

12807-A
REGISTRATION NO. 1425

JAN 26 1981 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

SECURITY AGREEMENT

LIVINGSTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a Governmental agency and instrumentality, constituting a public benefit corporation, of the State of New York (herein called the "Debtor") having its place of business at 106 Main Street, Mt. Morris, New York, in consideration of the purchase by the Secured Party (as hereinafter defined) of \$1,000,000 principal amount of the Debtor's 9.75% 1981 Industrial Development Revenue Bonds (Genesee and Wyoming Railroad Company Facility) due January 1, 1996 (herein called the "Bonds") pursuant to the Bond Purchase Agreement dated as of January 1, 1981 among Genesee and Wyoming Railroad Company (herein called the "Company"), the Debtor and the Secured Party (herein, as the same may be amended, modified or supplemented, called the "Bond Purchase Agreement") and for other valuable consideration, receipt whereof is hereby acknowledged, hereby grants to CHEMICAL BANK, a New York banking corporation, its successors and assigns (herein called the "Secured Party") a security interest in each of the two (2) General Motors EMD MP15DC diesel locomotives described in Schedule I hereto, including all accessories, equipment parts and appurtenances appertaining or attached to either or both of them and all substitutions, renewals or replacements of and additions, improvements, accessions and accumulations to either or both of them except such thereof as shall be the property of the Company as provided in Section 6.2 of the Lease Agreement dated as of January 1, 1981 between the Debtor and the Company (herein called the "Lease"), together with all of the proceeds and products of any of the foregoing (herein called the "Collateral"), located on the main line railroad track of the Company between Greigsville, Retsof and Caledonia in Livingston County, New York, and in Monroe County, New York, to secure the payment and performance of all liabilities and obligations of the Debtor to the Secured Party hereunder and also any and all other liabilities and other obligations of the Debtor to the Secured Party of every kind and description, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, contained in the Bond Purchase Agreement and in the Bonds issued to the Secured Party under the Bond Purchase Agreement, subject to the limitations set forth in Section 9.3 of the Bond Purchase Agreement (all such liabilities and obligations herein called the "Obligations").

The Debtor hereby agrees with the Secured Party as follows:

1. Representations, Warranties and Covenants. The Debtor represents, warrants and covenants as follows:

(a) Except for the security interest granted hereby, the Debtor is, and as to Collateral to be acquired after the date hereof shall be, the lawful owner of the Collateral free from any lien, security interest or encumbrance, except for Permitted Encumbrances, as defined in the Bond Purchase Agreement, and has, and shall have, good right to pledge, sell, assign and transfer the same and grant a security interest therein.

(b) The Collateral shall be used for business purposes, shall be operated in Livingston and Monroe Counties, New York, but shall be operated substantially on the main line railroad track of the Company between Greigsville, Retsof and Caledonia in Livingston County, New York.

(c) The Debtor shall (i) defend the Collateral against claims and demands of all persons; (ii) not remove any of the Collateral from the State of New York at any time; (iii) not remove any of the Collateral from the location referred to in the preceding subparagraph without 15 days' prior written notice to the Secured Party setting forth the location to which such Collateral is to be removed; (iv) not make or consent to any change in the Lease without the prior written consent of the Secured Party; and (v) not sell, assign, pledge, mortgage, create or suffer to exist a security interest (other than Permitted Encumbrances) in the Collateral in favor of any person other than the Secured Party without the prior written consent of the Secured Party.

(d) The Debtor shall cause the Collateral to be insured as provided in Article VI of the Lease. The Debtor hereby assigns to the Secured Party all sums not used pursuant to Section 7.1 of the Lease to repair, replace, rebuild or restore the Collateral which become payable to the Debtor under such insurance including returned dividends and premiums as additional security for the Obligations. Should the Debtor fail to provide insurance as herein provided, the Secured Party may, at its option, provide such insurance. Any sums so paid by the Secured Party or for which it shall become obligated as the cost of such insurance shall constitute Obligations of the Debtor hereunder, which the Debtor shall repay to the Secured Party on demand.

(e) The Debtor at all times shall (i) keep the Collateral free from any lien, security interest or encumbrance

(other than Permitted Encumbrances); (ii) keep the Collateral, or cause the Collateral to be kept, in good working order and repair, ordinary wear and obsolescence excepted, and shall not waste or destroy, or permit the waste or destruction of, same; and (iii) prevent the Collateral from being attached, from being used in violation of any statute or ordinance and from being misused or abused.

(f) The Debtor will pay promptly when due all taxes and assessments upon the Collateral or for its use or operation or upon this Agreement or arising in connection with the issuance of the Bonds and all taxes, assessments, utility charges and other governmental charges described in Section 6.3 of the Lease. The Secured Party may, at its option, pay taxes, discharge encumbrances, and pay for insurance, repairs and maintenance of the Collateral. Any sums so paid by the Secured Party or for which it shall become obligated shall constitute Obligations of the Debtor hereunder which the Debtor shall repay to the Secured Party on demand.

(g) The Debtor shall not assert against the Secured Party any claim or defense which the Debtor may have against any seller of the Collateral or any other person with respect to the Collateral.

(h) The Debtor shall indemnify and hold the Secured Party harmless from and against any loss, liability, damage, costs and expenses whatever arising from the use, operation, ownership or possession of the Collateral.

(i) The Debtor shall immediately notify the Secured Party of any event causing loss, theft, damage, destruction or depreciation of any of the Collateral and the amount thereof.

(j) The Debtor shall take such steps and execute and deliver such financing statements and other papers as the Secured Party may from time to time request. The Debtor shall file and/or record and pay the cost of filing and/or recording such financing statements and other papers whenever and wherever filing and/or recording is deemed to be necessary or desirable by the Secured Party. No financing statement covering any of the Collateral or any proceeds thereof is on file (other than as to Permitted Encumbrances) in any public office.

(k) The Debtor, at its expense, shall do, make, execute and deliver all such additional and further acts,

things, deeds, assurances and instruments as the Secured Party may reasonably require more completely to vest in and assure to the Secured Party its rights hereunder and to the Collateral.

2. Power To Sell Or Collect Collateral. Upon the occurrence of any Event of Default (as defined in the Bond Purchase Agreement) and at any time thereafter (such Event of Default not having previously been cured), the Secured Party shall have, in addition to all other rights and remedies provided in this Agreement, the Bond Purchase Agreement and the Bonds or otherwise, the remedies of a secured party under the Uniform Commercial Code of the State of New York including, without limitation, the right to take possession of Collateral, and for that purpose the Secured Party may, so far as the Debtor can give authority therefor, enter upon any premises on which any of the Collateral may be situated and remove the same therefrom. The Secured Party may require the Debtor to assemble the Collateral and make it available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to all parties. Unless the Collateral threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Secured Party shall give to the Debtor at least eight (8) days' prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition is to be made. The Debtor shall pay to the Secured Party on demand any and all expenses, including reasonable legal expenses and reasonable attorneys' fees, incurred or paid by the Secured Party in protecting or enforcing the Obligations and the other rights of the Secured Party under this Agreement including its rights to take possession of Collateral.

3. General. The Secured Party shall not be deemed to have waived any of its rights hereunder or under any other agreement, instrument or paper signed by the Debtor unless such waiver be in writing and signed by the Secured Party. No delay or omission on the part of the Secured Party in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion. All of the Secured Party's rights and remedies, whether evidenced hereby or by any other agreement, instrument or paper, shall be cumulative and may be exercised singularly or concurrently. All notices to the Secured Party shall be in writing, shall be personally delivered or mailed by first-class mail, postage prepaid, shall be addressed as follows: Chemical Bank, Rochester

Commercial District, 800 First Federal Plaza, Rochester, New York 14614, Attention: Account Officer, Genesee and Wyoming Railroad Company, and shall be effective when so delivered or when so addressed and mailed. Any demand upon or notice to the Debtor that the Secured Party may elect to give shall be effective when deposited in the mails or delivered to a telegraph company addressed to the Debtor at the address referred to in the first paragraph of this Agreement. This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the laws of the State of New York. Any provision of this Agreement prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof. All rights of the Secured Party hereunder shall inure to the benefit of its successors and assigns. This Agreement is intended to take effect when signed by the Debtor and delivered to the Secured Party. Prior to its termination, this Agreement shall be a continuing agreement in every respect.

4. Authority To File Financing Statements. The Secured Party is hereby irrevocably authorized to file at any time a financing statement and continuation statements indicating its security interest in the Collateral, and the Debtor will execute such financing statements.

5. Termination. Upon the payment or performance of all of the Obligations, this Agreement and the security interest created hereby shall terminate, and the Secured Party will, at the expense of the Debtor, execute appropriate instruments confirming such termination and deliver such instruments to the Debtor and will, at the expense of the Debtor, execute in the same manner and deliver to the Debtor, for filing, recording, or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order to make clear upon the public records the termination of this Agreement and the security interest created hereby.

Executed and delivered to the Secured Party as of January 1, 1981.

LIVINGSTON COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

(SEAL)

By *Robert P. Morris*
Chairman

ATTEST

J. Matthews
Secretary

STATE OF NEW YORK)
 : ss.:
COUNTY OF LIVINGSTON)

On this 23rd day of January, 1981, before me personally appeared Austin D. Morris, to me personally known, who, being by me duly sworn, did depose and say that he is the Chairman of the LIVINGSTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY, the governmental agency and instrumentality of the State of New York described in and which executed the foregoing Security Agreement; that he knows the seal of such governmental agency and instrumentality; that the seal affixed to the foregoing Security Agreement is the corporate seal of such governmental agency and instrumentality and that it was so affixed by order of such governmental agency and instrumentality; that he signed his name thereto by like authority; and that the execution of the foregoing Security Agreement was the free act and deed of such governmental agency and instrumentality.

Kathleen R. Plam (Parent)
Notary Public

KATHLEEN R. PLAM
Notary Public, State of New York
Qualified by Commission Expires 12/31/82

Schedule I
to
Security Agreement

DESCRIPTION OF EQUIPMENT COLLATERAL

<u>Number of Items</u>	<u>Description</u>	<u>Identifying Marks and Numbers (both inclusive)</u>
1	General Motors EMD MP15DC diesel locomotive	EMD796350-1, GNWR45
1	General Motors EMD MP15DC diesel locomotive	EMD796350-2, GNWR46

ACCEPTANCE

The undersigned hereby acknowledges that it has read the provisions of the foregoing Security Agreement, approves its execution by the Debtor, and agrees that it shall fulfill all the obligations imposed on the Debtor or it by the terms of the Security Agreement and be bound by such provisions.

GENESEE AND WYOMING RAILROAD
COMPANY

By Gerald E. Johnson
Title: PRESIDENT

Dated as of January 1, 1981

(SEAL)

ATTEST:

A. F. Radesi
Assistant Secretary

STATE OF NEW YORK)
 : ss. :
COUNTY OF Monroe)

On this 24th day of January, 1981, before me personally appeared Gerald E. Johnson , to me personally known, who, being by me duly sworn, did depose and say that he is the President of GENESEE AND WYOMING RAILROAD COMPANY, the corporation described in and which executed the foregoing Acceptance; that he knows the seal of such corporation; that the seal affixed to the foregoing Acceptance is the corporate seal of such corporation and that it was so affixed by authority of its Board of Directors; that he signed his name thereto by like authority; and that the execution of the foregoing Acceptance was the free act and deed of such corporation.

Wallace F. Baker
Notary Public

WALLACE F. BAKER
NOTARY PUBLIC, State of N.Y., Monroe Co.
My commission expires March 30, 1982