

#60.00

RECORDATION NO. 8819 N Filed 1426

ITEL

SEP 16 1980 - 1 35 PM

Rail Division

September 15, 1980 INTERSTATE COMMERCE COMMISSION
Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234

RECORDED
SEP 16 1 28 PM '80
FEE OPERATION BR

(2)

Mrs. Lee -

Please file this record

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Re: Sublease Agreement made as of August 19, 1980 between McCloud River Railroad Company and Sierra Railroad Company

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, Rail Division, for filing and recordation, as an additional filing under Recordation No. 8819, which was recorded on May 11, 1977 at 1:15 p.m., four (4) counterparts of the following document:

file under →

Sublease Agreement made as of August 19, 1980 between McCloud River Railroad Company and Sierra Railroad Company

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

1. ITEL Corporation, Rail Division
Two Embarcadero Center
San Francisco, CA 94111
2. McCloud River Railroad Company
P.O. Drawer A
McCloud, CA 96057
3. Sierra Railroad Company
2143 Mono Way
Sonora, CA 95370

No. **C-260A057**
Date **SEP 16 1980**
Fee **\$1000.00**
ICC Washington, D. C.

Cross index under

Please cross-index the above referenced document 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.

The equipment covered by Sublease Agreement is One Hundred (100) 70-ton boxcars (AAR mechanical designation XM; 50'6" in length), marked SERA 4500 through and including SERA 4599.

Country Club
John Austin

ITEL

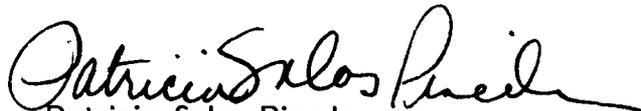
Rail Division

Ms. Agatha Mergenovich
September 15, 1980
Page Two

Enclosed also is a check for \$50.00 for the required recordation and a check for \$10.00 for the cross-indexing fee.

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 three (3) counterparts be delivered to the bearer of this letter.

Sincerely,


Patricia Salas Pineda
Counsel

PSP/rcs

(2)

L-0051 (a)
8/29/80

RECORDATION NO. 8819 N Filed 1425

SUBLEASE AGREEMENT SEP 16 1980 -1 35 PM

This Sublease Agreement (the "Sublease"), made as of this twenty-ninth day of August, 1980, between McCloud River Railroad Company, a California corporation, P. O. Drawer A, McCloud, California 96057 ("Lessor"), as Lessor, and Sierra Railroad Company, a California corporation, 2143 Mono Way, Sonora, California, 95370 ("Lessee"), as Lessee.

INTERSTATE COMMERCE COMMISSION

WITNESSETH:

WHEREAS, Lessor is the lessee under that certain Lease Agreement, dated as of April 20, 1977 (the "Lease"), with SSI Rail Corp. as the lessor, pursuant to which certain railcars therein described have been leased to Lessor; 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 the lessor under the Lease.

WHEREAS, Lessor desires, with the consent of Itel Rail, to sublease certain of said railcars to Lessee, as described on Equipment Schedule No. 1 attached hereto and executed concurrently herewith and on such other schedules as may be executed by the parties hereto from time to time (individually a "Schedule" and collectively the "Schedules"), such railcars to be remarked with the railroad marks of Lessee.

1. Scope of Agreement

A. Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the railcars (individually a "Boxcar" and collectively the "Boxcars") described in each and every Schedule executed by the parties hereto and made a part hereof. The Boxcars are leased AS IS by Lessor subject to the terms and provisions of the Lease.

B. It is the intent of the parties to this Sublease that, as between Lessor and Lessee, Lessor shall at all times be and remain the Lessor 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 and effect until it has been terminated as to all of the Boxcars as provided herein and Lessee has fully performed all of its obligations hereunder. The term of this Sublease with respect to each of the Boxcars described on each Schedule shall commence at 12:00 P.M. on the date and at the location that such Boxcar is remarked, pursuant to Section 3.A, and shall expire as to all the Boxcars described on each Schedule, twelve (12) years after the day on which the first Boxcar described on such Schedule was so remarked (the "Initial Term").

B. If this Sublease has not been earlier terminated and no default has occurred, and if the Lease has not been terminated pursuant to the terms thereof, this Sublease shall automatically be extended for not more than five (5) consecutive periods of twelve (12) months each with respect to all, but not less than all, the Boxcars described on each Schedule (individually "Extended Term" and collectively the "Extended Terms"); provided, however, that Lessee or Lessor may terminate this Sublease as to all, but not less than all, the Boxcars on any Schedule by written notice delivered to the other not less than twelve (12) months prior to the expiration of the Initial Term or any Extended Terms.

3. Supply Provisions

A. Lessee hereby approves the specifications for the Boxcars described on all Schedules. Lessor shall, at its expense, remark the Boxcars with the railroad markings of Lessee in compliance with all applicable regulations. The Boxcars shall be deemed delivered on the date such remarking is completed. Upon remarking, the Boxcars shall be moved to Lessee's railroad line by Lessor at no cost to Lessee as soon as is consistent with mutual convenience or economy. Notwithstanding that Lessee may not have immediate physical possession of the Boxcars leased hereunder, Lessee agrees to pay Lessor the rent as set forth in this Agreement. To move the Boxcars to Lessee's railroad line and to insure optimal use of the Boxcars after the Initial Loading, as hereinafter defined, Lessor agrees to assist Lessee in monitoring Boxcar movements and, when deemed necessary by Lessor and Lessee, to issue movement orders with respect to such Boxcars to other railroad lines in accordance with the Interstate Commerce Commission ("ICC") and Association of American Railroads ("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 agrees that so long as any Boxcars shall be subject to this Sublease, Lessee shall give preference to the Boxcars and shall load the Boxcars prior to loading boxcars leased from other parties, or purchased by Lessee subsequent to the date of this Sublease or interchanged with railroads, provided however, that Lessee shall not load the Boxcars prior to loading any similar equipment on lease to Lessee from Irel Rail. However, this provision 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, Lessor 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 not be 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 Lessor at no cost to Lessee in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. Lessor shall, on behalf of Lessee, perform all record keeping functions which relate to the use of the Boxcars by Lessee and other railroads, including but not limited to car hire reconciliation. Said record keeping shall be performed in accordance with AAR railroad interchange agreements and rules. Correspondence from railroads using such Boxcars shall be addressed to Lessee at such address as Lessor shall select.

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

5. Maintenance, Taxes and Insurance

A. Except as otherwise provided herein, Lessor 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 the Initial Term or any Extended Terms hereof, including but not limited to repairs, maintenance and servicing, unless the same is 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 Lessor for and during the Initial Term or any Extended Terms 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 Lessor 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 Lessor.

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

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 Car Service and Car Hire Agreement Code of Car Service Rules--Freight for cars on Lessee's railroad tracks which are not owned by Lessee. 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 Lessor, concurrently with the execution of this Sublease and thereafter at intervals of not more than twelve (12) calendar months with a certificate of insurance, with respect to the Boxcars, signed by an insurance broker. Said insurance policies shall provide that Lessor 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 Lessor (or its assignee) as their interests may appear.

D. Lessor agrees to cause Lessee to be reimbursed for all taxes, assessments and other governmental charges of whatsoever kind or character paid by Lessee, which relate to each Boxcar and 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. Lessor shall forward to Lessee all sales and use tax payments received on behalf of Lessee. Lessor and Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Boxcars. Lessor shall review all applicable tax returns prior to filing.

6. Lease Rental

A. Lessee agrees to pay the following rent to Lessor for the use of the Boxcars:

(i) Lessor shall receive all payments made to Lessee by other railroad companies for their use or handling of the Boxcars, including but not limited to mileage charges, straight car hire payments and incentive car hire payments (all of which payments made to Lessee are hereinafter collectively referred to as "Payments"). The Base Rental shall be a sum equal to the per diem and incentive per diem payments which the Boxcars would have earned in the aggregate at a Utilization Rate, as defined below, of seventy-three (73) percent, plus an amount equal to the mileage payments that the Boxcars would have earned if the Boxcars had travelled an average of sixty-five (65) miles each day per diem payments were earned by the Boxcars. For the purpose of this Sublease, the Utilization Rate 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 on lease to Lessee, commencing from the Initial Loading. In addition, Lessor will receive, as additional rental, all monies earned by the Boxcars prior to their Initial Loading.

(ii) In the event Payments exceed the Base Rental in any calendar year, Lessor shall retain an amount equal to the Base Rental and Lessee shall receive all Payments received in excess of the Base Rental.

(iii) If Lessor incurs expenses in having other railroads to move Boxcars in accordance with Section 3A, except for any expenses incurred in the initial delivery of such Boxcars to Lessee's railroad line, Lessee shall reimburse Lessor for such expenses only from and out of the monies received by Lessee pursuant to subsection 6A(ii).

(iv) The rental charges payable to Lessor by Lessee shall be paid from the Payments received by Lessee in the following order until Lessor receives the total amounts due it pursuant to this section: (1) incentive car hire payments; (2) straight car hire payments; (3) mileage charges; (4) excess demurrage; and (5) other.

(v) In the event damage beyond repair or destruction of a Boxcar has been reported in accordance with Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules--Freight, upon Lessor's receipt of the appropriate amount due as a result thereof, 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 three months after the end of each calendar year. However, to enable Lessor to meet its financial commitments, Lessor shall, prior to making such calculations, retain the payments received by it on behalf of the Lessee. Further, since the parties desire to determine on a quarterly basis the approximate amount of the rental charges due Lessor, Lessor shall within three months after the end of each calendar quarter, calculate on a quarterly year to date basis the amount due it 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 such calculation shall be promptly refunded to the appropriate party.

C. (i) If, with respect to any calendar quarter during the Initial Term of this Sublease or any Extended Terms hereof, Payments are less than Base Rental, Lessor may, at any time, at its option and upon not less than ten (10) days prior written notice to Lessee, terminate this Sublease as to such Boxcars as Lessor shall determine; provided however, that Lessee may, at its option, within ten (10) days of receipt of such notice from Lessor, void such termination notice by paying to Lessor an amount equal to the difference between payments for such calendar quarter and the Base Rental for such calendar quarter.

(ii) If, with respect to any calendar quarter during the Initial Term of this Sublease or any Extended Terms hereof, the Utilization Rate of any similar equipment then on lease to Lessee from ITEL Rail is less than eighty (80) percent, Lessor may, at any time, at its option, and upon not less than ten (10) days prior written notice to Lessee, terminate this Sublease as to such Boxcars as Lessor shall determine.

D. Lessor may, at its option, 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 Lessor 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, Lessor may, 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 Boxcars as specified in Section 3B, Lessee shall be liable for and remit to Lessor 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 Lessor or Irel 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 either Lessor 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 to 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, Lessor may, at its option, 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 Lessor'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 Lessor 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. Lessor 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

Upon the expiration or earlier termination of this Sublease with respect to a Boxcar, Lessee shall promptly return such Boxcar to Lessor by delivering such Boxcar to such location as Lessor shall specify. Lessee's railroad markings shall thereafter be removed from such Boxcar and such markings as may be designated by Lessor shall be placed thereon, at the option of Lessor, by either Lessee or by a contractor chosen by Lessor; provided, however, Lessee shall have no obligation to perform such remarking unless Lessee receives instructions from Lessor with respect thereto within sixty (60) days after the expiration or earlier termination hereof, as applicable. Upon the expiration of this Sublease, Lessor shall bear the expense of remarking; upon the earlier termination of this Sublease, whether pursuant to Section 8 or Subsection 6.C hereof or otherwise, Lessee shall bear the expense of remarking. After remarking, Lessee shall, at Lessor's option, use its best efforts to load the Boxcars with freight and deliver them to a connecting carrier for shipment. Lessee shall, at Lessor's option, provide, with respect to any Boxcar with respect to which this Sublease has expired or earlier terminated, up to sixty (60) days free storage on its railroad tracks. If Lessor shall exercise its option to have Lessee remark, load or store the Boxcars in accordance with the above, necessitating possession of the Boxcars by Lessee, and Lessee does not have such possession, whether pursuant to the first sentence of this Section or otherwise, Lessor shall cause the Boxcars to be delivered to Lessee at Lessor's expense.

10. Indemnities

LESSOR WILL DEFEND, INDEMNIFY AND HOLD LESSEE HARMLESS FROM AND AGAINST (I) 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 CONSTRUCTION AND DELIVERY OF THE BOXCARS TO LESSEE'S RAILROAD LINE, OWNERSHIP, LEASING OR RETURN OF THE BOXCARS, OR AS A RESULT OF THE USE, OPERATION OR THE CONDITION THEREOF (WHETHER DEFECTS, IF ANY, ARE LATENT OR ARE DISCOVERABLE BY LESSOR 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 lease 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 Lessor 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 the Lessee can now or 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

Lessor 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 notify Lessor as soon as is practicable 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 Lessor in writing within five (5) days after any attachment, tax lien or other judicial process relating to any Boxcar. Lessee shall furnish to Lessor 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. 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 Lessor 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.

B. Both parties 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 Lessor or its assignees in connection with the acquisition or financing or use of the Boxcars in order to confirm the financing parties' 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. The effectiveness of this Sublease shall be contingent upon execution of any such documents.

C. 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.

D. No failure or delay by Lessor shall constitute a waiver or otherwise affect or impair any right, power or remedy available to Lessor nor shall any waiver or indulgence by Lessor 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.

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

F. 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 other party at the address set forth herein.

G. The obligations and liabilities of Lessee hereunder shall survive the expiration or earlier termination of this Sublease.

14. Assignment

In order to provide security for the performance of Lessor's obligations to Itel Rail under the Lease, and as an inducement to Itel Rail to consent to the entering into of this Sublease by Lessor, Lessor hereby assigns, transfers and sets over unto Itel Rail all of Lessor's rights, title and interest, powers, privileges and other benefits, and obligations, under this Sublease, including without limitation, all rights to collect and receive all sums payable and performance due from Lessee hereunder. By its execution of this Sublease, Lessee agrees that, until it is notified in writing to the contrary by Itel Rail, Lessee will observe the above assignment in all respects. By its execution of this Sublease where provided below, Itel Rail accepts the above assignment and consents to the entering into of this Sublease by Lessor. Lessor agrees to execute such other documents and do such further things to evidence this assignment and the security interest created hereby that Itel Rail or its assignees may request.

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

MC CLOUD RIVER,
RAILROAD COMPANY

By: WJ. [Signature]

Title: President

Date: September 9, 1980

SIERRA RAILROAD COMPANY

By: [Signature]

Title: President

Date: August 29, 1980

ACKNOWLEDGEMENT AND CONSENT

[Signature]
Itel Corporation, Rail Division

Date September 12, 1980

EQUIPMENT SCHEDULE NO. I

Lessor hereby leased the following Boxcars to Lessee and Lessee hereby leases said Boxcars from Lessor pursuant to and subject to all of the terms and conditions of that certain Sublease Agreement between said parties, dated as of August 29, 1980. Upon execution hereof, this Equipment Schedule No. I shall be deemed a part of said Sublease Agreement.

A.A.R. Mech. Desig.	Description	Numbers	Dimensions			Doors Width	No. of Cars
			Length	Inside Width	Height		
XM	70 Ton, General Purpose	SERA <i>4526-4599</i>	50' 6"	9' 6"	10' 7"	8' Double Sliding	100

MCCLLOUD RIVER RAILROAD COMPANY

By: *W. J. [Signature]*

Title: President

Date: September 9, 1980

SIERRA RAILROAD COMPANY

By: *Charles [Signature]*

Title: President

Date: August 29, 1980

ACKNOWLEDGEMENT AND CONSENT

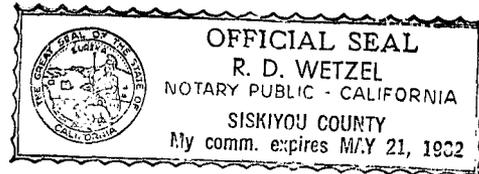
Carl [Signature]
Itel Corporation, Rail Division

Date: September 12, 1980

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

On this 9th day of September, 1980, before me personally appeared William J. Herndon, 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.

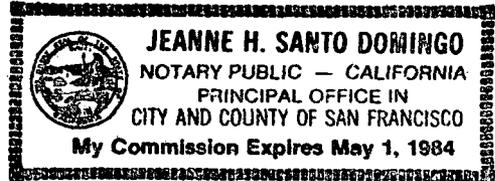
R. D. Wetzel
Notary Public



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

On this 4th day of September, 1980, before me personally appeared Charles Crocker, to me personally known, who being by me duly sworn says that such person is President of Sierra 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.

Jeanne H. Santo Domingo
Notary Public



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

On this 12th day of September, 1980, before me personally appeared Carl N. Taylor, to me personally known, who being by me duly sworn says that such person is President of Intel Corporation, Rail Division, that the Consent and Acknowledgement at the foot of 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 said Consent and Acknowledgement was the free act and deed of said corporation.



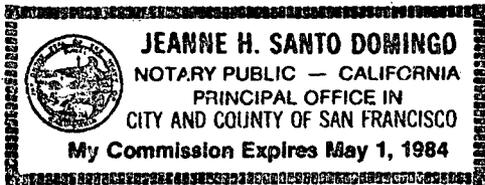
J.S. Friedman

Notary Public

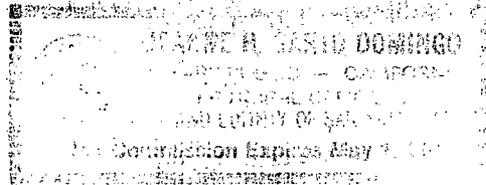
STATE OF CALIFORNIA)
)
) SS:
COUNTY OF SAN FRANCISCO)



On this 4th day of September, 1980, before me personally appeared Charles Crocker, to me personally known, who being by me duly sworn says that such person is President of Sierra Railroad Company, 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.



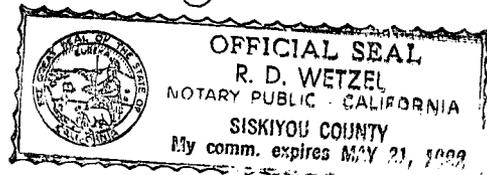
Jeanne H. Santo Domingo
Notary Public



STATE OF California)
)
) SS:
COUNTY OF Siskiyou)

On this 9th day of September, 1980, before me personally appeared William J. Herndon, to me personally known, who being by me duly sworn says that such person is President of McCloud River Railroad Company, 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.

R. D. Wetzel
Notary Public



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

On this 12th day of September, 1980, before me personally appeared
Carl N. Taylor, to me personally known, who being
by me duly sworn says that such person is President of ITEL Corporation,
Rail Division, that the Consent and Acknowledgement at the foot of 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.



J.S. Friedman
Notary Public