

# ITEL

1-230A082

No. AUG 19 1981

Date.....

Fee \$ 10.00

ICC Washington, D. C.

## Rail Division

Two Embarcadero Center  
San Francisco, California 94111

(5) 955-9090

Telex 34234

RECORDATION NO. 8904-11 Filed

AUG 19 1981 - 11 55 AM

August 18, 1981

INTERSTATE COMMERCE COMMISSION

ICC Washington, D. C.  
Date.....  
Fee \$.....  
Date.....  
Date.....

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

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 under the Lease Agreement dated as of June 17, 1977 between SSI Rail Corp., now Itel Corporation and the City of New Orleans through the Public Belt Railroad Commission for the City of New Orleans, doing business as New Orleans Public Belt Railroad ("NOPB"), which was filed on July 26, 1977 at 9:15 A.M. and given Recordation No. 8904, four (4) counterparts of the following document:

Amendment No. 5 dated as of July 28, 1981 (the "Amendment"), between Itel Corporation, Rail Division, successor in interest to SSI Rail Corp. and the NOPB.

The names and the parties of the aforementioned Amendment are:

1. Itel Corporation  
Rail Division  
Two Embarcadero Center  
San Francisco, CA 94111
2. The City of New Orleans doing business through its Public Belt Railroad Commission, as:  
  
New Orleans Public Belt Railroad  
International Trade Mart Tower Bldg.  
Suite 1247  
New Orleans, Louisiana 70151

The equipment covered by the Amendment is fifty (50), 70 Ton boxcars (A.A.R. mechanical designation XM, 50'6" in length), bearing the reporting marks NOPB 3500 through and including NOPB 3549.

PSP/B/4  
RLT-78-3

*Ms. Gee -  
this is under  
8904 +  
we think M  
is the next letter -  
please check four  
files to be sure.  
(was filed 8904-L on  
July 15)*

*Chambers -  
Miss B. [unclear]*

Ms. Agatha Mergenovich  
August 18, 1981  
Page Two

Enclosed also is a check for \$10.00 for the required recording 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:sc  
Enclosures

cc: Michael Walsh, Esq.  
Weil, Gotshal & Manges  
767 Fifth Avenue  
New York, New York 10020

Robert S. Clark, Esq.  
First Security Bank of Utah, N.A.  
79 South Main Street  
Salt Lake City, Utah 84111

Margaret Mackenzie  
Itel Corporation

PSP/B/4  
RLT-78-3

**Interstate Commerce Commission**  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Patricia Salas Pineda  
IteI-Rail Division  
Two Embarcadero Cntr/  
San Francisco, California 94111

Dear **Madam:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **8/19/81** at **11:55AM**, and assigned recordation number(s). **8904-M**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

L-0206  
8/13/81

RECORDATION NO. 8904-M Filed 142b

AUG 19 1981 - 11 55 AM

**AMENDMENT NO. 5 INTERSTATE COMMERCE COMMISSION**

**AMENDMENT NO. 5** (the "Amendment") dated as of July 28, 1981, between **ITEL CORPORATION, RAIL DIVISION**, a Delaware corporation, successor in interest to SSI Rail Corp. ("Lessor"), as Lessor, and The City of New Orleans, doing business as **NEW ORLEANS PUBLIC BELT RAILROAD** ("Lessee") as Lessee.

**W I T N E S S E T H:**

**WHEREAS**, Lessor and Lessee are parties to that certain lease agreement dated as of June 17, 1977 (the "Lease").

**WHEREAS**, Lessor and Lessee desire to change the mechanical designation of certain Cars subject to the Lease; and

**WHEREAS**, Lessor and Lessee agree that it is to their mutual benefit to place for a period of time some of the Cars subject to the Lease into an assignment pool on the railroad line of another party in order to improve the utilization of and revenue from the Cars.

**NOW THEREFORE**, in consideration of the premises and mutual agreements herein contained, the parties hereto agree to amend the Lease as follows:

1. All terms defined in the Lease shall have their defined meanings when used in this Amendment.
2. The mechanical designation of the fifty (50) Cars bearing the reporting marks NOPB 3500 through and including 3549 (hereinafter the "Boxcars") shall be changed and remarked from "XM" to "XP" at Lessor's expense. In addition, Lessor shall, at its sole expense, modify the Boxcars structurally so that they qualify for "XP" mechanical designation pursuant to the rules of the Association of American Railroads.
3. Equipment Schedule No. 6, executed on April 18, 1978, which is attached to and incorporated into the Lease shall be deleted in its entirety, and Equipment Schedules Nos. 6.A. and 6.B., attached hereto, shall be substituted therefor.
4. If, at any later date, Lessor should desire to change the mechanical designation of any of the Boxcars referenced on Schedule No. 6.A., Lessor shall be entitled to do so at its expense. Upon any such remarking and redesignation, Lessor shall attach to this Amendment a Certificate of Change, to be made a part hereof, describing both the previous and current mechanical designation of any such cars.
5. Lessor and Lessee agree that the Boxcars described in Schedule No. 6.A. should be placed for a period of time into an assignment pool on the railroad lines of Sabine River and Northern Railroad Company ("SRN") in order to improve the utilization of and revenue from the Boxcars.

6. For the purposes of paragraph 5, Lessee hereby appoints Lessor as its agent, with full power and authority and in the name of Lessor (but on behalf of Lessee), to enter into an assignment agreement (to be hereinafter referred to as "Assignment Agreement") with SRN covering the Boxcars described in Schedule No. 6.A. Under said Assignment Agreement, Lessor shall be empowered to place the Boxcars in the possession of said SRN with the right in said SRN to utilize the Boxcars in interline revenue service under Lessee's reporting marks. Such Assignment Agreement may contain such terms and conditions as Lessor shall agree to; provided, however, that any such Assignment Agreement shall not impose upon Lessee obligations beyond those set forth in the Lease as amended herein.
  
7.
  - A. The Lease shall remain in effect with respect to all of the Cars subject to the Lease, including the Boxcars, except that Section 6 of the Lease shall be inapplicable to the Boxcars during the period from the compliance date ("Compliance Date" as hereinafter defined) to and including the expiration or termination date of the Assignment Agreement (to be hereinafter referred to as the "Ending Date"). Section 6 of the Lease shall be reinstated with respect to the Boxcars upon the Ending Date. The Compliance Date, with respect to each Boxcar, shall be the date on which Lessee (1) complies with a car movement order from Lessor instructing Lessee where to move such Boxcar off the line of Lessee to any specified location(s) for delivery to a specified assignee of such Boxcar (any such assignee is hereinafter called "Assignee") and (2) such Boxcar is accepted for interchange by the Assignee specified in the car movement order. It is understood and agreed that a car movement order may cover more than one Boxcar and shall be at Lessor's sole cost and expense. The expenses of the delivery of any Boxcar to Lessee pursuant to the ending Date shall be the responsibility of Lessor.
  - B. The Utilization Rate of the Boxcars during the initial term or extended terms of the Assignment Agreement shall not be taken into account for the purpose of determining the overall Utilization Rate for any calendar year or applicable portion thereof under Section 6 of the Lease.
  - C. In consideration for Lessor's services as agent hereunder, Lessor shall be entitled to receive as rent, with respect to the Boxcars, all payments including but not limited to mileage charges and straight car hire revenues made by other railroad companies for their use or handling of the Boxcars, during the period from the Compliance Date to and including the Ending Date.
  - D. Lessee hereby authorizes Lessor to prepare and execute, on Lessee's behalf, all the documents contemplated by the Assignment Agreement entered into hereunder and such other documents as may be required in furtherance of any financing agreement entered into hereunder 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, the Assignment Agreement and to confirm any subordination provisions in the Assignment Agreement.
  
8. Within thirty (30) days of entering into an Assignment Agreement pursuant hereto, Lessor shall notify Lessee of the commencement date and the expiration date of such Assignment Agreement and thereafter, notify Lessee of any termination of such Assignment Agreement prior to the stated expiration thereof.

9. Unless sooner terminated by written mutual agreement, Lessor's duties as Lessee's agent hereunder shall terminate upon the expiration or termination of the Assignment Agreement.
10. Nothing herein contained shall (i) be deemed to constitute a waiver or otherwise modify, affect or impair any sums due to Lessor or Lessee with respect to any Car under the terms and conditions of the Lease with regard to any period of time prior to the Compliance Date or after the Ending Date, or (ii) be deemed to constitute a waiver or otherwise modify, affect or impair the powers, rights, or remedies vested in or available to Lessor or Lessee with respect to any Car under the terms and conditions of the Lease with regard to any period of time prior to the Compliance Date or after the Ending Date.
11. Nothing set forth in this Amendment with respect to the Lease represents a waiver by the parties hereto of any rights under the Lease or the Bankruptcy Code and is not an assumption of the Lease under the Bankruptcy Code, and in the event of the rejection of the Lease by order of the Bankruptcy Court under the Bankruptcy Code, Lessee may claim pre-petition damages, if any, with respect to such rejection of the Lease.
12. Except as expressly modified by this Amendment, all terms and provisions of the Lease shall remain in full force and effect.
13. This Amendment may be executed by the parties hereto in any number of counterparts and all said counterparts taken together shall be deemed to constitute one and the same instrument.

ITEL CORPORATION,  
RAIL DIVISION

By: 

Title: President

Date: 8/17/81

NEW ORLEANS PUBLIC BELT  
RAILROAD COMPANY

By: 

Title: General Manager

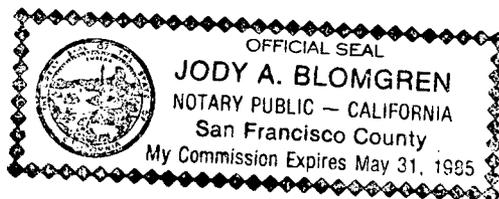
Date: Aug. 14, 1981

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

On this 17<sup>th</sup> day of August, 1981, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President of IteI Corporation, Rail Division, that the foregoing Amendment No. 5 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.

Jody A. Blomgren  
Notary Public

STATE OF Louisiana )  
Parish ) ss:  
COUNTY OF Orleans )



On this 14<sup>th</sup> day of August, 1981, before me personally appeared E.A. Webb Jr., to me personally known, who being by me duly sworn says that such person is General Manager of New Orleans Public Belt Railroad, that the foregoing Amendment No. 5 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.

Edward D. Wegmann  
Notary Public

EDWARD D. WEGMANN  
EDWARD D. WEGMANN  
NOTARY PUBLIC  
Parish of Orleans, State of Louisiana  
MY COMMISSION IS FOR LIFE.

EQUIPMENT SCHEDULE NO. 6A

Itel Corporation, Rail Division hereby leases the following Cars to \_\_\_\_\_

New Orleans Public Belt Railroad

subject to the terms and conditions of that certain Lease Agreement dated as of June 17, 1977.

A.A.R. Mech. Desig.	Description	Numbers	Dimensions Inside			Doors Width	No. of Cars
			Length	Width	Height		
XP	50' Plate C Boxcar nailable steel floor, sliding ten foot door	NOPB 3500- NOPB 3549	50' 6"	9' 6"	11' 2"	10'	50

ITEL CORPORATION, RAIL DIVISION

BY: *[Signature]*

TITLE: President

DATE: 8/17/81

NEW ORLEANS PUBLIC BELT RAILROAD

BY: *[Signature]*

TITLE: General Manager

DATE: Aug. 14, 1981

EQUIPMENT SCHEDULE NO. 6B

Itel Corporation, Rail Division hereby leases the following Cars to \_\_\_\_\_

New Orleans Public Belt Railroad

subject to the terms and conditions of that certain Lease Agreement dated as of JUNE 17, 1977.

A.A.R. Mech. Desig.	Description	Numbers	Dimensions			Doors Width	No. of Cars
			Length	Inside Width	Height		
XM	50' Plate C Boxcar nailable steel ten foot door	NOPB 3550- NOPB 4099	50' 6"	9' 6"	11' 2"	10'	550

ITEL CORPORATION, RAIL DIVISION

BY: *Edward M. O'Connell*

TITLE: *President*

DATE: *8/17/81*

NEW ORLEANS PUBLIC BELT RAILROAD

BY: *J. W. McLaughlin*

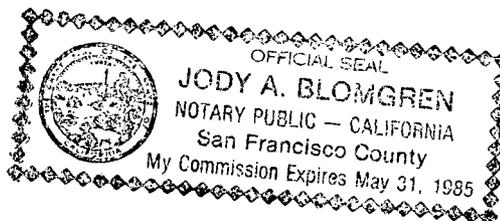
TITLE: *General Manager*

DATE: *Aug. 14, 1981*

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

On this 17<sup>th</sup> day of August, 1981, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President of Intel Corporation, Rail Division, that the foregoing Equipment Schedules Nos. 6A and 6B were 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:

Jody A. Blomgren  
Notary Public



STATE OF Louisiana )  
Parish ) ss:  
COUNTY OF Orleans )

On this 14<sup>th</sup> day of August, 1981, before me personally appeared Ed. Wegmann Jr., to me personally known, who being by me duly sworn says that such person is General Manager of New Orleans Public Belt Railroad, that the foregoing Equipment Schedules Nos. 6A and 6B were 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.

Edward D. Wegmann  
Notary Public

EDWARD D. WEGMANN  
NOTARY PUBLIC  
Parish of Orleans, State of Louisiana  
MY COMMISSION IS FOR LIFE