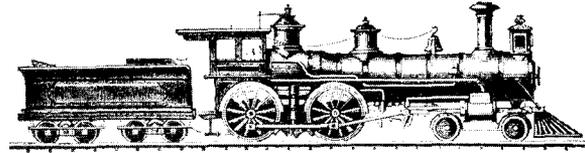


States Rail Services

A DIVISION OF STATES MARINE CORPORATION



FIVE THIRTY SEVEN STEAMBOAT ROAD, GREENWICH, CONNECTICUT 06830 • TELEPHONE: (203) 622-1024

RECORDATION NO. Filed 1425

December 21, 1978

DEC 27 1978 - 1 35 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. Filed 1425

DEC 27 1978 - 1 35 PM

INTERSTATE COMMERCE COMMISSION

No.

Date DEC 27 1978

Fee \$1.00

ICC Washington, D. C.

Secretary
Interstate Commerce Commission
Washington, DC 20423

RE: Recordation and Filing of Documents Pertaining
to the Use and Management of Certain Covered
Hopper Railroad Freight Cars

Dear Sir:

In accordance with the provisions and procedures of Section 11303 of the Revised Interstate Commerce Act, 49 U.S.C. 11303, and Part 1116 of Title 49 of the Code of Federal Regulations, it is hereby respectfully requested that the documents enclosed with this letter of transmittal, and more fully described hereinbelow, pertaining to the use and management of certain covered hopper railroad freight cars, be recorded and filed by the Interstate Commerce Commission (the "Commission") pursuant to Section 1116.5 of said Title 49 of the Code of Federal Regulations.

A. Description of the Documents and the Parties Thereto.

Enclosed herewith are the following original documents to be recorded by the Commission and two certified true copies of each of said original documents to be recorded and filed by the Commission:

- (i) Agreement, dated as of November 7, 1978, by and between the Genesee and Wyoming Railroad Company, 3846 Retsof, New York 14539, and States Marine Corporation, doing business through its division, States Rail Services, 280 Park Avenue, New York, New York 10017 (said Agreement being hereinafter called the "GWRR Use Agreement"); and
- (ii) Subcontractor Agreement, dated as of November 7, 1978, by and between States Marine Corporation, doing business through its division, States Rail Services, 280 Park Avenue, New York, New York, 10017, and GWI Rail Management Corp., 3846 Retsof Road, Retsof, New York 14539 (said Subcontractor Agreement being hereinafter called the "Subcontractor Agreement").

The GWRR Use Agreement

Pursuant to the terms of the GWRR Use Agreement, States Marine Corporation, doing business through its division, States Rail Services ("SMC/SRS"), and acting in its sole capacity as agent for the owners of the covered hopper railroad freight cars which are the subject of such Agreement, has agreed to deliver to the Genesee

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1. continued...

and Wyoming Railroad Company ("GWRR"), for the latter's use in the ordinary course of its operations, a maximum of three hundred (300) covered hopper railroad freight cars.

Each of the covered hopper railroad freight cars which has been or which will be delivered by SMC/SRS to GWRR pursuant to the GWRR Use Agreement is a 100-ton, 4,550 cubic feet capacity, steel covered hopper railroad freight car, lined for use in the transport and shipping of grain products and select minerals, including salt. Each of such freight cars was or will be manufactured by, and was or will be purchased by the owner thereof from, National Steel Car Corporation, Limited, a Canadian corporation located in Hamilton, Ontario, Canada.

One-hundred (100) of such covered hopper railroad freight cars have been delivered by SMC/SRS to GWRR prior to the date of this letter of transmittal. The names and addresses of the owners of the said one-hundred (100) covered hopper railroad freight cars, the number of such freight cars owned by each said owner, and the Identifying Marks, the Serial Numbers and the A.A.R. Mechanical Designation of such freight cars are as follows:

<u>Names and Addresses of Owners</u>	<u>Number of Cars</u>	<u>Identifying Marks</u>	<u>Serial Numbers</u>	<u>A.A.R. Mech. Designation</u>
John M. Randolph 201 W. Old Mill Rd. Greenwich, CT 06830	10	GNWR	810000 to and including 810009	EX LO
Alford P. Rudnick 111 Clinton Road Brookline, MA 02146	10	GNWR	810010 to and including 810019	EX LO
Richard P. & Claire W. Morse 53 Sargent Crossway Brookline, MA 02110	10	GNWR	810020 to and including 810029	EX LO
Mitchell K. Rudnick Meadowbrook Road Lincoln, MA	10	GNWR	810030 to and including 810039	EX LO
Stuart S. Peltz 201 Clwyd Road Bala Cynwyd, PA	10	GNWR	810040 to and including 810049	EX LO
William B. Wisdom, Jr. 1828 State Street New Orleans, LA 70118	10	GNWR	810050 to and including 810059	EX LO

<u>Names and Addresses of Owners</u>	<u>Number of Cars</u>	<u>Identifying Marks</u>	<u>Serial Numbers</u>	<u>A.A.R. Mech. Designation</u>
Richard L. Rosenthal High Ridge Park Stamford, CT 06905	10	GNWR	810060 to and including 810069	XM LO
Friendship Management Holiday Inn, Wymore Road Altamonte Springs, FL	20	GWIX	20000 to and including 20019	XM LO
William M. Spencer, III 3035 Cherokee Road Mountain Brook, AL 35223	5	GWIX	20025 to and including 20029	XM LO
V. Davis Hunt 700 N. Bonner Street Ruston, LA 71270	5	GWIX	20030 to and including 20034	XM LO

Each of the owners whose name and address has been set forth above has entered into a separate management agreement with SMC/SRS pursuant to which SMC/SRS has agreed to manage, on behalf of and as agent for such owner, each of the covered hopper railroad freight cars identified above opposite the name of such owner. SMC/SRS and GWRR do not have title to, and are not the owners of, any of the covered hopper railroad freight cars identified above.

As and when additional covered hopper railroad freight cars are delivered by SMC/SRS to GWRR under the GWRR Use Agreement, Schedules supplemental to the GWRR Use Agreement will be executed by SMC/SRS and GWRR. Each such supplemental Schedule will identify each covered hopper railroad freight car so delivered and the owner thereof. An original and two certified true copies of each such supplemental Schedule will be submitted to the Commission for recordation and filing under Part 1116 of Title 49 of the Code of Federal Regulations. SMC/SRS and GWRR will not have title to, and will not be the owners of, any of the additional covered hopper railroad freight cars so delivered to GWRR.

2. The Subcontractor Agreement

Pursuant to the terms of the Subcontractor Agreement, SMC/SRS has subcontracted to GWI Rail Management Corp. ("GWIRM") certain operational and managerial responsibilities which have been or will be assumed by SMC/SRS in respect of a maximum of five hundred (500) covered hopper railroad freight cars. SMC/SRS has entered or will enter into a management agreement with each owner of any one or more of said covered hopper railroad freight cars. GWIRM does not and will not have title to, and is not and will not be the owner of, any of the covered hopper railroad freight cars which is or will be subject to the Subcontractor Agreement.

Page 4.
December 21, 1978

Each of the covered hopper railroad freight cars which is or will be subject to the Subcontractor Agreement is a 100-ton, 4,550 cubic feet capacity, steel covered hopper railroad freight car, lined for use in the transport and shipping of grain products and select minerals, including salt. Each of such freight cars was or will be manufactured by, and was or will be purchased by the owner thereof from, National Steel Car Corporation, Limited, a Canadian corporation located in Hamilton, Ontario, Canada.

All of the covered hopper railroad freight cars which are or will be subject to the GWRR Use Agreement, are or will be subject, in addition, to the Subcontractor Agreement. As stated above, one-hundred (100) of the covered hopper railroad freight cars have been delivered by SMC/SRS to GWRR Use Agreement prior to the date of this letter of transmittal. The said one-hundred freight cars are also subject to the Subcontractor Agreement. The names and addresses of the owners of the said one-hundred (100) covered hopper railroad freight cars, the number of such freight cars owned by each said owner, and the Identifying Marks, the Serial Numbers and the A.A.R. Mechanical Designation of such freight cars are set forth in Part A.1. hereinabove.

B. Procedural Matters

It is hereby respectfully requested that each of the following names be inserted in the Commission index established pursuant to Section 1116.5(c) of Title 49 of the Code of Federal Regulations: (1) States Marine Corporation; (2) States Rail Services; (3) Genesee and Wyoming Railroad Company; (4) GWI Rail Management Corp.; (5) John M. Randolph; (6) Alford P. Rudnick; (7) Richard P. Morse; (8) Claire W. Morse; (9) Mitchell K. Rudnick; (10) Stuart S. Peltz; (11) ~~Friendship Management~~ ^{William M. Spencer}; (12) Richard L. Rosenthal; (13) Friendship Management; (14) William M. Spencer, III; and (15) V. Davis Hunt. It is further respectfully requested that an appropriate entry be made in the Commission index under each of the aforesaid names indicating the recordation number of each of the GWRR Use Agreement and the Subcontractor Agreement.

A check in the amount of one hundred dollars (\$100.00) has been enclosed with this letter of transmittal to cover the recordation fee prescribed by Section 1116.3(d) of Title 49 of the Code of Federal Regulations.

Kindly return the original documents enclosed herewith to Louis J. Duval, Esq., Bingham, Dana & Gould, 100 Federal Street, Boston, MA 02110.

If there are any questions with respect to the GWRR Use Agreement, the Subcontractor Agreement, the transactions described therein, or the covered hopper railroad freight cars subject thereto, please feel free to telephone the Louis J. Duval, Esq., collect, at 617/357-9300.

The undersigned hereby declares that he is an executive officer of the States Rail Services division of States Marine Corporation, and that he has knowledge of the matters set forth in the documents enclosed herewith.

Very truly yours,



Lawrence H. DeVoe
Vice President - Operations

i
Enclosures

Interstate Commerce Commission

Washington, D.C. 20423

12/27/78

OFFICE OF THE SECRETARY

Lawrence H. DeVoe
Vice Pres.-Operation
States Rail Services
537 Steamboat Road
Greenwich, Conn. 06830

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 12/27/78 at 12/27/78 and assigned recordation number(s) 9946 & 9946-A

Sincerely Yours,



H.G. Homme, Jr.,
Secretary

Enclosure(s)

SE-30-T
(2/78)

AGREEMENT

THIS AGREEMENT, made as of this 7th day of November, 1978, between States Marine Corporation doing business through its division STATES RAIL SERVICES, with offices at 280 Park Avenue, New York, New York 10017 ("SRS"), as agent for certain principal owners, and GENESEE AND WYOMING RAILROAD COMPANY, a New York corporation ("GWRR"), with offices at 3846 Retsof Road, Retsof, New York 14539.

1. Scope of Agreement

A. SRS, as agent for certain principal owners, and GWRR agree that SRS shall deliver to GWRR for GWRR's use a maximum of 300 covered hopper railroad cars as set forth in any schedule or schedules executed by the parties concurrently or subsequently with this Agreement and made a part hereof. The word "Schedule" as used herein includes any such schedule or schedules executed herewith. The Schedule shall at all times describe the railcar equipment by appropriate serial number and identify the name of each car owner. The scheduled items of equipment are hereinafter called collectively the "Cars."

B. It is the intent of the parties to this Agreement that the principal owners set forth on the Schedule shall at all times be and remain the owners of the Cars and that SRS shall be their agent. SRS acts or will act as agent of the owners by virtue of certain management agreements between SRS and each individual owner of the Cars. All actions undertaken by SRS under this Agreement shall, unless the context otherwise requires, be deemed to be taken as agent for each of the individual owners set forth on the Schedule. GWRR 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 execute such documents, at the request of SRS or the owners, and take such action as it deems necessary to accomplish or evidence this intent.

C. SRS, as agent for the owners, and GWRR agree that, as between themselves, GWRR shall not be entitled to claim the benefits of any available Investment Tax Credit for Federal income tax purposes.

D. It is the intent of the parties that SRS, as agent, shall receive an amount equal to all the per diem payments, mileage payments and any other payments however designated earned by the Cars (all of which are hereinafter collectively referred to as "payments" or "car hire payments") and GWRR shall have the availability and use of the Cars in its present transportation operation and in any expansion of such service without payment of any other charge to SRS.

2. Term

This Agreement shall remain in full force until it shall have been terminated as to all of the Cars as provided herein. Subject to any termination rights hereinafter contained, this Agreement shall commence upon the delivery of the first Car to GWRR as set forth in Section 3A hereof and shall terminate on December 31, 1983.

3. Supply Provisions

A. SRS, on behalf of the owners, will inspect each of the Cars tendered by the manufacturer for delivery and confirm to GWRR in writing that such inspection has been made and that the Cars conform to the specifications agreed to by GWRR as described in the attached Schedules. GWRR shall inspect the sample car and confirm in writing to SRS that it conforms to the specifications agreed to by GWRR and which are referenced in the attached Schedules. Upon such approval by GWRR and SRS's subsequent determination that each Car conforms to the specifications supplied by SRS and to all applicable governmental regulatory specifications, SRS will accept delivery thereof as agent of the owners at the manufacturer's facility and shall notify GWRR in writing of such acceptance. Each of the Cars shall be deemed delivered to GWRR upon such acceptance and notification by SRS and control of the Cars shall immediately pass from the owners to GWRR at such time.

B. If there is a surplus of Cars available for salt service, GWRR intends to the extent practicable to load the Cars prior to loading substantially similar covered hopper railroad cars which, subsequent to the date of this Agreement, have been leased or purchased by GWRR provided, however, that this shall in no event prevent or prohibit GWRR from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor to shippers on its railroad tracks. While it is the intent of GWRR to treat the Cars on a basis no less favorable than that afforded to cars now owned or leased by GWRR, it is expressly understood that GWRR may, because of practical business considerations, give loading preference to cars now owned or leased by it (or to any substitutes for such cars). In addition, it is further understood that shipper cars at all times have loading priorities at the shipper's option.

4. Railroad Markings and Record Keeping

A. SRS, as agent, and GWRR agree that on or before delivery of any Cars to GWRR, said cars will be lettered with

the railroad markings of GWRR and may also be marked with the name and/or other insignia used by GWRR, all at no cost to GWRR. SRS will insure that such name and/or insignia comply with all applicable regulations.

B. At no cost to GWRR, SRS, as agent, shall during the term of this Agreement prepare for GWRR's signature and filing all documents relating to the registration, maintenance and record keeping functions involving the Cars. Such documents shall include but are not limited to the following: (i) appropriate Association of American Railroads ("AAR") documents (ii) registration in the Official Railway Equipment Register and the Universal Machine Language Equipment Register (UMLER); and (iii) such reports as may be required from time to time by the Interstate Commerce Commission ("ICC") and/or other regulatory agencies.

5. Maintenance, Taxes and Insurance

A. Except as otherwise provided herein and excluding the operating cost of GWRR as would be incurred whether or not this Agreement were in effect, SRS will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each of the Cars during the term of this Agreement, including but not limited to repairs, maintenance and servicing, unless the same was occasioned by the fault of GWRR while a Car was in the physical possession of GWRR. GWRR hereby transfers and assigns to SRS for and during the term hereof all of its right, title and interest in any warranty in respect to the Cars. All claims or actions on any warranty so assigned shall be made and prosecuted by SRS at its sole expense and GWRR shall have no obligation to make any claim on such warranty. Any recovery under such warranty shall be payable solely to SRS for the benefit of the individual owner.

B. Except as provided above, SRS shall make or cause to be made such inspections of, and maintenance and repairs to, the Cars as may be required. At SRS's expense, GWRR shall perform any necessary maintenance and repairs to Cars on GWRR's railroad tracks as may be reasonably requested by SRS. SRS shall also make, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Cars in good operating condition throughout the term hereof. GWRR may make running repairs to facilitate continued immediate use of a Car and bill SRS for such repairs. All bills for repairs by GWRR are payable upon receipt by SRS of an invoice.

C. SRS agrees to reimburse GWRR upon demand for all taxes (including but not limited to sale or use taxes imposed on the mileage charges, payments hereunder and/or car hire revenues), assessments and other governmental charges of whatsoever kind or character paid by GWRR relating to each Car and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Car to GWRR or which may be accrued, levied, assessed or imposed during the term hereof, except taxes, however designated, imposed on income of GWRR. Moreover, SRS agrees to indemnify and hold harmless GWRR from any and all such tax, assessment or charge liability and from any costs, penalties or expenses, including legal fees, relating thereto. SRS and GWRR will comply with all state and local laws requiring the filing of ad valorem tax returns on the cars.

6. Consideration

A. In consideration for its performance of its obligations hereunder, SRS shall be entitled for the account of the owners to a sum equal to all car hire payments made to GWRR on account of the Cars. In addition, SRS shall be entitled to a sum equal to all monies, if any, earned by the Cars prior to their initial loading.

B. GWRR shall pay or cause to be paid to SRS, or its designee or agent, a sum equal to all revenues received with regard to the Cars, including but not limited to payments described in Section 6A, 6C and 7B, as soon as possible after such payments are actually received by GWRR. GWRR agrees to appoint the First National Bank of Boston (the "Bank") as its collection agent during the term of this Agreement for purposes of collecting the monthly drafts of GWRR in respect of all railroad cars controlled by GWRR. GWRR shall instruct the Bank to deposit that portion of the sum collected on any monthly draft which is equal to all car hire payments earned by the Cars in such account in the Bank as SRS may direct. It is understood that GWRR may give such instructions as it may desire in respect of that portion of the monthly draft attributable to its railroad cars which are not subject to this Agreement.

C. In the event damage beyond repair or destruction of a Car has been reported in accordance with Rule 7 of the AAR Car Service and Car Hire Agreement, Code of Car Hire Rules and Interpretations - Freight and the appropriate amount due as a result thereof is received by SRS, said damaged or destroyed Car will be removed from the coverage of this Agreement as of

the date that payment of car hire payments as to such Car ceased.

D. SRS may, at its option and upon written notice to GWRR, terminate this Agreement as to such Cars as SRS shall determine in the event that the utilization after December 31, 1979 of (x) the Cars and (y) cars under a separate agreement dated as of November 7, 1978 between SRS and GWRR is less than 70 per cent either (i) during any two consecutive quarters or (ii) on the average over any four consecutive calendar quarters. For the purposes of this Agreement, utilization shall be determined by a fraction, the numerator of which is the sum of the aggregate number of days in each calendar quarter that car hire payments are earned by GWRR on each car, commencing from the initial loading, and the denominator of which is the sum of the aggregate number of days in each calendar quarter that each car is subject to this Agreement, commencing from the initial loading (such term referred to as "utilization").

E. Upon mutual written consent of SRS and GWRR, this Agreement may be terminated as to any Car at any time.

F. If at any time during the term of this Agreement, any management agreement (as referenced in Section 1 above) between SRS and any individual owner is terminated, then this Agreement shall be deemed to be terminated as to the Cars of such owner as of date of termination of the owner's Management Agreement.

G. In the event that GWRR shall give written notice to SRS, or its designee or agent, that any alterations, modifications, improvements or additions to the Cars, costing \$200 or more per Car, or any one of them, are required by AAR, the Department of Transportation or any other regulatory agency or are otherwise required to comply with applicable laws, regulations or requirements, then SRS shall have thirty (30) days from the receipt of said notice to terminate this Agreement as to one or more of the Cars. Such termination shall be made by written notice to GWRR within said thirty (30) day period. If SRS does not so terminate, then SRS shall promptly commence and diligently complete such alteration, modification, improvement or addition or GWRR may immediately terminate this Agreement as to such Cars.

7. Possession and Use

A. So long as GWRR shall not be in default under this Agreement, GWRR shall be entitled to the possession and

use of the Cars in accordance with and subject to the terms of this Agreement and in the manner and to the extent Cars are customarily used in the railroad freight business.

B. If, in the opinion of SRS and GWRR, it may be possible to achieve a higher utilization of the Cars without seriously impeding the ability of the GWRR to perform its carrier functions, then SRS may direct GWRR to assign that number of Cars designated by SRS to other railroads subject to recall. In this event, an amount equal to all car hire payments earned with regard to the assigned cars shall be paid to SRS.

C. GWRR will not directly or indirectly create, incur, or cause to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Cars or any interest therein or in this Agreement or any Schedule thereto. GWRR will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrances, security interest or claim if the same shall arise at any time.

D. GWRR shall use its best efforts to provide that the Cars will not be used predominantly outside the United States during 1978 or any subsequent calendar year within the meaning of Section 48(a)(2)(A) of the Internal Revenue Code, as amended, or any successor provision thereof, and the regulations thereunder. It is expressly understood that GWRR shall have no other obligation in this regard.

8. Default of GWRR

A. The occurrence of any of the following events shall be an event of default of GWRR:

(i) The nonpayment by GWRR of any sum required herein to be paid by GWRR within twenty (20) days after the date any such payment is due.

(ii) The breach by GWRR of any other term, covenant, or condition of this Agreement, which is not cured within twenty (20) days after receipt of written notice thereof.

(iii) Any act of insolvency by GWRR, or the filing by GWRR of any petition or action under any bankruptcy, reorganization, insolvency or moratorium

law, or any other similar 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 GWRR that is not dismissed within sixty (60) days thereafter, or the appointment or any receiver or trustee to take possession of the properties of GWRR, 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 material portion of GWRR's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency which is not discharged within sixty (60) days.

B. Upon the occurrence of any event of default, SRS, at its option, may

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

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

9. Default of SRS

A. The occurrence of any of the following events shall be an event of default of SRS:

(i) The nonpayment by SRS of any sum required herein to be paid by SRS within twenty (20) days after the date any such payment is due.

(ii) The breach by SRS of any other term, covenant, or condition of this Agreement, which is not cured within twenty (20) days of receipt of written notice thereof.

(iii) Any act of insolvency by States Marine Corporation, or the filing by States Marine Corporation of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other similar 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 States Marine Corporation that is not dismissed within sixty (60) days thereafter, or the appointment of any receiver or trustee to take possession of the properties of States Marine Corporation, 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 subject of any material portion of States Marine Corporation's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency which is not discharged within sixty (60) days.

B. Upon the occurrence of any event of default, GWRR, at its option, may

(i) Proceed by any lawful means to enforce performance by SRS of this Agreement and to recover damages for a breach hereof (and SRS agrees to bear GWRR's costs and expenses, including reasonable attorney's fees, in securing such enforcement), or

(ii) Terminate this Agreement, proceed by any lawful means to recover damages for a breach hereof, and, by notice to SRS, require SRS to take possession of any Cars situated on GWRR's line.

C. The termination of any management agreement between SRS and any owner of any Cars for any reason shall be an event of default of SRS. In such event, GWRR may (i) terminate this Agreement as to any Cars covered by such

terminated management agreement, (ii) by notice to SRS or the owner, require SRS or the owner to take possession of any such Cars situated on GWRR's line, and (iii), except as to terminations of the management agreement pursuant to Section 13 or 14 thereof, proceed by any lawful means to recover damages for breach.

10. Rights at Termination

At the expiration or termination of this Agreement as to any Cars, GWRR will surrender possession of such Cars to SRS by delivering the same to SRS at SRS's expense. Upon termination, GWRR's railroad markings shall be removed from the Cars and there shall be placed thereon such markings as may be designated by SRS, at the option of SRS and at SRS's cost, either (1) by GWRR upon return of such Cars to GWRR's railroad line or (2) by another railroad line which has physical possession of the car at the time of or subsequent to termination as to such Car. If such Cars are not on the railroad line of GWRR upon termination, any cost of assembling, delivering, storing, and transporting such Cars to GWRR's railroad line or the railroad line of a subsequent lessee shall be borne by SRS. If such Cars are on the railroad line of GWRR upon termination, SRS shall be liable to GWRR for storage costs until such Cars are removed from GWRR tracks.

11. Indemnities

SRS will defend, indemnify and hold GWRR harmless from and against (1) any and all loss or damage of or to the Cars, usual wear and tear excepted, unless occurring while GWRR has physical possession of Cars and (2) any claim, cause of action, damage, liability, cost or expense which may be asserted against GWRR with respect to the Cars (other than loss or damage to the Cars as in (1)), including without limitation that arising out of the construction, purchase and delivery of the Cars to GWRR's railroad line, ownership, leasing or return of the Cars, or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects, if any, are latent or are discoverable by SRS or GWRR).

12. Representations, Warranties and Covenants of GWRR

GWRR represents, warrants and covenants that GWRR is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and has taken

all of the corporate action necessary to enter into and perform its obligations under this Agreement.

13. Representations, Warranties and Covenants of SRS

SRS represents, warrants and covenants that SRS is a division of States Marine Corporation; that SRS has received and reviewed the management agreement signed by each of the owners set forth on Schedule A; that to the best of its knowledge any of such owners as are required to obtain corporate authorization to enter into such management agreement have taken all of the action necessary to obtain and have obtained such authorization, and that nothing has come to the attention of SRS which would indicate that any owner was not qualified to enter into such management agreement or that SRS's authority to act on any such owner's behalf in entering into this Agreement has been limited in any way except as contemplated by such management agreement.

14. Inspection

SRS shall at any time during normal business hours have the right to enter the premises where the Cars may be located for the purpose of inspecting and examining the Cars to insure GWRR's compliance with its obligations hereunder. GWRR shall immediately notify SRS of any accident connected with the malfunctioning or operation of the Cars, 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 GWRR's investigation of the accident. GWRR shall also notify SRS in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Car. GWRR will execute any authorization necessary for SRS to examine the Cars.

15. Agency of SRS

GWRR understands that SRS is acting as agent for the various car owners as individuals or individual entities, that SRS will look to such owners for the payment of all amounts due to GWRR under this Agreement and that SRS will have no obligation to pay such amounts except to the extent that such owners have made such sums available to SRS. This Section shall in no way limit GWRR's ability under Section 9 to terminate this Agreement.

16. Miscellaneous

A. This Agreement 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 as provided in Section 7B. hereof, GWRR may not without the prior written consent of SRS assign this Agreement or any of its rights and obligations hereunder and any purported assignment in violation hereof shall be void. SRS may not without the prior written consent of GWRR assign its agency rights and obligations under this Agreement to any party and any assignment in violation hereof shall be void.

B. It is expressly understood and agreed by GWRR, SRS, and the owners that this Agreement constitutes an agreement as to use of the Cars only and no joint venture or partnership is being created. Notwithstanding the calculation of car hire payments, nothing herein shall be construed as conveying to GWRR any right, title or interest in the Cars except as GWRR's rights are specifically provided herein.

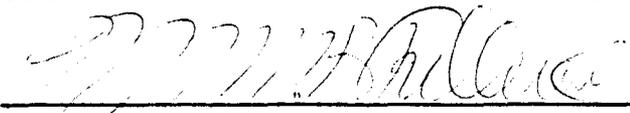
C. No failure or delay by SRS shall constitute a waiver or otherwise affect or impair any right, power or remedy available to SRS nor shall any waiver or indulgence by SRS or any partial or single exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

D. This Agreement shall be governed by and construed according to the laws of the State of New York.

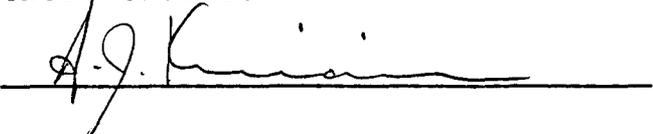
E. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth above.

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

GENESEE AND WYOMING RAILROAD COMPANY

By: 

States Marine Corporation, doing business through its division, STATES RAIL SERVICES, as agent for the owners identified on the attached Schedule

By: 

FIRST SCHEDULE

<u>NAMES AND ADDRESSES OF OWNERS</u>	<u>NUMBER OF CARS</u>	<u>IDENTIFYING MARKS</u>	<u>SERIAL NUMBERS</u>	<u>A.A.R. MECH. DESIG.</u>
John M. Randolph 201 West Old Mill Road, Greenwich, Connecticut 06830	10	GNWR	810000 to and including 810009	LO
Alford P. Rudnick 111 Clinton Road, Brook- line, Mass. 02146	10	GNWR	810010 to and including 810019	LO
Richard P. Morse and Claire W. Morse 53 Sargent Crossway, Brookline, Mass. 02110	10	GNWR	810020 to and including 810029	LO
Mitchell K. Rudnick Meadowbrook Road, Lincoln Mass.	10	GNWR	810030 to and including 810039	LO
Stuart S. Peltz 201 Clwyd Road, Bala Cynwyd, Penn- sylvania	10	GNWR	810040 to and including 810049	LO
William B. Wisdom, Jr. 1828 State Street, New Orleans, Louisiana, 70118	10	GNWR	810050 to and including 810059	LO

FIRST SCHEDULE

<u>NAMES AND ADDRESSES OF OWNERS</u>	<u>NUMBER OF CARS</u>	<u>IDENTIFYING MARKS</u>	<u>SERIAL NUMBERS</u>	<u>A.A.R. MECH. DESIG.</u>
Richard L. Rosenthal High Ridge Park, Stanford, Connecticut 06905	10	GNWR	810060 to and including 810069	LO
Friendship Management Holiday Inn, Wymore Road, Altamonte Springs, Florida	20	GWIX	20000 to and including 20019	LO
William M. Spencer, III 3035 Cherokee Road, Mountain Brook, Alabama 35223	5	GWIX	20025 to and including 20029	LO
V. Davis Hunt, 700 North Bonner Street, Ruston, Louisiana 71270	5	GWIX	20030 to and including 20034	LO

STATE OF NEW YORK)
COUNTY OF *New York*) SS:

On this ^{15th} day of November, 1978, before me personally appeared *MORTIMER S. FULLER JR*, to me personally known, who being by me duly sworn, says that he is the *CHAIRMAN* of GENESEE AND WYOMING RAILROAD COMPANY, that ~~the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.~~



WILLIAM A. CRAIG JR.
Notary Public, State of New York
No. 30-0791264
Qualified in Nassau County
Commission expires March 30, 1979

STATE OF NEW YORK)
COUNTY OF *New York*) SS:

On this ^{15th} day of November, 1978, before me personally appeared *ARTHUR J. KIRKMAN*, to me personally known, who being by me duly sworn, says that he is the *EXECUTIVE PRES* of STATES MARINE CORPORATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



WILLIAM A. CRAIG JR.
Notary Public, State of New York
No. 30-0791264
Qualified in Nassau County
Commission expires March 30, 1979