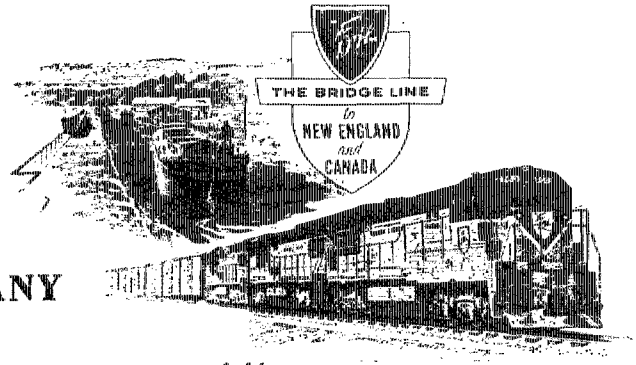

DELAWARE AND HUDSON RAILWAY COMPANY

ALBANY, NEW YORK 12207

Dependable Transportation Since 1823

RECORDATION NO. 8241-E Filed 1425

FEB 8 1980 - 1 35 PM

INTERSTATE COMMERCE COMMISSION

WILLIAM W. COLLINS
Vice President - Administration
and Strategic Planning

February 5, 1980

0-039A072

No.

Date FEB 8 1980

Fee $ 10.00

ICC Washington, D. C.

Mr. Robert L. Oswald
Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Dear Sir:

There are submitted herewith for recording pursuant to Section 20c of the Interstate Commerce Act and to the Commission's General Rules and Regulations, Part 1116 - Recordation of Documents, an original and two executed counterparts of Third Supplemental Indenture dated January 7, 1980, between the Mortgagor Delaware and Hudson Railway Company, 40 Beaver Street, Albany, New York 12207, and United States Railway Association, 2100 Second Street, SW, Washington, DC 20595, and the United States of America acting through the Administrator of the Federal Railroad Administration, 400 7th Street, SW, Washington, DC 20590, as Mortgagees under Mortgage dated March 15, 1976, of Delaware and Hudson Railway Company. The Third Supplemental Indenture has been acknowledged in a form authorized by the District of Columbia, the place where the document was executed.

The Mortgage dated March 15, 1976, was filed with the Commission at 9:15 A.M., March 19, 1976, Recordation Number 8241. The Supplemental Indenture dated January 11, 1978, was filed with the Commission at 3:45 P.M., January 30, 1978, Recordation Number 8241-A. The Second Supplemental Indenture dated February 9, 1978 was filed with the Commission at 1:45 P.M., March 15, 1978, Recordation Number 8241-B.

Telephone 518-471-5461

Included in the property covered by the aforesaid Mortgage and Supplements is the equipment described in the letter of transmittal dated March 18, 1976.

A check of Delaware and Hudson Railway Company payable to the order of the Commission in the amount of $10.00 is also enclosed to cover the required recordation fee.

The original document should be returned to the undersigned at 40 Beaver Street, Albany, New York 12207.

Very truly yours,

Encs.

Interstate Commerce Commission
Washington, D.C. 20423

2/20/80

OFFICE OF THE SECRETARY

William W. Collins
Delaware And Hudson RYW. Co.
40 Beaver Street
Albany, New York, 12207

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 2/8/80 at 1:55pm, and assigned recordation number(s). 8241-E

Sincerely yours,

Agatha L. Mergenovich

Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 8241-E Filed 1425
FEB 8 1980 - 1 35 PM
INTERSTATE COMMERCE COMMISSION

THIRD SUPPLEMENTAL INDENTURE

DATED JANUARY 7, 1980

DELAWARE AND HUDSON RAILWAY COMPANY

TO

UNITED STATES RAILWAY ASSOCIATION

AND

UNITED STATES OF AMERICA

SUPPLEMENTING THE MORTGAGE

OF THE DELAWARE AND HUDSON RAILWAY COMPANY

DATED MARCH 15, 1976

TO SECURE ADDITIONAL INDEBTEDNESS

THIS THIRD SUPPLEMENTAL INDENTURE dated January 7, 1980, between the mortgagor, DELAWARE AND HUDSON RAILWAY COMPANY, a Delaware corporation having its principal office at 40 Beaver Street, Albany, New York 12207, organized and existing under the laws of the State of Delaware (the "Corporation"), and the mortgagees, UNITED STATES RAILWAY ASSOCIATION ("USRA"), established pursuant to Section 201 of the Regional Rail Reorganization Act of 1973 as a nonprofit government corporation organized under the District of Columbia Non-Profit Corporation Act and having its principal office at 955 L'Enfant Plaza North, S.W., Washington, D.C. 20595, and the UNITED STATES OF AMERICA ("United States"), acting through the Administrator of the FEDERAL RAILROAD ADMINISTRATION, by a delegation of authority from the Secretary of Transportation published at 49 C.F.R. 1.49(u) ("Administrator").

WITNESSETH:

WHEREAS, the Corporation has heretofore made, executed and delivered to USRA, its Mortgage dated March 15, 1976, ("Mortgage") of properties of the Corporation therein described or mentioned to secure the due and punctual payment by the Corporation of the principal of and interest on the Corporation's notes ("Notes") issued pursuant to a loan agreement dated March 15, 1976 ("Loan Agreement") under which USRA agreed to loan the Corporation up to an aggregate amount of $28,000,000 upon the terms and conditions set forth in the Loan Agreement;

WHEREAS, the Corporation delivered to USRA a Supplemental Indenture dated January 11, 1978 to secure the due and punctual payment by the Corporation of the principal of and interest on a Note issued pursuant to a supplement to the Loan Agreement dated December 29, 1977 under which USRA agreed to increase the maximum aggregate amount of the loan to the Corporation from $28,000,000 to $30,000,000; and

WHEREAS, the Corporation delivered to USRA a Second Supplemental Indenture dated February 9, 1978 ("Second Supplemental Indenture") under which the Corporation made, executed and delivered to the United States its mortgage of the properties described in the Mortgage to secure the due and punctual payment by the Corporation of the principal and interest on a note ("FFB Note") issued by the Corporation to the Federal Financing Bank ("FFB") in the principal amount of $7,962,067, and the obligations of the Corporation under a Financing Agreement between the Corporation and the United States dated February 9, 1978; and

WHEREAS, the Corporation and USRA have entered into a supplement to the Loan Agreement dated January 7, 1980 ("Twelfth Supplemental Agreement") pursuant to which USRA has agreed to increase the maximum aggregate amount of the loan to the Corporation from $30,000,000 to $32,000,000 upon the condition, among others, that the Mortgage secure the due and punctual payment by the Corporation of the principal of and interest on the Note issued to evidence the additional amount loaned and the performance by the Corporation of all its other obligations under the Loan Agreement as supplemented;

WHEREAS, the Board of Directors of the Corporation has duly authorized and directed the execution and delivery of this Third Supplemental Indenture; and

WHEREAS, all conditions and requirements necessary to make this Third Supplemental Indenture a valid, binding and legal instrument in accordance with its terms have been done, performed and fulfilled, and the execution and delivery hereof has in all respects been duly authorized.

NOW, THEREFORE, in consideration of the premises and of the sum of $10 lawful money of the United States of America paid by USRA and the United States to the Corporation at or before the delivery of this Third

Supplemental Indenture, and of other good and valuable considerations, the receipt of which is hereby acknowledged, the Corporation covenants and agrees with USRA and the United States as follows:

ARTICLE ONE

The definition of the Loan Agreement in Section 1.01 of the Mortgage is hereby amended to read as follows:

> "Loan Agreement" shall mean the loan agreement, dated March 15, 1976, between USRA and the Corporation, as the same may be amended or supplemented, including specifically the Fifth Supplemental Agreement dated December 29, 1977 pursuant to which USRA agreed to increase the principal amount it would loan to the Corporation from $28,000,000 to $30,000,000; the Twelfth Supplemental Agreement dated January 7, 1980 pursuant to which USRA agreed to increase the principal amount it would loan to the Corporation from $30,000,000 to $32,000,000; and any Supplemental Agreement which may hereafter be executed pursuant to which USRA agrees to increase the principal amount it will loan to the Corporation from $32,000,000 to $34,000,000.

ARTICLE TWO

Section 5.09 of the Mortgage as amended by Article FOUR of the Second Supplemental Indenture, is hereby further amended to read as follows:

> "Section 5.09. The purchase money, proceeds and avails of any such sale shall be applied as follows:
>
> "First. To the payment of the costs and expenses of such sale, including reasonable compensation to the agents and attorneys of USRA and the United States, and of all expenses, liabilities and advances made or incurred by USRA and the United States under this Mortgage and to the payment of all taxes, assets and Prior Liens, except taxes, assessments and Prior Liens, if any, subject to which the property shall have been sold;
>
> "Second. In case the principal of the Class A Notes and the FFB Note then outstanding shall not have become due and payable by declaration or automatically, to the payment of interest on the Class A Notes and the FFB Note at the rates specified therein and to the

payment of the principal of the Class A Notes and the FFB Note in accordance with their terms;

"Third. In case the principal of the Class A Notes and the FFB Note then outstanding shall have become due and payable by declaration or automatically, to the payment of the whole amount then owing and unpaid upon all Class A Notes and the FFB Note then outstanding for principal and interest, and, in case such money shall be insufficient to pay in full the whole amount so due and payable, to the payment of such principal and interest ratably without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Note over any other Note;

"Fourth. To the payment in full of any other obligations of the Corporation under this Mortgage and Loan Agreement, all other Loan Documents, and the Financing Agreement;

"Fifth. To the payment of the surplus, if any, to the Corporation, its successors or assigns, or to whosoever may be lawfully entitled to receive the same."

ARTICLE THREE

SECTION 1. Neither USRA nor the United States shall be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Third Supplemental Indenture or the due execution hereof by the Corporation or for or in respect of the recitals contained herein, all of which receitals are made by the Corporation solely. No implied covenant or obligation shall be read into this Third Supplemental Indenture or the Mortgage against USRA, but the duties and obligations of USRA shall be determined solely by the provisions of the Mortgage and of this Third Supplemental Indenture. In general, each and every term and condition contained in the Mortgage shall apply to and form a part of this Third Supplemental Indenture with the same force and effect as if the same were herein set forth in full.

SECTION 2. This is a supplemental indenture to the Mortgage and each and every part of this Third Supplemental Indenture and each and every covenant contained herein shall be and become a part of the Mortgage and each of the covenants and obligations of the Corporation herein contained shall be, except as herein otherwise provided, subject to the provisions of the Mortgage.

SECTION 3. This Third Supplemental Indenture may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall together constitute one and the same instrument.

ARTICLE FOUR

Pursuant to Section 259 of the Tax Law of the State of New York, the Corporation hereby certifies that the principal amount which at the time of the execution and delivery of this Third Supplemental Indenture has been advanced or is secured hereby is the sum of $41,962,067.

IN WITNESS WHEREOF, the said DELAWARE AND HUDSON RAILWAY COMPANY has caused this Third Supplemental Indenture to be signed in its Corporate name by D. D. MUIR, its Vice President, attested by RICHARD E. LONG, its Secretary, and GEORGE H. KLEINBERGER, its Assistant Secretary, and its corporate seal to be hereunder affixed, on the date first hereinabove set forth, and does hereby constitute and appoint D. D. MUIR, its true and lawful attorney-in-fact, for it and in its name to acknowledge and deliver these presents as its act and deed; and the said UNITED STATES RAILWAY ASSOCIATION has caused these presents to be signed in its corporate name by DONALD C. COLE, its President, attested by PETER J.

J. GALLAGHER, its Secretary, and EDWIN RECTOR, its Assistant Secretary, and its corporate seal to be hereunder affixed, on the date first hereinabove set forth, and does hereby constitute and appoint DONALD C. COLE its true and lawful attorney-in-fact, for it and in its name to acknowledge and deliver these presents as its act and deed; and the United States has caused these presents to be signed by John M. Sullivan, Federal Railroad Administrator, and witnessed by Robert Vermut and Robert F. Heath, and does hereby constitute John M. Sullivan, its true and lawful attorney-in-fact, for it and in its name to acknowledge and deliver these presents as its act and deed.

(CORPORATE SEAL)

ATTEST:

DELAWARE AND HUDSON RAILWAY COMPANY

By _____
Vice President

(CORPORATE SEAL)

ATTEST:

UNITED STATES RAILWAY ASSOCIATION

By _____
President

THE UNITED STATES OF AMERICA

By _____

MORTGAGEES' CERTIFICATE

The undersigned, the mortgagees described in the foregoing instrument, hereby certify that the precise residence of the mortgagees entitled to interest thereunder is:

(1) UNITED STATES RAILWAY ASSOCIATION, 955 L'Enfant Plaza North, S.W., Washington, D.C. 20595.

UNITED STATES RAILWAY ASSOCIATION

By: _____

(2) The UNITED STATES OF AMERICA acting through the Administrator, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D. C. 20590.

UNITED STATES OF AMERICA
By The
SECRETARY OF TRANSPORTATION
Acting Through
The Administrator of the
Federal Railroad Administration

John R. Sullivan

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA:SS

On the seventh day of January, in the year 1980, before me personally came DONALD C. COLE, to me known, who, being by me duly sworn, did depose and say that he resides at 6009 First Street N., Arlington, Virginia; that he is President of UNITED STATES RAILWAY ASSOCIATION, the corporation described in and which executed the above instrument; that he knows the seal of such corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Jane E. Koch
Notary Public

(SEAL)

My Commission Expires:

My commission expires September 14, 1984

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA:SS

On the seventh day of January, in the year 1980, before me, Joyce E. Koch, the undersigned officer, personally appeared DONALD C. COLE, who acknowledged himself to be the President of UNITED STATES RAILWAY ASSOCIATION, a corporation, and that he, as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Joyce E. Koch
Notary Public

(SEAL)

My Commission Expires:

My commission expires September 14, 1984

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA:SS

I, Joyce E. Koch, a notary public in and for the District of Columbia, do hereby certify that DONALD C. COLE, being personally well-known to me as the person who executed the foregoing instrument, bearing date on the seventh of January, 1980, personally appeared before me in said District and, being by me duly sworn, acknowledged that he is the President of UNITED STATES RAILWAY ASSOCIATION, that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and that the execution of the foregoing instrument was the free act and deed of such corporation and of himself.

Given under my hand and seal this seventh day of January, 1980.

Joyce E. Koch
Notary Public

(SEAL)

My Commission Expires:

My commission expires September 14, 1984

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA:SS

On the seventh day of January, in the year 1980, before me personally came JOHN M. SULLIVAN, to me known, who, being by me duly sworn, did depose and say that he resides at 1703 Maple Hill Drive, Alexandria, Virginia; that he is Administrator of the FEDERAL RAILROAD ADMINISTRATION, an agency of the United States of America; and that acting by delegation of authority from the Secretary of Transportation (49 CFR 1.49(u)), he has signed his name to the above instrument.

Gay Boyle

Notary Public

(SEAL)

My Commission Expires:

My Commission Expires May 1, 1982

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF NEW YORK :
: SS
COUNTY OF ALBANY :

On the seventh day of January, in the year 1980, before me, George H. Kleinberger, the undersigned officer, personally appeared D. D. MUIR, who acknowledged himself to be the Vice President - Finance of DELAWARE AND HUDSON RAILWAY COMPANY, a corporation, and that he, as such Vice President being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Vice President - Finance.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
State of New York

(SEAL)

My Commission Expires:

March 30, 1981

GEORGE H. KLEINBERGER
Notary Public - State of New York
Qualified in Schenectady County
Reg. No. 2144300
Commission Expires March 30, 19..

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF NEW YORK :
: SS
COUNTY OF ALBANY :

On the seventh day of January, in the year 1980, before me, personally came D. D. MUIR, to me known, who, being by me duly sworn, did depose and say that he resides at 18 Wilderness Lane, Wildwood Acres, Valatie, New York 12184; that he is the Vice President - Finance of DELAWARE AND HUDSON RAILWAY COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Notary Public
State of New York

(SEAL)

My Commission Expires:

March 30, 1981

GEORGE H. KLEINBERGER
Notary Public - State of New York
Qualified in Schenectady County
Reg. No. 2144350
Commission Expires March 30, 19..

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF NEW YORK :
: SS
COUNTY OF ALBANY :

I, GEORGE H. KLEINBERGER, a notary public in and for the State of New York, do hereby certify that D. D. MUIR, being personally well-known to me as the person who executed the foregoing instrument, bearing date on the seventh day of January, 1980, personally appeared before me in said State of New York and, being by me duly sworn, acknowledged that he is Vice President - Finance of DELAWARE AND HUDSON RAILWAY COMPANY, that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and that the execution of the foregoing instrument was the free act and deed of such corporation and of himself.

Given under my hand and seal this seventh day of January, 1980.

Notary Public
State of New York

(SEAL)

My Commission Expires:

March 30, 1981

GEORGE H. KLEINBERGER
Notary Public - State of New York
Qualified in Schenectady County
Reg. No. 2144350
Commission Expires March 30, 19.. 81