

WINCHESTER AND WESTERN RAILROAD COMPANY

Virginia Division
126 E. PICCADILLY STREET
P.O. BOX 264
WINCHESTER, VIRGINIA 22601
703-662-2600

Corporate Office
258 ELM STREET
NEW CANAAN, CONNECTICUT 06840
203-966-8880

New Jersey Division
P.O. BOX 1024
BRIDGETON, NEW JERSEY 08302
609-451-6400

1-242A014

17512
August 21, 1991

AUG 30 1991 2:25 PM

INTERSTATE COMMERCE COMMISSION

Ms. Mildred Lee
Interstate Commerce Commission
12th and Constitution Ave., NW
Room 2303
Washington, DC 20423

Re: Recordation of Locomotive Lease Agreement

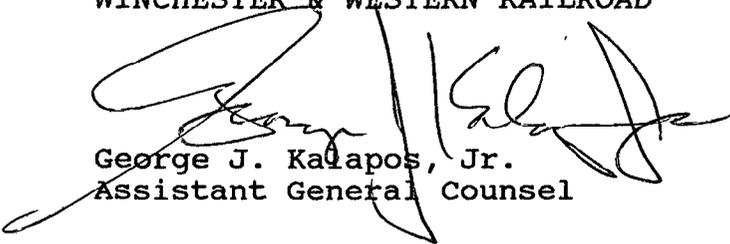
Dear Ms. Lee:

Enclosed please find one original and one photocopy of a fully executed locomotive lease between Maine Coast Railroad Corporation and Winchester and Western Railroad Company for the lease of one ALCO RS-11 Diesel Locomotive. Please duly record this Lease Agreement. Our \$15.00 check to cover the recording of this lease is also enclosed. It is my understanding that the original lease will be returned to me upon completion of this transaction, while the photocopy will be retained by your office.

I thank you for your prompt consideration of this matter.

Very truly yours,

WINCHESTER & WESTERN RAILROAD


George J. Kalapos, Jr.
Assistant General Counsel

GJK/sh
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AUG 30 2 17 PM '91
MOTOR OPERATING UNIT

Interstate Commerce Commission

Washington, D.C. 20423

8/30/91

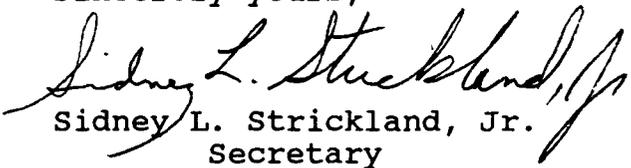
OFFICE OF THE SECRETARY

George J. Kalapos, Jr.
Assistant General Counsel
Winchester And Western Railroad Company
Corporate Office
258 Elm Street
New Canaan, CT. 06840

Dear Sirs:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/30/91 at 2:25PM , and assigned recordation number(s). 17512.

Sincerely yours,


Sidney L. Strickland, Jr.
Secretary

17512

REGISTRATION NO. FILED 1991

AUG 30 1991 2 25 PM

INTERSTATE COMMERCE COMMISSION

LOCOMOTIVE LEASE

AUGUST 1, 1991

~~JUNE~~
~~1991~~

W&W
ASB
W&W

THIS AGREEMENT, made as of ~~December 1, 1990~~, by and between WINCHESTER & WESTERN RAILROAD COMPANY, hereinafter called "W&W", and MAINE COAST RAILROAD COMPANY, hereinafter called "Lessee".

WITNESSETH

WHEREAS, Lessee is desirous of leasing railroad locomotive equipment from the W&W; and

Whereas, W&W is desirous of leasing such railroad locomotive equipment to Lessee subject to the hereinafter set forth terms and conditions; and

NOW THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

1. DELIVERY. Subject to their availability as determined, by W&W, W&W hereby leases to Lessee and Lessee hereby leases from W&W the one unit of locomotive equipment as set forth on Exhibit A (copy of which is attached hereto and made a part hereof and which equipment being hereinafter referred to collectively as "Locomotive"), W&W will deliver the Locomotive to Lessee, or intermediate rail carrier, at an agreed upon date. Lessee shall take the Locomotive subject to the terms and provisions of any lease or other financing agreement to which the Locomotive may be subject.

2. RENTAL. Lessee shall pay W&W in accordance with the rates set forth on the form attached hereto and made a part hereof and marked Schedule A (Saturdays, Sundays and Holidays included) within fifteen (15) days of the payment date set forth in Schedule A. Lessee further shall pay W&W for any and all costs incurred by W&W for handling delivery and return to W&W of the Locomotive over other lines, including without limitation freight, haulage or switching charges or expenses. All amounts to be charged to Lessee under this Agreement, except the rental rate set forth in schedule A, shall include direct labor and material costs together with surcharges, overhead percentages, and equipment rentals in effect at the time any work is performed by W&W.

3. NET LEASE. Lessee's payment obligations hereunder shall, be absolute and unconditional without defense, setoff, counterclaim or recoupment. Except as otherwise expressly provided herein, this Agreement shall not terminate nor shall the respective obligations of the Lessee be affected by reason of any defect in or damage to, or any loss or destruction of, the Locomotive from any cause whatsoever, or as a result of any cause whatsoever, excluding war, riot, insurrection and acts of God.

4. WARRANTIES. The Locomotive is leased "as is". W&W makes no warranty, expressed or implied, regarding the Locomotive. Without limiting the generality of the foregoing, W&W expressly disclaims any implied warranty or merchantability, fitness, use, quality, productivity, capacity, or adequacy for any purpose intended by Lessee. W&W will in no event be liable for any direct, indirect or consequential damages whatsoever.

5. TITLE. (a) Title to the Locomotive will remain vested in W&W. Lessee shall keep the Locomotive free and clear of all claims, liens and encumbrances and any act of the Lessee purporting to create a claim, lien or encumbrances relating to Lessee or acts of Lessee on the Locomotive shall be void. (b) If W&W shall, in its discretion, deem it necessary to file or record financing statements or other notices of record to protect its right and title to the Locomotive, Lessee shall execute such financing statements or notices or other instruments, and further shall grant and does grant to W&W such security interest in and to the Locomotive as shall be in W&W's opinion reasonably necessary to so protect its right, title and interest.

6. CARE AND MAINTENANCE OF LOCOMOTIVE.

(a) Lessee shall (i) use the Locomotive in a proper and careful manner and at Lessee's own risk; (ii) maintain the Locomotive in good operating condition, repair, and appearance and protect the same from deterioration, ordinary wear and tear excepted, and advise W&W prior to any such maintenance or repair work, except daily or periodic routine servicing, of the nature of all repair and/or maintenance work to be performed in the Locomotive as well as the identity and addresses of all non-employee maintenance personnel or other organizations performing such work. W&W reserves the right to reasonably disapprove of the performance of maintenance or repair work by personnel/organization which W&W deems unqualified to perform the same; (iii) return, redeliver or surrender the Locomotive in as good condition as when received, ordinary wear and tear excepted (iv) give W&W prompt notice in writing of any loss of or damage to the Locomotive; (v) allow W&W with reasonable notice to enter upon Lessee's property at any time during normal business hours while the Locomotive is in possession of Lessee to examine or inspect it; and (vi) permit W&W to make such repairs as W&W may deem necessary; such repairs to be made at the facility of Lessee or W&W, at W&W's election, with all expenses of any such repairs required as a result of the use thereof by Lessee to be paid by Lessee.

(b) Lessee shall not make any changes in, additions to, or improvements in, nor shall Lessee suffer, or permit any other party to make any changes in, additions to, or improvements in, the Locomotive without the prior, written consent of W&W.

(c) W&W may require plates or markings to be affixed to or placed on the Locomotive indicating that W&W is the owner thereof.

(d) Lessee's use of the Locomotive shall be confined to normal railroad operations on lines over which it operates. Personnel furnished by Lessee shall be, and Lessee hereby certifies that they are, fully experienced and qualified to handle, operate, and work upon or about the Locomotive. Locomotives shall not be operated outside boundaries of the United States of America or used in run-through or pool service with any other railroad without the prior, written consent of W&W.

Locomotives in transportation "Dead in Train" to or from Lessee may move via the Dominion of Canada, Lessee to be wholly responsible for all customs documentation and payment of all customs duties, tariffs, bonds or other charges as may be assessed.

(e) Notwithstanding anything to the contrary contained herein, if W&W is obligated by agreement or lease to maintain the Locomotive in any fashion whatsoever, Lessee shall be obligated to maintain the Locomotive in the same fashion and manner that W&W is obligated under its agreement or lease, such fashion and manner being set forth on Exhibit A of this Agreement.

7. INSPECTION. Before the Locomotive is delivered, as set forth in Paragraph 1, a joint mechanical inspection (hereinafter the "Initial Inspection") shall take place regarding fuel levels and the mechanical and other condition of the Locomotive prior to leasing by W&W to Lessee. The Initial Inspection shall be conducted by W&W representatives and competent representatives of Lessee and shall be reported on a form attached hereto, made a part hereof and marked "Schedule B". Upon return of the Locomotive or upon termination of this Agreement, a second joint inspection (hereinafter the "Final Inspection") shall be conducted by the representatives of W&W and Lessee in order to determine and specify damage to or deterioration in the mechanical or other condition of the Locomotive and to determine fuel levels. The Final Inspection shall also be reported on a Schedule B form. Any and all damage to or deterioration in the condition of the Locomotive observed other than normal wear and tear during the Final Inspection and costs of the Initial Inspection and the Final Inspection shall be the responsibility of and shall be paid by Lessee. Lessee shall also pay W&W at the then current rate per gallon for any deficit in the number of gallons of fuel from the time of the Initial Inspection to the time of the Final Inspection.

8. LOSS OR DESTRUCTION. In the event the Locomotive is lost, stolen, destroyed, irreparably damaged from any cause whatsoever and howsoever arising, worn out beyond the economic limits of repair or requisitioned by condemnation or otherwise by the United States Government, Lessee shall pay to W&W the fair market value of the Locomotive so involved immediately prior to the incidents set forth above in this Paragraph 8, which shall be determined by an appraiser selected by W&W and consented to by Lessee, which consent shall not be withheld unreasonably. Upon the occurrence of an event referred to in the preceding sentence and notwithstanding the provisions of such sentence, Lessee may exercise purchase options in schedule A of this Agreement, paying to W&W the outstanding balance due on the purchase price and receiving from W&W a bill of sale.

9. GOVERNMENT REGULATIONS. Lessee (a) shall not incur any expense which will be chargeable to W&W or create or permit any lien or encumbrance upon the Locomotive; and (b) shall comply with all applicable laws and regulations of any public authority.

10. TAXES. Lessee shall pay taxes which relate to Lessee's use, operation, possession or rental of the Locomotive and, upon request from W&W, will provide written evidence of such payment.

11. INDEMNIFICATION. Lessee will protect, defend, indemnify and save harmless W&W and its parent corporation, its subsidiaries, and its and their directors, officers, agents and employees, against all claims, liabilities, losses, damages and expenses of every character whatsoever for injury (including death) sustained by the officers, agents and employees of W&W and its subsidiaries, the officers, agents and employees of Lessee, and all other persons whomsoever, and for damage to or loss or destruction of property of any kind by whomsoever owned, including but not limited to employees of the Lessee, caused by, resulting from, arising out of, or occurring in connection with Lessee's use, operation, possession, rental, maintenance, or custody of the Locomotive under this Agreement or incidental to or appertaining hereto. As a result of any such claim, suit or demand of any kind, Lessee will assume at its own expense on behalf of W&W and its subsidiaries, and its and their directors, officers, agents and employees, the defense of any such claim or action at law or in equity which may be brought against said parties and pay on behalf of said parties the amount of any settlement agreed upon or judgement that may be entered, plus all costs and expenses involved as aforementioned.

12. INSURANCE.

(a) Lessee shall at its own cost and expense provide and maintain in effect during the term and any continued term of this Agreement a policy of public liability insurance covering use of Locomotive, including contractual liability assumed by the Lessee under the provisions of this Agreement. Said insurance shall be in limits of not less than \$3,000,000.00 single limit for bodily injury and/or property damage each occurrence and shall be in companies and form acceptable to W&W.

(b) Further, Lessee shall at its own cost and expense provide and maintain in effect during the term and any continued term of this Agreement All Risk of Physical Damage Insurance on the leased Locomotive in the name of Winchester & Western Railroad Company. Said insurance shall be in the amount at least equal to the fair market value less any lease payments made of the Locomotive as specified in Paragraph 8 of this Agreement and shall be in companies and form acceptable to W&W.

13. RETURN OF LOCOMOTIVE. The Locomotive upon redelivery to W&W, either upon recall by W&W or upon termination of this Agreement, shall, in addition to other redelivery obligations set forth in this Agreement, be free and clear of any liens or security interests, encumbrances, and rights of others, other than those which result from claims against W&W which do not arise out of Lessee's failure to perform any of its obligations hereunder.

14. DEFAULT. Any of the following shall constitute a default under this agreement (an "Event of Default"):

(a) Lessee fails to make any payment of rent or other payment within the time specified in Schedule A; or

(b) Lessee uses or permits use of Locomotive in uses other than as specified in this Agreement; or

(c) Lessee fails to perform or observe any covenant, term or condition of this Agreement to be performed or observed by Lessee and such failure continues unremedied for a period of fifteen (15) days after written notice from W&W to Lessee; or

(d) Lessee shall have made any representation or warranty in this Agreement, or in any document executed by Lessee incident to this Agreement, or in any other manner which is found to be false in any material respect at the time such representation or warranty was made; or

(e) Lessee attempts to sell, mortgage, sublease, sublicense or assign the Locomotive; or

(f) Any distress, execution or attachment is levied, threatened or attempted on or against the Locomotive; as a result of conduct or actions of Lessee, or

(g) Lessee ceases to do business as a going concern or files any petition with respect to its own financial condition under any bankruptcy law or any amendment thereto or under any other insolvency law or laws providing for the relief of debtors; or

(h) A receiver, trustee, conservator or liquidator is appointed for Lessee for all or substantial part of its assets and such proceeding or appointment is not discharged within sixty (60) days after the commencement thereof, or Lessee shall be adjudicated bankrupt or insolvent or in need of any relief provided to debtors by any court.

15. REMEDIES. (a) Upon the occurrence of an Event of Default, W&W may exercise any one or more of the following remedies:

(i) W&W, upon written notice to Lessee, may cause Lessee to pay to W&W the aggregate amount of any installments of rent, including without limitation late charges thereon, and any other sums which are then accrued and unpaid under this agreement. In addition, Lessee shall pay interest on the foregoing sums at the rate of twelve (12%) per annum from the date of notice until payment; or

(ii) W&W, upon written notice to Lessee, may terminate this Agreement, whereupon all rights of Lessee to the use of the Locomotive shall absolutely cease and terminate, but Lessee shall remain liable for its obligations hereunder for all matters and events occurring prior to such termination as provided in this Agreement and as provided in Paragraph 14 with respect to an Event of Default; and thereupon Lessee, at its expense, shall promptly return the Locomotive subject to this Agreement to W&W, and W&W, or W&W's agent, shall have the right to enter upon the premises where the Locomotive is located during normal business hours and take immediate possession of and remove same without liability to Lessee, except such as is occasioned by the gross negligence of W&W, its officers, agents and employees; or

(iii) W&W, without notice to Lessee, may exercise any other right and remedy available to it under applicable law to enforce this Agreement and to recover damages; or

(iv) Lessee shall be liable for all costs, charges and expenses, including without limitation reasonable attorney's fees and disbursements, incurred by W&W by reason of the occurrence of any Event of Default or the exercise of W&W's remedies with respect thereto.

(b) No remedy referred to herein is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to W&W at law or in equity. No express or implied waiver by W&W of any default or Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent default or Event of Default. The failure or delay of W&W in exercising any rights granted it hereunder upon any occurrences of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and any single or partial exercise of any particular right by W&W shall not exhaust the same or constitute a waiver of any other right provided herein.

16. TERM. This Agreement shall take effect as of the date first above written and continue in effect until ~~November 30, 1993~~ or until purchase of locomotive or until terminated by W&W upon twenty-four hours advance written notice in accordance with the provisions of Paragraph 15. Termination of this Agreement shall not release Lessee from any liability which it may have incurred or any obligations which may have accrued under any provisions of this Agreement, or any amendment or supplement hereto, prior to the effective date of termination.

17. MISCELLANEOUS.

(a) Modification - Neither this Agreement or any part hereof may be modified except by written agreement signed by the duly authorized representatives of the parties.

(b) No Waiver - No omission or delay by W&W at any time to enforce any right or remedy reserved to it, or to require performance of any of the terms of this Agreement, shall be a waiver of any such right or remedy to which W&W is entitled, nor shall it in any way affect the right of W&W to enforce such provisions thereafter.

(c) Applicable Law - This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

(d) Severability - If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other provisions hereof shall in no way be affected thereby.

(e) Successors and Assigns - This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, that Lessee shall not assign or transfer this Agreement or any of its rights hereunder, or sublet the Locomotive, without the prior written consent of W&W, which consent shall not be unreasonably withheld.

JULY 31, 1994 [Handwritten signature]

(f) Notices - Any notice, request or other communications to either party by the other as provided for herein shall be deemed received when (i) personally served on the following addressees, or (ii) sent by certified or registered United States mail, return receipt requested, addressed as follows:

If to W&W:

Winchester & Western Railroad Company
P.O. Box 1024
Bridgeton, New Jersey 08302
Attn: Forrest Van Schwartz, General Manager

If to Lessee:

Maine Coast Railroad Corp.
Box 38-C
Waldoborough, Maine 04572
Attn: W. Robert Bentley, President

The above addresses may be changed from time to time in accordance with the provisions of this paragraph.

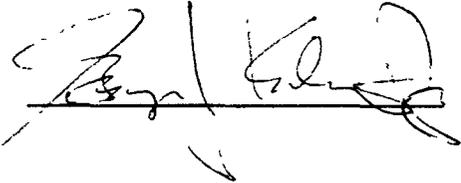
(g) Paragraph Headings - All paragraph headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(h) Entire Agreement - This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements and understandings relating to the lease of the Locomotive.

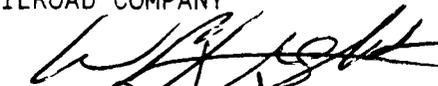
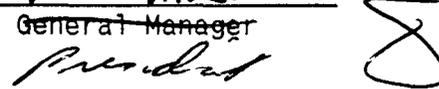
(i) Further Assurances - Lessee shall, at the Lessor's expense, do any further act and execute, acknowledge, deliver, file, register and record any further documents which Lessor may reasonably request in order to protect Lessor's title in the Equipment and Lessor's rights and benefits under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

ATTEST: LESSOR:



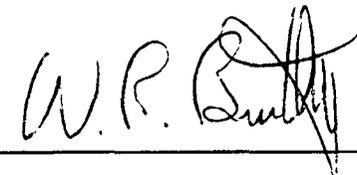
WINCHESTER & WESTERN
RAILROAD COMPANY


By: 
General Manager


ATTEST: LESSEE:


Secretary

MAINE COAST RAILROAD
COMPANY

By: 
Title: 

SCHEDULE A

Winchester and Western Railroad Company

Locomotive Equipment and Rental Rate

Description of Locomotive Equipment

Winchester & Western Road Number: 3609

Maine Coast Road Number ~~609~~ 367



Locomotive type RS-11
Builder ALCO
Date built
Diesel engine (prime mover) type
Diesel engine serial #
Main generator-type
Main generator-serial #
Auxiliary generator-type
Auxiliary generator-serial #
Engine governor-serial #
Fuel pump-serial #
Air compressor-serial #
Traction motor blower-right
Traction motor blower-left
Traction motor axle #1-type
Traction motor axle #1-serial #
Traction motor axle #2-type
Traction motor axle #2-serial #
Traction motor axle #3-type
Traction motor axle #3-serial #
Traction motor axle #4-type
Traction motor axle #4-serial #
Wheel size axle #1
Wheel size axle #2
Wheel size axle #3
Wheel size axle #4

Lease Rate (Per Unit)

A) For initial partial month: Thirty Three Dollars (\$33.00) per day, commencing at 12:01 a.m. on day first following delivery by W&W to Consolidated Rail Corporation (Conrail) at Millville, New Jersey for furtherance to Lessee, payable in advance.

B) One Thousand Dollars (\$1,000.00) in advance, as credit for one (1) monthly lease period, such credit to be applied to lease payment due for the first month of Lease.

C) One Thousand Dollars (\$1,000.00) per month, commencing second month of Lease and continuing on the 1st day of each succeeding calendar month up to and including 36th month of Lease in accordance with Section 2 of this Agreement; or until purchase of locomotive unit.

D) At any time during the first twenty four (24) months of this lease Lessee may elect, upon written 30 day notice to W&W, to purchase locomotive unit for total price of \$37,000.00, all previous monthly lease payments, except any initial partial month (Item A) to be applied in full as advance partial payment of the purchase price, such purchase made in "as is" condition per terms of Section 4 of this Agreement and such conditions as may be included in Bill of Sale.

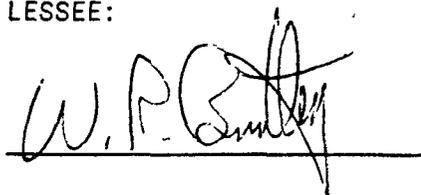
E) At completion of thirty six (36) month lease period Lessee may elect to:

1) Return locomotive to W&W per terms and conditions of this Agreement.

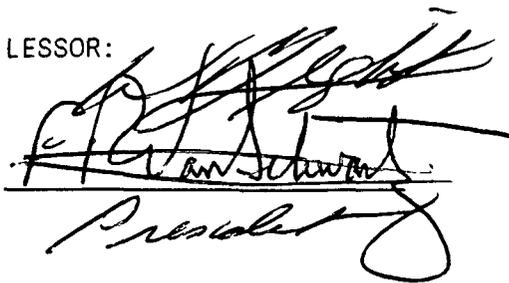
2) Purchase locomotive for total purchase price of \$41,000.00, all previous monthly lease payments, except any initial partial month (Item A) to be applied in full as advance partial payment of the purchase price, such purchase made in "as is" condition per terms of Section 4 of this Agreement and such conditions as may be included in Bill of Sale.

F) Cost of repainting, relettering or addition of special locomotive features, such as spark arrestors, ditch lights, etc. are not included in this Lease Agreement and are covered by separate agreement and billing.

LESSEE:



LESSOR:



President