Law Department

4-233A143

No.

Date AUG 20 1984

Fee $ 10.00

ICC Washington, D.C. 14412

RECORDATION NO. ..... Filed 1425

AUG 20 1984 -3 25 PM

INTERSTATE COMMERCE COMMISSION

Chessie System Railroads

Terminal Tower
P. O. Box 6419
Cleveland, Ohio 44101
216 623 2200

August 14, 1984

Secretary
Interstate Commerce Commission
12th Street and Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Lease Agreement

Dear Secretary:

Enclosed are executed counterparts Nos. 1 and 2 (of 3) of a Lease Agreement dated as of August 1, 1984, between Lake Erie, Franklin & Clarion Railroad Company, East Wood Street, P. O. Box 689, Clarion, Pennsylvania 16214 (Lessor), and The Chesapeake and Ohio Railway Company, P. O. Box 6419, Cleveland, Ohio 44101 (C&O).

The equipment covered by this Agreement, a primary document, consists of:

300 100 ton, triple pocket, 3420 cu. ft. hopper cars manufactured by Greenville Steel Car Company, to bear C&O road numbers 191300-191599, inclusive. Lessor's corresponding road numbers on the cars are as follows: LEF 3504, 3527, 3531, 3534, 3562, 3581-3582 inclusive, 3584-3588 inclusive, 3590-3596 inclusive, 3598-3599 inclusive, 3601-3673 inclusive, and 3675-3880 inclusive.

AAR Mechanical Designation: HT

The above equipment will be lettered "Chesapeake and Ohio Railway," "Chesapeake and Ohio," "C&O" or "Chessie System," or in some other appropriate manner, and also may be marked:

TITLE TO THIS CAR SUBJECT TO DOCUMENTS
RECORDED UNDER SECTION 20c OF THE
INTERSTATE COMMERCE ACT

ICC OFFICE OF THE SECRETARY
AUG 20 3 40 PM '84
MOTOR OPERATING UNIT

The Chessie System Railroads, a unit of CSX Corporation, are the Chesapeake and Ohio Railway, Baltimore and Ohio Railroad, Western Maryland Railway and affiliated lines.

Also enclosed is a draft of The Chesapeake and Ohio Railway Company in the amount of $10 representing the required recording fee.

Pursuant to the Commission's rules and regulations for the recordation of certain documents under 49 USC § 11303, as currently administered, you are hereby requested duly to file one of the enclosed counterparts for record in your office and to return the remaining copy to me at my above address.

Sincerely,

Louis Recher

Louis Recher
Assistant General Solicitor

Enclosures

Interstate Commerce Commission

Washington, D.C. 20423

8/21/84

OFFICE OF THE SECRETARY

Louis Recher
Chessie System RR. Co
Terminal Tower
P.O.Box 6419
Cleveland,Ohio 44101

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 8/20/84 at 3:45pm and assigned re-recordation number(s). 14412

Sincerely yours,

James H. Bayne

Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 14412 Filed 1425

AUG 20 1984 -3 25 PM

INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT

EXECUTED IN 3 COUNTERPARTS

OF WHICH THIS IS NO. 2

AGREEMENT made and entered into this 1st day of August, 1984, between LAKE ERIE, FRANKLIN & CLARION RAILROAD COMPANY, a Pennsylvania corporation with its principal place of business at East Wood Street, P. O. Box 689, Clarion, PA 16214 (hereinafter called "LEF&C") and THE CHESAPEAKE AND OHIO RAILWAY COMPANY, a Virginia corporation, with ~~its principal~~ a place of business at 100 North Charles Street, Baltimore, Maryland 21201 ("Lessee").

RECITALS

Lessee desires to lease from LEF&C as lessor certain railroad cars, hereinafter specifically designated, all upon the rentals, terms and conditions set forth in this Lease.

AGREEMENT

It is Agreed:

1. Lease of Cars. LEF&C agrees to lease to Lessee and Lessee agrees to and does hereby lease from LEF&C, railroad cars of the number of units, model, type, construction and such other description (hereinafter referred to as the "Cars") as is set forth in Schedule 1 attached hereto. The Lease shall become effective as to the Cars as of the date hereof.

2. Delivery of Cars. The Cars presently are on the premises and/or under the control of Lessee pursuant to a

Short Term Lease between LEF&C and Lessee dated as of April 19, 1984. The Cars shall be deemed to be delivered to Lessee under this Lease as of the date hereof. From and after the date hereof, Lessee shall be liable for, and shall pay or reimburse LEF&C for the payment of all costs, charges and expenses of any kind whatsoever incurred from and after the date hereof and while said Car shall remain subject to this Lease on account of or relating to switching, demurrage, detention, storage, transportation or movement of a Car, including specifically, but not exclusively, freight and switching charges for movement at any time and from time to time to and from repair shops, storage or terminal facilities.

3. Condition of Cars - Acceptance. All Cars delivered hereunder shall be deemed to be in satisfactory condition for movement in the normal interchange of rail traffic and shall otherwise comply with the description and specifications contained in the Schedule 1.

4. Use and Possession. Throughout the continuance of this Lease so long as Lessee is not in default hereunder, Lessee shall be entitled to possession of each Car from the date the Lease becomes effective as to such Car and shall use such Car on its own property or lines or in the usual interchange of traffic; provided, however, that Lessee agrees that the Cars shall at all times be used (i) in conformity with Interchange Rules; (ii) in compliance with the terms and provisions of this Lease; (iii) in a careful and prudent manner, solely in the use, service and manner for which they were designed; and (iv) only within the continental limits of the

United States of America or in temporary or incidental use in Canada.

5. Term. This Lease shall be effective as to the Cars as of the date hereof and shall continue, unless sooner terminated in accordance with the provisions of this Lease, for 120 months ~~period~~.

6. Rental. During the term of this Lease, Lessee shall pay to LEF&C for each Car, commencing on the date hereof, the monthly rental specified in Schedule 1.

7. Payment. Lessee shall make payment of all sums due hereunder to LEF&C by check at the address provided in Paragraph 18 hereof, or such other place as LEF&C may direct. Rental payments shall be made Quarterly in arrears on or before the 10th day of November, February, May and August.

8. Title. Lessee shall not by reason of this Lease or any action taken hereunder acquire or have any right or title in the Cars except the rights herein expressly granted to it as Lessee.

9. Repairs. Lessee shall perform or cause to be performed and shall pay all costs and expenses of all Repair Work without any abatement in rent or other loss, cost or expense to LEF&C. Any parts, replacements or additions made to any Car shall be accessions to such Car and title thereto shall immediately vest in LEF&C.

10. Taxes. Lessee shall be liable at all times for and shall pay or reimburse LEF&C for payment of all Federal, State or other governmental charges or taxes assessed or levied

against the Cars, including but not limited to (i) all Federal, State or other governmental property taxes assessed or levied against the Cars; (ii) all Federal, State or local sales or use taxes imposed upon or in connection with the Cars, this Lease, or the manufacture, acquisition, or use of the Cars for or under this Lease except taxes based on Lessor's gross or net income or capital employed. Lessor recognizes Lessee's applicable exemptions from State and local sales and use taxes on the Cars covered by this Lease; (iii) all taxes, duties or imposts assessed or levied on the Cars or this Lease by a foreign country and/or any governmental subdivision thereof and (iv) all taxes or governmental charges assessed or levied upon its interest as Lessee of Cars.

11. Liens. Lessee shall keep the Cars free from any and all encumbrances or liens in favor of any person or entity claiming by, through or under Lessee which may be a cloud upon or otherwise affect the Cars or the legal title holders or LEF&C's title or interest therein, including but not limited to liens or encumbrances which arise out of any suit involving Lessee, or any act or omission of Lessee or Lessee's failure to comply with the provisions of this Lease, and Lessee shall promptly discharge any such lien, encumbrance or legal process. This covenant shall not be deemed to be breached during the time the Lessee shall challenge in good Faith, by legal action or otherwise, the validity of any such lien, encumbrance or legal process.

12. Indemnities. Lessee agrees to indemnify LEF&C and hold it harmless from any loss, expense or liability which LEF&C

may suffer or incur from any charge, claim, proceeding, suit or other event which in any manner or from any cause arises in connection with the use, possession or operation of a Car while subject to this Lease, excepting proportionately any such loss, expense or liability which arises partly or solely from LEF&C's negligence or wilful misconduct. The term "LEF&C" shall mean and include LEF&C and the legal title holder of the Cars as well as any subsidiary, parent or affiliated corporation of LEF&C or the legal title holder for all purposes of this Paragraph 12. The indemnities and assumptions of liability herein contained shall survive the termination of this Lease. Each party shall, upon learning of same, give the other prompt notice of any claim or liability hereby indemnified against.

13. Lettering - Inventory. At LEF&C's election and sole cost and expense all Cars may be marked to indicate the rights of the owner, LEF&C, or an assignee, mortgagee, trustee, pledgee or security holder of legal title holder and may bear the following inscription: "Title to this Car subject to documents recorded under Section 20c of the Interstate Commerce Act." LEF&C may at its own cost, expense and risk inspect the Cars from time to time wherever they may be, and Lessee shall, upon request of LEF&C, but no more than once every year, furnish to LEF&C its certified inventory of all Cars then covered by this Lease.

14. Loss, Theft or Destruction of Cars. In the event any car is worn out, lost, stolen, destroyed or damaged beyond economic repair, from any cause whatsoever, or taken or

requisitioned by condemnation or otherwise during the term of this Lease, Lessee shall, within fifteen (15) days of its knowledge thereof, by written notice, fully advise LEF&C of such occurrence. On the rental payment date next succeeding such notice, the Lessee shall pay to LEF&C an amount equal to any rent then due, plus a sum equal to the Casualty Value (as hereinafter defined in Schedule A attached hereto) of such Car as of the date of such payment. This Lease shall continue in full force and effect with respect to any Casualty Car irrespective of the cause, place or extent of any casualty occurrence, the risk of which shall be borne by Lessee as set forth in this Paragraph 14; provided, however, that this Lease shall terminate with respect to a Casualty Car on the date LEF&C shall receive all amounts and things granted it on account of such Car under this Paragraph 14, and thereafter Lessee shall have no further liability to LEF&C hereunder with respect thereto excepting accrued rent and liabilities arising or existing under Paragraphs 10, 11 and 12 hereof. Provided LEF&C has received the Casualty Value for any Car, along with the other amounts LEF&C is entitled to under this Paragraph 14, Lessee shall be entitled to the proceeds of any recovery in respect of such Car from insurance or otherwise.

15. Return of Cars. Upon the expiration or termination of this Lease with respect to any Car (other than pursuant to Paragraph 14 hereof), Lessee shall at its sole cost and expense forthwith surrender possession of such Car to LEF&C by delivering same to LEF&C at such Lessee interchange facility as LEF&C may designate by written notice to Lessee at least thirty (30)

days prior to the intended delivery date thereof. Each Car so surrendered shall be in the same or as good condition, order and repair as when delivered to Lessee, wear and tear from ordinary use and the passage of time excepted, shall be in satisfactory condition for movement in the normal interchange of rail traffic, and shall be free from all accumulations or deposits from commodities transported in or on the Cars while in the service of Lessee. Until the delivery of possession to LEF&C pursuant to this Paragraph 15, Lessee shall continue to be liable for and shall pay rental at the rate being paid immediately prior to termination or expiration, and Lessee shall in addition make all other payments and keep all obligations and undertakings required of Lessee under any and all provisions of this Lease as though such termination or expiration had not occurred; provided, however, that in the event LEF&C shall not have given Lessee the written notice required by the first sentence of this Paragraph 15 at least thirty (30) days prior to the expiration or termination of this Lease with respect to any Car, then all of Lessee's obligations with respect to said Car shall terminate as of the date of such expiration or termination and Lessee shall after said date store said Car pending receipt of such notice at LEF&C's sole cost, expense and risk.

16. Default. If Lessee shall fail to make any payment required hereunder within ten (10) days after same shall have become due; or shall default or fail in the due observance or performance of any covenant, condition or agreement required to be observed or performed on its part hereunder; and such

default or failure shall continue unremedied for twenty (20) days after written notice to Lessee specifying such default or failure and demanding the same to be remedied; or if a proceeding shall have been commenced by or against Lessee under any bankruptcy laws, Federal or State, or for the appointment of a receiver, assignee or trustee of Lessee or its property, and such proceeding shall continue undismissed for a period of sixty ~~ten~~ (60 ~~10~~) days; or if Lessee shall make a general assignment for the benefit of creditors, then and in any of said events LEF&C may at its election:

J.L.H. RMD

(a) terminate this Lease by written notice to such effect, and retake the Cars and thereafter recover as liquidated damages for loss of a bargain and not as a penalty, any and all damages sustained by reason of Lessee's default in addition to all rental unpaid as of said date; or

(b) without terminating the Lease repossess the Cars, and may relet the same or any part thereof to others upon such rental and other terms as it may see fit. The proceeds of any such reletting shall first be applied to the expenses (including reasonable attorneys' fees) of retaking and reletting of the Cars and delivery to the new lessee and then to the payment of rent due under this Lease. Lessee shall pay any deficiency remaining due after so applying the proceeds as the same shall accrue. The election by LEF&C to relet the Cars and the acceptance of a new lessee shall not operate to release Lessee from liability for any existing or future default in any other covenant or promise herein contained. The obligation to pay such deficiency or any sum or sums due and unpaid or any damages suffered by reason of Lessee's default hereunder shall survive

the termination of the Lease and the retaking of the Cars.

The remedies provided in this Paragraph 16 in favor of LEF&C shall not be deemed exclusive but shall, where not by rule of law inconsistent with each other, be cumulative and may be availed of singly, in combination, or all together and in any order, and shall be in addition to all other remedies in LEF&C's favor existing at law or in equity.

17. Sublease and Assignment. The right to assign this Lease by either party and the Lessee's right to sublease shall exist only as follows:

(a) Lessee shall have no right to assign or sublease or loan any of the Cars without the prior written consent of LEF&C; however, Lessee may, without LEF&C's consent, sublease any car or cars to any subsidiary of CSX Corporation the stock ownership of which is controlled by CSX Corporation.

(b) All rights of LEF&C hereunder may be assigned, pledged, mortgaged, transferred or otherwise disposed of either in whole or in part without notice to or consent of Lessee but subject always to Lessee's rights hereunder. This Lease and Lessee's rights hereunder are and shall be subject and subordinate to any lease to LEF&C, chattel mortgage, security agreement or equipment trust or other security instrument covering the Cars heretofore or hereafter created by LEF&C (including and without limitations the terms and conditions of that certain Conditional Sale Agreement dated June 1, 1979 between Greenville Steel Car Company and Lake Erie, Franklin & Clarion Railroad Company). Subject to the immediate preceding sentence, ~~otherwise~~ so long as Lessee is not in default under the Lease, LEF&C covenants that Lessee shall be entitled to the peaceful and quiet possession of the Cars or substituted Cars. If LEF&C shall have given written

notice to Lessee stating the identity and post office address of any assignee entitled to receive future rentals and any other sums payable by Lessee hereunder, Lessee shall thereafter make such payments to the designated assignee.

The making of an assignment or sublease by Lessee or an assignment or other transfer by LEF&C shall not serve to relieve such party of any liability or undertaking hereunder nor to impose any liability or undertaking hereunder upon any such assignee, sublessee or transferee except as otherwise provided herein or unless expressly assumed in writing by such sublessee, assignee or transferee.

18. Notice. Any notice required or permitted to be given pursuant to the terms of this Lease shall be properly given when made in writing, deposited in the United States mail, registered or certified, postage prepaid, addressed to the addresses set forth on page 1 or at such other addresses as either party may from time to time designate by notice in writing to the other.

19. Warranty. LEF&C agrees to assign to Lessee such rights as it may have under warranties, if any, which it may have received from the manufacturer of any Cars or parts therefor and shall at Lessee's expense cooperate with Lessee and take such action as may be reasonably requested to enable Lessee to enforce such rights. LEF&C makes no warranty or representation of any kind, either express or implied, as to any matter whatsoever, including specifically but not exclusively, merchantability, fitness for a particular purpose extending beyond the description in Schedule 1, or the design, workmanship, condition or quality of the Cars or parts thereof which Cars have been

accepted by Lessee hereunder; and LEF&C shall have no liability hereunder for damages of any kind, including specifically but not exclusively, special, indirect, incidental, or consequential damages on account of any matter which might otherwise constitute a breach of warranty or representation.

20. Governing Law - Writing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Pennsylvania. The terms of this Lease and the rights and obligations of the parties hereto may not be changed or terminated orally, but only by agreement in writing signed by the party against whom enforcement of such change or termination is sought. In construing any language contained in this Lease, no reference shall be made and no significance given to paragraph titles, such titles being used only for convenience of reference. Where the context so permits, the singular shall include the plural and vice versa.

LEF&C hereby warrants it has the lawful right to lease the Cars to Lessee as provided in this Lease and has taken all reasonably necessary corporate action to authorize the valid execution of this Lease and the performance of all of the obligations undertaken herein.

21. Severability - Waiver. If any term or provision of this Lease or the application thereof to any persons or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby,

and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law. Failure of LEF&C to exercise any rights hereunder shall not constitute a waiver of any such right upon the continuation or recurrence of the situation or contingency giving rise to such right.

22. Past Due Payments. Any nonpayment of rentals or other sums due hereunder, whether during the period within which a default may be cured or for a longer period, and whether or not deemed a default or violation of this Lease, shall result in the obligation on the part of the Lessee to pay also an amount equal of fifteen per cent per annum (or if such rate may not lawfully be charged, then the highest rate which may lawfully be charged) of such overdue sum for the period of time from one week after the due date until such overdue sum is paid.

23. Definitions. For all purposes of this Lease the following terms shall have the following meaning:

(a) "Interchange Rules"- All codes, rules, interpretations, laws or orders governing hire, use, condition, repair and all other matters pertaining to the interchange of freight traffic reasonably interpreted as being applicable to the Cars, adopted and in effect from time to time by the Association of American Railroads and any other organization, association, agency, or governmental authority, including the Interstate Commerce Commission and the United States Department of Transportation, which may from time to time be responsible for or have authority to impose such codes, rules, interpretations, laws or orders.

(b) "Repair Work" - All repairs, maintenance, modifications, additions or replacements required to keep and maintain

the Cars in good working order and repair in accordance with and on the effective date of the requirements of all Interchange Rules and preventive maintenance necessary to keep and maintain the Cars in good working order and repair.

(c) "Casualty Cars" - Cars which are worn out, lost, stolen, destroyed or damaged beyond economic repair, or taken or requisitioned by condemnation or otherwise.

24. Benefit. Except as otherwise provided herein, the covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of the parties and (to the extent permitted in Paragraph 17 hereof) their successors and assigns. Without limiting the generality of the foregoing, the indemnities of the Lessee contained in Paragraph 12 hereof shall apply to and inure to the benefit of any assignee of LEF&C, and if such assignee is a trustee or secured party under which evidence of indebtedness has been issued in connection with the financing of the Cars, then also to the benefit of any holder of such evidence of indebtedness.

25. Substitution of Cars. LEF&C shall have the right to substitute cars under this Lease if, for a reason beyond LEF&C's reasonable control, any of the original Cars are no longer available for lease hereunder. Substitution shall be subject to Lessee's prior approval as to car type, specifications, age and mechanical condition. Substitute cars shall be subject to the terms and conditions of this Lease upon acceptance thereof by Lessee as evidenced by a Certificate of Acceptance issued by Lessee to LEF&C. This Lease shall continue as to any substitute car for the same period it would have continued for

the original Car being replaced, and at the same monthly rental as the original Car shall have earned.

26. Recording. The Lessee at its own expense shall record this Lease, and each amendment hereto, with the Interstate Commerce Commission pursuant to 49 USC 11303. LEF&C shall cooperate reasonably with the Lessee to enable the Lessee to make such recording.

IN WITNESS WHEREOF, LEF&C and Lessee have duly executed this Lease as of the day and year first above written.

LAKE ERIE, FRANKLIN & CLARION RAILROAD COMPANY

By Joseph L. Hartle
President

ATTEST:

Marilyn L. Smerkar
Assistant Secretary

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

By R W Donnem
Senior Vice President
Apr'd. LR

ATTEST:

Patricia J. Hunady
Corporate Secretary

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

On this 6th day of August, 1984, before me personally appeared R.W. Donnem, to me personally known, who being by me duly sworn says that such person is Senior Vice President of The Chesapeake and Ohio Railway Company, that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its Board of Directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Louis Recher
Notary Public

LOUIS RECHER, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
section 147.03 R. C.

STATE OF PENNSYLVANIA)
)
COUNTY OF CLARION)

On this 1st day of August, 1984, before me personally appeared Joseph L. Hartle, to me personally known, who being by me duly sworn says that such person is President of Lake Erie, Franklin & Clarion Railroad Company, that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its Board of Directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

Marilyn L. Smerkar
Notary Public

MARILYN L. SMERKAR, NOTARY PUBLIC
ELK TOWNSHIP, CLARION COUNTY
MY COMMISSION EXPIRES APRIL 2, 1987
Member, Pennsylvania Association of Notaries

SCHEDULE A

LEASE DATED AUGUST 1, 1984

CASUALTY LOSS VALUE SCHEDULE

Payment for Casualty occurrences as described herein:

			Per Car
During	Year 1 Beginning 8-1-84 and	Ending 10-31-85	$21,633
	Year 2	Ending 10-31-86	19,425
	Year 3	Ending 10-31-87	17,217
	Year 4	Ending 10-31-88	15,009
	Year 5	Ending 10-31-89	12,801
	Year 6	Ending 10-31-90	10,593
	Year 7	Ending 10-31-91	8,385
	Year 8	Ending 10-31-92	6,177
	Year 9	Ending 10-31-93	4,240
	Year 10	Ending 10-31-94	2,500

Each succeeding year therafter the Casualty Value will be $2,500, or the AAR Salvage Value (as determined by Rule 107 at the time of casualty) whichever is greater.

Schedule A is not intended to reflect the Market Value of the Cars.

SCHEDULE 1

Schedule 1, dated August 1, 1984 to Lease dated August 1, 1984, between LAKE ERIE, FRANKLIN & CLARION RAILROAD COMPANY and THE CHESAPEAKE AND OHIO RAILWAY COMPANY:

TYPE AND DESCRIPTION OF CAR:

100 ton, triple pocket, 3420 cu. ft. Hopper Cars, manufactured by Greenville Steel Car Company and meeting or exceeding in all significant respects the Greenville specifications contained in Specification No. H-3093.

NUMBER OF CARS:

300

RENTALS:

$200 monthly first 12 months
$290 monthly next 108 months

Lessee shall have the following options at the end of the 120 month lease period:

1. Terminate the Lease.
2. To purchase the Cars at fair market value.
3. To extend the Lease for an additional 60 months at $220 per month.

REPORTING MARKS:

LEF 3504, 3527, 3531, 3534, 3562, 3581, 3582

LEF 3584 thru 3588

LEF 3590 thru 3596

LEF 3598, 3599

LEF 3601 thru 3673

LEF 3675 thru 3880