RECORDATION NO. 17159-C FILED

MAY 17 '06 12-06 PM

SURFACE TRANSPORTATION BOARD

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ELIAS C. ALVORD (1942)
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OF COUNSEL
URBAN A. LESTER

May 17, 2006

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Assignment and Assumption Agreement, dated as of May 12, 2006, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Lease of Railroad Equipment previously filed with the Commission under Recordation Number 17159.

The names and addresses of the parties to the enclosed document are:

Assignor: Bank of America Leasing & Capital, LLC
(successor in interest to Fleet Capital Corporation and The CIT Group/Equipment Financing, Inc.)
555 California Street, 4th Floor
San Francisco CA 94104

Assignee: Helm Financial Corporation
505 Sansome Street, Suite 1800
San Francisco CA 94111

A description of the railroad equipment covered by the enclosed document is:

125 railcars with HPJX and TNM reporting marks and road numbers within the series 40500 - 40624 as more particularly set forth in the equipment schedule attached to the document filed under Recordation Number 17159.

A short summary of the document to appear in the index is:

Memorandum of Assignment and Assumption Agreement.

Also enclosed is a check in the amount of $34.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

Edward M. Luria

RWA/sem
Enclosures

17159-C

FILED

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SURFACE TRANSPORTATION BOARD

MEMORANDUM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS MEMORANDUM OF ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of this 12th day of May, 2006, is made by Banc of America Leasing & Capital, LLC (successor in interest to Fleet Capital Corporation and The CIT Group/Equipment Financing, Inc.) with an address at 555 California Street, 4th Floor, San Francisco, CA 94104 (the "Assignor"), and Helm Financial Corporation with an address at 505 Sansome Street, Suite 1800, San Francisco, CA 94111 ("Assignee", and together with the Assignor, the "Parties").

WITNESSETH

The parties have entered into that certain Assignment and Assumption Agreement (the "Assignment and Assumption Agreement") dated as of the date hereof;

Under the Assignment and Assumption Agreement, the Assignor assigned its right, title and interest in and to certain railroad equipment and leases and beneficial interests therein to Assignee, and Assignee has accepted and assumed all duties and obligations of Assignor with respect thereto arising on or after the date hereof. The documents relating to the railroad equipment are set forth in Exhibit A hereto. The railroad equipment is described in Exhibit B hereto.

The Parties wish to show for the public record the existence of the aforementioned Assignment and Assumption Agreement, and the respective interests therein of the Parties and accordingly the Parties have caused this Memorandum to be executed by their respective duly authorized officers, as of the date first above written.

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IN WITNESS WHEREOF, each of the undersigned has caused this Memorandum to be executed by a duly authorized officer as of the day and year first above written.

BANC OF AMERICA LEASING & CAPITAL, LLC, ASSIGNOR

By: _____

Name: _____

Title: _____

HELM FINANCIAL CORPORATION, ASSIGNEE

By: Barbara W. Wilson

Name: Barbara W. Wilson

Title: SVP & CFO

STATE OF CALIFORNIA)
) S.S.
COUNTY OF SAN FRANCISCO)

Subscribed and sworn to (or affirmed) before me on this ____ day of May, 2006 by _____, _____ of Banc of America Leasing & Capital, LLC, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Witness my hand and official seal.

_____
SIGNATURE OF THE NOTARY

[Notarial Seal]

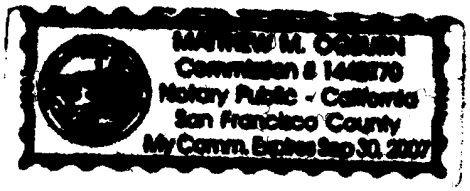
STATE OF CALIFORNIA)
) S.S.
COUNTY OF SAN FRANCISCO)

Subscribed and sworn to (or affirmed) before me on this 11th day of May, 2006 by Barbara W. Wilson, SVP & CFO of Helm Financial Corporation, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Witness my hand and official seal.

Matthew M. O'Brien
SIGNATURE OF THE NOTARY

[Notarial Seal]



IN WITNESS WHEREOF, each of the undersigned has caused this Memorandum to be executed by a duly authorized officer as of the day and year first above written.

BANC OF AMERICA LEASING & CAPITAL, LLC, ASSIGNOR

By: _____

Name: Kim Lee

Title: Managing Director

YVETTE MONTALVO BARON
Commission # 1510276
Notary Public - California
San Francisco County
My Comm. Expires Sep 23, 2008

HELM FINANCIAL CORPORATION, ASSIGNEE

By: _____

Name: _____

Title: _____

STATE OF CALIFORNIA)
) S.S.
COUNTY OF SAN FRANCISCO)

Subscribed and sworn to (or affirmed) before me on this 12TH day of May, 2006 by KIM LEE, MANAGING DIRECTOR of Banc of America Leasing & Capital, LLC, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Witness my hand and official seal.

Yvette Montalvo Baron
SIGNATURE OF THE NOTARY

YVETTE MONTALVO BARON
Commission # 1510276
Notary Public - California
San Francisco County
My Comm. Expires Sep 23, 2008

[Notarial Seal]

STATE OF CALIFORNIA)
) S.S.
COUNTY OF SAN FRANCISCO)

Subscribed and sworn to (or affirmed) before me on this ____ day of May, 2006 by _____, _____ of Helm Financial Corporation, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Witness my hand and official seal.

_____
SIGNATURE OF THE NOTARY

[Notarial Seal]

EXHIBIT A

A. **LEASE DOCUMENTS**.

1. **Railcar Lease Agreement** dated as of December 28, 1990 and entered into among Banc of America Leasing & Capital, LLC (as successor-in-interest to Fleet Capital Corporation, a Delaware corporation and The CIT Group/Equipment Financing, Inc., a New York corporation) ("Lessor"), and JP Morgan (as successor in interest to Capital One Bank and American National Bank and Trust Company of Chicago, a national banking association) ("Trustee"), not personally, but as Trustee under a Trust Agreement dated December 28, 1990, and known as Trust No. 34110007 ("Lessee") and Helm-Pacific Leasing, a Nebraska general partnership ("Beneficiary"), together with all amendments, supplements and waivers thereto. .

a. **Memorandum of Lease Agreement** filed with the STB (formerly the Interstate Commerce Commission) under Recordation Number 17157 and any other documents recorded by Seller or its predecessors with the STB in connection with or relating to said lease and the railcars subject thereto.

b. **Acceptance Certificate** dated December 31, 1990, executed and delivered by The CIT Group/Equipment Financing, Inc., ("Lessor") and Helm-Pacific Leasing Joint Venture ("Beneficiary") and American National Bank and Trust Company of Chicago, as trustee under Trust Agreement dated December 28, 1990, known as Trust No. 34110007 ("Lessee") pursuant to and in accordance with the Railcar Lease Agreement dated as of December 28, 1990 between Lessor, Lessee and Beneficiary.

c. **Clarification Letter** dated January 21, 1991, from Robert J. Peley of Seyfarth, Shaw, Fairweather & Geraldson, counsel for Original Lessor, to Elyse B. Napoli of Kelley, Drye & Warren, counsel for Lessee and Beneficiary.

d. **Re: Amendment to Railcar Lease Agreement** dated February 1, 2000 and addressed to Charles P. McGrath, Vice President, The CIT Group/Equipment Financing, Inc. and signed by Helm Pacific Corporation as General Partner, The CIT Group/Equipment Financing, Inc., Union Pacific Venture Leasing, Incorporated as General Partner and American National Bank and Trust Company of Chicago as Trustee.

2. **Trust Agreement** dated as of December 28, 1990, between Helm-Pacific Leasing, a Nebraska Partnership ("Beneficiary") and American National Bank and Trust Company of Chicago, a national banking association ("Trustee").

3. **Guaranty Agreement** dated as of the 28th day of December 28, 1990, made by Helm-Pacific Leasing, a Nebraska general partnership ("Guarantor"), in favor of The CIT Group/Equipment Financing, Inc., a New York corporation.

4. **Guaranty Agreement** dated as of the 28th day of December 1990, made by Union Pacific Railroad Company, a Utah corporation ("Guarantor"), in favor of The CIT Group/Equipment Financing, Inc., a New York corporation.

B. SUBLEASE DOCUMENTS.

1. **Lease of Railroad Equipment** dated as of December 20, 1990, between Helm-Pacific Leasing, a Nebraska Joint Venture ("Lessor") and Arch Mineral Corporation, a Delaware corporation ("Lessee"), and associated Memorandum of Lease of Rail Equipment dated as of December 20, 1990 and recorded under STB Recordation Number 17158.

2. **Lease of Railroad Equipment** dated as of October 30, 1990, between Helm-Pacific Leasing, a Nebraska Joint Venture ("Lessor") and The Denver and Rio Grande Western Railroad Company ("Lessee"), a Delaware corporation, and associated Memorandum of Lease of Rail Equipment dated as of December 20, 1990 and recorded under STB Recordation Number 17159.

3. **Lease of Railroad Equipment** dated as of December 18, 1990, between Helm-Pacific Leasing, a Nebraska Joint Venture ("Lessor") and Union Pacific Railroad Company ("Lessee"), a Utah corporation, and associated Memorandum of Lease of Rail Equipment dated as of December 20, 1990 and recorded under STB Recordation Number 17160.

4. **Assignment of Lease** Recordation No. 17158-A (the "Assignment") from Helm-Pacific Leasing, Joint Venture organized under the laws of the State of Nebraska ("Assignor") and consisting of Helm-Pacific Corporation, a California corporation and Union Pacific Venture Leasing, Incorporated, a Delaware corporation to American National Bank and Trust Company of Chicago, as trustee (the "Trustee"), a national banking association ("Assignee"), and its successors and assigns, all of Assignor's rights, title and interest in and to (a) that certain Lease of Railroad Equipment, dated as of December 20, 1990 (the "Lease"), and all rental schedules and supplements thereto of which Arch Minerals Corporation is Lessee and Assignor is Lessor and (b) together with all rentals and other monies due thereunder and all other interests stated in the Assignment.

5. **Assignment of Lease** Recordation No. 17159-A (the "Assignment") from Helm-Pacific Leasing, Joint Venture organized under the laws of the State of Nebraska ("Assignor") and consisting of Helm-Pacific Corporation, a California corporation and Union Pacific Venture Leasing, Incorporated, a Delaware corporation to American

National Bank and Trust Company of Chicago, as trustee (the "Trustee"), a national banking association ("Assignee"), and its successors and assigns, all of Assignor's rights, title and interest in and to (a) that certain Lease of Railroad Equipment, dated as of October 30, 1990 (the "Lease"), and all rental schedules and supplements thereto of which The Denver and Rio Grande Western Railroad is Lessee and Assignor is Lessor and (b) together with all rentals and other monies due thereunder and all other interests stated in the Assignment.

6. **Assignment of Lease** Recordation No. 17160-A (the "Assignment") from Helm-Pacific Leasing, Joint Venture organized under the laws of the State of Nebraska ("Assignor") and consisting of Helm-Pacific Corporation, a California corporation and Union Pacific Venture Leasing, Incorporated, a Delaware corporation to American National Bank and Trust Company of Chicago, as trustee (the "Trustee"), a national banking association ("Assignee"), and its successors and assigns, all of Assignor's rights, title and interest in and to (a) that certain Lease of Railroad Equipment, dated as of December 18, 1990 (the "Lease"), and all rental schedules and supplements thereto of which Union Pacific Railroad Company is Lessee and Assignor is Lessor and (b) together with all rentals and other monies due thereunder and all other interests stated in the Assignment.

C. SECURITY FOR LEASE OBLIGATIONS.

1. **Security Assignment of Beneficial Interest in Trust** granted by Helm-Pacific Leasing ("Assignor"), a Nebraska general partnership and owner of One Hundred Percent (100%) of the beneficial interest under that certain Trust Agreement ("Trust Agreement") dated December 28, 1990 and known as Trust No. 34110007 (the "Trust"), of which American National Bank and Trust Company of Chicago (the "Trustee"), a national banking association is trustee to Banc of America Leasing & Capital, LLC (as successor-in-interest to Fleet Capital Corporation, a Delaware corporation and The CIT Group/Equipment Financing, Inc., a New York corporation) ("Assignee") of all of the right, title and interest of Assignor in, under and to the Trust and the Trust Agreement.

2. **Assignment and Security Agreement** granted by the American National Bank and Trust Company of Chicago, a national banking association, not personally but as trustee under the Trust Agreement dated as of December 28, 1990 ("Trustee") and Helm-Pacific Leasing, a Nebraska Partnership ("Beneficiary") to Banc of America Leasing & Capital, LLC (as successor-in-interest to Fleet Capital Corporation, a Delaware corporation and The CIT Group/Equipment Financing, Inc., a New York corporation).

3. **ICC Lien Letter** from Wilmer, Cutler & Pickering as Special Interstate Commerce Commission Counsel to The CIT Group/Equipment Financing, Inc. in connection with the leasing, subleasing, granting and recording of a security interest in those certain two hundred and thirty (230) hopper cars dated December 31, 1990.

D. ASSIGNMENT DOCUMENTS

1. **Assignment and Assumption Agreement** dated December 28, 2000, between The CIT Group/Equipment Finance, Inc., a New York corporation and Fleet Capital Corporation, a Rhode Island corporation (the predecessor-in-interest to Banc of America Leasing & Capital, LLC and recorded under STB Recordation Number 17157-B.

2. **Bill of Sale** dated December 29, 2000, from The CIT Group/Equipment Financing, Inc. ("Seller") whereby Seller assigns all of Seller's rights, title and interest in and to certain equipment described in Exhibit A attached thereto to Fleet Capital Corporation ("Buyer") pursuant to a Purchase Agreement and an Assignment and Assumption Agreement both dated December 28, 2000 and entered into between Seller and Buyer.

D. ORGANIZATION DOCUMENTS.

1. **Officers' Certificate**, including statement of incumbency and signatures and extracts from bylaws, of Lessee.

2. **Officers' Certificate** from Beneficiary dated December 31, 1990, including statement of incumbency and signatures and copy of Joint Venture Agreement for Beneficiary dated February 21, 1990.

3. **Officers' Certificate** from Helm Pacific Corporation dated December 31, 1990, including statement of incumbency and signatures and copies of Articles and bylaws and authorizing resolution.

4. **Certificate of Good Standing** dated December 18, 1990, for Helm Pacific Corporation.

5. **Officers' Certificate** from Union Pacific Venture Leasing, Incorporated dated December 27, 1990 including statement of incumbency and signatures and copies of Articles and Bylaws and authorizing resolution.

6. **Officer's Certificate** dated December 26,1990, from Union Pacific Railroad Company including statement of incumbency and signatures and copy of authorizing resolution.

7. Certified Restated Articles of Association and Bylaws of Union Pacific Railroad Company.

F. SUPPORT AND MISCELLANEOUS.

1. **Management Agreement** dated as of December 28, 1990, by and between Helm Financial Corporation, a California corporation ("Manager") and American National Bank and Trust Company of Chicago, as Trustee under a Trust

Agreement dated December 28, 1990, and known as Trust No. 34110007 (the "Trustee"), a national banking association.

2. **ICC Transmittal Letters** dated December 31, 1990:

   a. Lease & Assignment and Security Agreement;

   b. Arch Mineral Sublease, Assignment of Lease & Assignment and Security Agreement;

   c. D&RGW Sublease, Assignment of Lease & Assignment and Security Agreement;

   d. UPRR Sublease, Assignment of Lease & Assignment and Security Agreement.

3. **Letter of Direction** from Beneficiary to Lessee.

G. OPINIONS OF COUNSEL (DATED DECEMBER 31, 1990).

1. Opinion of Beverly S. Green counsel to Union Pacific Railroad Company ("Guarantor") regarding Guarantor's guaranty of certain obligations arising in connection with the leasing of 230 coal hopper cars by Helm-Pacific Leasing.

2. Opinion of Manwell & Milton counsel to Helm-Pacific Leasing, a Nebraska Joint Venture whose co-venturers are Helm-Pacific Corporation and Union Pacific Venture Leasing, Incorporated regarding matters covered in the Railcar Lease Agreement dated as of December 1990.

3. Opinion of Richard R. Forrest Associates, Inc. dated December 26, 1990 regarding the projected Useful Economic Life and the Fair Market at twenty (20) years of certain railroad cars to be manufactured in 1990 for the purpose of hauling coal.

4. Opinion of Beverly S. Green counsel to Union Pacific Venture Leasing, Incorporated dated December 28, 1990 regarding certain corporate matters of Union Pacific Venture Leasing, Incorporated.

5. Opinion of Seyfarth, Shaw, Fairweather & Geraldson counsel to The CIT Group/Equipment Financing, Inc. dated December 31, 1990 regarding certain tax matters.

6. Opinion of Alvord and Alvord counsel to Fleet Capital Corporation dated January 9, 2001 regarding the review and examination of certain Recordation Files with respect to two hundred and twenty nine (229) open top hopper railcars.

Any and all other documents recorded with the Interstate Commerce Commission or Surface Transportation Board with respect to the Equipment as described on Exhibit B hereto.

EXHIBIT B

Two Hundred Fifteen (215) 100 ton, 3,610 cubic foot capacity, open top hopper railcars manufactured in 1990 and bearing the following marks and numbers:

	Mark	Number		Mark	Number		Mark	Number		Mark	Number
1	HPJX	20000	55	HPJX	20087	109	HPJX	40552	163	HPJX	40611
2	HPJX	20001	56	HPJX	20089	110	HPJX	40553	164	HPJX	40612
3	HPJX	20002	57	HPJX	20092	111	HPJX	40554	165	HPJX	40613
4	HPJX	20003	58	HPJX	20093	112	HPJX	40555	166	HPJX	40614
5	HPJX	20004	59	HPJX	20097	113	HPJX	40556	167	HPJX	40615
6	HPJX	20005	60	HPJX	20101	114	HPJX	40557	168	HPJX	40616
7	HPJX	20006	61	HPJX	20102	115	HPJX	40558	169	HPJX	40617
8	HPJX	20007	62	HPJX	40500	116	HPJX	40560	170	HPJX	40618
9	HPJX	20008	63	HPJX	40501	117	HPJX	40561	171	HPJX	40619
10	HPJX	20009	64	HPJX	40502	118	HPJX	40562	172	HPJX	40620
11	HPJX	20010	65	HPJX	40503	119	HPJX	40563	173	HPJX	40621
12	HPJX	20011	66	HPJX	40504	120	HPJX	40564	174	HPJX	40622
13	HPJX	20012	67	HPJX	40505	121	HPJX	40565	175	HPJX	40624
14	HPJX	20013	68	HPJX	40506	122	HPJX	40566	176	TNM	20036
15	HPJX	20014	69	HPJX	40507	123	HPJX	40567	177	TNM	20038
16	HPJX	20015	70	HPJX	40508	124	HPJX	40568	178	TNM	20040
17	HPJX	20016	71	HPJX	40509	125	HPJX	40569	179	TNM	20043
18	HPJX	20018	72	HPJX	40510	126	HPJX	40570	180	TNM	20045
19	HPJX	20019	73	HPJX	40511	127	HPJX	40571	181	TNM	20046
20	HPJX	20020	74	HPJX	40512	128	HPJX	40572	182	TNM	20047
21	HPJX	20021	75	HPJX	40513	129	HPJX	40573	183	TNM	20048
22	HPJX	20022	76	HPJX	40514	130	HPJX	40574	184	TNM	20051
23	HPJX	20023	77	HPJX	40515	131	HPJX	40575	185	TNM	20053
24	HPJX	20024	78	HPJX	40516	132	HPJX	40576	186	TNM	20054
25	HPJX	20025	79	HPJX	40518	133	HPJX	40577	187	TNM	20055
26	HPJX	20026	80	HPJX	40519	134	HPJX	40578	188	TNM	20056
27	HPJX	20027	81	HPJX	40520	135	HPJX	40580	189	TNM	20058
28	HPJX	20028	82	HPJX	40521	136	HPJX	40581	190	TNM	20059
29	HPJX	20029	83	HPJX	40522	137	HPJX	40582	191	TNM	20060
30	HPJX	20030	84	HPJX	40524	138	HPJX	40583	192	TNM	20064
31	HPJX	20031	85	HPJX	40525	139	HPJX	40585	193	TNM	20065
32	HPJX	20032	86	HPJX	40529	140	HPJX	40586	194	TNM	20067
33	HPJX	20033	87	HPJX	40530	141	HPJX	40587	195	TNM	20068
34	HPJX	20034	88	HPJX	40531	142	HPJX	40588	196	TNM	20069
35	HPJX	20035	89	HPJX	40532	143	HPJX	40589	197	TNM	20074
36	HPJX	20037	90	HPJX	40533	144	HPJX	40590	198	TNM	20075
37	HPJX	20039	91	HPJX	40534	145	HPJX	40591	199	TNM	20076
38	HPJX	20041	92	HPJX	40535	146	HPJX	40592	200	TNM	20077
39	HPJX	20042	93	HPJX	40536	147	HPJX	40593	201	TNM	20078
40	HPJX	20044	94	HPJX	40537	148	HPJX	40594	202	TNM	20079
41	HPJX	20049	95	HPJX	40538	149	HPJX	40595	203	TNM	20080
42	HPJX	20050	96	HPJX	40539	150	HPJX	40597	204	TNM	20082
43	HPJX	20052	97	HPJX	40540	151	HPJX	40598	205	TNM	20084
44	HPJX	20057	98	HPJX	40541	152	HPJX	40599	206	TNM	20085
45	HPJX	20061	99	HPJX	40542	153	HPJX	40600	207	TNM	20088
46	HPJX	20062	100	HPJX	40543	154	HPJX	40601	208	TNM	20094
47	HPJX	20063	101	HPJX	40544	155	HPJX	40602	209	TNM	20095
48	HPJX	20066	102	HPJX	40545	156	HPJX	40603	210	TNM	20096
49	HPJX	20070	103	HPJX	40546	157	HPJX	40604	211	TNM	20098
50	HPJX	20072	104	HPJX	40547	158	HPJX	40605	212	TNM	20099
51	HPJX	20073	105	HPJX	40548	159	HPJX	40606	213	TNM	20100

CERTIFICATION

I, Edward M. Luria, an attorney licensed to practice in the District of Columbia, the State of Delaware and the Commonwealth of Pennsylvania, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: May 17, 2006

Edward M. Luria