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# HELM

## FINANCIAL CORPORATION

505 Sansome Street, Suite 1800 • San Francisco, CA 94111

415/398-4510

FAX 415/398 4816

www.helm.com

November 5, 2009

Anne K. Quinlan, Esq.  
Acting Secretary  
Surface Transportation Board  
395 F Street S.W.  
Washington, D.C. 20423-0001

RE: Assignment and Assumption Agreement dated as of January 2, 2008 between Connell Finance Company, Inc. as Assignor and Helm Financial Corporation as Assignee ("Assignment")

Dear Acting Secretary Quinlan:

On behalf of Helm Financial Corporation, I submit for filing and recording under 49 U.S.C. Section 11303(a) and the regulations promulgated thereunder the following document

One (1) fully executed original of the above-referenced Assignment

In connection with the recording of the Assignment, please note the following information:

Name and Address of Assignor: Connell Finance Company, Inc.  
200 Connell Drive  
Berkeley Heights, NJ 07922

Name and Address of Assignee: Helm Financial Corporation  
505 Sansome Street, Suite 1800  
San Francisco, CA 94111

Equipment: 36 SD40-2 Locomotives  
BNSF 6790-6797 (inclusive), BNSF 7000-7018 (inclusive) and  
BNSF 7020-7028 (inclusive)

Please record this Assignment as a supplemental agreement to STB Recordation No 9092 filed on November 17, 1977. The filing fee of \$41.00 is on account.

Summary: Assignment and Assumption Agreement dated and effective January 2, 2008 between Connell Finance Company, Inc. as Assignor and Helm Financial Corporation as the Assignee for 36 SD40-2 Locomotives, BNSF 6790-6797 (inclusive), BNSF 7000-7018 (inclusive) and BNSF 7020-7028 (inclusive); to be filed as a supplemental agreement. Please file this Assignment and Assumption Agreement as a supplemental agreement to STB Recordation No. 9092.

Yours truly,



Sharon L. Van Fossan  
Supervisor Contract Administration

/svf  
Attachment

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**ASSIGNMENT AND ASSUMPTION AGREEMENT**

SURFACE TRANSPORTATION BOARD

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment")** is dated January 2, 2008 ("**Closing Date**"), by and between **CONNELL FINANCE COMPANY, INC.**, a New Jersey corporation ("**Assignor**") and **HELM FINANCIAL CORPORATION**, a California corporation ("**Assignee**").

**RECITALS**

**WHEREAS**, pursuant to the terms and conditions of that certain Agreement of Purchase and Sale dated as of December 21, 2007, between Assignor and Assignee ("**Agreement**"), the Assignor desires to assign and delegate to Assignee all of its rights and obligations under that certain Amended and Restated Lease of Railroad Equipment dated as of December 28, 2000 between Assignor, as lessor and BNSF Railway Company (f/k/a The Burlington Northern and Santa Fe Railway Company), as lessee ("**BNSF**"), as amended by that certain First Amendment and Extension to Amended and Restated Lease of Railroad Equipment between the same parties, with an effective date of January 2, 2006 (the "**BNSF Lease**") and pertaining to the locomotives ("**Units**") all as more particularly described on Schedule A hereto.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. **Assignment.** Assignor hereby forever and irrevocably assigns, transfers, delegates and sets over to Assignee all of its right, title and interest in and to the BNSF Lease, subject to no liens, security interests or other encumbrances ("**Liens**") arising by, through or under Assignor, other than Liens permitted under the BNSF Lease; provided, however, that Assignor retains and does not assign to Assignee, the following rights: (a) the right to payment of (i) all rents and all other amounts (including, without limitation, Casualty Value (as defined in the BNSF Lease) payments) due and payable under the BNSF Lease for all rental periods through and including January 2, 2008, and (ii) the right to the payment of indemnities and liability insurance proceeds which are now or hereafter payable to the Assignor for its own account under the BNSF Lease, in respect of any claims with respect to the BNSF Lease or the Units relating to periods ending on or prior to January 1, 2008, and (b) the right to enforce payment of the amounts referred to in the foregoing clause (a) of this paragraph without cost or expense to the Assignee. Assignor acknowledges and agrees that Assignee shall receive all rentals and other monies due and payable under the BNSF Lease for all rental periods on or after January 3, 2008.

2. **Assumption.** Assignee hereby accepts the foregoing assignment and assumes and agrees to fully and timely perform all of the obligations and liabilities of the Lessor under the BNSF Lease, to the extent such obligations and liabilities first accrue and arise on or after the Closing Date and pertain to time periods on or after the Closing Date.

3. **Further Assurances.** At the request of a party and without further consideration, the other party shall execute and deliver such additional instruments of transfer and will take such other action as such requesting party may reasonably request in order to more effectively carry out the transactions contemplated in this Assignment.

4. **Counterparts.** This Assignment may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

5. **Binding Effect.** This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

6. **Governing Law.** This Assignment shall be governed by, and construed in accordance with, the laws of the State of New York without reference to its conflict of laws provisions.

IN WITNESS WHEREOF, the parties pursuant to due authority have executed this Assignment through their authorized representatives as of the date first above written.

**ASSIGNOR**

**CONNELL FINANCE COMPANY, INC.**

By: 

Name: SHANE CONNELL  
EXECUTIVE VICE PRESIDENT

Title: \_\_\_\_\_

**ASSIGNEE**

**HELM FINANCIAL CORPORATION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties pursuant to due authority have executed this Assignment through their authorized representatives as of the date first above written.

**ASSIGNOR**

**CONNELL FINANCE COMPANY, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ASSIGNEE**

**HELM FINANCIAL CORPORATION**

By: *John F Dains*

Name: JOHN F DAINS

Title: CHAIRMAN & CEO

**SCHEDULE A**

**TO ASSIGNMENT AND ASSUMPTION AGREEMENT**

**Description of the Units: Thirty-six (36) SD40-2 Locomotives**

<b><u>Unit Reporting Mark &amp; Number</u></b>			<b><u>Unit Reporting Mark &amp; Number</u></b>		
1	BNSF	6790	31	BNSF	7023
2	BNSF	6791	32	BNSF	7024
3	BNSF	6792	33	BNSF	7025
4	BNSF	6793	34	BNSF	7026
5	BNSF	6794	35	BNSF	7027
6	BNSF	6795	36	BNSF	7028
7	BNSF	6796			
8	BNSF	6797			
9	BNSF	7000			
10	BNSF	7001			
11	BNSF	7002			
12	BNSF	7003			
13	BNSF	7004			
14	BNSF	7005			
15	BNSF	7006			
16	BNSF	7007			
17	BNSF	7008			
18	BNSF	7009			
19	BNSF	7010			
20	BNSF	7011			
21	BNSF	7012			
22	BNSF	7013			
23	BNSF	7014			
24	BNSF	7015			
25	BNSF	7016			
26	BNSF	7017			
27	BNSF	7018			
28	BNSF	7020			
29	BNSF	7021			
30	BNSF	7022			

STATE OF NEW JERSEY )  
 ) S.S.  
COUNTY OF UNION )

On January 2, 2008, before me, Christopher O. Jecede, personally appeared Shane Connell, the Exec. Vice President of CONNELL FINANCE COMPANY, INC., who

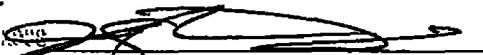
is personally known to me -OR-

proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

CHRISTOPHER O. JEGEDE  
NOTARY PUBLIC OF NEW JERSEY  
REGISTERED IN UNION COUNTY  
MY COMMISSION EXPIRES JUNE 19, 2009

Witness my hand and official seal.

  
SIGNATURE OF THE NOTARY

[Notarial Seal]

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

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of HELM FINANCIAL CORPORATION, who

is personally known to me -OR-

proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

\_\_\_\_\_  
SIGNATURE OF THE NOTARY

[Notarial Seal]

STATE OF NEW JERSEY )  
 ) S.S.  
COUNTY OF UNION )

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared  
\_\_\_\_\_, the \_\_\_\_\_ of CONNELL FINANCE COMPANY,  
INC., who

\_\_\_ is personally known to me -OR-

\_\_\_ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

\_\_\_\_\_  
SIGNATURE OF THE NOTARY

[Notarial Seal]

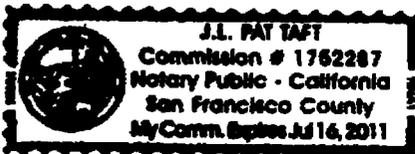
STATE OF CALIFORNIA )  
 ) S.S.  
COUNTY OF SAN FRANCISCO )

On December 31, 2007, before me, J.L. Pat Taft, personally appeared  
John F. Duane, the Chairman & CEO of HELM FINANCIAL CORPORATION,  
who

X is personally known to me -OR-

\_\_\_ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Witness my hand and official seal.

J.L. Pat Taft  
SIGNATURE OF THE NOTARY

[Notarial Seal]