1st NATIONAL BANK

11448
RECORDATION NO. ..... Filed 1425

FEB 1 1980 - 9 30 AM

INTERSTATE COMMERCE COMMISSION

2/1/80

Fee $ 50.

ICC Washington, D. C.

January 22, 1980

Secretary of the Interstate
Commerce Commission
12th Street & Constitution Ave., N.W.
Washington, DC 20423

Gentlemen:

The First National Bank of Allentown is requesting the enclosed Railroad Equipment Security Agreement and Mortgage be recorded by the Secretary of the Interstate Commerce Commission. The transaction includes the following parties:

Mortgagor: Richard G. Cotton
6875 Paseo Laredo
La Jolla, CA 92037

Mortgagee: The First National Bank of Allentown
Hamilton Mall at Seventh Street
Allentown, PA 18101

The railroad cars are described as two (2) 70-ton, 50'6" general purpose XM type railroad cars. Included in the property covered by the aforesaid mortgage or deed of trust are railroad cars, locomotives and other rolling stock used or intended for use in connection with interstate commerce, or interests therein, owned by Richard G. Cotton at the date of said mortgage or thereafter acquired by it or its successors as owners of the water carriers or the lines of railway covered by said mortgage.

The original document should be returned to Thomas P. Herrity, Assistant Vice President, The First National Bank of Allentown, Hamilton Mall at Seventh Street, Allentown, PA 18101.

If there are any questions, please don't hesitate to contact me at (215) 439-4629.

Very truly yours,

Ronald L. Watson

Ronald L. Watson
Senior Vice President &
General Counsel

RLW:bah

Enclosures

cc: Thomas Herrity

CERTIFICATION

STATE OF PENNSYLVANIA)
) SS
COUNTY OF LEHIGH)

I hereby certify that the attached are true and exact copies of the original document.

Date: January 24, 1980

Thomas P. Herrity

Thomas P. Herrity

STATE OF Pennsylvania)
) SS
COUNTY OF Lehigh)

On this 25th day of January, 1980, before me personally appeared Thomas P. Herrity, who has certified that he has compared the copies with the original document and that they are true and correct copies of the original document in all respects.

Joanne E. Gantz

Notary Public

JOANNE E. GANTZ, Notary Public
Allentown, Lehigh Co., Pa.
My Commission Expires May 11, 1981

My Commission expires

May 11, 1981

11448
RECORDATION NO. Filed 1425
FEB 1 1980 -9 30 AM
INTERSTATE COMMERCE COMMISSION

Railroad Equipment Security Agreement and Mortgage

THIS SECURITY AGREEMENT AND MORTGAGE is dated as of December 20, 1979, from Richard G. Cotton (the "Mortgagor") to THE FIRST NATIONAL BANK OF ALLENTOWN (the "Mortgagee").

W I T N E S S E T H :

WHEREAS, the Mortgagor is justly indebted to Mortgagee as evidenced by the Promissory Note of the Mortgagor (the "Note") payable to the order of the Mortgagee, secured hereby, dated December 20, 1979, in the principal amount of $74,400.00. Said Note and the principal and interest thereon, and any and all extensions or renewals thereof in whole or in part, and all other sums at any time due or owing from or required to be paid by the Mortgagor under the terms hereof or of said Note are hereinafter referred to as "indebtedness hereby secured".

NOW, THEREFORE, the Mortgagor, as security for the payment of all the indebtedness hereby secured and all other obligations of Mortgagor to Mortgagee now or hereafter existing, present or contingent and the performance and observance of all the covenants and agreements in said Note or in this Security Agreement provided to be performed or observed by the Mortgagor, does hereby grant, bargain, sell, convey, confirm, transfer, mortgage and set over unto hereby grant to the Mortgagee a security interest in, any and all the following described property, rights and interests, and all of the estate, right, title and interest of the Mortgagor therein, whether now owned or hereafter acquired

(all of which property, rights and interests hereby transferred, conveyed and mortgaged is hereinafter collectively referred to as the "mortgaged property"):

(a) The railroad cars bearing, respectively, the car reporting marks and being leased on behalf of Mortgagor by Brae Railcar Management, Inc. ("Brae") under the Lease Agreement dated July 3, 1979 as amended between Brae, as Lessor, and St. Mary's Railroad, as Lessee (the "Lease"), such cars as more particularly described on Schedule I hereto.

(b) All accessories, equipment, parts and appurtenances appertaining or attached to any of the equipment hereinabove described, whether now owned or hereafter acquired, and all substitutions, renewals and replacements of and additions, improvements, accessions and accumulations to any and all of said equipment, including all additions thereto which are now or shall hereafter be incorporated therein, together with all the rents, issues, income, profits and proceeds thereof.

TO HAVE AND TO HOLD said mortgaged property unto the Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth.

SECTION 1. COVENANTS AND WARRANTIES:

The Mortgagor covenants, warrants and agrees as follows:

1.1 The Mortgagor is the owner and is lawfully seized and possessed of the mortgaged property and has good right, full power and authority to convey, transfer and mortgage the same to the Mortgagee; and such property is free from any and all liens

and encumbrances prior to or on parity with or junior to the lien of this Security Agreement, and the Mortgagor will warrant and defend the title thereto against all claims and demands whatsoever; except, however, that the foregoing is subject to the effect of Mortgagor's existing Management Agreement with Brae (the "Management Agreement") and the Lease.

1.2 The Mortgagor will do, execute, acknowledge, and deliver all and every further act, deed, conveyance, transfer and assurance necessary or proper for the better assuring, conveying, assigning and confirming unto the Mortgagee all of the mortgaged property, or property intended so to be, whether now owned or hereafter acquired.

1.3 The Mortgagor will promptly pay the indebtedness hereby secured as and when the same or any part thereof becomes due.

1.4 Subject to the rights and obligations of the Lessor and Lessees under the Lease, to maintain the equipment covered thereunder the Mortgagor will maintain, preserve and keep or will cause the mortgaged property and each and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, and will from time to time make or cause to be made all necessary and proper repairs, renewals, and replacements so that the value and efficiency or such property shall not be impaired.

1.5 The Mortgagor will from time to time duly pay and discharge or cause to be paid and discharged all taxes, assessments and governmental charges lawfully imposed upon or against the mortgaged property or any part thereof, and will not suffer to exist any mechanics', laborers', statutory or other lien on the mortgaged property or any part thereof.

1.6 The Mortgagor will at its own expense duly comply with and perform all the covenants and obligations of the Mortgagor under the Lease and will at its own expense seek to cause the Lessees to comply with and observe all the terms and conditions of the Lease and, without limiting the foregoing, at the request of the Mortgagee, the Mortgagor will at its own expense take such action with respect to the enforcement of the Lease, and the duties and obligations of the Lessee thereunder as the Mortgagee may from time to time direct; provided that the Mortgagor shall not have any right to settle, adjust, compound or compromise any claim against the Lessee under the Lease without the prior written consent of the Mortgagee. Mortgagor at its sole cost will appear and defend every action or proceeding arising under; growing out of or in any manner connected with the obligations, duties or liabilities of Mortgagor as Lessor under the Leases.

1.7 The Mortgagor shall not, without the prior consent of the Mortgagee take any action to terminate, modify or accept a surrender of the Management Agreement, or consent to the creation or existence of any mortgage, security interest, or other lien on any of the mortgaged property.

1.8 The Mortgagor will furnish to the Mortgagee such information respecting the financial condition of the Mortgagor and his business, as the Mortgagee shall from time to time reasonably request.

1.9 If the Mortgagor shall fail to observe and perform any of the covenants set forth in this Section 1, the Mortgagee may advance sums to, and may perform the same, and all advances made by the Mortgagee shall, with interest thereon at the rate then provided in the Note, and same shall constitute part of the

indebtedness hereby secured and shall be payable forthwith; but no such act or expenditure by the Mortgagee shall relieve the Mortgagor from the consequence of any default.

1.10 The Mortgagor shall at all reasonable times provide Mortgagee access to all Mortgagor's books and records relating to the mortgaged property and disclose to Mortgagee all information concerning the condition and location of the mortgaged property as Mortgagee may reasonably request.

1.11 Mortgagor will at all times maintain physical damage, fire and extended coverage insurance under a policy (showing Mortgagee as loss payee or with a lienholder's endorsement in favor of Mortgagee) from a reliable insurance company, all as shall be acceptable to Mortgagee. The extent of such insurance coverage shall at all times be in an amount in excess of the amount of indebtedness hereby secured and proof of such coverage and of its being in full force and effect shall promptly upon Mortgagee's request provided by Mortgagor.

1.12 The identifying number shall be as shown on Schedule I. Mortgagor will not permit the identifying number to be changed except in accordance with a statement of new number to be substituted therefor, which statement previously shall have been filed with Mortgagee and filed, recorded or deposited on behalf of Mortgagor in all public offices where this Agreement shall have been filed, recorded or deposited. Except as provided in this paragraph, Mortgagor will not allow the name of any person association or corporation to be placed on any unit of mortgaged property as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee or successor may cause the mortgaged property to be lettered with the names or

initials or other insignia customarily used by such Lessee, on railroad equipment used by it of the same or a similar type for convenience or identification.

SECTION 2. APPLICATION OF PROCEEDS OF LEASES

2.1 Without regard to whether an event of default under Section 3 hereof has occurred and is continuing, Mortgagor agrees that it will pay over to Mortgagee all monies ("settlement monies") paid to it pursuant to the Lease as settlement for the loss, theft, destruction, or damage beyond repair of any car or cars leased thereunder for application, at Mortgagee's discretion to principal and/or interest on the Note. The Mortgagor shall promptly transmit to Mortgagee any notice or information it receives concerning loss, theft, destruction or damage to cars covered by the Lease requiring settlement payment under such Lease.

SECTION 3. DEFAULTS AND OTHER PROVISIONS:

3.1 The term "default" for the purpose hereof shall mean any one or more of the following:

(a) Default in the payment of principal or interest on any of the Note when due;

(b) Default in the payment of the Note at maturity, whether by acceleration or otherwise;

(c) Default in the due observance or performance of any other covenant, condition or agreement required to be observed by the Mortgagor in the Note or this Mortgage;

(d) Any material representation or warranty made by the Mortgagor to the Mortgagee in writing herein or in any Loan Agreement executed

by Mortgagor in favor of Bank, or in the Assignment or in any statement or certificate furnished by the Mortgagor to the Mortgagee in connection with the making of any loan or loans evidenced by the Notes, proves untrue in any material respect as of the date of the issurance or making thereof;

(e) The entry of a decree or order by a court having jurisdiction adjudging the Mortgagor a bankrupt or insolvent, or approving as properly filed a petition seeking relief in respect of the Mortgagor under the Federal Bankruptcy Act or any other applicable Federal or State law, or appointing a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of any substantial part of the Mortgagor's property, and the continuance of any such decree or order unstayed and in effect for a period of thirty (30) consecutive days; or the death of the Mortgagor;

(f) The institution by the Mortgagor, of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking relief under the Federal Bankruptcy Act or any other applicable Federal or State law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of any substantial part of the Mortgagor's property, or the making by the Mortgagor of an assignment for the benefit of creditors, or the admission in writing of its inability to pay his debts generally as they become due, or the taking of action by the Mortgagor in furtherance of any such action.

3.2 Upon the occurrence of any such default, and the

continuance thereof for a period of thirty (30) days uncured, (an "event of default") Mortgagee may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies; but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by stature:

(a) The Mortgagee may, by notice in writing to the Mortgagor, declare the entire unpaid balance of the Note to be immediately due and payable; and thereupon all such unpaid balance, together with all accrued interest thereon, shall be and become immediately due and payable;

(b) The Mortgagee, personally or by agents or attorneys, shall have the right to take immediate possession of the mortgaged property, or any portion thereof, and for that purpose the Mortgagor shall deliver such property to the Mortgagee, and the Mortgagee may pursue the same wherever it may be found, and may enter any of the premises of the Mortgagor, with or without notice, demand, process of law or legal procedure, and search for, take possession of, remove, keep and store the same, or use and operate the same until sold; it being understood, without limiting the foregoing, that the Mortgagee may, and is hereby given the right and authority to, keep and store said mortgaged property, or any part thereof, on the premises of the Mortgagor, and that the Mortgagee shall not thereby be deemed to have surrendered, or to have failed to take, possession of such mortgaged property;

(c) The Mortgagee may, if at the time such action may be lawful either with or without taking possession and either before or

after taking possession, and without instituting any legal proceedings whatsoever, and having first given such notice of such sale as may be affirmatively required by applicable law, sell and dispose of said mortgaged property, or any part thereof, at public auction or private sale to the highest bidder, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Mortgagee may determine, and at any place (whether or not it be the location of the mortgaged property or any part thereof) designated in the notice above referred to. Any such sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further published notice; and the Mortgagee or the holder or holders of the Notes, or of any interest therein, may bid and become the purchaser at any such sale;

(d) The Mortgagee may proceed to protect and enforce this Mortgage and the Notes by suit or suits or proceedings in equity, at law or in pending bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted, or for foreclosure hereunder, or for the appointment of a receiver or receivers for the mortgaged property or any part thereof, for the recovery of judgment for the indebtedness hereby secured, or for the enforcement of any other proper legal or equitable remedy available under applicable law.

3.3 If the Mortgagee shall be receiving or shall have received monies pursuant to the Lease, it may from time to time apply such monies against the next succeeding installment of interest and then against principal due on the Note, or if proceedings have been commenced for the sale of the mortgaged property then all sums so received and the purchase money proceeds and avails of any sale of the mortgaged property or any part thereof, and the proceeds and avails of

any other remedy hereunder, or other realization of the security hereby given, shall be applied:

(a) First, to the payment of the costs and expenses of the sale, proceeding or other realization, including all costs and expenses and charges for pursuing, searching for, taking, removing, keeping, storing, advertising and selling such mortgaged property or, as the case may be, said rentals, the reasonable fees and expenses of the attorneys and agents of the Mortgagee in connection therewith, and to the payment of all taxes, assessments, or similar liens on the mortgaged property which may at that time be superior to the lien of this Mortgage;

(b) Second, to the payment of all advances made by the Mortgagee pursuant to Section 1.9 hereof, together with all interest therefor;

(c) Third, to the payment of the whole amount remaining unpaid on the Note, both for principal and interest, and to the payment of any other indebtedness of the Mortgagor hereunder or the indebtedness secured hereby, so far as such proceeds may reach;

(d) Fourth, to the payment of the surplus, if any, to the Mortgagor, or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

The Mortgagee shall not be liable for interest on any sums held by it pursuant to this Paragraph 3.3. If there is a deficiency, the Mortgagor shall remain liable therefor and shall forthwith pay the amount of any such deficiency to the Mortgagee.

3.4 Any sale or sales pursuant to the provisions hereof, whether under the power of sale granted hereby or pursuant to any legal proceedings, shall operate to divest the Mortgagor of all right, title, interest, claim and demand whatsoever, either at law or in equity, of, in and to the mortgaged property so sold, and shall be free and clear of any and all rights of redemption by, through or under the Mortgagor, the Mortgagor hereby convenanting and agreeing that it will not at any time insist upon or plead, or take the benefit or advantage of or from, any law now or hereafter in force providing for a valuation of appraisement of the mortgaged property prior to any sale or sales thereof or providing for any right to redeem the mortgaged property or any part thereof. In the event at any such sale the holder of the Note is the successful purchaser, such holder of said Note shall be entitled, for the purpose of making settlement or payment, to use and apply said Note by crediting thereon the amount apportionable and applicable thereto out of the net proceeds of such sale.

SECTION 4. MISCELLANEOUS:

4.1 Any notice provided for hereby or by any applicable law to be given to the Mortgagor or Mortgagee shall be in writing and shall be deemed to have been given when delivered personally or when deposited in the United States mail, postage prepaid, addressed to the Mortgagor at its address set forth as follows:

Mortgagor: Richard G. Cotton
6875 Paseo Laredo
La Jolla, CA 92037

Mortgagee: The First National Bank of Allentown
Attn: Commercial Loan Division
Hamilton Mall at Seventh Street
Allentown, Pennsylvania 18101

4.2 The failure or delay of the Mortgagee to insist in any one or more instances upon the performance of any of the terms, covenants or conditions of this Mortgage, or to exercise any right, remedy or privilege herein conferred, shall not impair, or be construed as thereafter waiving any such covenants, remedies, conditions or provisions; but every such term, condition and covenant shall continue and remain in full force and effect. Nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Mortgage operate to prejudice, waive or affect the security of this Mortgage or any rights, powers or remedies hereunder; nor shall the Mortgagee be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

4.3 The unenforceability or invalidity of any provision or provisions of this Mortgage shall not render any other provision or provisions herein contained unenforceable or invalid.

4.4 All the covenants, stipulations, promises, undertakings and agreements herein contained by or on behalf of the Mortgagor shall bind and inure to the benefit of its successors, assigns, heirs and representatives, whether so expressed or not.

IN WITNESS WHEREOF, the Mortgagor has executed this Railroad Equipment Security Agreement and Mortgage as of the day and year first written above.

Richard G. Cotton

Accepted by Mortgagee
this 20th day of December, 1979

The First National Bank of Allentown
By Thomas P. Hewitt
Name: Title: Assistant Vice President

SCHEDULE I

(Schedule I to Railroad Equipment Security Agreement and Mortgage in favor of The First National Bank of Allentown, as Mortgagee, covering two (2) 70-ton, 50'6" general purpose XM type railroad cars.

A.A.R. Mech. Design	Description	Dimensions	Reporting Marks
	General purpose type XM railroad cars	50'6"	SM9034 and SM9094

STATE OF California)
COUNTY OF San Diego) SS

On this 17th day of December, 1979, before me personally appeared Richard D. Catton, to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.

Charlotte Ann Webster
Notary Public

My Commission expires June 24, 1980

OFFICIAL SEAL
Charlotte Ann Webster
NOTARY PUBLIC CALIFORNIA
PRINCIPAL OFFICE IN
SAN DIEGO COUNTY
My Commission Expires June 24, 1980

STATE OF Pennsylvania)
COUNTY OF Lehigh) SS

On this 20th day of December, 1979, before me personally appeared Thomas P. Herrity, to me personally known, who being by me duly sworn, says that he is the Assistant Vice President of The First National Bank of Allentown, a national banking association, that the seal affixed to the foregoing instrument is the corporate seal of said association, that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Catherine M. Wallace
Notary Public

CATHERINE M. WALLACE, NOTARY PUBLIC
ALLENTOWN, LEHIGH COUNTY
MY COMMISSION EXPIRES MAY 15, 1980
Member, Pennsylvania Association of Notaries

My Commission expires