

# HELM FINANCIAL CORPORATION

One Embarcadero Center • San Francisco, CA 94111

415/398-4510

1-217A010

VIA AIR COURIER

August 2, 1991

Ms. Mildred Lee  
Recordations Unit  
Interstate Commerce Commission  
12th & Constitution Avenue, N.W.  
Washington, D.C. 20423

17466  
RECORDATION NO. \_\_\_\_\_ FILED 1423  
AUG 5 1991 -10 05 AM  
INTERSTATE COMMERCE COMMISSION

Dear Ms. Lee:

Enclosed is a Rail Car Lease Agreement dated as of July 12, 1991 between the following parties:

Lessor: Helm Financial Corporation  
One Embarcadero Center, Suite 3500  
San Francisco, CA 94111

Lessee: Maine Coast Railroad Corporation  
RFD Box 83C  
Waldoboro, ME 04572

The equipment involved in this transaction is as follows:

Equipment: Six (6) Covered Hoppers  
See Annex A for Car Numbers

Please file this agreement as a primary document. The filing fee of \$15 is enclosed. Thank you.

Sincerely,

*Karen Rahnasto*  
Karen Rahnasto  
Fleet Operations Administrator

KR:po  
Enclosures

This document is a true and correct copy of the original Rail Car Lease Agreement dated July 12, 1991.



Notary Public: Karen Staudenmaier  
My Commission Expires: July 26, 1993

**RAIL CAR LEASE AGREEMENT**

This Rail Car Lease Agreement (the "Lease") dated and effective as of July 12, 1991 is between Helm Financial Corporation (the "Lessor") and Maine Coast Railroad Corporation (the "Lessee").

1. Scope of Lease. Lessor agrees to provide and Lessee agrees to take and use, subject to inspection, the units (the "Units") more fully described on Annex A attached hereto.

2. Term. The term of this Lease shall commence with respect to each Unit on the date of delivery and acceptance and shall continue for [REDACTED] after delivery and acceptance of the last Unit. Lessee shall pay Rent for each Unit, as described in Paragraph 4 hereof from the date of acceptance until the date of return of each Unit. Lessor acknowledges that the Units will be returned after the end of the Lease term, and Lessee acknowledges that this Lease will continue to apply against the Units until returned.

3. Interchange and Inspection. The Units will be made available for Lessee's inspection at a mutually agreeable interchange point on Lessee's lines and shall be returned to any other mutually agreed to storage or interchange point on Lessee's lines at the end of this Lease. Lessee shall inspect the Units, and if accepted, shall assume control, quiet enjoyment and possession of each Unit on the date of acceptance. LESSOR MAKES NO WARRANTY EXPRESS OR IMPLIED AS TO ANY MATTER WHATSOEVER INCLUDING THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR A PARTICULAR PURPOSE.

4. Rent. Rent for each Unit shall be [REDACTED] per Unit per month, payable on the first day of each month, in advance. Rent shall be prorated if a Unit is not accepted by the first day of a calendar month or returned by Lessee on the last day of a calendar month. If a Unit is accepted after the first day of a calendar month, the pro rata payment for that month will be added to, and paid with the following month's rent. The Units shall otherwise be "zero rated" while on Lessee's trackage, i.e., no car hire charges (time or mileage) shall be assessed or paid by Lessee and Lessee shall receive a refund of all car hire charges received by Lessor while the Units are off Lessee's lines during the Lease term.

5. Maintenance. The Units are leased to Lessee on a "net" basis, i.e., Lessee is responsible for all maintenance and repair to the Units during the term of this Lease in accordance with the AAR Interchange Rules and FRA Railroad Freight Car Safety Standards.

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NOTARY PUBLIC COMMISSION

6. Return Condition. The Units will be returned to Lessor in the same condition as received, subject to reasonable wear and tear. A joint inspection will be performed upon return of the Units to the Lessor and Lessee shall make any repairs to return the Units to the appropriate condition.

7. Storage and Return. Lessee shall provide Lessor with secure storage of the Units for a twelve (12) month free period upon termination of this Lease. Upon reasonable prior notification from Lessor, either upon termination of the Lease or anytime during the twelve (12) month free storage period, Lessee shall, at its expense, transport the Units to an interchange point on Lessee's lines. Storage after the free period shall be at the risk of Lessor, and Lessee shall not be required to provide security for the Units during such storage.

8. Destruction; Indemnity. If a Unit is lost, stolen, damaged or destroyed beyond reasonable repair hereinafter ("Casualtied Unit"), Lessee will make a payment of [REDACTED] ("Casualty Payment") to Lessor. Rent shall terminate with respect to the Casualtied Unit as of the date the Casualty Payment is made to Lessor. Lessee shall indemnify and hold Lessor harmless against any claim made against Lessor and against any expense, loss or liability (including but not limited to counsel fees and expenses) which the Lessor may incur (unless resulting from Lessor's own negligence) by reason of this Lease, Lessor's ownership of, or arising from the use, operation, condition, delivery, rejection, storage, return of any Unit or any accident, personal injury, death or property damage involving any Unit, until such Unit is returned to the Lessor in accordance with the terms of this Lease. The indemnities in this paragraph shall survive payment or performance of all other obligations under this Lease or the termination of this Lease.

9. Taxes. Lessee is responsible for the payment of all taxes, whether property, use or otherwise, that apply to the Units or are applicable as a result of this Lease (other than federal, state or local income tax payable by the Lessor in consequence of the receipt of payments provided herein).

10. Insurance. Lessee hereby acknowledges that it has elected to be self-insured for up to [REDACTED] per occurrence and will maintain insurance for [REDACTED] per occurrence for public liability and for property damage in an amount to cover the settlement value (as defined in Paragraph 8). Notwithstanding the fact that the settlement value may fluctuate during the term of the Lease, Lessee agrees that it will maintain during such term a net worth sufficient to meet its self insurance obligations hereunder. Lessee agrees to give immediate notice to Lessor of any material

adverse change in its financial condition that would impair Lessee's ability to meet its financial obligation under this paragraph during the term of this Lease.

11. Liens. Lessee will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Units, any Unit or any part thereof, Lessor's title thereto, or any interest therein.

12. Default. Lessor must provide Lessee with notice and opportunity to correct any alleged default, other than a default in payment of rent, before an event of default may be declared by Lessor. Twenty (20) days notice shall be given prior to any such declaration. If the alleged default is not corrected to Lessor's reasonable satisfaction within the aforementioned time period, Lessor may declare an event of default. In that event, Lessee shall return the Units to Chicago, Illinois, at Lessee's expense or any other mutually agreed to storage or interchange point on Lessee's lines and Lessor shall attempt to lease the Units to other parties and otherwise attempt to mitigate its damages. Lessor shall be entitled in addition to pursue any remedy it may have at law or in equity to recover the full amount of its damages from Lessee resulting from Lessee's default including all costs, expenses and reasonable attorneys' fees.

The following events shall be deemed to be "events of default":

(a) The failure of Lessee to pay rent when due and the continuance of said failure for ten (10) days after the due date.

(b) The unauthorized assignment or transfer by Lessee of this Lease or of possession of the Units, or any part thereof.

(c) The failure of the Lessee to observe or perform any of the covenants, conditions or agreements contained herein.

(d) Any bankruptcy proceedings shall be commenced by or against Lessee.

(e) Any material representation made by the Lessee to Lessor shall prove to be false or materially incorrect on the date it was made.

13. Quiet Enjoyment. So long as an event of default has not occurred against it, Lessee shall be entitled to the quiet enjoyment, use and possession of the Units.

14. Notices. All notices shall be in writing and given by certified or registered mail or overnight express carrier at the addresses shown below:

Lessor: President  
Helm Financial Corporation  
One Embarcadero Center, Suite 3500  
San Francisco, CA 94111

Lessee: President  
Maine Coast Railroad Corporation  
RFD Box 38C  
Waldoboro, ME 04572

With copy to: President  
Massachusetts Central Railroad Corporation  
One Wilbraham Street  
Palmer, MA 01069

15. Assignment. Lessee may not assign this Lease or sublease the Units without the prior written consent of Lessor. Lessor may assign this Lease without the consent of Lessee but Lessee shall not be required to make any payments to any person other than Lessor unless Lessor has so advised Lessee in writing.

16. Law Governing. This Lease shall be governed by the law of the State of California.

17. Entire Understanding. This Lease represents the entire understanding of the parties, may only be modified by their mutual written consent and has been executed by their duly authorized officials.

HELM FINANCIAL CORPORATION

MAINE COAST RAILROAD CORPORATION

By: *David R. [Signature]*  
Title: *Executive Vice President*

By: *W. P. [Signature]*  
Title: *Pres*

STATE OF CALIFORNIA )  
 ) S  
COUNTY OF SAN FRANCISCO )

On this 30<sup>th</sup> day of July, 1991, before me personally appeared David R. Gelles, to me personally known, who, being by me duly sworn, says that he is Exec. V.P. of HELM FINANCIAL CORPORATION, that said instrument was signed and sealed on behalf of said corporation and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Karen Staudenmaier  
Notary Public

My Commission Expires: July 26, 1993



[Notarial Seal]

STATE OF Massachusetts )  
 ) S  
COUNTY OF Hamden )

On this 29<sup>th</sup> day of July, 1991, before me personally appeared W. Robert Bentley, to me personally known, who, being by me duly sworn, says that he is President of Maine Coast Railroad Corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its President and Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Monika A. Loretta  
Notary Public

My Commission Expires: 11/12/93

[Notarial Seal]

ANNEX A

to

Rail Car Lease Agreement

Dated as of July 12, 1991

<u>Equipment Description</u>	<u>Equipment Numbers</u>
Six (6) 100-ton, 3,300 cubic foot covered hoppers	MC 12101 12108 12134 12143 12191 12196