

9-135A071

ITEL

Pullman

May 8, 1989

RECORDATION NO. 156401 FILED 1423
MAY 15 1989 -3 35 PM

Itel Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000
(415) 781-1035 Fax

INTERSTATE COMMERCE COMMISSION

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

**Re: Schedule No. 3 to Master Lease No. 2200 dated May 5, 1988,
between Itel Rail Corporation, Itel Railcar Corporation
and The Ferdinand and Huntingburg Railroad Company**

Dear Ms. McGee:

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

Please record this Schedule under Master Lease No. 2200 dated May 5, 1988, between Itel Rail Corporation, Itel Railcar Corporation and The Ferdinand and Huntingburg Railroad Company, which was filed with the ICC on May 13, 1988, under Recordation No. 15640.

The parties to the aforementioned instrument are listed below:

Itel Rail Corporation and
Itel Railcar Corporation (Lessors)
55 Francisco Street
San Francisco, California 94133

The Ferdinand and Huntingburg Railroad Company (Lessee)
55 Francisco Street
San Francisco, California 94133

This Schedule covers seventy (70) 52-5", 70-ton RBL boxcars bearing reporting marks FRDN 10378-17019 (n.s.) and LNAC 5400-5419.

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

Very truly yours,

patricia schumacker

Patricia Schumacker
Legal Department

MAY 15 1989 - 3 35 PM

INTERSTATE COMMERCE COMMISSION

LOT NO. 2200-03

SCHEDULE NO. 3 TO MASTER LEASE NO. 2200-00

THIS SCHEDULE NO. 3 ("Schedule") to that certain Lease Agreement dated as of May 5, 1988 (the "Agreement") between ITEL RAIL CORPORATION and ITEL RAILCAR CORPORATION, severally, as lessors, and THE FERDINAND AND HUNTINGBURG RAILROAD COMPANY, as lessee ("Lessee"), is made this 2nd day of May, 1989, between ITEL RAILCAR CORPORATION ("Lessor") and Lessee.

Lessor and Lessee agree as follows:

1. All capitalized terms defined in the Agreement shall have the meanings defined therein when used in this Schedule No. 3, except that the term "Cars" as used herein shall only refer to the equipment described in this Schedule unless otherwise indicated.
2. Lessor hereby leases the following Cars to Lessee subject to the terms and conditions of the Agreement and this Schedule:

AAR Mech Desig	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
RBL	52'5", 70-ton RBL Boxcar	FRDN 10378- 17019 (N.S.), as shown on Exhibit A	52'5"	9'4"	10'5"	16"	50
RBL	52'5", 70-ton RBL Boxcar	LNAC 5400- 5419	52'5"	9'4"	10'5"	16"	20

The Cars bearing the marks LNAC 5400-5419 are currently subject to a Railroad Car Lease Agreement dated July 1, 1983 (the "LNAC Lease") between Evans Railcar Leasing Company ("Evans") as lessor and Louisville, New Albany & Corydon Railroad Company ("LNAC") as lessee. The Cars bearing the marks FRDN 10378-17019 (n.s.) are currently subject to the Lease Agreement dated July 1, 1983, (the "FRDN Lease") between Evans and lessor and The Ferdinand Railroad ("FRDN") as lessee. Lessor is the assignee of Evans. Pursuant to the Assignment and Assumption Agreement dated November 30, 1987, LNAC assigned its interest in the LNAC-marked Cars to the Ferdinand Railroad Company. The Ferdinand Railroad Company, in turn, assigned the LNAC-marked and the FRDN-marked Cars to Lessee pursuant to the Ferdinand and Huntingburg Railroad Company Lease Assignment and Assumption Agreement dated as of December 18, 1987. Lessor and Lessee hereby agree that each Car shall be terminated from the LNAC Lease and from the FRDN Lease on the date of Delivery as defined in Subsection 3.A. hereinbelow, and added to the Agreement upon such termination on terms as set forth in this Schedule.

Lessor may, upon prior written notice to Lessee, remark the LNAC-marked Cars to bear FRDN reporting marks.

3. A. The term of the Agreement with respect to each Car described in this Schedule shall be deemed to have commenced on June 1, 1988 ("Delivery") and shall continue as to all of the Cars described in this Schedule for three (3) years thereafter (the "Initial Term").

B. If the Agreement has not been terminated early and no unremedied default has occurred and is continuing under the Agreement, the Agreement shall automatically be extended for two (2) consecutive periods of twelve (12) months each (each such period an "Extended Term") with respect to all of the Cars described in this Schedule, provided that Lessor or Lessee may terminate the Agreement at any time during the Initial Term or any Extended Term as to some or all of the Cars described in this Schedule by providing not less than thirty (30) days' prior written notice to the other.
4. The Cars are now subject to an assignment agreement dated December 19, 1988, between Lessee as Assignor and Illinois Central Railroad Company as Assignee (the "IC Assignment") which is attached hereto as Exhibit B. In order to ensure optimal use of the Cars, Lessor agrees to assist Lessee in monitoring Car movements and, when deemed necessary by Lessee and Lessor, to assist in the issuance of movement orders to facilitate the movement of the Cars to other railroad lines in accordance with the Interstate Commerce Commission ("ICC") and the Interchange Rules.
5. Lessor consents to Lessee's entering into the IC Assignment; provided, however, that Lessor shall perform Lessee's duties under the IC Assignment, except the duties described in paragraph 4 therein, which shall be performed by Lessee, and that Lessee shall, if directed by Lessor, to the extent legally permissible, assign Lessee's interest in the IC Assignment to any party designated by Lessor.
6. Lessor shall perform or cause to be performed and shall pay all costs and expenses associated with the maintenance of the Cars described in this Schedule, except as set forth in Section 5 of the Agreement. Lessee may make running repairs to those parts of the Cars specified in Exhibit C hereto. Subsection 5.A. of the Agreement shall not apply with respect to such Cars.
7. Lessor agrees to reimburse Lessee, within thirty (30) days of Lessor's receipt of the receipted copy of the paid tax bill, for all taxes actually paid in cash by Lessee resulting from: 1) ad valorem tax assessments on the Cars; and 2) any assessment, levy or impost relating to any Car, the Agreement, or the delivery of the Cars, which remained unpaid as of the date of the delivery of the Cars to Lessee or which is assessed, levied or imposed during the term of the Agreement, except taxes on income or gross receipts imposed on Lessee or sales or use tax imposed on mileage charges, car hire revenue, or the proceeds of the sale or lease of the Cars. Lessor and Lessee will comply with all state and local laws requiring filing of ad valorem returns associated with the Cars.

Notwithstanding any portion of this Section, Lessor shall not be responsible for penalty or interest assessments resulting from Lessee's failure to comply with any regulation or statute of any taxing or assessing authority. Lessee shall forward to Lessor upon receipt all correspondence, notifications of proposed tax assessments and tax bills associated with any tax reimbursable by Lessor. Lessor may, in good faith and by appropriate proceedings, contest any assessment, notification of assessment or tax bill. Lessor shall assume full responsibility for all expenses, including legal fees, resulting from such contest.

8. Rent

A. Definitions

(i) "Eligible Lines" is defined as the railroad lines owned and operated by Lessee as of the date this Schedule is executed by the parties. Unless Lessor and Lessee agree otherwise, any lines purchased by Lessee or added to the Eligible Lines or any Eligible Lines sold by Lessee to another party, effective on the date of such sale, during the Initial Term or any Extended Term are deemed to be the lines of another railroad company (a foreign road) for the purposes of determining Revenues (as defined in Subsection 8.A.(iii) hereinbelow).

(ii) "Revenue Rates" is defined as the hourly and mileage car hire rates specified for each Car in the Hourly and Mileage Car Hire Rate Table published in the January 1989 edition of The Official Railway Equipment Register.

(iii) "Revenues" is defined as the total revenues, calculated at the Revenue Rates, that are earned or due for the use and handling of the Cars on all railroad lines other than the Eligible Lines, including, but not limited to, per diem and mileage, whether or not collected and received by Lessor, and undiminished by any claimed abatement, reduction or offset caused by any action or failure of Lessee.

(iv) The "Base Rent" is defined as (\$) per Car per calendar quarter. The Base Rent for any Car which is not subject to the Agreement for an entire calendar quarter shall be prorated at (\$) per day for such Car during such calendar quarter.

B. Lessor shall receive all Revenues earned by the Cars on June 1, 1988 and thereafter while the IC Assignment is in effect.

C. Upon the expiration or termination of the IC Assignment, Lessor shall receive

- D. (i) In the event that as a result of any action or inaction by Lessee, Lessor shall receive or earn for the use of any Cars, Revenues calculated at hourly or mileage car hire rates that are lower in amount than those specified in Subsection 8.A. (ii), Lessee shall pay to Lessor, within ten (10) days of Lessor's request, an amount equal to the difference between the Revenues such Cars would have earned at the Revenue Rates and the amount of revenues actually received or earned for such Cars.
- (ii) Should any abatement, reduction or offset occur as a result of any action or inaction of Lessee, Lessee shall, within ten (10) days of Lessor's request, reimburse Lessor the amount of such abatement, reduction or offset.
- (iii) If, at any time during the Agreement, Lessee operates lines other than the Eligible Lines, Lessee shall supply Lessor with records which distinguish the movement of each Car on the Eligible Lines from the movement of such Car on any other lines operated by Lessee.
- E. Except as otherwise provided hereinabove, any agreement between Lessee and any other party with respect to the Cars ("Third Party Agreement(s)") shall be null and void without Lessor's prior written approval if such Third Party Agreement affects the revenues earned by the Cars.
- F. The calculations required in Section 8 shall be made within five (5) months of the end of each calendar year ("Final Calculations"). Lessor shall, prior to making such Final Calculations, retain the Revenues and other payments received by it on behalf of Lessee. Further, since the parties desire to determine on a quarterly year-to-date basis the approximate amounts owed under this Section 8, Lessor shall within three (3) months after the end of each calendar quarter, calculate on a quarterly year-to-date basis the amounts due both parties pursuant to this Section. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, provided, however, that within twenty (20) days following the Final Calculations, any amount paid to either party in excess of the amounts required shall be refunded to the appropriate party.
- G. If, with respect to any calendar quarter or quarters, revenues received by Lessor for the Cars on this Schedule are less than the Base Rent, Lessor may, at any time, at its option and upon not less than ten (10) days' prior written notice to Lessee, terminate the Agreement as to such Cars as Lessor shall determine.
- H. If, after the termination or expiration of the IC Assignment, any Car has remained on Lessee's property because Lessee has not given preference to the Car as specified in Subsection 3.B. of the

Agreement, Lessee shall be liable for and remit to Lessor an amount equal to the revenues which would have been generated if such Car had been in the physical possession and use of a railroad for the entire period during which such Car is on Lessee's property, with each Car travelling seventy-five (75) miles per day.

9. Except as expressly modified by this or any other Schedule, all terms and provisions of the Agreement shall remain in full force and effect with respect to all Cars subject to the Agreement.
10. This Schedule may be executed by the parties hereto in any number of counterparts, and all counterparts taken together shall be deemed to constitute one instrument.

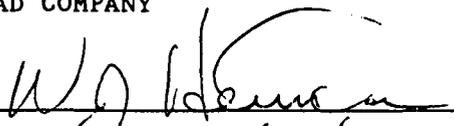
ITEL RAILCAR CORPORATION

THE FERDINAND AND HUNTINGBURG
RAILROAD COMPANY

By: 

Title: President

Date: May 2, 1989

By: 

Title: President

Date: 5/1/89

EXHIBIT A

The following seventy (70) 52'5", 70-ton, RBL boxcars ("Cars") are subject to Schedule No. 3 between ITEL RAILCAR CORPORATION ("Lessor") and THE FERDINAND AND HUNTINGBURG RAILROAD COMPANY ("Lessee") to the Lease Agreement dated May 5, 1988, between Itel Rail Corporation and Lessor, severally, as lessors, and Lessee.

50 FRDN Cars

FRDN 10378	FRDN 10496	FRDN 10534	FRDN 14005	FRDN 14016
FRDN 10478	FRDN 10497	FRDN 10535	FRDN 14006	FRDN 14017
FRDN 10482	FRDN 10498	FRDN 10538	FRDN 14007	FRDN 14018
FRDN 10483	FRDN 10499	FRDN 10539	FRDN 14008	FRDN 14019
FRDN 10485	FRDN 10500	FRDN 11129	FRDN 14009	FRDN 14021
FRDN 10486	FRDN 10501	FRDN 11133	FRDN 14011	FRDN 14022
FRDN 10489	FRDN 10502	FRDN 11135	FRDN 14012	FRDN 14023
FRDN 10493	FRDN 10504	FRDN 11136	FRDN 14013	FRDN 14024
FRDN 10494	FRDN 10505	FRDN 11140	FRDN 14014	FRDN 17018
FRDN 10495	FRDN 10533	FRDN 11144	FRDN 14015	FRDN 17019

20 LNAC Cars

LNAC 5400-LNAC 5419

ASSIGNMENT AGREEMENT

This Assignment Agreement ("Assignment Agreement") is made and entered into as of this 19~~th~~ day of DECEMBER, 1988, between THE FERDINAND AND HUNTINGBURG RAILROAD COMPANY ("Assignor") and ILLINOIS CENTRAL RAILROAD COMPANY ("Assignee").

R E C I T A L S :

- A. The Ferdinand Railroad Company ("FRDN") and Assignee were parties to an assignment agreement dated August 22, 1983, as amended, ("FRDN Assignment Agreement") pursuant to which FRDN provided Assignee with fifty (50), 52' 5", 70-ton RBL boxcars bearing reporting marks from within the series FRDN 10378-17019 (the "FRDN Car") which are shown on Exhibit A attached hereto.
- B. By a letter agreement dated May 15, 1985 (the "LNAC Assignment"), Evans Railcar Transportation Company, as agent of the Louisville, New Albany & Corydon Railroad Company ("LNAC"), assigned to Assignee twenty (20) RBL boxcars bearing the reporting marks from within the series LNAC 5400-5419 (the "LNAC Cars").
- C. The Ferdinand and Huntingburg Railroad Company, as the assignee of LNAC and FRDN pursuant to the Assignment and Assumption Agreement dated November 30, 1987, between LNAC and Ferdinand Railroad Company and the Lease Assignment and Assumption Agreement dated December 18, 1987, between Ferdinand Railroad Company and The Ferdinand and Huntingburg Railroad Company, desires to assign the LNAC Cars and the FRDN Cars to Assignee under a new assignment agreement.

Now, therefore, Assignor and Assignee agree as follows:

1. Effective as of June 1, 1988 ("Effective Date"), this Assignment Agreement shall supersede the FRDN Assignment Agreement and the LNAC Assignment Agreement with respect to each FRDN Car and LNAC Car respectively. This Assignment Agreement shall remain in effect with respect to all such LNAC Cars and FRDN Cars (together, the "Cars") for three (3) years from such Effective Date (the "Term"); provided, however, that either party may cancel this Assignment Agreement at anytime upon thirty (30) days' prior written notice to the other.
2. At any time during the Term, Assignee shall, upon receiving Assignor's direction and at Assignor's expense, effect the remark of each LNAC Car to bear FRDN reporting marks and place such remarked RBL boxcars into an assignment pool on Assignee's railroad lines as provided for in Car Service Rule 16 and under the provisions of Car Service Directive 145 of the Code of Car Service Rules, AAR Circular No. OT-10. Upon the remark of the final LNAC Car, Assignee shall provide Assignor with a completed Certificate of Remark in the form of Exhibit B attached hereto.
3. Assignee shall not discriminate against the Cars in the operation, use, maintenance and provision of off-line loads vis-a-vis any comparable

boxcars owned, leased or managed by Assignee or assigned or interchanged to Assignee. If any Car remains on Assignee's lines because Lessee has not given preference to the Cars as specified in the preceding sentence, Assignee shall be liable for and remit to Assignor an amount equal to the revenues which would have been generated if such Car had been in the physical possession and use of another railroad for the entire period during which such Car is on Assignee's railroad line.

4. If any Car returns to Assignor's line as a result of Assignee not filing the assignment pool code properly, Assignee shall be responsible for all costs associated with returning such Car to Assignee. Assignor shall use its best efforts to prevent any Car from being interchanged onto its lines during the Term, including advising Assignor's connecting carrier that the Cars have been placed into an assignment pool on Assignee's lines and that the connecting carrier should not return such Cars to Assignor during the Term.
5. When used in this Assignment Agreement, each of the terms shall have the following definitions:
 - (a) "Eligible Lines" is defined as the railroad lines owned and operated by Assignee as of March 1, 1988. Unless otherwise agreed by Assignor and Assignee, any lines purchased by Assignee or added to the Eligible Lines during the Term are deemed to be the lines of another railroad company (a foreign road) for the purposes of determining Revenues (as defined hereinbelow). If, at any time during the Term, Assignee operates lines other than the Eligible Lines, then Assignee shall supply Assignor with records which distinguish the movement of each Car on the Eligible Lines from the movement of such Car on other railroad lines operated by Assignee.
 - (b) "Revenues" is defined as the total revenues earned for the use or handling of the Cars on all railroad lines other than the Eligible Lines, including but not limited to, per diem and mileage, whether or not collected and received by Assignor and undiminished by any claimed abatement, reduction or offset caused by any action or inaction of Assignee.
6. Assignee shall be entitled to full per diem and mileage relief for each Car while such Car is on the Eligible Lines and shall make interchange records available to Assignor when requested.
7. Assignor shall be entitled to and retain all Revenues earned by the Cars while such Cars are off the Eligible Lines.
8. Assignor is responsible for normal maintenance and repair expenses. Any transportation costs incurred pursuant to this paragraph shall be at Assignee's sole expense while the Cars are on Assignee's lines, and at Assignor's sole expense in the event the Cars are moved off Assignee's lines. Assignee shall be responsible for and shall pay all costs and expenses of all repair work or other work or materials required because of (a) damage to the Cars while on its lines under AAR Rule 95B; (b) Assignee's failure to note any damage to any Car that returns to its

lines, the repair of which is the responsibility under AAR Rule 95B of any third party railroad. Assignee shall be responsible for all expenses in excess of twenty-two thousand dollars (\$22,000) per year for all the Cars in the aggregate ("Maximum Maintenance Expense") for the repair of damage to the plug doors and bulkheads of the Cars. The Maximum Maintenance Expense shall exclude expenses for any project or program pertaining to plug doors and bulkheads that Assignor may implement; Assignor shall be responsible for all such expenses. Assignee shall promptly notify Assignor of any damage to, defect in, need of repair to, or destruction of any Car. For any damaged Car that requires repairs other than running repairs during the Term, car hire (time and mileage) shall be governed by applicable Car Hire and Car Service Rules. In no event shall Assignee place any Car for repair at a private contract repair facility or by a private contractor on the property of Assignee, unless Assignor's approval has been secured earlier and such repair is being performed at the direction and control of Assignor.

9. Upon termination or expiration of this Assignment Agreement, Assignee shall ensure that the Cars are in the same or as good condition, order and repair as when delivered to Assignee, wear and tear from ordinary use and the passage of time excepted, and free of all accumulations or deposits from commodities transported in or on the Cars while in the service of Assignee. Assignee shall remove the Cars from the provisions of Car Service Rule 16 and Car Service Directive 145, and deliver the Cars to a point on the Eligible Lines to be designated by Assignor. At Assignor's option and expense, Assignee shall effect the remark of the Cars to bear new reporting marks to be provided by Assignor and use its best efforts to provide final outbound loads for each Car. Assignee shall be entitled to per diem and mileage relief for each remarked Car on the Eligible Lines that awaits ^{loading} ~~loading~~ until the earlier of (a) the time that such Car is interchanged ~~loaded~~ off the Eligible Lines, or (b) the time that such Car is released empty back onto the Eligible Lines by an on-line shipper.

10. Assignee's rights shall be subject and subordinate to the rights of any lessor, any owner or secured party under any financing agreement with respect to the Cars. Accordingly, following notice to Assignee from any such lessor, secured party or owner that an event of default has occurred at any time (including at a time prior to the Effective Date), and is continuing under such financing agreement, such party may require that rentals and other sums due hereunder shall be paid directly to such party.

11. 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, or when transmitted and received by telex addressed as follows:

If to Assignor:

The Ferdinand and Huntingburg Railroad Company
55 Francisco, 5th Floor
San Francisco, CA 94133

If to Assignee:

Illinois Central Railroad Company
233 North Michigan Avenue
Chicago, Illinois 60601-5799

12. This Assignment Agreement shall not be modified, altered, or amended, except by an agreement in writing signed by the parties.
13. This Assignment Agreement shall be executed in two counterparts, and such counterparts together shall constitute but one and the same contract.

THE FERDINAND AND HUNTINGBURG
RAILROAD COMPANY

ILLINOIS CENTRAL RAILROAD COMPANY

By: WJ Hancock
Title: President
Date: 1/10/89

By: H Banzon
Title: VP-Transp.
Date: 12-27-88

EXHIBIT A

50 FRDN Cars

FRDN 10378	FRDN 11129
FRDN 10478	FRDN 11133
FRDN 10482	FRDN 11135
FRDN 10483	FRDN 11136
FRDN 10485	FRDN 11140
FRDN 10486	FRDN 11144
FRDN 10489	FRDN 14005-14009
FRDN 10493-10502	FRDN 14011-14019
FRDN 10504	FRDN 14021-14024
FRDN 10505	FRDN 17018
FRDN 10533-10535	FRDN 17019
FRDN 10538	
FRDN 10539	

EXHIBIT B

Certificate of Remark

Pursuant to paragraph 21 of the Assignment Agreement dated DECEMBER 19 1988, between The Ferdinand and Huntingburg Railroad Company ("Assignor") and the Illinois Central Railroad Company ("Assignee"), the following LNAC Cars have been remarked to bear FRDN reporting marks

<u>LNAC Reporting Mark</u>	<u>FRDN Reporting Marks</u>	<u>Date Remarked from LNAC Marks</u>
LNAC 5400	FRDN	
LNAC 5401		
LNAC 5402		
LNAC 5403		
LNAC 5404		
LNAC 5405		
LNAC 5406		
LNAC 5407		
LNAC 5408		
LNAC 5409		
LNAC 5410		
LNAC 5411		
LNAC 5412		
LNAC 5413		
LNAC 5414		
LNAC 5415		
LNAC 5416		
LNAC 5417		
LNAC 5418		
LNAC 5419		

ILLINOIS CENTRAL RAILROAD COMPANY

By: _____

Title: _____

Date: _____

EXHIBIT C

Running Repairs: RBL Boxcars

Angle Cocks	Wheels
Air Hose	Yokes
Train Line	Knuckles/Pins
Operating Levers and Brackets	Slack Adjuster
Sill Steps	Couplers
Grab Irons	Draft Gears
Brake Shoes	Coupler Gears
Brake Shoe Keys	Couple Carriers
Brake Connecting Pin	Center Plate Repair (Not Replacement of Center Plate)
Brake Head Wear Plates	Cotter Keys
Air Brakes	Roller Bearing Adapters
Hand Brakes	Air Hose Supports
Brake Beams and Levers	Load Divider Repairs (Not Replacement)
Truck Springs	
Door Hardware (Not Replacement of Door)	

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

On this 2nd day of May, 1989, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Railcar Corporation, that the foregoing 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 said corporation.

Sharon L. Van Fossan
Notary Public



STATE OF California)
) ss:
COUNTY OF San Francisco)

On this 1st day of May, 1989, before me personally appeared William J. Hendon, to me personally known, who being by me duly sworn says that such person is President of The Ferdinand and Huntingburg Railroad Company that the foregoing 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 said corporation.

Sharon L. Van Fossan
Notary Public

