ATLANTIC AND WESTERN RAILWAY COMPANY

By W. B. Joyce
Vice-President

Attest:
Thomas B. Aueha
Assistant Secretary

NORTH CAROLINA
LEE COUNTY

I, Virginia Harrington, a notary public, do hereby certify that O. Tracy Parks, III, personally appeared before me this day and acknowledged that he is the Secretary of Atlantic & Western Financial Corporation, a Delaware corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its corporate name by its President, sealed with its corporate seal, and attested by him as its Secretary.

Witness my hand and notarial seal this 28th day of December, 1979.

Virginia Harrington
Notary Public

My Commission Expires
November 21, 1984

NORTH CAROLINA
LEE COUNTY

I, Pauline M. Collins, a notary public, do hereby certify that W. B. Joyce, personally came before me this day and acknowledged that he is Vice-President of Atlantic and Western Railway Company, a North Carolina corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its corporate name by him, sealed with the corporate seal, and attested by its Assistant Secretary.

Witness my hand and notarial seal this 28th day of December, 1979.

Pauline M Collins
Notary Public

My Commission Expires:

Dec 10, 1984