

ITEL

RECORDATION NO. 8819-J Filed 1425

Rail Division
Two Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234
MAY 5 1980 - 3 15 PM
INTERSTATE COMMERCE COMMISSION

April 29, 1980

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, DC 20423

NO-128A121

Date MAY 5 1980

Fee \$ 80.00

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I.C.C. BR.
FEE OPERATION BR.

Re: Itel Corporation
Equipment Trust 1977 Series 2
Equipment Trust Agreement dated as of March 15, 1977
9 1/2% Equipment Trust Certificates due October 31, 1992

100 Washington, D. C.

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith, on behalf of Itel Corporation, for filing and recordation, as an additional filing under Recordation No. 8819, five (5) executed counterparts of the following document:

Sublease Agreement, made as of February 6, 1980, among Itel Corporation, McCloud River Railroad Company and Seattle and North Coast Railroad Company.

The names and addresses of the parties to the aforementioned document are:

- (1) Itel Corporation, Rail Division
Two Embarcadero Center, 24th Floor
San Francisco, California 94111
- (2) McCloud River Railroad Company
P. O. Drawer A
McCloud, California 96057
- (3) Seattle and North Coast Railroad Company
2150 North 107th Street
Seattle, Washington 98133

Please cross-index the above-referenced Sublease Agreement with the following document, which is filed under Recordation No. 8781:

Equipment Trust Agreement, dated as of March 15, 1977, between First Security Bank of Utah, N.A., as Trustee, and Itel Corporation.

This is 8819-J

W. H. Hanson

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Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Re: Sublease Agreement
April 29, 1980
Page two

The equipment covered by the enclosed Sublease Agreement is one hundred (100) boxcars (A.A.R. mechanical designation XM; 50'6" in length, 9'6" in inside width, 10'7" in height and with 8' double sliding doors), formerly, and until remarked, marked with McCloud Railroad marks in the series MR2000-2399, to be remarked to SNCT 1000 through and including SNCT 1099.

Enclosed also is a check for \$60.00 for the required recordation (\$50.00) and cross-indexing (\$10.00) fees.

Please stamp all counterparts of the enclosed document with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining four (4) counterparts be delivered to the bearer of this letter.

Sincerely,



David V. Biesemeyer
Senior Counsel

DVB:cp
encls.

cc: Robert S. Clark, Esq.
Edward Wes, Esq.
Michael Walsh, Esq.
Steven C. Wight

8819-5

RECORDATION NO. 8819-5 Filed 1980

SUBLEASE AGREEMENT

MAY 5 1980 -3 15 PM

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THIS SUBLEASE AGREEMENT (this "Sublease") made as of this February day of 1980, between **MC CLOUD RIVER RAILROAD COMPANY**, a California corporation, P.O. Drawer A, McCloud, California, 96057 ("McCloud"), as Lessor, and **SEATTLE AND NORTH COAST RAILROAD COMPANY**, a Washington corporation, 2150 North 107th Street, Seattle, Washington, 98133, ("Lessee"), as Lessee.

W I T N E S S E T H:

WHEREAS, McCloud is lessee under that certain Lease Agreement dated as of April 20, 1977, as amended on or prior to the date hereof (the "Lease") with SSI Rail Corp., a Delaware corporation as lessor, pursuant to which five hundred (500) boxcars therein described have been delivered to McCloud; ITEL Corporation, acting through its Rail Division ("ITel Rail"), Two Embarcadero Center, San Francisco, California 94111, has succeeded to the interests of SSI Rail Corp. as lessor under the Lease and joins in this Sublease for the purpose of consenting hereto and for the purpose of agreeing to perform certain of its obligations under the Lease for the benefit of Lessee and agreeing to accept performance by Lessee of certain obligations of McCloud under the Lease;

WHEREAS, McCloud desires to sublease one hundred ~~fifty~~ 100 of said boxcars, bearing the reporting marks more particularly described on Equipment Schedule No. 1, such boxcars to be remarked with railroad marks of Lessee, being SNCT 1000-1099 inclusive.

1. Scope of Agreement

A. McCloud agrees to sublease to Lessee, and Lessee agrees to sublease from McCloud, one hundred ~~fifty~~ 100 boxcars of the types and descriptions as set forth in the schedule executed by the parties concurrently herewith. 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 Sublease. The scheduled items of equipment are hereinafter called collectively the "Boxcars". The Boxcars are subleased without representation or warranty by McCloud and subject to the terms and provisions of the Lease.

B. It is the intent of the parties to this Sublease that McCloud shall at all times be and remain the sublessor 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.

2. Term

A. This Sublease 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 each of the Boxcars described on each Schedule shall be for twelve (12) years ("Initial Term"), and shall commence at 12:00 P.M., Pacific Standard Time, on the date that such Boxcar is remarked, pursuant to Section 3A.

1/25/80

B. If this Sublease has not been earlier terminated and no default has occurred and is continuing, and if the Lease has not been terminated pursuant to the terms thereof, this Sublease shall automatically be extended for not more than five consecutive periods of twelve (12) months each with respect to all of the Boxcars described on each Schedule ("Extended Terms"), provided, however, that McCloud, with the consent of Itel Rail, or Lessee may terminate this Agreement on or after the Initial Term 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 Initial Term or any Extended Term.

3. Supply Provisions

A. Lessee hereby approves the specifications for the Boxcars delivered to it by McCloud. Itel Rail shall, at its own expense, remark the Boxcars with the railroad markings of Lessee in compliance with all applicable regulations. The Boxcars shall be deemed delivered at 12:00 P.M., Pacific Standard Time, on the date such remarking is completed. The Boxcars shall be moved to Lessee's railroad line at no cost to Lessee as soon after delivery as is consistent with mutual convenience and economy. Notwithstanding that Lessee may not have immediate physical possession of the Boxcars leased hereunder, Lessee agrees to pay the rent set forth in this Sublease. To move the Boxcars to Lessee's railroad line and insure optimal use of the Boxcars after the Initial Loading, Itel Rail agrees to assist Lessee in monitoring Boxcar movements and, when deemed necessary by Lessee and Itel Rail, to issue movement orders with respect to such Boxcars to other railroad lines in accordance with ICC and AAR interchange agreements and rules. For the purposes hereof, the term "Initial Loading" shall be defined as the thirty-first (31st) day after the Boxcars are deemed delivered pursuant to this Section.

B. Lessee shall give preference to McCloud and shall load the Boxcars leased from McCloud prior to loading substantially similar freight cars leased from other parties or purchased by Lessee subsequent to the date of this Agreement 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.

4. Record Keeping

A. At no cost to Lessee, Itel Rail shall during the term of this Sublease 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 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.

B. Each Boxcar leased hereunder shall be registered by Itel Rail at no cost to Lessee in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. Itel Rail shall, on behalf of Lessee, 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. Correspondence from railroads using such Boxcars shall be addressed to Lessee at such address as Itel Rail shall select.

C. All record keeping performed by Itel Rail hereunder and all record of payments, charges and correspondence related to the Boxcars shall be separately recorded and maintained by Itel Rail in a form suitable for reasonable inspection by Lessee from time to time during regular Itel Rail business hours. Lessee shall supply Itel Rail 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 Itel Rail may reasonably request.

5. Maintenance, Taxes and Insurance

A. Except as otherwise provided herein, McCloud will cause to be paid 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 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 for any repairs required for damage not noted at the time of interchange. Lessee hereby transfers and assigns to Itel Rail 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 Itel Rail 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 Itel Rail.

B. Except as provided above, Itel Rail shall make or cause to be made such inspections of, and maintenance and repairs to, the Boxcars as may be required. Upon request of Itel Rail, Lessee shall perform any necessary maintenance and repairs to Boxcars on Lessee's railroad tracks as may be reasonably requested by Itel Rail. Itel Rail 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 Itel Rail's prior written consent. If Lessee makes an alteration, improvement or addition to any Boxcar without Itel Rail's prior written consent, Lessee shall be liable to Itel Rail for any revenues lost due to such alteration. Title to any such alteration, improvement or addition shall be and remain with Itel Rail.

C. Lessee will at all times while this Sublease 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 Code of Car Hire Rules and Interpretations—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 obtaining insurance. Lessee shall furnish Itel Rail and McCloud concurrently with the execution hereof and thereafter at intervals of not more than twelve (12) calendar months with a certificate of insurance, signed by an insurance broker, with respect to the insurance carried on the Boxcars. Said policies shall provide that McCloud and Itel Rail shall receive thirty (30) days prior written notice of any material changes in coverage or cancellation. All insurance shall be taken out in the name of Lessee and Itel Rail (or its assignee) as their interests may appear.

D. McCloud agrees to cause Lessee to be reimbursed 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 and sales or use taxes imposed on the mileage charges and/or car hire revenues. Itel Rail and McCloud shall forward to Lessee all sales and use tax payments received on behalf of Lessee. Itel Rail, McCloud and Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Boxcars. Itel Rail shall review all applicable tax returns prior to filing.

6. Lease Rental

A. Itel Rail, on behalf of McCloud, shall be entitled to receive the following rent from Lessee:

(i) Itel Rail shall receive all payments made by other railroad companies for the use or handling of the Boxcars, including but not limited to mileage payments, per diem payments, and incentive per diem payments (such payments are hereinafter collectively referred to as "Payments"). The Base Rental shall be equal to the sum of the amount which would have been earned by the Boxcars on an aggregate basis during each calendar year at Utilization (as defined below) of eighty-three percent (83%) and at Mileage Revenue ^{Rental} Mileage Revenue shall be an amount equal to the applicable charge per line-haul mile specified in the AAR Code of Car Hire Rules and Interpretations-Freight, multiplied by 65 miles per day multiplied by the number of days in the applicable calendar year multiplied by eighty-three percent (83%) multiplied by the number of Boxcars then subject to this Sublease. For the purposes of this Sublease, 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, commencing from the Initial Loading and the denominator of which is the aggregate number of days in each calendar year that the Boxcars are subleased to Lessee, commencing from the Initial Loading. ^{Rental} ^{ONT}

(ii) In the event the Payments during any calendar year exceed the Base Rental, Itel Rail, on behalf of McCloud, shall retain an amount equal to the Base Rental, and Itel Rail shall remit to Lessee all of the Payments received in excess of the Base Rental.

(iii) If McCloud or Itel Rail pays other railroads to move Boxcars in accordance with Section 3A, except for any expense incurred to deliver such Boxcars to Lessee's railroad line, Lessee shall reimburse McCloud or Itel Rail for such expense only from and out of the monies received by Lessee pursuant to subsection 6A(ii).

(iv) The rental charges payable pursuant to this Sublease shall be paid in the following order until Itel Rail receives the amounts due pursuant to this Section: (1) incentive per diem charges; (2) per diem; and (3) mileage; and (4) other.

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

B. The calculations required above shall be made within five (5) months after the end of each calendar year. However, to enable each of Itel Rail and McCloud to meet its financial commitments, Itel Rail shall, prior to making such calculations, retain the payments received by it pursuant to this Sublease. Further, since the parties desire to determine on a quarterly basis the approximate amount of the rental charges due pursuant to this Sublease, Itel Rail shall within three (3) months after the end of each calendar quarter, calculate on a quarterly basis rather than a yearly basis the amount due pursuant to this section. 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.

^ year
to date
CNT

C. If at any time during a calendar quarter, the number of days that the Boxcars have not earned Payments are such as to make it mathematically certain that the Payments in such calendar quarter cannot be equal to or greater than the Base Rental, McCloud may, at its option and upon not less than ten (10) days prior written notice to Lessee, terminate this Sublease, with Itel Rail's consent, as to such Boxcars as McCloud shall determine; provided, however, that prior to such termination, Lessee may, at its option within ten (10) days of receipt of a notice from McCloud, pay Itel Rail, on behalf of McCloud, an amount equal to the difference between the Payments Itel Rail received for such calendar quarter and the Payments Itel Rail would have received had the Payments been equal to the Base Rental.

D. McCloud may, at its option, with Itel Rail's consent, terminate this Sublease 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 McCloud 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.

E. Subsequent to the Initial Loading, if any Boxcar remains on Lessee's railroad tracks for more than seven (7) consecutive days, McCloud may, with the consent of Itel Rail, at its option and upon not less than twenty-four (24) hours prior written notice, terminate this Sublease as to such Boxcar and withdraw such Boxcar from Lessee's railroad tracks. If any such Boxcar remains on Lessee's railroad tracks more than seven (7) consecutive days because Lessee has not given preference to the Cars as specified in Section 3B, Lessee shall be liable for and remit to Itel Rail an amount equal to the Payments Lessee would have earned if such Boxcars were in the physical possession and use of another railroad for the entire period.

7. Possession and Use

A. So long as Lessee shall not be in default under this Sublease, Lessee shall be entitled to the possession, use and quiet enjoyment of the Boxcars in accordance with the terms of this Sublease and in the manner and to the extent Boxcars are customarily used in the railroad freight business, provided that Lessee retain on its railroad tracks no more Boxcars than are necessary to fulfill its immediate requirements to provide transportation and facilities upon reasonable request therefor to shippers on its railroad tracks. However, Lessee's rights shall be subject to the rights of any owner or secured party under any financing agreement entered into by ITEL Rail in connection with the acquisition of Boxcars, i.e., upon 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. Lessee agrees that to the extent it has physical possession and can 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 any of McCloud or ITEL Rail 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.

B. Lessee will not directly or indirectly create, incur, assume or suffer to exist 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 Sublease or Schedule hereto. 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 of any sum required herein to be paid by Lessee within ten days after the date any such payment is due. Nonpayment by Lessee pursuant to Section 6C shall not constitute an event of default.

(ii) The breach by Lessee of any other term, covenant or condition of this Sublease, which is not cured within ten days thereafter.

(iii) Any act of insolvency by Lessee, or the filing by Lessee 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 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, 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 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.

B. Upon the occurrence of any event of default, McCloud may, at its option and with Itel Rail's consent, terminate this Sublease and may

(i) Proceed by any lawful means to enforce performance by Lessee of this Sublease or to recover damages for a breach thereof (and Lessee agrees to bear McCloud's and Itel Rail's costs and expenses, including reasonable attorneys' fees, in securing such enforcement), or

(ii) By notice in writing to Lessee, terminate Lessee's right of possession and use of the Boxcars, whereupon all right and interest of Lessee in the Boxcars shall terminate; and thereupon McCloud may enter upon any premises where the Boxcars may be located and take possession of them and henceforth hold, possess and enjoy the same free from any right of Lessee. Itel Rail, on behalf of McCloud, shall nevertheless have the right to recover from Lessee any and all rental amounts which under the terms of this Sublease may then be due or which may have accrued to that date.

9. Termination

At the expiration or termination of this Sublease as to any Boxcars, Lessee will surrender possession of such Boxcars to McCloud by delivering the same to McCloud. A Boxcar shall be no longer subject to this Sublease upon the removal of Lessee's railroad markings from the Boxcar and the placing thereon of such markings as may be designated by McCloud, at the option of McCloud or, (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 born by Lessee. 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 within five working days remove Lessee's railroad markings from the Boxcars and place thereon such markings as may be designated by McCloud with the consent of Itel Rail. 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 sixty (60) days' free storage on its railroad tracks for McCloud or Itel Rail or the subsequent lessee of any terminated Boxcar. If any Boxcar is terminated pursuant to subsections 6C or 6E or section 8 prior to the end of its lease term, Lessee shall be liable to McCloud or Itel Rail for all costs and expenses incurred by McCloud or Itel Rail to place thereon the markings and name or other insignia of McCloud or subsequent lessee. If any Boxcar is terminated pursuant to subsection 6C or 6E, Itel Rail, on behalf of McCloud shall have the right to recover from Lessee any and all rental amounts which under the terms of this Agreement may then be due or which may have accrued to that date.

10. Indemnities

Itel Rail 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, cause of action, damage, liability, cost or expense which may be asserted against Lessee with respect to the Boxcars (other than loss or physical damage to the Boxcars as provided in (1) above) unless occurring through the fault of Lessee, including without limitation the delivery of the Boxcars to Lessee's railroad line, ownership, leasing or return of the Boxcars, or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects, if any, are latent or are discoverable by Itel Rail or Lessee).

11. Representations, Warranties and Covenants of Lessee

Lessee represents, warrants and covenants that:

(i) Lessee is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power, authority and is duly qualified and authorized to do business wherever necessary, to carry out its present business and operations and to own or hold under the lease or sublease its properties and to perform its obligations under this Sublease.

(ii) The entering into and performance of this Sublease will not violate any judgment, order, law or regulation applicable to Lessee, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or on the Boxcars pursuant to any instrument to which Lessee is a party or by which it or its assets may be bound.

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

(iv) There is no fact which Lessee has not disclosed to McCloud and Itel Rail in writing, nor is Lessee a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as Lessee can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of the Lessee or the ability of the Lessee to perform its obligations under this Sublease.

12. Inspection

McCloud 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 McCloud and Itel Rail 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 McCloud and Itel Rail in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Boxcar. Lessee shall furnish to McCloud and Itel Rail 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. At the end of the first calendar year of the Initial Term and provided that this Sublease has not been earlier terminated, McCloud will repaint or cause to be repainted, at no cost to Lessee, the Boxcars with such railroad markings and/or other insignia of Lessee, as may be reasonably requested by Lessee; provided, however, that if the Payments on a cumulative basis for such first calendar year is not greater than or equal to Base Rental (as defined in Section 6), McCloud may delay such repainting and remarking until such time as the Payments on a cumulative basis for any twelve month period during the Initial Term of this Sublease is greater than or equal to Base Rental. Such repainting and remarking shall comply with all applicable regulations.

B. This Sublease and the Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, except that Lessee may not without the prior written consent of McCloud and Itel Rail assign this Sublease 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.

C. The parties hereto 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 Itel Rail in connection with the acquisition or use of the Boxcars in order to confirm the financing party's interest in and to the Boxcars, this Sublease and Schedules hereto and to confirm the subordination provisions contained in Section 7 and in furtherance of this Sublease. This Sublease shall be contingent upon execution of any such documents.

D. This Sublease is made subject to the issuance by the Interstate Commerce Commission of appropriate certificate to the effect that the present or actual public convenience and necessity will be served by the acquisition by the Seattle and North Coast Railroad Company of the Port Angeles Branch of the Chicago, Milwaukee, St. Paul and Pacific Railroad.

E. It is expressly understood and agreed by the parties hereto that this Sublease constitutes a sublease 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 sublessee only.

F. No failure or delay by McCloud or Itel Rail to exercise any right, power or remedy nor shall any waiver or indulgence by McCloud or Itel Rail 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.

G. This Sublease shall be governed by and construed according to the laws of the State of California.

H. 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 party being notified at its address set forth herein.

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

**MCCLOUD RIVER RAILROAD
COMPANY**

By: *Sidney E. Munner*

Title: President

Date: February 7, 1980

**SEATTLE AND NORTH COAST
RAILROAD COMPANY**

By: *Arthur M. Allen Jr.*

Title: President

Date: 2/6/80

ACKNOWLEDGEMENT AND CONSENT

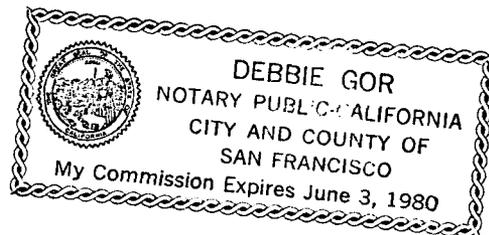
Carl M. Lay
IteI Corporation, Rail Division

President, May 2, 1980
Date

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

On this 2nd day of May, 1980, before me personally appeared
Carl N. Mylon, to me personally known, who being
by me duly sworn says that such person is President of Itel Corporation,
Rail Division, that the foregoing Sublease Agreement 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.

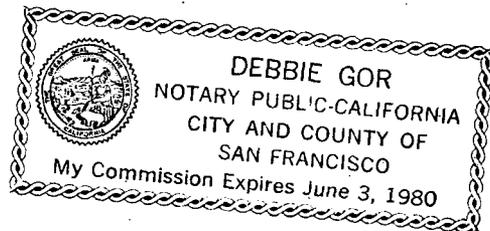
Debbie Gor
Notary Public



STATE OF California)
COUNTY OF San Francisco SS:

On this 7th day of February, 1980, before me personally appeared Sidney E. Yuma to me personally known, who being by me duly sworn says that such person is President of McCloud River Railroad Company, that the foregoing Sublease Agreement 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.

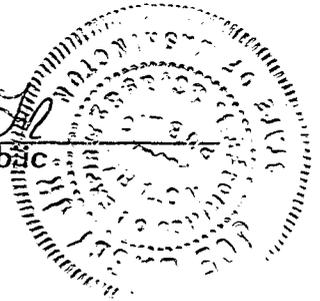
Debbie Gor
Notary Public



STATE OF WASHINGTON)
COUNTY OF KING) ss:

On this 1ST day of May, 1980, before me personally appeared Arthur G. Allen Jr, to me personally known, who being by me duly sworn says that such person is President of Seattle and North Coast Railroad Company, that the foregoing Sublease Agreement 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.

Joe Leiby, Jr
Notary Public



EQUIPMENT SCHEDULE NO. 1

McCloud River Railroad Company hereby leases the following Cars to Seattle and North Coast Railroad Company subject to the terms and conditions of that certain Lease Agreement dated as of February 6, 1980.

CNT ~~AM~~ ~~AM~~ CNT

| A.A.R. Mech. Desig. | Description | Numbers | Dimensions | | | Doors Width | No. of Cars |
|---------------------|-------------------------|---|------------|--------------|--------|---|--|
| | | | Length | Inside Width | Height | | |
| XM | 70 Ton, General Purpose | SNCT AM 1000-1099 AM CNT | 50' 6" | 9' 6" | 10' 7" | 8' Double Sliding | 106 AM 150 AM CNT |
| | | MR | | | | AM CNT As Specified on FMC Job 17820 AM McCloud SERIAL # 2000-2399 AM AM CNT | |

MCCLLOUD RIVER RAILROAD COMPANY

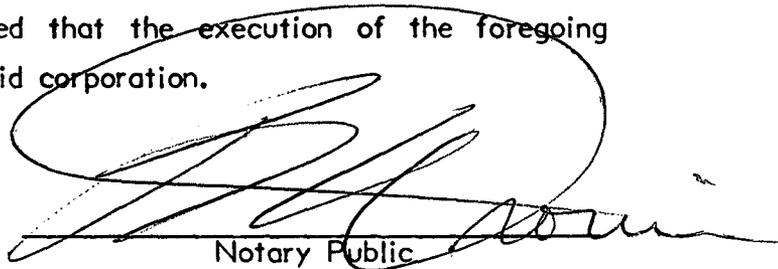
SEATTLE AND NORTH COAST RAILROAD COMPANY

BY: Sidney E. Muma
TITLE: President
DATE: February 7, 1980

BY: Arthur G. Allen Jr.
TITLE: President
DATE: _____
Arthur G. Allen Jr.
5/1/80

STATE OF Washington)
COUNTY OF King)

On this 6th day of Feb, 1980, before me personally appeared Arthur E Allen Jr, to me personally known, who being by me duly sworn says that such person is Pres of Seattle & North Coast Railroad Co, that the foregoing Equipment Schedule No. 1 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.


Notary Public

STATE OF _____)
COUNTY OF _____)

On this _____ day of _____, 197 , before me personally appeared _____, to me personally known, who being by me duly sworn says that such person is _____ of ITEL Corporation, Rail Division, that the foregoing Equipment Schedule No. ___ 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.

Notary Public

STATE OF California
COUNTY OF San Francisco

On this 7th day of February, 1980, before me personally appeared Sidney E. Muma, to me personally known, who being by me duly sworn says that such person is President of MacClaid River Railroad Co., that the foregoing Equipment Schedule No. 1 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.

Debbie Gor
Notary Public

