



Bank of America

RECORDATION NO 14943-B FILED 1425

JAN 2 1990 -12 00 PM

INTERSTATE COMMERCE COMMISSION

0--002A056

December 29, 1989

The Honorable Noretta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Attention: Mildred Lee

Dear Madam Secretary:

We enclose for recordation pursuant to 49 U.S.C. § 11303 the original and a counterpart of an Assignment and Assumption Agreement, dated as of December 29, 1989.

The Assignment is a secondary document, as defined in 49 C.F.R. § 1177.1(b). It relates to the following primary document:

Security Agreement, dated as of March 1, 1986, filed with ICC on April 14, 1986, at 3:55 p.m., Recordation No. 14943

The names and addresses of the parties to the Assignment are as follows:

Assignor: BA Leasing & Capital Corporation
Two Embarcadero Center
Suite 2800
San Francisco, California 94111
Attention: Contract Administration

Assignee: General Electric Railcar Services Corporation
33 West Monroe Street
Chicago, Illinois 60603

A general description of the railroad equipment covered by the Assignment is set forth in Schedule A attached hereto.

The Honorable Noreta R. McGee
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We request that this Assignment also be indexed under the name of the assignee, General Electric Railcar Services Corporation.

A brief summary of the Assignment to appear in the index follows:

Same units as in above Security Agreement, as amended, bearing identification marks and numbers set forth in Schedule A attached hereto.

We enclose the fee of \$15.00 for recordation. Please file-stamp and return to General Electric Railcar Services Corporation, 33 West Monroe Street, Chicago, Illinois 60603, Attention: John S. Reichner, the original Assignment and the enclosed copy of this transmittal letter.

Very truly yours,

BA LEASING & CAPITAL
CORPORATION

By Wayne P. Wessler

SCHEDULE A

DESCRIPTION OF EQUIPMENT

One Hundred (100), 100-ton, 4750 cubic foot covered hopper cars manufactured by Thrall Car Manufacturing Company and bearing identification marks and numbers CCLX 61001 through CCLX 61100.

Twenty-four (24), 23,500 gallon nominal capacity tank cars manufactured by Richmond Tank Car Company and bearing identification marks and numbers RUSX 2601 through RUSX 2606, RUSX 2608, RUSX 2609, RUSX 2611 through RUSX 2614, RUSX 2616 through RUSX 2621, RUSX 2623 through RUSX 2625, and IFCX 2607, IFCX 2615, and IFCX 2622.

Ninety (90), 100-ton 4750 cubic foot covered hopper cars manufactured by Thrall Car Manufacturing Company and bearing identification marks and numbers RUSX 5101, RUSX 5102, RUSX 5107, RUSX 5111, RUSX 5112, RUSX 5114, RUSX 5116, RUSX 5118 through RUSX 5121, RUSX 5123 through RUSX 5125, AN 9000 through AN 9009, PCN 5103, PCN 5110, PCN 5113, PCN 5117, PCN 5122, PCN 5137, PCN 5138, PCN 5143 through PCN 5148, PCN 5150 through PCN 5152, PCN 5154, PCN 5157, PCN 5160, PCN 5161, PCN 5171 through PCN 5181, PCN 5183, PCN 5184, PCN 5186 through PCN 5191, PCN 5193 through PCN 5196, PCN 5198 through PCN 5201, PCN 5218, PCN 5227, PCN 5229, PCN 5232, PCN 5234, PCN 5235, PCN 5237, PCN 5238, BXN 5139, BXN 5142, BXN 5153, BXN 5155, BXN 5156, BXN 5158, BXN 5159, BXN 5182, BXN 5185, BXN 5197, BXN 5236.

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ASSIGNMENT AND ASSUMPTION AGREEMENT
INTERSTATE COMMERCE COMMISSION

This ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of December 29, 1989, is entered into by and between BA LEASING & CAPITAL CORPORATION (as successor by merger to Delos Leasing Corporation) ("Assignor"), a California corporation, and GENERAL ELECTRIC RAILCAR SERVICES CORPORATION ("Assignee"), a Delaware corporation.

W I T N E S S E T H:

WHEREAS, Assignor wishes to assign, transfer, and convey to Assignee, and Assignee wishes to receive and accept, all of Assignor's right, title and interest in and to the Owner Interests set forth in Appendix 1 ("Owner Interests") which Owner Interests relate to rolling stock leased to United States Rail Services, Inc.

NOW, THEREFORE, the parties agree as follows:

Section 1. Assignment of Owner Interests.

Assignor hereby assigns, transfers and conveys to Assignee as of the date hereof all of its right, title and interest in, to and under the Owner Interests. Assignee accepts and receives all such right, title and interest in, to and under the Owner Interests.

Section 2. Assumption of Liabilities. Assignee

assumes all of the duties and obligations of Assignor

hereafter accruing or arising incident to or related to the Owner Interests. Assignor shall not be responsible to any other party to the agreements set forth in Appendix 1 for the discharge or performance of any such duties or obligations to be performed or discharged pursuant to or in connection with the agreements set forth in Appendix 1 after the date hereof. Assignee confirms that as of the date hereof it shall be deemed a party to those agreements set forth in Appendix 1 to which Assignor is a party, and Assignee agrees to be bound by all the terms of, and to undertake all such obligations of, Assignor contained therein.

Section 3. Exception. Notwithstanding the foregoing assignment, Assignor shall be entitled to pursue claims accruing or arising incident to its interests in the Owner Interests on or before the date hereof, and all its rights and remedies related to such claims, for (a) payments of indemnity now or hereafter due under the agreements related to the Owner Interests from any obligor thereunder, and/or (b) insurance payments or proceeds, provided, however, that any obligor's liability for such claims shall not exceed the liability it would have incurred if the assignment had not been made.

Section 4. Indemnity.

(a) Assignee agrees to indemnify and save and hold harmless Assignor from and against any and all loss,

liability, claims, and causes of action accruing or arising under the agreements set forth in Appendix 1 after the date hereof by reason of any act, event, or omission occurring subsequent to the date hereof which are asserted against Assignor as a party to the agreements set forth in Appendix 1.

(b) Assignor agrees to indemnify and save and hold harmless Assignee from and against any and all loss, liability, claims, and causes of action which may have accrued or arisen under the agreements set forth in Appendix 1 on or prior to the date hereof by reason of any act, event, or omission occurring on or prior to the date hereof and which are asserted against Assignee as a party to the agreements set forth in Appendix 1.

Section 5. Representations and Warranties.

Assignee represents and warrants as follows, with capitalized terms not otherwise defined having the meanings set forth in the agreements relating to the Owner Interests:

(a) Organization and Authority. It is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and has all requisite power and authority, and all necessary licenses and permits to enter into, execute, and perform this Agreement and to assume and perform the Operative Agreements to which it is a party and to assume the Notes and to incur the indebtedness evidenced thereby.

(b) Due Authorization. This Agreement has been duly authorized, executed and delivered by it, and the Operative Agreements and the Notes to which it hereby becomes a party have been duly assumed by it, and in each case constitute its legal, valid and binding agreements and obligations enforceable in accordance with their respective terms.

(c) No Violation of Agreements, Etc. Its execution, delivery and performance of this Agreement and its assumption of the Operative Agreements and the Notes to which it hereby becomes a party do not contravene any law or any governmental rule, regulation, judgment, decree, writ, injunction or order binding on it or its charter or By-laws or contravene the provisions of, or constitute a default under, any indenture, mortgage, contract or other agreement or instrument to which it is bound or to which any of its properties or assets are subject.

(d) Pending Litigation. There are no proceedings pending, or, to its knowledge, threatened, in any court or before any governmental authority or arbitration board or tribunal which, if adversely determined, would materially and adversely affect its ability to enter into or perform its obligations under this Agreement or to assume and perform its obligations under the Operative Agreements and the Notes to which it hereby becomes a party.

(e) Title to the Equipment. The Equipment is free and clear of any liens or encumbrances which result from claims

against it other than as successor in interest to Assignor. It has not by affirmative act conveyed title to the Equipment to any Person or subjected the Equipment to any lien or encumbrance other than Permitted Encumbrances and the Interim Security Agreement.

(f) No Defaults. To its knowledge, it is not in violation in any material respect of any term of this agreement or of any Operative Agreement to which it hereby becomes a party and for which it is by the terms of such Operative Agreement individually liable, except such as may have existed on or prior to the date hereof, of which it has no actual knowledge, based solely on the representations of Assignor.

(g) Governmental Consent. No approval, consent or authorization on the part of any Federal, state or local governmental authority is necessary in connection with its execution and delivery or performance of this agreement or its assumption or performance of any of the Operative Agreements to which it hereby becomes a party and the assumption and performance of the Notes.

(h) ERISA. No part of the funds used by it to purchase the Owner Interests constituted assets allocated to any separate account (as defined in ERISA) maintained by it.

Section 6. Miscellaneous. Each party to this Agreement shall execute and deliver such instruments, documents and other written information and take such other

actions as the other parties may reasonably require in order to carry out the intent of this Agreement. This Agreement and all the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. This Agreement is made and entered into in California, and the laws of California shall govern the validity and interpretation hereof and the performance of the parties hereto of their respective duties and obligations.

IN WITNESS WHEREOF, the parties hereto have
executed and delivered this Agreement.

BA LEASING & CAPITAL
CORPORATION
(as successor by merger to
Delos Leasing Corporation)

By: *Terri L. Koritch*
Its: Vice President

By: *Wayne P. Wiener*
Its: Vice President

GENERAL ELECTRIC RAILCAR
SERVICES CORPORATION

By: *ML*
Its: Vice President

Assignment and Assumption Agreement, dated
as of December 29, 1989. US Rail.

APPENDIX 1
OWNER INTERESTS

All right, title and interest of BA Leasing & Capital Corporation, as successor in interest to Wells Fargo Leasing Corporation, in, to and under:

1. The Participation Agreement among Wells Fargo Capital Leasing Corp., Chemical Business Credit Corporation, United States Leasing International, Inc., and United States Rail Services, Inc. dated as of July 1, 1981, as amended by Amendment to Participation Agreement and Lease dated as of October 1, 1981.

2. Term Financing Participation Agreement among United States Rail Services, Inc., United States Leasing International, Inc., Wells Fargo Leasing Corporation, and New England Mutual Life Insurance Company dated as of March 1, 1986.

3. The Equipment Lease dated as of July 1, 1981 between Wells Fargo Capital Leasing Corporation and United States Rail Services, Inc., as amended by Amendment to the Equipment Lease dated as of March 1, 1986.

4. The Security Agreement dated as of March 1, 1986, from Wells Fargo Leasing Corporation to New England Mutual Life Insurance Company.

5. The Assignment and Assumption Agreement (US Rail) dated as of September 29, 1989, among Wells Fargo Leasing Corporation, Delos Leasing Corporation and BA Leasing & Capital Corporation.

6. All documents, agreements, certificates and opinions delivered pursuant to or in connection with the above agreements, and all amendments thereof and supplements thereto.

7. The Equipment, as defined in the Term Financing Participation Agreement.

APPENDIX 2
NOTICE PARTIES

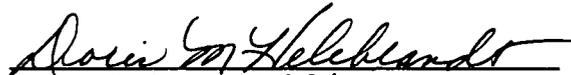
United States Rail Services, Inc.
733 Front Street
San Francisco, California 94111
Attention: President

New England Mutual Life Insurance Company
501 Boylston Street
Boston, Massachusetts 02117
Attention: Cary Bussema

State of Illinois)
County of Cook)

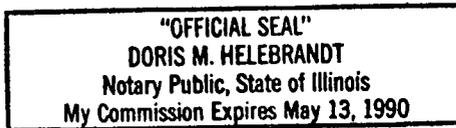
ss:

On this 27th day of December, 1989, before me personally appeared Paul A. Lechner, to me personally known, who, being by me duly sworn, says that he is a Vice-President of General Electric Railcar Services Corporation, and that the foregoing Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Agreement was the free act and deed of said corporation.


Notary Public

[Notarial Seal]

My commission expires:

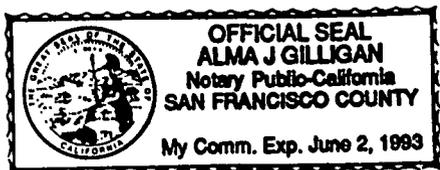


ACKNOWLEDGMENT

State of California)
) ss.
County of San Francisco)

On this 28 day of December, in the year 1989, before me, the undersigned, a Notary Public, in and for the State of California, duly commissioned and sworn, personally appeared TERRI L. KWIATEK and WAYNE P. WEINER, ~~personally known to me~~ (or proved on the basis of satisfactory evidence) to be the persons who executed the within instrument as Vice Presidents of BA Leasing & Capital Corporation, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date set forth above in this certificate.



Alma J. Gilligan

Notary Public in and for said State

My Commission Expires 6-2-93