

U.S. Bancorp Financial



A commercial finance subsidiary of U.S. Bancorp

1-167A090

555 SOUTHWEST OAK STREET U.S. BANKPLAZA, 3RD FLOOR PORTLAND, OREGON 97204 (503) 225-6988

13139

RECORDATION NO. Filed 1425

No.
Date **JUN 16 1981**
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June 3, 1981

JUN 16 1981-10 42 AM

INTERSTATE COMMERCE COMMISSION

ICC Washington, D. C.

By Hand

Secretary of
Interstate Commerce Commission
Washington, D.C. 20423

Dear Secretary:

Please accept for recordation pursuant to section 11303 of the Interstate Commerce Act, 49 U.S.C. section 11303 (formerly 49 U.S.C. section 20c), the following Security Agreement executed by Arthur R. Dubs for the benefit of U.S. Bancorp Financial, Inc. By this security agreement, Arthur R. Dubs, as owner of the 206 railroad cars described below, grants to U.S. Bancorp Financial, Inc., a security interest in the subject railroad cars, in Arthur R. Dubs' rights under management agreements with PLM, Inc. and PLM Railcar Management, Inc. (RMI) and all subsequent management agreements of the subject 206 railcars, in Arthur R. Dubs' rights under the leases entered into by PLM, Inc. and RMI as leasing agent for Arthur Dubs pursuant to the management agreements and all subsequent leases of the subject 206 railcars, and in Arthur Dubs' rights to all proceeds from the sale, exchange, lease or other disposition of any of the foregoing.

Grantor/Borrower: Arthur R. Dubs
2249 Dellwood
Medford, Oregon 97501

Grantee/Secured Party: U.S. Bancorp Financial, Inc.
555 S.W. Oak St.
Portland, Oregon 97204

Donna Lilly
[Signature]

Secretary of
Interstate Commerce Commission

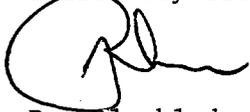
June 3, 1981

Description of Collateral:

(60) Sixty 4000 cubic foot capacity, 100-ton, bottom dump, triple hopper, rotary coupler railroad cars bearing AAR designation numbers WP70001 through WP70060, and (146) one hundred forty-six 4,750 cubic foot capacity, 100-ton gravity discharge covered hopper railroad cars bearing AAR designation numbers PLMX10001 through 10027, PLMX 10029 through 10089, PLMX 10092 through 10129, and PLMX 10131 through 10150.

Thank you for your assistance.

Yours very truly,



Ron Blackledge
Loan Officer

RB/mw

Interstate Commerce Commission
Washington, D.C. 20423

6/16/81

OFFICE OF THE SECRETARY

Ron Blackledge
Loan Officer
U.S. Bankcorp Financial
555 Southwest Street
U.S. Bank Plaza
Portland, Oregon 97204

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **6/16/81** at **10:40am**, and assigned re-
recording number(s). **13139**

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

SECURITY AGREEMENT

JUN 16 1981 - 10 42 AM

INTERSTATE COMMERCE COMMISSION

This Agreement is made this 2nd day of June Ad., 1981 by ARTHUR R. DUBS ("Borrower") for the benefit of U. S. BANCORP FINANCIAL, INC. ("Bank").

RECITALS

WHEREAS, Borrower owns 146 covered hopper railcars and 60 coal railcars and has entered into three Management Contracts dated December 22, 1976, September 29, 1977 and November 1, 1978 (the "Management Contracts") with PLM, Inc. (formerly known as Professional Lease Management, Inc.) ("PLM") and PLM Railcar Management, Inc. ("RMI") whereby PLM and RMI have agreed to manage such railcars as Borrower's agent. The railcars are described in Exhibit A attached hereto and are referred to herein as the "Cars".)

WHEREAS, PLM, and RMI, as agents for Borrower and owners of other similar railcars, has entered into Lease Agreements for Railroad Cars with CF Industries, Inc. and the Western Pacific Railroad Company.

NOW, THEREFORE, Borrower agrees as follows:

1. Security Interest and Assignment. Borrower hereby grants, assigns, mortgages and transfers to Bank a security interest in and to all of Borrower's right, title and interest in and to the following described collateral (collectively, the "Collateral"):

(a) The Cars and all appliances, parts, accessories and equipment now or hereafter incorporated or installed in or attached to the Cars, along with all substitutions or replacements of any of the foregoing:

(b) All of Borrower's rights, powers and privileges under the Leases and all subsequent leases of the Cars (such other leases, together with the original Leases being referred to collectively as "Leases" and all persons or entities obligated as lessees on such Leases being referred to as "Lessees"), including without limitation the immediate and continuing right to receive and collect all payments, awards, insurance proceeds and other sums receivable by the Borrower pursuant to the Leases, whether from an insurer or one or more Lessees, and to execute and deliver all waivers, consents and agreements, to give and receive all notices and instruments and to do all other things which the Borrower is or may become entitled to do under one or more of the Leases;

(c) All claims, rights, powers, privileges and remedies on the part of the Borrower with respect to the Management Contracts and all amendments, extensions and renewals thereof, and all of Borrower's rights under any subsequent agreement with PLM or RMI with respect to the Cars or any other agreement between Borrower and any other person or entity engaged to manage the Cars; and

(d) All proceeds, including insurance proceeds, from the sale, exchange, lease or other disposition of any of the foregoing; together with full power and authority, in the name of the Bank or the Borrower

or otherwise, or as attorney-in-fact hereby irrevocably constituted, to enforce, collect and receive, and receipt for, in accordance with the terms and conditions hereinafter set forth any and all of the foregoing rights and sums assigned, or entitled to be received pursuant to other rights assigned.

2. Obligations Secured. This Agreement is made to secure (1) payment of principal and interest on Borrower's promissory note or notes (the "Note"), and all extensions, renewals, and modifications thereof, (2) payment and performance of all Borrower's obligations under this Agreement, and (3) payment and performance of all other debts and obligations of any kind whatsoever now or hereafter owed by Borrower to Bank.

3. Warranties. Borrower represents and warrants as follows:

(a) Borrower is or will be the owner of the Collateral, present and future, free from any adverse lien, security interest or incumbrance except the Leases and Management Contracts and have a right to grant a security interest therein.

(b) The Leases represent an undisputed bona fide indebtedness of the Lessees to Borrower. There are no setoffs or counterclaims of any nature whatsoever against any Lease.

(c) Borrower will warrant and defend all Collateral against claims and demands of all persons.

(d) Borrower's principal place of business is in Medford, Oregon.

4. Protection of Security. To protect the security afforded by this Agreement, the Borrower agrees:

(a) To perform and comply with each and every term of each of the Leases and of the Management Contracts to be performed or complied with by the Borrower.

(b) Unless the prior written consent of the Bank shall have been obtained, Borrower will not amend, modify, extend or in any way alter any of the terms of any Lease (other than any amendment modification to a Lease increasing the amount payable pursuant to such Lease, extending the term of such Lease or adding to the Cars subject to such Lease) or the Management Contracts, or cancel or terminate any Lease or consent to or accept any cancellation, termination or surrender thereof, or waive any default under or breach of any Lease or the Management Contracts, or consent to or accept any prepayment of rent under any Lease or agree to any discount of rent thereunder, or give any other consent or notice under any Lease or make any agreement with any Lessee with respect to any Lease; provided, however, that a Lease may be cancelled or terminated if subsequently all Cars subject to such Lease are released by the Borrower for similar periods on similar or better terms within 60 days after such cancellation or termination.

(c) If the Borrower shall fail to make any payment or to do any act required by this Agreement, the Bank shall have the right to (but shall not be obligated to), without prior notice to or demand on the Borrower and without releasing the Borrower from any obligation hereunder or thereunder, make or do the same in such manner and to such extent as the Bank may deem necessary or advisable to protect the security hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Bank and also the right to perform and discharge each and every obligation, covenant and agreement of the Borrower contained in any Lease, or the Management Contracts; and in exercising any such powers the Bank may pay reasonable costs and expenses (including attorneys' fees), which costs and expenses shall be reimbursed by the Borrower to the extent not reimbursed by a Lessee. The Bank shall give the Borrower notice of any action taken pursuant to this paragraph.

(d) If any lien, encumbrance or charge of any kind based on any claim (including without limitation any claim for income, franchise or other taxes, whether Federal, state, local or otherwise) shall be asserted or filed against any of the Collateral, or any order (whether or not valid) of any kind shall be entered with respect to any of the Collateral by virtue of any claim of any kind in either case so as to

(1) interfere with the due application of any amount pursuant to the provisions hereof, or

(2) subject the Bank to any obligation to refund or make any payment in respect of any amount applied to the payment of the Note or to obligations hereunder,

then the Borrower will promptly take such action (including, but not limited to the payment of money) as may be necessary to prevent or remedy the cause of such interference or such obligation as the case may be.

(e) The Borrower agrees that the Borrower shall give the Bank prompt written notice if the use of any Cars shall be changed from that contemplated by the Leases, such notice to specify such new use of Cars.

(f) A carbon, photographic or other reproduction of this security agreement or a financing statement shall be sufficient as a financing statement.

(g) Bank may either before or after default notify parties under agreements with Borrower described in paragraphs 1(b) and 1(c) that the Collateral has been assigned to Bank and that payment is to be made to Bank.

5. Power of Attorney. The Borrower hereby appoints the Bank its true and lawful attorney, effective immediately upon the declaration of the principal of and interest on the Note to be due and payable thereunder, with full power of substitution, to enforce the Borrower's rights under the Leases, and the Management Contracts, and to take any

other action which the Bank may deem necessary or appropriate to protect and preserve the security interest of the Bank in the Collateral.

6. No Assumption by the Bank. Anything herein to the contrary notwithstanding: (a) the Borrower shall at all times remain liable to the respective Lessees under the Leases and to PLM and RMI under the Management Contracts to perform all the duties and obligations of the Borrower thereunder to the same extent as if this Agreement had not been executed; (b) the exercise by the Bank of any of the rights assigned hereunder shall not release the Borrower from any of its duties or obligations under any Lease or under the Management Contracts; and (c) the Bank shall not have (and the Borrower shall indemnify the Bank for, and hold the Bank harmless from) any obligation or liability under Lease or any Management Contract by reason of, or arising out of, this Agreement, nor shall Bank be obligated to perform any of the obligations or duties of the Borrower under any Lease or any Management Contract or to make any payment or to make any inquiry as to the sufficiency of any payment received by it or to present or file any claim or to take any other action to collect or enforce any claim for any payment assigned hereunder, or to pay or to see to the payment of or to make any filings in respect of any taxes levied on or with respect to any Lease, the rentals thereunder or any Cars.

7. Remedies on Default. If Borrower shall breach any provision of this Agreement or if the principal of and interest on the Note shall

have been declared to be due and payable and such declaration shall not have been rescinded, the Bank, without obligation to resort to any other security, shall have the right to require Borrower to assemble and deliver the Collateral, including the Cars, to Bank at a place designated by Bank, have the right, without notice, demand, or legal process to enter on any premises of Borrower to take possession of the Collateral or any part thereof, have the right, to the extent permitted by law, at any time and from time to time, in its sole discretion, to sell in a commercially reasonable manner (subject to any rights of a Lessee under a Lease) the Collateral and all right, title and interest, claim and demand therein and right of redemption thereof, at public or private sale, for cash, upon credit or for future delivery, and in connection therewith the Bank may grant options, all without either demand, advertisement or notice, all of which are hereby expressly waived, except that at least ten days before any such sale the Bank shall mail or deliver to the Borrower at his latest address known to the Bank a notice stating the time and place of such sale. Any person or entity, including Bank, may bid at such sale and purchase the Collateral free from any equity or right or redemption, which is hereby waived and released, to the extent permitted by law.

Upon any such sale, after deducting all costs and expenses of every kind for sale or delivery, including attorneys' fees and disbursements, from the proceeds of sale, the Bank shall apply any residue to the payment of any liabilities secured hereby. The balance, if any, remaining after payment in full of all such liabilities shall

be paid to the Borrower. The rights of the Bank specified herein shall be cumulative and shall in no event be deemed exclusive of any other rights the Bank may have pursuant to the laws (including without limitation the Uniform Commercial Code) of the United States or of any state of the United States.

In case of any sale of the Collateral under this Agreement or any part thereof, any purchaser shall be entitled, to the extent permitted by law, for the purpose of making payment for the property purchased, to use the Note and claims for interest thereon, in order that there may be credited thereon the sum payable out of the net proceeds of such sale to the holder of such Note and claims for interest as his ratable share of such net proceeds; and thereupon such purchaser shall be credited on account of such purchase price with the portion of such net proceeds that shall be applicable to the payment of, and shall have been credited upon, the Note and claims for interest so used; and at any such sale, any holder of the Note may bid for and purchase the property offered for sale, may make payment on account thereof as aforesaid, and upon compliance with the terms of sale, may hold, retain and dispose of such property without further accountability therefor.

8. Further Assurance. The Borrower from time to time will execute, deliver to the respective Lessees and PLM or RMI for execution, deliver to the Bank and file all such instruments and take, and cause to be taken, all such actions as the Bank may reasonably

request in order to preserve and protect the security interests granted or intended to be granted to the Bank hereunder, to effectuate the purposes of this Agreement or to carry out the terms hereof, including without limitation the execution and filing of financing statements or continuation statements. The Borrower hereby authorizes the Bank to file this Agreement or financing statements with respect to the Collateral with any appropriate governmental office or offices in order to perfect the security interests granted hereby.

9. Assignment. All or any of the rights, title or interest of the Bank in, to or under this Agreement may be assigned or transferred and may be reassigned or retransferred by an assignee of the Bank, or any successor assignee, at any time and from time to time, provided, however, that any such assignment or transfer shall not violate the Securities Act of 1933, or applicable provisions of state securities laws as then in effect.

10. Termination. The security interests created hereunder will terminate when all the obligations of the Borrower under the Note and this Agreement are discharged (and all amounts due hereunder and thereunder have been paid) and the Bank, at the request of the Borrower, will then execute termination statements and such other documents as may be necessary or appropriate to make clear upon the public records the termination of such security interests.

11. Controlling Law; Successors and Assigns. This Agreement shall be governed by and be construed in accordance with the laws of the

State of Oregon and shall inure to the benefit of and be binding upon the Borrower and the Bank and their respective successors and assigns.

12. Changes, Waivers, et. Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement thereof is sought. No failure or delay by the Bank in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

13. Separability. In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, Borrower has executed this Agreement as of the date first above written.

ARTHUR R. DUBS

Arthur R. Dubs

U. S. BANCORP FINANCIAL, INC.

BY [Signature]
Title V.P.

Subscribed and sworn to before me this 2nd day of June 1981, by Sandra Curb, Notary Public in and for the State of Oregon, County of Jackson.

Sandra Curb
My Commission Expires 8/5/84

EXHIBIT A

<u>Quantity</u>	<u>Type</u>	<u>A.A.R.</u> <u>Identifying</u> <u>Numbers</u>
146	4,750 cubic foot capacity, 100 ton truck, gravity discharge covered hopper car.	PLMX 10001 through PLMX 10027; PLMX 10029 through PLMX 10089; PLMX 10092 through PLMX 10129; and PLMX 10131 through PLMX 10150
60	4,000 cubic foot capacity, 100 ton truck, bottom dump, triple hopper, rotary coupler railroad cars.	WP-70001 through WP-70060

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF OREGON)
) ss.
COUNTY OF)

On this ___ day of _____, 1981, before me personally appeared ARTHUR R. DUBS, to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.

Notary Public for Oregon
My commission expires:

STATE OF OREGON)
County of Multnomah) ss.

THIS CERTIFIES that on this 2nd day of June, 1981, before me, the undersigned, a notary public in and for said county and state, personally appeared E. P. Crutcher to me personally known, who, being duly sworn, did say that he, the said E. P. Crutcher is a Vice President of the U. S. BANCORP FINANCIAL, INC., the within named Oregon corporation, and that the said instrument was signed in behalf of said association by authority of its board of directors, and said E. P. Crutcher acknowledged said instrument to be the free act and deed of said association.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal the day and year last above written.

Merley Cooper
Notary Public for Oregon
My commissione expires 1-21-84