

DEC 21 1980

Date: JAN 21 1980

Fee \$ 50.00

ICC Washington, D. C.

INTERSTATE  
COMMERCE COMMISSION  
RECEIVED

JAN 7 1980

La Jolla Office 11415

RECORDATION NO. \_\_\_\_\_ Filed 1425 8

JAN 21 1980 - 2 30 PM

ADMINISTRATIVE SERVICES  
MAIL UNIT

INTERSTATE COMMERCE COMMISSION

January 2, 1980

Secretary of the Interstate Commerce Commission  
Washington, D.C. 20423

Gentlemen:

I have enclosed a Security Agreement dated December 26, 1979 executed by Bart Corporation, 780 Kettner Boulevard, San Diego, California 92101 and a note of the same date signed by Bart Corporation. These documents have been used to collateralize a loan which we made at this Bank to Bart Corporation so that they might purchase four general purpose, unequipped boxcars. A fuller description is provided in Exhibit "A" and Exhibit "B" attached hereto. Please record these documents and notify us at the time of such recordation.

If we can provide additional information, please contact us.

Very respectfully yours,



Martin Dickinson  
Vice President

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

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OFFICE OF THE SECRETARY

**Martin Dickinson, VP.**  
**La Jolla Bank**  
**P.O.Box 1500**  
**1205 Prospect**  
**La Jolla Calif. 92038**

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 **1/21/80** at **2:30pm**, and assigned re-  
recording number (s). **11415**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SECURITY AGREEMENT

(Mortgage of Chattels)

11415

No. RECORDATION NO. 1425 Filed 1425 19 79 by

This AGREEMENT, made this 26th day of December, 1979

JAN 21 1980 - 2 30 PM

of 780 Kettner Blvd, County of San Diego, State of California, by occupation hereinafter designated as DEBTOR, to LA JOLIA BANK & TRUST COMPANY of INDIAN STATE COMMERCE COMMISSION County of 1205 Prospect Street, La Jolla, State of California, by occupation Bank, hereinafter designated as SECURED PARTY.

WITNESSETH: Debtor hereby grants to said Secured Party a security interest, pursuant to the California Uniform Commercial Code, in certain property described as follows:

SEE ATTACHED EXHIBIT "A" AND "B" MADE A PART HEREOF BY REFERENCE.

Now and to be permanently located in the City of San Diego, County of San Diego and City of San Diego, County of San Diego

State of California, together with any and all replacements therefor, accessories, equipment, parts, appliances and appurtenances now or hereafter to be placed thereon, all of which shall become a component part thereof and included under the terms of this agreement, as security for the payment by Debtor of a promissory note or contract hereinafter referred to as note in the original amount of ONE HUNDRED THIRTY EIGHT THOUSAND AND NO/100 dollars (\$138,000.00), dated the 26th day of December, 1979, with final payment due on the 15th day of DECEMBER, 1985

in accordance with its terms and executed by Debtor and payable to Secured Party, and for the payment of all sums that may be advanced and expenditures that may be made by the Secured Party to or on behalf of the Debtor, and all indebtedness and obligations that may be incurred by the Debtor or any of them, to the Secured Party, its successor or assigns, subsequent to the execution of this agreement; also all present and future demands of any kind or nature which Secured Party, its successor or assigns, may have against the Debtor or any of them, whether created directly or acquired by assignment, whether absolute or contingent, whether due or not, or whether otherwise secured or not, or whether existing at the time of the execution of this agreement or arising thereafter; provided that the maximum amount to be secured hereby and remaining unpaid at any one time shall not exceed the total sum of ONE HUNDRED THIRTY EIGHT THOUSAND AND NO/100 Dollars (\$138,000.00)

The Debtor hereby promises to pay said note and all other money obligations according to their tenor, and to perform all agreements as in said note and hereinafter in this agreement stated, according to their terms, all payments to be made in lawful money of the United States.

All extensions and renewals of said note, or any part thereof, advances hereunder and all cost of litigation, collection (including attorney's fees or other costs expended or incurred in connection with the discovering, locating or taking possession of said property) and all costs of returning said property to the situs above referred to (including costs of repairing, rehabilitating or storing said property) together with any interest agreed to be paid thereon, are all likewise secured hereby.

The terms and conditions of this Security Agreement are as follows:

(1) The Debtor does hereby warrant that he is the sole owner of the property described herein and that there are no liens or encumbrances or adverse claims of any kind whatever thereon or on any part thereof.

(2) Debtor agrees that he will neither use, nor permit said property to be used, for any unlawful purpose; that he will register, use, operate and control the same in accordance with all statutes, laws, ordinances and regulations relating to the registration, use, operation and control of said property.

(3) The Debtor will not, nor will he attempt to, assign, pledge, hypothecate, give a security interest in, or otherwise dispose of said property, or any part thereof, during the terms of said note and agreement, nor will he remove said property or permit the same to be removed, from the county where said property is permanently located, as set forth herein, for any period in excess of ten (10) days, without the written consent of the Secured Party first had and obtained.

(4) Debtor agrees to exhibit said property to Secured Party upon demand and to keep the said property in as good condition and repair as it now is, ordinary wear and tear excepted, and to promptly pay all taxes levied or assessed thereon and all liens which may attach thereto. When the service of any notice upon the Debtor is necessary or convenient, the same may be had by deposit in the United States mail, postage prepaid, directed to Debtor at his address set forth herein.

(5) Debtor agrees to take out, pay for and keep in full force and effect a policy or policies of insurance, in form satisfactory to Secured Party and issued by an insurance carrier approved by Secured Party (covering both Secured Party and Debtor) for the hazards of fire, theft and total or partial destruction, and such additional hazards as may be mutually agreed upon by Debtor and Secured Party, and the loss under every such policy shall be paid first to the Secured Party or its assigns up to the amount of the obligation secured, and the balance, if any, to the Debtor; said policy to be in the possession of the Secured Party until all obligations secured by this Security Agreement are satisfied. In the event that Debtor should for any reason fail to take out said insurance above referred to, or pay for the same, the Secured Party may, at the cost and expense of the Debtor, take out and pay for such insurance, and any sums advanced therefor shall be added to the balance of said note and secured by this Security Agreement as set forth in paragraph (6) following. Any sums received upon cancellation of any policy may be applied by Secured Party upon the then remaining balance of any obligation secured hereby.

(6) Should Secured Party make any advance or advances or spend any money for the protection or preservation of its security, or should there accrue or be due any collection costs or other obligations arising under this agreement, such advance or advances, together with such collection costs or other obligations arising under this Security Agreement and unpaid shall be added to the unpaid balance of said note and shall be secured by said agreement, and such advance or advances and collection costs shall all become immediately due and payable with interest at the same rate per annum as the note hereinabove mentioned, and the Secured Party shall have the right upon receipt of any instalment or payment due under the terms of said note and agreement to apply the same, first, in satisfaction of any collection costs or other moneys advanced by Secured Party hereunder; second, to the satisfaction of any unpaid interest, and third, the balance of said instalment or instalments, in payment of principal, and should there be a deficiency in the amount of any instalment or payment after the payment of said costs as in this agreement provided, such deficiency shall be payable forthwith, and the failure on the part of the Debtor to pay or satisfy same shall accelerate for immediate payment the entire unpaid balance of said obligation, including all advances made, collection costs and interest accrued, and Secured Party may exercise such right or rights as are reserved to Secured Party under the terms of this agreement.

(7) Should Debtor fail to make payment of any part of the principal or interest as provided in said note, or if any breach be made of any obligation or promise of the Debtor herein contained or secured, or if Debtor shall abandon said property, or regardless of any other default, if said property be attached or bankruptcy proceedings be instituted by or against Debtor then the whole principal sum unpaid upon said note with interest accrued thereon, and all other sums of money due or unpaid at the time of said default, and interest thereon, or advanced under the terms of this agreement, or secured hereby, and the interest thereon, shall immediately become due and payable at the option of the Secured Party, without notice to the Debtor, and it may at once proceed to foreclose this agreement according to law, or it may, at its option, and it is hereby empowered so to do, enter upon the premises where the said property may be and take possession thereof; and remove and sell and dispose of the same at public or private sale, without any previous demand of performance or notice to the Debtor of any such sale whatsoever, notice of sale and demand of performance and every other notice or demand whatsoever being hereby expressly waived by said Debtor and from the proceeds of sale retain all costs and charges incurred by it in the said taking or sale, including reasonable attorney's fees incurred; also all sums due on said note under any provisions thereof, or advanced under the terms of this agreement, and interest thereon, or due or owing to the said Secured Party under any provisions of this agreement, or secured hereby, with interest thereon, and any surplus of such proceeds remaining shall be paid to the Debtor or whomever may be lawfully entitled to receive the same; if there be a deficit, Debtor agrees to pay immediately the same to Secured Party.

Secured Party, its agent, or assignee may bid and purchase at any sale made under this agreement or herein authorized, or at any sale made upon foreclosure of this agreement.

(8) Debtor further agrees that if from any cause there shall be a substantial decrease in the value of said property, the said Secured Party shall have the option of amending of said Debtor further security in order to offset the said decrease in value, and upon the failure of said Debtor to give said additional security, Secured Party may proceed in the same manner as herein provided in case of any default.

(9) This agreement shall bind and inure to the benefit of the parties hereto and their executors, administrators, heirs and assigns, and the word "Debtor" as used herein includes masculine, feminine and neuter, singular and plural.

It is further specifically agreed that the taking of any action by the Secured Party shall not be deemed to be an election of that action, but rather, the rights and privileges and options granted to the Secured Party under the terms of this agreement shall be deemed cumulative, the one with the other, and not alternative.

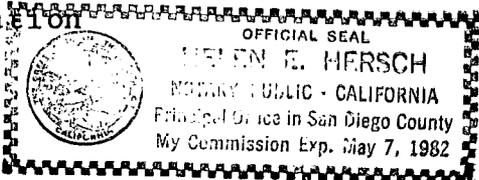
Debtor declares that he has read this Security Agreement and understands the effect and purport of the same.

Time is declared to be the essence of said note and this agreement with respect to the performance of the covenants and obligations set forth herein and it is further specifically agreed that no waiver by the Secured Party of any breach or default or by the Debtor, whether under the terms of the aforesaid note, or of this agreement, shall be deemed a waiver of any breach or default thereafter occurring.

This agreement may be executed in one or more counterparts and, when so executed, each counterpart shall be deemed to be an original.

December 26, 1979 Personally appeared R. E. Tyson, known to me to be the President of Bart Corporation

Bart Corporation By: [Signature] Debtor By: H. E. Hersch



780 Kettner Blvd, San Diego, Ca 92101 Address

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned does hereby sell, assign, endorse and transfer to La Jolla Bank and Trust Company his, its or their right, title and interest in and to the within Security Agreement and the Note therein described and the property covered thereby, and authorizes the said LA JOLLA BANK AND TRUST COMPANY to do every act and thing necessary to collect and discharge same. The undersigned warrants that the within Security Agreement is bona fide and was actually executed by the person or persons whose signatures appear therein, and that the undersigned has a perfected security interest in said property under the California Uniform Commercial Code.

Dated this 26th day of December, 1979

Assignor

By

ASSIGNMENT WITH RECOURSE

FOR VALUE RECEIVED, the undersigned does hereby sell, assign, endorse and transfer with recourse to La Jolla Bank and Trust Company his, its or their right, title and interest in and to the within Security Agreement and the Note therein described and the property covered thereby, and authorizes the said La Jolla Bank and Trust Company to do every act and thing necessary to collect and discharge the same.

The undersigned warrants and agrees to defend the title of said property hereby conveyed against all lawful claims and demands except the rights of the Debtor, and for the purpose of inducing you to purchase the said instruments, the undersigned makes the following representations and warranties: That the said instruments are bona fide and were actually executed by the person or persons whose signature or signatures appear therein; that said person or persons were of legal age and competent to execute the instruments at the time of execution thereof; that the property which is the subject of said Security Agreement is truly and accurately described; that the undersigned has a perfected security interest in said property under the California Uniform Commercial Code; that the said property is in possession of said Debtor; that the amount owing upon said note is correctly stated therein; that there are no counterclaims or setoffs on the part of said maker or makers against the same and should any of these representations or warranties be false or should any claim of breach of warranty be made by the maker or makers, then the undersigned hereby agrees to pay to you on demand the full unpaid balance of said note.

In further consideration of your purchase of the said Note and Security Agreement, the undersigned guarantees payment of the full amount remaining unpaid and covenants, if default be made in the payment of any installments, to pay the full amount then unpaid to you upon demand, and there shall be no duty on you to proceed in any way against maker, makers or Debtor as a condition precedent to payment to you of unpaid balance.

The liability of the undersigned shall not be affected by any settlement or execution of credit or variation of the terms of the said instruments effected with the purchaser or any other person interested, nor affected by any assignment hereof.

The undersigned waives lack of diligence, notice of this guaranty and notices of non-payment and non-performance.

Dated this..... day of....., 19.....

Assignor

By

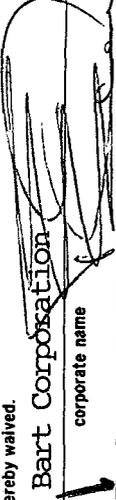
(CORPORATION) INSTALLMENT NOTE (INTEREST INCLUDED)

No. 2 La Jolla, California, December 26, 19 79  
For value received, BART CORPORATION, a Corporation, promises to pay to  
LA JOLLA BANK AND TRUST COMPANY, or order, at its LA JOLLA MAIN Office,  
the principal sum of ONE HUNDRED THIRTY EIGHT THOUSAND AND NO/100 (\$138,000.00) \* \* \* \* \* Dollars,  
with interest from date of advance on the amounts of principal remaining from time to time unpaid, until said principal sum is paid, at the rate of P-1 1/2 percent per annum,  
principal and interest payable on demand, or if no demand is made, in 60 installments of TWO THOUSAND ONE HUNDRED THIRTY FOUR AND 44/100  
on the 15th day of each and every month beginning January 15, 19 80, and continuing up to and including  
December 15, 19 85, on which last mentioned date the entire balance of principal and interest then remaining unpaid shall be due and payable.

Each of said payments shall be credited as follows: First on the interest then due, and the remainder on the principal sum; and interest shall thereupon cease upon the amount so credited on the said principal sum. Should default be made in the payment of any such interest, then the same shall thereafter bear like interest as the principal. Principal and interest payable in lawful money of the United States of America. \* \* \*NOTE TO BE ADJUSTED ON DAY OF BANK'S PRIME RATE CHANGE  
Should default be made in the payment of any of said installments when due, then the whole sum of principal and interest shall become immediately due and payable at the option of the holder of this note. Should any such default exceed ten days, said corporation promises to pay a delinquency charge of an amount equal to 5% of such installment so in default but not less than \$1.00. Said corporation further promises to pay without demand all costs and expenses of collection, including attorney's fees, which may be incurred in the collection of this note or any portion thereof, and in case suit is instituted hereon, the amount of such attorney's fees shall be fixed by the court. The makers, sureties, guarantors and endorsers of this note, hereby consent to renewals and extensions of time before or at or after the maturity hereof and hereby waive diligence, presentments, protests and demands, and notices of every kind.

The right to plead any statute of limitations as a defense to any and all obligations hereunder is hereby waived.

780 Kettner Blvd.  
San Diego, Ca. 92101

By  corporate name Bart Corporation  
its President

By \_\_\_\_\_ its \_\_\_\_\_ Secretary

*Copied*

EXHIBIT "B"

(a) the units of railroad equipment described below, together with (i) any and all accessories, equipment, parts and improvements now or at any time hereinafter attached or appertaining to such units, except such thereof as remain the property of the Lessee under the Lease, and (ii) any and all substitutions, accessions and accumulations to, any and all of such units (such units of railroad equipment, together with such accessories, equipment, parts, improvements, substitutions, replacements, additions, accessions and accumulations being hereinafter called collectively the Units and severally a Unit);

(b) the Lease of Equipment between Rex Railways Inc., as Agent for Lessor and Lamoille Valley Railroad dated July 24, 1979 and any other Lease pursuant to which any Unit shall at any time be leased, together with any and all schedules and exhibits thereto (all such Leases, together with such schedules and exhibits, being hereinafter called collectively the Lease; and all lessees thereunder, including without limitation the lessee set forth in Schedule B attached hereto, being hereinafter called collectively the Lessee), including without limitation the right to receive and collect all rental, casualty value payments, insurance proceeds, condemnation awards and other payments now or hereafter payable to the Debtor pursuant to the Lease.

Description of Collateral: 5,344 cubic foot capacity, 70-ton truck, 50'6" XM general purpose unequipped boxcars, Serial numbers LVRC 5070, 5071, 5072, and 5073.

EXHIBIT A

As security for and in consideration of all present and any future advances or other obligations, debtor hereby grants La Jolla Bank & Trust Company a security interest in all of the following types or items of property ("collateral" herein) in which the debtor now has or hereafter acquires any right, title, or interest or rights present and future, wheresoever located and whether in the possession of the debtor, a warehouseman, bailee, trustee, or other person and all increases therein and products and proceeds thereof. Proceeds include, but are not limited to inventory, returned merchandise, accounts, chattel paper, general intangibles, insurance proceeds, documents, money, goods, equipment, instruments, and any other tangible or intangible property arising under the sale, lease, or other disposition of collateral.

All 5,344 cubic foot capacity, 70-ton truck, 50'6" XM general purpose  
unequipped boxcars, Serial numbers LVRC 5070,5071,5072, and 5073.

equipment  
with attachments, parts, accessories and replacements, including but not limited to that equipment listed on an additional sheet attached hereto as Schedule 1 and incorporated herein for all purposes.

BART CORPORATION

BY: 

BY: \_\_\_\_\_

December 26, 1979