

GARDERE WYNNE SEWELL & RIGGS, RECEIVED
ATTORNEYS AND COUNSELORS SURFACE TRANSPORTATION BOARD

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HOUSTON, TEXAS 77002-4086
713-308-5500
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WRITER'S DIRECT DIAL NUMBER
713-308-5614

JUL 1 11 43 AM '97

RECORDATION NO. 20751 FILED

JUL 1 '97 11-43 AM

DALLAS
3000 THANKSGIVING TOWER
1601 ELM STREET
DALLAS, TEXAS 75201-4761
214-999-3000
TULSA
200 ONEOK PLAZA
100 WEST FIFTH STREET
TULSA, OKLAHOMA 74103-4240
918-699-2900
MEXICO CITY
RÍO PÁNUCO No. 7
COL. CUAUHTÉMOC
06500 MÉXICO, D.F.
011 (525) 546-8023

June 30, 1997

BY FEDERAL EXPRESS

Vernon A. Williams, Secretary
Surface Transportation Board
1925 "K" Street Northwest Suite 700
Washington, D.C. 20423
Attn: Janice Fort

RE: 1997 Cypress Equipment Fund II, Ltd.
Our File: 117548-001

Dear Mr. Williams:

We are special counsel for the lender referred to below, and we enclose two original counterparts of the following primary documents to be recorded pursuant to Section 11301 of the U.S. Code:

1. Loan and Security Agreement, dated June 30, 1997, U.S. Trust Company of California, N.A., not in its individual capacity but as Owner Trustee for the benefit of Cypress Equipment Fund II, Ltd. as Borrower, and Heller Financial as Lender.

June 30, 1997
Page 2

The names and addresses of the parties to the above-mentioned documents are as follows:

Borrower: Cypress Equipment Fund II, Ltd.
880 Carillion Parkway, St.
St. Petersburg, FL 3376

Lenders: Heller Financial Leasing, Inc.
900 Circle 75 Parkway NW, S. 1600
Atlanta, GA 30339

The equipment involved in this transaction consists of the (4) four diesel electric locomotives bearing Southern Pacific marks and road numbers 7486, 9243, 9282, 9330.

We enclose a check for USD 24.00 as payment of your filing fees along with 2 original Security Agreements and return the file stamped copy to the undersigned.

A short summary of the documents to appear in the index follows:

1. Loan and Security Agreement, dated June 30, 1997, U.S. Trust Company of California, N.A., not in its individual capacity but as Owner Trustee for the benefit of Cypress Equipment Fund II, Ltd. as Borrower, and Heller Financial as Lender.

Please do not hesitate to contact the undersigned should you have any questions concerning the matters discussed in this letter, the enclosed documents or any other aspect of this transaction.

Very truly yours,

GARDERE WYNNE SEWELL & RIGGS, L.L.P.

By


Erik Heymann

RECEIVED
SURFACE TRANSPORTATION
BOARD

JUL 1 11 43 AM '97

RECORDATION NO. 20751 FILED

JUL 1 '97 11-43 AM

SECURITY AGREEMENT

dated as of June 30, 1997

Between

U.S. TRUST COMPANY OF CALIFORNIA, N.A.,
not in its individual capacity but as Owner Trustee
for the benefit of CYPRESS EQUIPMENT FUND II, LTD.

Debtor

and

HELLER FINANCIAL LEASING, INC.,

Secured Party

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SECURITY AGREEMENT

SECURITY AGREEMENT, dated as of June 30, 1997, between U.S. TRUST COMPANY OF CALIFORNIA, N.A., not in its individual capacity but as Owner Trustee under that certain Trust Agreement dated as of March 31, 1993, a national banking association, and its successors and assigns (the "Debtor") and HELLER FINANCIAL LEASING, INC., a Delaware corporation, together with its successors and assigns (the "Secured Party").

R E C I T A L S

WHEREAS, HELLER FINANCIAL LEASING, INC. (the "Lender") has agreed to loan up to USD 9,234,500 (the "Loan") to Cypress Equipment Fund II, Ltd. (the "Borrower") to partially fund the acquisition by the Borrower of leased assets upon the terms and conditions contained in the Loan Agreement dated the date hereof as it may be amended, modified, supplemented or extended (the "Loan Agreement") among the Borrower and the Lender; and

WHEREAS, the Debtor is the owner, not in its individual capacity but solely as owner trustee for the benefit of the Borrower under the Trust Agreement dated as of March 31, 1993, by and among Debtor, as Owner Trustee, American Finance Group, a Massachusetts general partnership ("AFG") and AFG Investment Trust C, a Delaware business trust ("AFGITC") (AFG and AFGITC referred to therein as Owner Participants) of the item(s) of Equipment more fully described on Schedule 1 attached hereto (the "Equipment"); and

WHEREAS, the Lender requires, as a condition to the Loan, that the Debtor execute and deliver this Security Agreement to the Secured Party as security for its obligations under the Loan Agreement.

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree and covenant as follows:

ARTICLE 1 - DEFINITIONS

Section 1.01. Defined Terms. For purposes of this Security Agreement, the following terms shall have the following meanings:

"Debtor's Insurance" shall mean the insurance required to be maintained by the Debtor under Sections 5.01, 5.02 and 5.03(a)(i) hereof whether now or hereafter to be effected and all renewals of or replacements for the same.

"Earnings" shall mean (i) all day rate payments, freights, lease payments, rentals, charter hire and any other moneys earned and to be earned, due or to become due or paid or payable to, or for the account of the Debtor, of whatsoever nature, arising out of the Lease or any other leases or charter parties that may be entered into by the Owner in the future concerning the Equipment or as a result of the ownership, leasing, chartering and

other operations of any kind whatsoever by the Debtor or its agents of the Equipment, (ii) all moneys and claims for moneys due and to become due to the Debtor and all claims for damages arising out of the breach of the Lease or any and all present or future leases, charter parties, and operations of every kind whatsoever of the Equipment and in and to any and all claims and causes of action for money, loss or damages that may accrue or belong to the Debtor, its successors, or assigns, arising out of or in any way connected with any and all present and future requisitions, leases, charter parties, and other operations of the Equipment of any kind whatsoever, and (iii) all moneys and claims for moneys due and to become due to the Debtor, and all claims for damages in respect of the actual or constructive total loss of or requisition or use of or title to any of the Equipment.

"Equipment" shall mean the items of equipment set forth on Schedule 1, attached hereto.

"Lease(s)" shall mean the lease(s) of Equipment between Debtor, as Lessor and the Lessee described on Schedule 1 attached hereto, as the same may be amended or supplemented from time to time, and any renewals and replacements thereof or any leases for the Equipment entered into by the Debtor after the termination of the lease(s) referred to in Schedule 1.

Section 1.02. Terms Defined in Loan Agreement. All capitalized terms used in this Security Agreement without definition are used as defined in the Loan Agreement.

ARTICLE 2 - SECURITY

Section 2.01. The Collateral. (a) In consideration of the Loan made to the Borrower pursuant to the Loan Agreement and evidenced by the Notes and by way of security for payment of all amounts due thereunder and hereunder, the Debtor does hereby grant a security interest in favor of the Secured Party and unto the Secured Party's successors and assigns for the Secured Party's own proper use and benefit, as security for all amounts due and owing under the Loan Agreement and the Notes, all of the Debtor's rights, title and interest in and to the following, whether now owned or hereafter acquired and wherever located:

- (i) the Equipment;
- (ii) the Lease(s), including, without limitation, any sublease permitted under the Lease(s) and any and all Earnings arising out of or in any way connected with any such sublease;
- (iii) the Earnings;
- (iv) the Debtor's Insurance and all claims, returns of premium and other moneys and claims for moneys due and to become due under Debtor's Insurances or in respect of said insurances, and all other rights of the Debtor under or in respect of said insurances;
- (v) all of the Debtor's general intangibles in respect of any of the foregoing; and

(vi) any proceeds and products of the foregoing;

provided that Excepted Payments are excluded from the foregoing grant of a security interest.

(b) The rights and interests referred to in this Section 2.01 are collectively referred to herein as the "Collateral."

Section 2.02. Continued Priority of Security Interest. The Debtor agrees that it will not, without the prior written consent of the Secured Party, create or suffer to exist any lien or security interest upon or in the Collateral or any part thereof other than:

- (i) the lien and security interests created hereby;
- (ii) liens for taxes, assessments or governmental charges or levies on property of the Debtor or the Borrower to the extent not required to be paid pursuant to Section 3.02(b) of the Loan Agreement;
- (iii) liens imposed by law, such as landlords', carriers', warehousemen's and mechanics' liens and other similar liens arising in the ordinary course of business securing obligations which are not overdue for a period of more than thirty (30) days and which are being contested in good faith and by appropriate proceedings if adequate reserves with respect thereto are maintained on the books of the Debtor in accordance with generally accepted accounting principles;
- (iv) liens arising in the ordinary course of business out of pledges or deposits under workers' compensation laws, unemployment insurance, old age pensions or other social security or retirement benefits, for similar legislation or to secure public or statutory obligations of the Debtor; and
- (v) liens arising from litigation which are effectively stayed from execution and would not otherwise cause an Event of Default to occur.

Section 2.03. Maintenance of Status of Security Interest. The Debtor shall take all action that may be necessary or desirable, or that the Secured Party reasonably may request, so as at all times (a) to grant and perfect the security interest in the Collateral intended to be granted hereby and to maintain the validity, enforceability, perfection and priority of the security interest in the Collateral, (b) to protect or preserve the security interest created by this Security Agreement and (c) to protect, preserve, exercise or enforce the rights of the Secured Party therein and hereunder and of the Secured Party under the Loan Agreement and the Notes, including but not limited to (1) immediately discharging all security interests, liens, charges, claims and encumbrances ("Liens") on the Collateral other than the security interest and lien created or permitted hereby and (2) executing and delivering Uniform Commercial Code financing statements, continuation statements, notices, instructions and assignments, or any document or statements required for such purposes by any agency or department of the United States or of any state or local government.

The Debtor shall mark its books and records as may be necessary or appropriate to evidence, protect and perfect the security interest in the Collateral.

Section 2.04. Evidence of Status of Security Interest. The Debtor shall from time to time upon request of the Secured Party promptly deliver to the Secured Party such file search reports from such Uniform Commercial Code and other filing and recording offices as may be applicable from time to time as the Secured Party may reasonably designate in order to establish that the perfection and priority of the interest granted hereby are maintained.

Section 2.05. Authorized Action. The Secured Party is hereby authorized to file one or more financing or continuation statements (including statements of assignment and renewals thereof) or amendments thereto without the signature of, or in the name of, the Debtor. A carbon, photographic or other reproduction of this Security Agreement or of any financing statement filed in connection with this Security Agreement shall be sufficient as a financing statement. The Secured Party is hereby further authorized to file one or more copies of this Security Agreement with any appropriate governmental agency or department.

Section 2.06. The Debtor Remains Obligated: the Secured Party Not Obligated. The grant by the Debtor to the Secured Party of the security interest granted hereby shall not relieve the Debtor from the performance of any term, covenant, condition or agreement on its part to be performed or observed, or from any liability to any person, under or in respect of any of the Collateral or impose any obligation on the Secured Party to perform or observe any such term, covenant, condition or agreement on the Debtor's part to be so performed or observed or impose any liability on the Secured Party for any act or omission on the part of the Debtor relating thereto.

ARTICLE 3 - MAINTENANCE: USE AND OPERATION:
INSPECTION: IDENTIFICATION MARKS

Section 3.01. Maintenance. Subject to the applicable maintenance provisions of the Leases, the Debtor, at its sole cost and expense (whether or not applicable insurance proceeds are adequate for the purpose), shall (i) maintain and refurbish the Equipment, so as to keep it in good operating condition, and (ii) keep the Equipment in compliance with all applicable laws, regulations and orders of any governmental authority having jurisdiction with respect thereto, including without limitation, all authorizations, approvals, consents and licenses and renewals thereof.

Section 3.02. Use and Operation. So long as no Event of Default shall occur and be continuing, the Debtor shall have the full use of the Equipment, subject to applicable leases thereof; provided, however, that the Debtor covenants and agrees that it will not knowingly permit the Equipment to be used or operated in any manner contrary to any applicable law, treaty or convention, or any rule or regulation issued thereunder.

Section 3.03. Inspection. To the extent provided in the Lease and subject to the rights of the Lessees thereunder, the Debtor shall permit representatives of the Secured Party at any reasonable time, on reasonable notice, to inspect the Equipment, provided that any such inspection will not materially interfere with the normal operation of the Equipment.

Section 3.04. Identification Marks. The Debtor will cause each item of Equipment to be kept numbered with the identifying number therefor as set forth in Schedule 1 hereto. The Debtor will not knowingly change the identifying number of any item of Equipment except in accordance with a statement of new identifying number to be substituted therefor, which statement previously shall have been filed with the Secured Party.

ARTICLE 4 - REPLACEMENT OF PARTS: ALTERATIONS, MODIFICATIONS AND ADDITIONS

Section 4.01. Replacement of Parts. (a) The Debtor, at its sole cost and expense, will as necessary promptly replace all parts on the Equipment which may from time to time become worn out, lost, destroyed, seized, damaged beyond repair or permanently rendered unfit for use for any reason whatsoever which such parts are necessary for the proper operation thereof or are necessary to maintain the value of the Equipment; provided, however, that compliance by the Lessee under similar provisions in the Lease as to any item of Equipment shall constitute compliance by Debtor with the terms of this Section 4.01. All parts at any time removed from the Equipment shall remain subject to the security interest granted herein until such time as such parts shall be replaced by parts which meet the requirements for replacement parts specified below. All replacement parts incorporated or installed in or attached to any of the Equipment as provided by this Section 4.01 shall, without necessity of further act, become part of such Equipment for all purposes hereof and subject to the security interest granted herein, excluding, however, any of the foregoing to which the Lessee may be entitled, or in which the Lessee has rights pursuant to the Lease.

(b) All replacement parts shall be free and clear of all Liens (other than Liens created or permitted by the Loan Agreement) and shall be in as good operating condition as, and shall have a value and utility at least equal to the parts replaced, assuming such replaced part to be maintained in accordance with the terms of this Security Agreement.

Section 4.02. Alterations, Modifications and Additions. The Debtor, at its sole expense, will make such alterations and modifications in and additions to the Equipment as may be required from time to time by any relevant governmental authority or as may be deemed necessary from time to time by the Debtor, whether upon the recommendation of any manufacturer or otherwise, for the purpose of the safe operation of the Equipment (any such alteration, modification or addition as may be so required or so deemed necessary being herein called a "Required Modification"); provided, however, that compliance by the Lessee under similar provisions in the Lease as to any item of Equipment shall constitute compliance by Debtor with the terms of this Section 4.02. In addition, the Debtor, at its sole expense, may from time to time make such other alterations and modifications in and additions to the Equipment as the Debtor may deem desirable in the proper conduct of its business (any such alteration,

modification or addition as may be so deemed desirable being herein called an "Optional Modification"); provided, however, that, to the extent not inconsistent with the provision of any lease (i) any Required Modification shall be expeditiously completed in a good and workmanlike manner, in material compliance with all legal requirements applicable thereto, and (ii) no Optional Modification shall diminish the value or utility of any item of Equipment or impair the operating condition thereof below the value, utility and operating condition thereof immediately prior to such Optional Modification, assuming that such item of Equipment was then of the value or utility and in the operating condition required to be maintained by the terms of this Security Agreement. All parts incorporated or installed in or attached to any item of Equipment as a result of any alteration, modification or addition which are not readily removable without damage to such Equipment shall, without necessity of further act, become part of such item of Equipment for all purposes hereof and subject to the security interests granted herein.

ARTICLE 5 - INSURANCE

Section 5.01. Insurance Against Loss or Damage to Equipment. The Debtor covenants and agrees that it will, without cost to the Secured Party, maintain or cause to be maintained in effect with respect to the Equipment throughout the term of this Security Agreement with such underwriters against such risks and with deductibles which are normal and customary and carried by prudent owners of similar equipment engaged in similar business (at the time of issue of the policies in question) and approved by the Secured Party in accordance with applicable law, an all risk physical damage insurance policy insuring the Equipment against, among other things, loss, damage or destruction thereof from fire, explosion, windstorm, hurricane, theft, breakage, and such other risks as the Debtor may deem necessary or desirable in an amount in U.S. dollars equal to, except as otherwise approved or required in writing by the Secured Party, the greater of the Fair Market Value of the Equipment or the outstanding balance of the Loan Agreement. All insurance maintained under this Article 5 shall be primary insurance without right of contribution against any other insurance maintained by the Secured Party, and shall contain provisions waiving underwriters' rights of subrogation thereunder against the Secured Party, and any assured named in such policy and any assignee of the Secured Party, and any assured. Notwithstanding the foregoing, compliance by the Lessees under applicable Leases with the insurance provisions thereof shall constitute compliance by Debtor with the terms of this Section 5.01.

Section 5.02. Insurance Against Public Liability and Property Damage. The Debtor covenants and agrees that it will, without cost to the Secured Party, maintain or cause to be maintained in effect with respect to the Equipment throughout the term of this Security Agreement with such underwriters and under the broadest policy forms currently available from time to time and carried by prudent owners of similar equipment engaged in similar business (at the time of issue of the policies in question) and approved by the Secured Party in accordance with applicable law, commercial general liability, contractual liability, products liability and pollution liability insurance policies insuring against liabilities for any injury to the person of others and any damage to the property of others arising from such risks, with such reasonable deductibles and in such amounts as are normal and customary and carried by prudent owners of similar equipment engaged in similar business. Any insurance policies maintained in accordance

with this Section 5.02 shall include the Secured Party as an additional insured without responsibility for the payment of premiums, warranties or representations to underwriters. Each such policy shall also include effective waivers by the insurer of all claims for insurance premiums against the Secured Party. All provisions of the liability insurance policies, except for the limits of liability, shall operate in the same manner as if there were a separate policy of insurance covering each insured. Furthermore, each such policy shall provide or be endorsed to provide that violation of the terms, conditions or warranties of any policy of insurance by the Debtor shall not invalidate any such insurance coverage insofar as the interests of the Secured Party or the Lenders are concerned. Notwithstanding the foregoing, compliance by the Lessees under applicable Leases with the insurance provisions thereof shall constitute compliance by Debtor with the terms of this Section 5.02.

Section 5.03. Broker's Report. On the date of this Security Agreement and the anniversaries of such date the Debtor shall provide to the Secured Party a certificate or report letter from an independent insurance broker acceptable to the Secured Party evidencing the insurance referred to in Section 5.01(a) (i) and (iii) above and copies of the certificates evidencing the Debtor's Insurance; provided, however, that Debtor may satisfy its obligations under this Section 5.03 by providing the Secured Party with the broker's report or certificate provided to the collateral trustees by the Lessees pursuant to the relevant Leases.

Section 5.04. Delivery of Policies. The Debtor will deliver to the Secured Party original cover notes as to the Debtor's Insurance and true and correct copies of all policies and binders and all endorsements and riders amendatory thereof, evidencing insurance required to be carried and maintained by this Article 5. The Secured Party shall not be responsible for any representations or warranties made to the underwriters by the Debtor in connection with any policy of insurance referred to herein; provided, however, that Debtor may satisfy its obligations under this Section 5.04 by providing the Secured Party with the broker's report or certificate provided to the collateral trustees by the Lessees pursuant to the relevant Leases.

Section 5.05. Notice of Cancellation. At the Debtor's expense the Debtor will cause the relevant insurance brokers to agree to, and the Debtor hereby covenants and agrees that it will, advise the Secured Party of any expiration, termination, nonrenewal, alteration or cancellation of any policy, any default in the payment of any premium and of any other act or omission on the part of the Debtor of which they have knowledge and which might invalidate or render unenforceable, in whole or in part, any of the Debtor's Insurance on the Collateral. All policies of Debtor's Insurance required hereby shall provide for not less than 30 days prior written notice to be received by the Secured Party of the termination or cancellation of the insurance evidenced thereby, unless such termination or cancellation is a result of non-payment of premiums in which case ten (10) days prior written notice shall be given to the Secured Party; provided that during the term of any Lease, Secured Party shall be entitled to receive such notices in the form and manner as are provided by insurance policies covering the Collateral obtained by the Lessees. The Debtor agrees that, unless the insurances by their terms provide that they cannot cease (by reason of nonrenewal or otherwise) without the Secured Party being informed and having the right to continue the insurance by paying any premiums not paid by the Debtor, receipts showing

payment of premiums for required insurance and also of demands from underwriters shall be in the hands of the Secured Party at least 14 days before the risk in question commences.

Section 5.06. No Act Impairing Insurance. The Debtor will not knowingly do or omit any act, nor voluntarily suffer or permit any act to be done or omitted, whereby the insurances required to be carried or maintained hereunder shall or may be suspended, impaired or canceled.

Section 5.07. Proof of Loss. Subject to the proof of loss provisions of the relevant Leases, the Debtor will, at its own expense, make or cause to be made all proofs of loss and take, or cause to be taken, all other action necessary or appropriate to make collections from the underwriters of insurance required to be carried and maintained by this Article 5.

Section 5.08. Insurances. It is expressly agreed that anything herein contained to the contrary notwithstanding, the Debtor or the Lessees, as applicable, shall remain liable under the insurances referred to in Sections 5.01, 5.02 and 5.03 above to perform all of the obligations assumed by it thereunder and the Secured Party shall have no obligation or liability under the insurances by reason of or arising out of this Security Agreement nor shall the Secured Party be required or obligated in any manner to perform or fulfill any obligations of the Debtor or the Lessees, as applicable, under or pursuant to the insurances or to make any payment or to make any inquiry as to the nature or sufficiency of any payment received by it or to present or file any claim, or to take any other action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled hereunder at any time or times.

Section 5.09. Payment to Secured Party. Unless the Secured Party shall otherwise agree, all amounts of whatsoever nature payable under any of the Debtor's Insurance on the Collateral (other than Excepted Payments) must be payable to the Secured Party for distribution first to itself under this Security Agreement and thereafter to the Debtor or others as its interests may appear. Nevertheless, until an Event of Default shall have occurred and be continuing, (i) amounts payable under any insurance (other than Excepted Payments) may be paid directly to the Debtor to reimburse it for any loss, damage or expense incurred by it and covered by such insurance or to the person to whom any liability covered by such insurance has been incurred provided that the underwriter shall have first received evidence that the liability insured against has been discharged.

Section 5.10. Application of Proceeds. All amounts paid to the Secured Party in respect of the Debtor's Insurance and any amounts received by the Owner Trustee or by the Debtor (other than Excepted Payments) shall (after deduction of the reasonable expenses of the Secured Party in collecting such amounts), be applied by the Secured Party to the payment of amounts due under the Loan Agreement pursuant to Section 1.05(c) of the Loan Agreement.

ARTICLE 6 - EVENT OF DEFAULT

Section 6.01. Event of Default. Event of Default hereunder shall have the meaning set forth in Article IV of the Loan Agreement.

Section 6.02. Application of Proceeds. Any sums recovered hereunder after an Event of Default shall have occurred and be continuing shall be applied as follows:

First: To the payment of all reasonable expenses and charges, including the expenses of any sale, the expenses of any retaking, attorney's fees, court costs, and any other expenses or advances made or incurred by the Secured Party in the protection of its rights or the pursuance of its remedies hereunder;

Second: To the payment of the amounts outstanding under the Loan Agreement, the Notes and this Security Agreement, whether due or not, including interest thereon to the date of such payment and, if applicable, compensatory interest to the date of such payment; and

Third: To the payment of any surplus thereafter remaining to the Debtor or to whomsoever may be entitled thereto.

Section 6.03. Remedies. Upon the occurrence and during the continuance of an Event of Default, the security interest created by this Security Agreement shall become immediately enforceable and, without limitation, the enforcement remedies specified can be exercised irrespective of whether or not the Secured Party has exercised the right of acceleration under the Loan Agreement and the Secured Party shall have the right to:

(i) Upon the declaration by the Secured Party that all the then unpaid obligations of the Borrower under the Loan Agreement and the Notes are due and payable immediately, the same shall become and be immediately due and payable (provided no declaration shall be required if an Event of Default shall have occurred under Article IV (G) or (H) of the Loan Agreement).

(ii) Demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for, or make any compromise or settlement deemed desirable with respect to, any of the Collateral, but the Secured Party shall be under no obligation so to do, or the Secured Party may extend the time of payment, arrange for payment in installments or otherwise modify the terms of, or release any of the Collateral, without hereby incurring responsibility to, or discharging or otherwise affecting any liability of the Debtor or the Borrower. The Secured Party shall be under no duty to protect, secure, perfect or insure the Collateral.

(iii) Require that all policies, contracts, certificates of entry and other records relating to the insurances, other than Excepted Payments, (including details of and correspondence concerning outstanding claims) be forthwith delivered to or to the order of the Secured Party.

(iv) Collect, recover, compromise and give a good discharge for any and all moneys and claims for moneys then outstanding or thereafter arising under the insurances

(other than Excepted Payments) and to permit any brokers through whom collection or recovery is effected to charge the usual brokerage therefor.

(v) Take possession of the collateral, and for that purpose Secured Party may enter upon any premises on which the Collateral or any part thereof may be structural and remove the Collateral, or require the Debtor to assemble the Collateral and all books and records relating thereto and to make the same available to the Secured Party at a location designated by the Secured Party.

(vi) The Secured Party shall have the rights and remedies with respect to the Collateral of a secured party under the Illinois Uniform Commercial Code, whether or not such code is in effect in the jurisdiction where the rights and remedies are then asserted and any other rights granted pursuant to applicable law. In addition, the Secured Party is hereby granted the right to sell or cause to be sold in Chicago, Illinois or elsewhere, in one or more sales or parcels, at such price or prices as it may deem best and for cash or on credit or for future delivery, without assumption of any credit risks, all or any of the Collateral, at any broker's board or at public or private sale, without demand of performance or notice of intention to sell, or of time or place of sale (except ten (10) Business Days prior written notice to the Debtor at the Debtor's address set forth in the Loan Agreement and the Debtor waives all other notice of such sale), and the Secured Party may be the purchaser of any or all the Collateral so sold and thereafter hold the same absolutely free from any claim or right of whatsoever kind, including any right or equity or redemption of the Debtor, any such demand, notice, right or equity being hereby expressly waived and released (to the extent permitted by applicable statute). The Debtor will pay to the Secured Party all reasonable expenses (including fees and disbursements of counsel) of, or incidental to, the enforcement of any of the provisions hereof or of any of the obligations of the Debtor, of any actual or attempted sale, or any exchange, enforcement, collection, compromise or settlement of any of the Collateral or receipt of the proceeds thereof and for the care or preservation of the Collateral, including expenses of insurance; and all such expenses shall be obligations of the Debtor within the terms of this Security Agreement and the Loan Agreement. All proceeds from the sale or other disposition of the Collateral shall be held and applied by the Secured Party in the manner provided for in Section 6.02 hereof. The Debtor agrees that any sale made in accordance with the provisions of this Section 6.03 shall be deemed made in a commercially reasonable manner insofar as it is concerned.

(vii) If an Event of Default shall have occurred and be continuing hereunder, the Debtor hereby appoints the Secured Party its true and lawful attorney-in-fact, with full power of substitution, to enforce its rights under any drilling contracts or leases concerning the Equipment, and to take any action which the Secured Party may deem necessary or appropriate to protect and preserve the security interest in the Collateral granted herein.

Section 6.04. Power of Sale. Any sale of the Collateral made pursuant to the terms of this Security Agreement, whether under the power of sale hereby granted or any judicial

proceedings, shall operate to divest all right, title and interest of any nature whatsoever of the Debtor therein and thereto, and shall bar the Debtor and all persons claiming by, through or under the Debtor. No purchaser shall be bound to inquire whether notice has been given, or whether any default has occurred, or as to the propriety of the sale, or as to the application of the proceeds thereof. In case of any such sale, the Secured Party, if it is the purchaser, shall be entitled, for the purpose of making settlement or payment for the property purchased, to use and apply the obligations of the Debtor under the Loan Agreement and the Notes in order that there may be credited against the amount remaining due and unpaid thereon the sums payable out of the net proceeds of such sale to the Secured Party after allowing for the costs and expense of sale and other charges. To the extent permitted by law, at any such sale, the Secured Party may bid for and purchase such property and upon compliance with the terms of sale may hold, retain and dispose of such property without further accountability therefor.

Section 6.05. Power of Attorney - Sale. The Secured Party is hereby irrevocably appointed attorney-in-fact of the Debtor upon the happening and during the continuance of any Event of Default to execute and deliver to any purchaser aforesaid, and is hereby vested with full power and authority to make, in the name and in behalf of the Debtor, a good conveyance of the title to the Collateral so sold. Any person dealing with the Secured Party or its attorney in-fact shall not be put on enquiry as to whether the power of attorney contained herein has become exercisable. In the event of any sale of any of the Collateral, under any power herein contained, the Debtor will, if and when required by the Secured Party, execute such form of conveyance of the Collateral as the Secured Party may direct or approve.

Section 6.06. Secured Party to Discharge Liens. Following the occurrence of, and during the continuance of, an Event of Default, the Debtor authorizes and empowers the Secured Party or its appointees or any of them to appear in the name of the Debtor in any court of any country or nation of the world where a suit is pending against any of the Collateral because of or on account of any alleged lien against any of the Collateral from which the Collateral has not been released and to take such reasonable steps towards the defense of such suit and the purchase or discharge of such lien. All reasonable expenditures made or incurred by them or any of them for the purpose of such defense or purchase or discharge shall be a debt due from the Debtor to the Secured Party and shall be secured by the lien of this Security Agreement in like manner and extent as if the amount and description thereof were written herein.

Section 6.07. Payment of Expenses. The Debtor covenants that upon the happening and during the continuance of any Event of Default, then, upon written demand of the Secured Party, the Debtor will pay to the Secured Party the whole amount due and payable in respect of the obligations of the Debtor under the Loan Agreement and the Notes; and in case the Debtor shall fail to pay the same forthwith upon such demand, the Secured Party shall be entitled to recover judgment for the whole amount so due and unpaid, together with such further amounts as shall be sufficient to cover the reasonable compensation to the Secured Party or its agents, attorneys and counsel and any necessary advances, expenses and liabilities made or incurred by it or them hereunder. All moneys collected by the Secured Party under this Section 6.07 shall be applied in accordance with the provisions of Section 6.02 above.

Section 6.08. Remedies Cumulative. Each and every power and remedy herein given to the Secured Party shall be cumulative and shall be in addition to every other power and remedy herein given or now or hereafter existing at law, in equity or by statute, and each and every power and remedy whether herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Secured Party, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other power or remedy. The Secured Party shall not be required or bound to enforce any other of its rights under any other agreement or instrument securing the Loan prior to enforcing its rights under this Security Agreement. No delay or omission by the Secured Party in the exercise of any right or power or in the pursuance of any remedy accruing upon any Event of Default shall impair any such right, power or remedy or be construed to be a waiver of any such Event of Default or to be an acquiescence therein; nor shall the acceptance by the Secured Party of any security or of any payment of or on account of the obligations of the Debtor under the Loan Agreement or the Notes maturing after any Event of Default or of any payment on account of any past default be construed to be a waiver of any right to exercise any remedies due to any future Event of Default or of any past Event of Default not completely cured thereby. No consent, waiver or approval of the Secured Party shall be deemed to be effective unless in writing and duly signed by the Secured Party; any waiver by the Secured Party of any of the terms of this Security Agreement or any consent given under this Security Agreement shall only be effective for the purpose and on the terms which it is given and shall be without prejudice to the right to give or withhold consent in relation to future matters.

Section 6.09. Cure of Defaults. If at any time after an Event of Default and prior to the actual sale of any of the Collateral by the Secured Party or prior to any enforcement or foreclosure proceedings the Debtor offers completely to cure all Events of Default and to pay all expenses, advances and damages to the Secured Party consequent on such Events of Default, with interest at the interest rate set forth in Section 1.04(b) of the Loan Agreement (but subject in all cases to the limitations set forth in Section 1.04(c) of the Loan Agreement), then the Secured Party may (but shall not be obligated to) accept such offer and payment and restore the Debtor to its former position, but such action, if taken, shall not affect any subsequent Event of Default or impair any rights consequent thereon.

Section 6.10. Discontinuance of Proceedings. In case the Secured Party shall have proceeded to enforce any right, power or remedy under this Security Agreement by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Secured Party, then and in every such case the Debtor and the Secured Party shall be restored to their former positions and rights hereunder with respect to the property subject or intended to be subject to this Security Agreement, and all rights, remedies and powers of the Secured Party shall continue as if no such proceedings had been taken.

ARTICLE 7 - MISCELLANEOUS

Section 7.01. Contracts. It is expressly agreed that anything herein contained to the contrary notwithstanding, the Secured Party shall have no obligation or liability under any lease or other contract concerning the Collateral by reason of or arising out of this Security Agreement nor shall the Secured Party be required or obligated in any manner to perform or fulfill any obligations of the Debtor under or pursuant to any lease or other contract concerning the use or operation of the Collateral or to make any payment or to make any inquiry as to the nature or sufficiency of any payment received by it or to present or file any claim, or to take other action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled to hereunder at any time or times.

Section 7.02. Power of Attorney. The Debtor does hereby constitute the Secured Party, its successors and assigns, the Debtor's true and lawful attorney, irrevocably, with full power (in the name of the Debtor or otherwise), if an Event of Default shall have occurred and be continuing, to ask, require, demand, receive, compound and give acquittance for any and all moneys, claims, property and rights hereby assigned, and claims for moneys due and to become due under or arising out of the Collateral hereby assigned, to endorse any checks or other instruments or orders in connection therewith and to file any claims or to take any action or institute any proceedings which the Secured Party may deem to be necessary or advisable in the premises.

Section 7.03. Irrevocability. The powers and authority granted to the Secured Party herein have been given for a valuable consideration and are hereby declared to be irrevocable.

Section 7.04. Further Documents. The Debtor agrees that at any time and from time to time, upon the written request of the Secured Party, it will promptly and duly execute and deliver any and all such further instruments and documents as the Secured Party may reasonably deem desirable in obtaining the full benefits of this Security Agreement and of the rights and powers herein granted.

Section 7.05. Notices. All notices or other communications which are required to be made hereunder to the Debtor shall be made in the manner and to the address for the Debtor provided in Section 5.01 of the Loan Agreement and if to the Secured Party in the manner and to the address for the Secured Party provided in Section 5.01 of the Loan Agreement.

Section 7.06. Choice of Law. This Security Agreement shall be governed by the internal laws of the State of Illinois and may not be amended or changed except by an instrument in writing signed by both parties hereto.

Section 7.07. Severability of Provisions. Any provision of this Security Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. To

the extent permitted by applicable law, the Debtor hereby waives any provision of law that renders any provision hereof prohibited or unenforceable in any respect.

Section 7.08. Exculpation. Any other provision of this Agreement notwithstanding, the Secured Party by acceptance hereof, expressly agrees as follows:

(a) As to the Debtor, that (i) there shall be no personal monetary liability on the part of the Debtor to pay the Loan or any other indebtedness of the Borrower to the Secured Party, or for any failure to comply with the provisions of this Agreement unless such failure is the result of the Debtor's gross negligence or wilful misconduct; (ii) if an Event of Default occurs under this Agreement, any proceedings, judicial or otherwise, brought by Secured Party against the Debtor shall be limited to the preservation, enforcement and foreclosure, or any thereof, of the liens, security titles, estates, assignments, property rights and security interests now or at any time hereafter securing the payment of the Loan and all other obligations of the Borrower contained in the Loan Agreement, and no attachment, execution, judgment or other writ of process shall be sought, issued, or levied upon any personal assets, properties or funds of the Debtor, other than the properties, property rights, estates and property interests described in this Agreement; (iii) Secured Party will not seek any judgment for a deficiency against the Debtor, its successors or assigns, in any action to foreclose on any of the Collateral or the liens, security titles, estates, assignments, property rights and security interests conveyed by this Agreement; provided, however, that notwithstanding the foregoing provisions of this Section 6.11, the Debtor shall be fully liable (A) for fraud or misrepresentation, and (B) for the misapplication by the Debtor of (1) proceeds paid prior to any such foreclosure under any insurance policies by reason of damage, loss or destruction to any of the Collateral, to the full extent of such proceeds so misapplied, and (2) rents, issues, profits and revenues received or applicable to a period subsequent to the occurrence of an Event of Default but prior to such foreclosure.

(b) Except as provided in this Section 7.08(b) and in Section 5.12 of the Loan Agreement, the Secured Party agrees that:

(i) there shall be no personal monetary liability on the part of the partners of the Borrower to pay the Notes or any of the other obligations of the Borrower under the Loan Documents (the "Obligations");

(ii) the Secured Party will not seek any judgment for a deficiency against the partners of the Borrower or their personal representatives or assigns, in any action to foreclose on the Collateral or in exercising any of the Secured Party's remedies hereunder under any of the Loan Documents; and

(iii) in the event that any suit is brought for the collection of the Obligations, any judgment obtained in such a suit will not be enforced personally against the partners of the Borrower.

Provided, however, that nothing in this Section 7.08 shall be deemed to be a release or impairment of the Borrower's personal obligations under the Loan Agreement, the Notes or the

other Documents, or of the liens and security interests against the Collateral created pursuant to the provisions of the Loan Documents.

IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be executed by their duly authorized officers all as of the date noted above.

U.S. TRUST COMPANY OF CALIFORNIA, N.A., not in its individual capacity but as Owner Trustee for the benefit of Cypress Equipment Fund II, Ltd.

By: _____
Name: _____
Title: _____

HELLER FINANCIAL LEASING, INC.

By: Michael G. Nawara
Name: Michael G. Nawara
Title: Vice President

SCHEDULE 1

List of Equipment and Lease

ROLLING STOCK

That certain railroad rolling stock consisting of four (4) certain diesel electric locomotives bearing Southern Pacific reporting marks and road numbers 7486, 9243, 9282 and 9330.

LEASE

Rolling Stock leased to Southern Pacific Transportation Company ("Southern Pacific") pursuant to Equipment Lease dated as of March 31, 1993, between U.S. Trust Company of California, N.A. ("U.S. Trust"), not in its individual capacity but solely as owner trustee for the benefit of Cypress Equipment Fund II, Ltd., beneficiary, as lessor, and Southern Pacific, as lessee, filed with the Interstate Commerce Commission under Recordation Number 17977-B, as supplemented by Lease Supplement No. A-5, dated as of May 19, 1993, filed with the Interstate Commerce Commission under Recordation Number 17977-J.

NOTICE AND ACKNOWLEDGMENT OF ASSIGNMENT

RE: Equipment Lease dated as of _____, 199_ between _____, not in its individual capacity but as trustee for the benefit of CYPRESS EQUIPMENT FUND II, LTD., a Florida limited partnership (the "Beneficiary"), as Lessor (the "Lessor"), and _____, as lessee (the "Lessee"), as amended or supplemented (the "Lease").

Lessor hereby gives notice to Lessee that the Lease, all rental payments and the Equipment, will be collaterally assigned and a security interest therein granted to HELLER FINANCIAL LEASING, INC., at the following address: 900 Circle 75 Parkway N.W., Suite 1600, Atlanta, Georgia 30339 (the "Lender"). This Notice and Acknowledgment of Assignment is executed in part for the purpose of inducing the Lender to make financial accommodations available to the Borrower.

Lessee, in consideration of One Dollar (\$1.00) lawful money of the United States of America to it in hand paid, hereby acknowledges notice of and consents and agrees to the assignment of and security interest on the Lease, the rental payments and the Equipment granted by the Lessor to the Lender pursuant to the Security Agreement dated as of June __, 199_ (the "Security Agreement") and hereby agrees, represents and warrants that

- i) A true and correct copy of the Lease, with all amendments and supplements thereto, is attached as Exhibit "A" hereto;
- ii) The Lease is in full force and effect and Lessee is not in default of any of its terms or provisions;
- iii) Any notice which Lessee is required to give Lessor under the Lease shall be sent to the Lessor with a copy to Lender;
- iv) upon notice from the Lender pursuant to the Security Agreement it will make payment of all moneys due to the Lessor and to become due under the Lease to the Lessor directly to the Secured Party at such place as the Lender may from time to time designate, without any right of setoff, defense, recoupment or counterclaim, until receipt of written notice from the Lender that all obligations of the Lessor to the Lender have been paid in full;
- v) Lessee has not received any notice of a prior sale, transfer, assignment, hypothecation or pledge of the Equipment, the Lease or any rental payments or proceeds reserved thereunder; and

- vi) Lessee will not permit any modification of, amendment to or other alteration in the Lease without the prior written consent of the Lender and Lessor.

The assignment referred to herein shall not be deemed to relieve Lessee from any of its obligations under the Lease. Lender hereby agrees that it will not disturb Lessee's quiet and peaceful possession of the Equipment and its unrestricted use of such Equipment for its intended purposes under the terms of the Lease so long as Lessee shall not be in default of its obligations under the Lease. Lessee hereby acknowledges that Lender shall enjoy all of Lessor's rights and privileges under the Lease but shall not be chargeable with any of Lessor's obligations or liabilities thereunder.

This Notice and Acknowledgment of Assignment shall be deemed binding upon Lessee and its successors and assigns, and may be executed in counterparts and each such counterpart, taken together, shall constitute a single instrument. Telefax signatures shall be deemed binding for the purposes of this Agreement.

DATED: June __, 1997.

_____,
Not in its individual capacity
but as Trustee for the benefit
of CYPRESS EQUIPMENT FUND II, LTD.

By: _____
Name: _____
Title: _____

HELLER FINANCIAL LEASING, INC.

By: _____
Name: _____
Title: _____

[LESSEE]

By: _____
Name: _____
Title: _____