



CROCKER NATIONAL BANK

CORPORATE BANKING DIVISION
CORPORATE EXECUTIVE BANKING DEPARTMENT

ONE MONTGOMERY STREET, 12TH FLOOR, SAN FRANCISCO, CALIFORNIA 94104

FRANK M. DOCKTOR
VICE PRESIDENT
(415) 983-3614 477-3514

RECORDATION NO. **12432** Filed 1425

NOV 21 1980 -2 15 PM

November 17, 1980

INTERSTATE COMMERCE COMMISSION

No. **0-3281104**

Date **NOV 21 1980**

Fee \$ **50.00**

ICC Washington, D. C.

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

RE: Recordation of Security Agreement Covering
Railroad Cars

Gentlemen:

Enclosed for recordation are two counterparts of the original security agreement among the parties described in the paragraph immediately following and a fifty dollar (\$50.00) recording fee.

The principal debtor is DDRWJ Investment Co., a California general partnership, the general partners of which are Donald G. Fisher, Doris F. Fisher, Robert J. Fisher, William S. Fisher and John J. Fisher. The debtor's address is: 900 Cherry Avenue, San Bruno, California 94066. The secured party is Crocker National Bank, a national association, whose address is One Montgomery Street, San Francisco, California 94104.

The equipment, which is the subject of the security agreement, is fifty (50) railroad tank cars, serial numbers RUSX 2801 through and including 2850.

Please retain one counterpart for your file and return the other counterpart indicating the ICC filing and recordation data in the enclosed self addressed envelope to my attention at:

Crocker National Bank
One Montgomery (11)
San Francisco, CA 94104

INTERSTATE
COMMERCE COMMISSION
RECEIVED

NOV 21 1980

ADMINISTRATIVE SERVICES
MAIL UNIT

Thank you for your attention to this matter,

Very truly yours,

Frank M. Docktor
NOV 21 1980
MAIL UNIT

FMD:ib
Encs.

Interstate Commerce Commission
Washington, D.C. 20423

12/2/80

OFFICE OF THE SECRETARY

Frank M. Docktor, VP.
Crocker National Bank
One Montgomery (11)
San Francisco, CA. 94104

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 **11/21/80** at **2:55pm**, and assigned re-
recording number(s). **12432 & 12433**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

2. Lender's security interest shall secure ~~(a)~~ the payment of Borrower's indebtedness to Lender, together with interest thereon, as evidenced by ~~any~~ ^{the} of even date, a copy of which is ~~and all promissory notes now or hereafter made by~~ attached hereto ~~Borrower to Lender's order (collectively, the "Notes" and individually, a "Note"); (b) all future advances~~ made by Lender to or for the account of Borrower, including advances for rent, insurance, storage, repairs to and maintenance of the Collateral, taxes and discharge of any other lien, security interest or encumbrance; (c) all other debts, obligations and liabilities of Borrower to Lender, however created or evidenced, direct or contingent, and whether now or hereafter existing; ~~and~~ ^{and} (d) all costs and expenses incurred in the collection of any of the foregoing, including reasonable attorneys' fees and expenses. All of the foregoing items ~~(a) through (d)~~ shall hereinafter be referred to as "Obligations."

3. Now, and for so long as any Obligations shall remain outstanding, Borrower warrants, represents, and agrees that: (a) it will defend title to the Collateral and the security interest of Lender therein against the claims and demands of all persons; (b) it will, at its own cost and expense, keep the Collateral in a good working order and repair, and in the event of any loss, theft, or damage to the Collateral shall give Lender prompt written notice thereof; (c) it will not waste, destroy, misuse, abuse or illegally use the Collateral, or any part thereof, and will not be negligent in its care; (d) it will not remove, destroy, abuse, obliterate, amend, change, cover,

paint, deface, or alter the name plates, serial numbers, labels, or other distinguishing numbers or identification marks placed upon the Collateral, or any part thereof, by or on behalf of the manufacturer, any dealer in or rebuilder thereof, or Lender; (e) all of the Collateral is and will be owned by Borrower alone, free and clear of any and all attachments, levies, liens, claims, security interests and encumbrances of every kind and nature, and no financing statements or other notices covering any of the Collateral is or will be on file in any public office, excepting only the security interest granted Lender hereunder and any financing statement or notice filed by Lender with respect thereto; (f) it will not sell, assign, transfer, lease, or otherwise dispose of the Collateral, or any interest therein, ~~or suffer the Collateral, or any part thereof, to come into the possession of any other person;~~ (g) it will not secrete, abandon or remove, or suffer the removal of the Collateral, or any part thereof, from the location(s) stated in the Schedule describing each such Item of Collateral; (h) it will promptly notify Lender of any change in Borrower's address from that stated above; (i) it will not be released from this Agreement because of the loss, injury or destruction of the Collateral; (j) it will allow Lender and its representatives free access to and right of inspection of the Collateral at all times; (k) it will, at its own cost and expense, pay all taxes or other charges in connection with the Collateral and its use, ownership, or possession; (l) it will comply with the terms and conditions of any leases covering the premises wherein the Collateral

is located and any orders, ordinances, laws or statutes of any city, state or governmental department having jurisdiction with respect to such premises or the conduct of business thereon; (m) the Collateral is, and at all times shall remain, personal property notwithstanding that it, or any part thereof, may now be, or hereafter become, in any manner affixed to or embedded in real property or any improvement thereon; (n) it will, upon Lender's request, execute and deliver to Lender, at Borrower's sole cost and expense, any and all written instruments and documents, including without limitation financing statements, in form and substance satisfactory to Lender, and do any other acts necessary to effectuate the purposes and provisions of this Agreement. Borrower hereby irrevocably appoints Lender as its lawful attorney and agent to execute financing statements on its behalf, and authorizes and directs Lender to file on its behalf such financing statements in any appropriate public office; (o) it will not do or permit any act to be done for which the Collateral might be confiscated; (p) any or all papers, documents, instruments, contracts, agreements, memoranda, receipts, guaranties, certificates, statements, notices, assignments, notes and other writings presented to Lender by or on behalf of Borrower, at any time, in any way or to any extent connected with the events or transactions referred to or contemplated in this Agreement, are and will be genuine, duly executed, and constitute a valid and binding obligation of Borrower, enforceable in accordance with their terms; (q) neither the Collateral nor any part thereof is or will hereafter be used, to any extent, for personal,

" family or household purposes, but instead, all the Collateral is and will hereafter be used solely for commercial and business purposes; (r) it will, upon Lender's request, furnish Lender such information as requested concerning Borrower, the Collateral, and any other matter Lender deems to affect its rights and remedies hereunder, and permit and enable Lender and its designees to inspect, audit, and make copies and extracts from all records and papers concerning any and all of the foregoing. In addition, and without limiting the generality of the foregoing, Borrower shall furnish Lender not less often than thirty (30) days after the end of each of its fiscal years, a balance sheet and profit and loss statement of Borrower, all in reasonable detail certified by an authorized financial officer of Borrower in such officer's individual and representative capacity, and any other financial information provided to Borrower's stockholders or any public agency; (s) it will not, without the prior written consent of Lender, make any alterations, additions or improvements to the Collateral ("Modifications") which diminish its economic utility. Modifications to the Collateral of whatsoever kind and nature shall be deemed accessions thereto and shall be subject to this Agreement and to Lender's security interest hereunder.

4. Borrower hereby agrees to indemnify and save harmless Lender from all losses, costs, damages, liabilities, or expenses, including reasonable attorneys' fees, which Lender may sustain or incur by reason of defending or protecting the security interest herein granted or the priority thereof, or enforcing payment of the Obligations, or in prosecuting or defending any action or proceeding in any way connected to or arising out of this Agreement, the Obligations or the Collateral.

5. Borrower may, provided no Event of Default (as hereinafter defined) has occurred and is continuing, prepay at anytime, in whole or in part, the remaining balance due on any or all Notes prior to the expressed maturity date thereof, together with interest thereon to the date of prepayment, provided, however, that all partial prepayments shall be applied to the installments under the Notes in the inverse order of the maturity thereof.

6. Borrower, at its expense, shall keep and maintain all risk insurance against any and all loss or damage to the Collateral from any cause whatsoever ~~for not less than the full replacement value thereof~~ ^{for the Actual Cash Value, as that term is defined in the policy of insurance}, as well as public liability and property damage insurance covering Borrower's ownership and use of the Collateral. All such policies of insurance shall be in such form, with such companies and in such amounts as may be satisfactory to Lender. Borrower shall deliver to Lender certificates of insurance evidencing all such policies and evidence of the payment of all premiums therefor. All such policies of insurance shall contain a loss payable endorsement in a form satisfactory to Lender which directs the insurance company to pay any and all proceeds thereof directly to Lender. The proceeds of all such insurance, at the option of Lender, shall be applied toward (i) the replacement, restoration, or repair of the Collateral, or (ii) toward payment of the Obligations hereunder in respect of such appropriate Collateral. Borrower hereby irrevocably appoints Lender (and any of Lender's officers,

employees or agents designated by Lender) as Borrower's attorney-in-fact for the purpose of making, settling and adjusting claims under such policies of insurance and for making all determinations and decisions with respect to such policies of insurance. Each such insurer shall agree by endorsement upon the policy or policies of insurance issued by it to Borrower as required above, or by independent instruments furnished to Lender, that it will give Lender at least thirty (30) days written notice before any such policy or policies of insurance shall be altered or cancelled, and that no act or default of Borrower, or any other person, shall affect the right of Lender to recover under such policy or policies of insurance required above, or to pay any premium relating thereto, in whole or in part. Lender, without waiving or releasing any Obligations or defaults by Borrower hereunder, shall have the right, but not the obligation, to at any time or times hereafter obtain and maintain such policies of insurance and pay such premiums and take any other action with respect to such policies which Lender deems advisable.

7. Lender may, at its option, pay, purchase, contest, compromise or discharge any attachments, levies, taxes, claims, debts, liens, charges, security interests or encumbrances which in its judgment may affect or appear to affect the Collateral or Lender's rights hereunder; in addition, Lender may pay for the maintenance and preservation of the Collateral. Lender may, from time to time, and without notice to Borrower: release, renew, extend

or alter the time or terms of payment of any Obligations secured hereunder; release, surrender or substitute any property or other security, or accept any type of further security therefor, without in any way affecting said Obligations. Borrower hereby waives (1) diligence, presentment, protest, demand and notice of every kind; (2) the right, if any, to require Lender to proceed against any person liable for the payment of any of the Obligations as a condition to or prior to proceeding hereunder; (3) the right, if any, to require Lender to foreclose upon, sell or otherwise realize upon or collect or apply any other property, real or personal, securing any of the Obligations, as a condition to, or prior to proceeding hereunder.

8. Time is of the essence of this Agreement. Borrower shall be in default hereunder if any of the following shall occur (individually, an "Event of Default"): (a) Borrower shall fail to pay when due or to perform any Obligations; or (b) any warranty, representation, promise or statement made or furnished to Lender by or on behalf of Borrower was false in any respect when made or furnished; or (c) any event shall occur which results in the acceleration of the maturity of any debt of Borrower to others; or (d) any of the Collateral shall be lost, stolen, damaged, or encumbered; or (e) there shall be any execution or other writ of process by or against Borrower whereby any of the Collateral may be seized, taken or destroyed; or (f) Borrower shall cease operations, be dissolved, merged, or consolidated, terminate its existence or become insolvent or unable to meet its debts as they mature; or (g) Borrower shall make an assignment of its property for the benefit of creditors or suffer the appointment of a receiver of any part of its property;

or (h) any proceedings under any bankruptcy or insolvency law shall be commenced by or against Borrower or any guarantor or endorser of any Obligations; or (i) any guarantor or endorser of any Obligations shall revoke or terminate its guaranty, or any Event of Default shall occur with respect to any guarantor of Borrower; or (j) Lender in good faith reasonably deems itself insecure for any reason, including, without limitation, the impairment of the prospect of payment or performance of any of the Obligations.

9. Upon the occurrence of Any Event of Default and at any time thereafter, Lender, at its sole option, may exercise any one or more of the following rights and remedies: (a) declare any and all Obligations immediately due and payable without notice or demand of any kind; (b) sue for and recover all amounts then accrued and thereafter accruing; (c) take and maintain possession of any or all Collateral without demand or notice, wherever it may be located, and in so doing, alone or with any other person, enter upon the premises where the Collateral may be found or believed by Lender to be located. BORROWER HEREBY KNOWINGLY AND INTELLIGENTLY WAIVES PRIOR NOTICE, PRESEIZURE HEARING, AND ANY JUDICIAL PROCESS AS A CONDITION PRECEDENT TO LENDER'S REPOSSESSION OF ANY OR ALL COLLATERAL. BORROWER ALSO WAIVES ANY AND ALL DAMAGES OCCASIONED BY SUCH ENTRY AND SEIZURE;

(d) sell or otherwise dispose of any or all Collateral, whether or not in Lender's possession, in a commercially reasonable manner at public or private sale, and with or without notice to Borrower. Lender may maintain possession and dispose of the Collateral on any premises of Borrower or under Borrower's control, or remove such Collateral or any part thereof to any place Lender may desire. If requested by Lender to do so, Borrower shall, at its expense, assemble, maintain, and make the Collateral available to Lender at a place to be designated by Lender. In the event of sale by Lender, the Collateral need not be in view of those present attending the sale, nor at the same location at which the sale is being conducted, and Lender may sell the same in such order, priority and lots as Lender, in its uncontrolled discretion may designate. Any sale or other disposition hereunder may be adjourned from time to time by announcement at the time and place appointed without further published notice, and Lender may bid and become the purchaser at any such sale. Any requirements of reasonable and proper notice of disposition of the Collateral shall be met if such notice is mailed, postage prepaid, to Borrower at its address set forth above, at least five (5) days before the time of sale or other disposition; (e) apply any proceeds of any disposition of the Collateral to the payment of any or all costs and expenses incurred in connection with such disposition, including without limitation, repossession, holding, preparation for sale, brokers' fees, reasonable attorney's fees and legal expenses, and may apply any balance of such proceeds toward the payment of the Obligations, in such order or application as Lender may elect. Borrower

shall remain liable for any deficiency, which shall be due under the terms of this Agreement and secured hereby, and shall immediately pay any such deficiency to Lender. Any surplus shall be paid to whomsoever may be lawfully entitled thereto, without interest.

10. Lender may have and exercise any or all rights and remedies contained in this Agreement, provided for at law, including without limitation the California Uniform Commercial Code, in equity, and in any and all agreements now or hereafter existing between Lender and Borrower or otherwise. Lender may exercise any and all rights and remedies in such order and priority, and in such manner as Lender, in its discretion, may direct. No delay or failure on the part of Lender in exercising any right, privilege, remedy or option shall constitute a waiver thereof by Lender, and no single or partial exercise by Lender of any right or remedy shall preclude other or further exercise thereof, or any exercise of any other right or remedy. The rights and remedies of Lender under this Agreement, any other agreements between Borrower and Lender, and at law or equity, are cumulative, and may be used successively, alternatively or concurrently, as Lender, in its discretion, may direct.

11. In the event Borrower fails to perform any of its Obligations under this Agreement, Lender may, at its option, but without any obligation to do so, perform such Obligations. Borrower shall reimburse Lender, upon demand, the amount of the cost of such performance, together with interest thereon, at the rate set forth in the Note described in the Schedule in respect of which such Obligations arise.

12. This Agreement shall be construed and enforced according to the laws of the state of California. Venue for any action hereunder or related hereto shall be in the appropriate court in the County of San Francisco, State of California. The provisions of this Agreement are specifically agreed to be severable. If any clause, provision or right provided for herein is unenforceable or inoperative, the remainder of this Agreement shall be enforced as if such clause, provision or right were not contained herein. When the context so requires, the masculine gender includes the feminine and neuter, the feminine includes the masculine and neuter, the neuter includes the masculine and feminine, the singular includes the plural and the plural the singular.

13. This Agreement constitutes the entire agreement between Lender and Borrower and shall not be amended in any manner whatsoever except by written agreement signed by an authorized officer of Lender. All provisions contained in this Agreement shall inure to the benefit of Lender, its successors and assigns, and shall be binding upon Borrower, its successors and assigns. Notwithstanding anything herein contained, Borrower shall not assign this Agreement without Lender's prior written consent, any any prohibited assignment shall be absolutely void. No consent to an assignment by Lender shall release Borrower or any guarantor of their Obligations to Lender. Lender may freely assign this Agreement and its rights and duties hereunder. Whenever the word "Lender" is used herein, it shall include all assignees of Lender.

14. Any notice from Lender to Borrower shall be conclusively presumed given and received by Borrower when mailed, postage prepaid, to Borrower at its address set forth above.

Notice by Borrower to Lender, if mailed, shall be deemed given when received by Lender at Lender's address set forth above.

IN WITNESS WHEREOF, this Agreement has been duly executed as of the day and year first hereinabove written.

CROCKER NATIONAL BANK

By: Frank M. Docktor
(Title)

FRANK M. DOCKTOR
VICE PRESIDENT

DDRWJ Investment Co.

By: Donald G. Fisher
Donald G. Fisher,
General Partner

COLLATERAL

Fifty (50) general purpose 100-ton, 23,500 gallon capacity, insulated, exterior heater coiled, class DOT 111A100W3, railroad tank cars, the serial numbers of which will be furnished to Lender upon delivery of the railroad tank cars to Borrower by the manufacturer, ACF Industries, Inc.

Exhibit A to UCC-1 Filed By Crocker National Bank, As
Secured Party, Against DDRWJ Investment Co., as Debtor

ADDITIONAL DEBTORS

<u>Name</u>	<u>Address</u>
Donald G. Fisher	3456 Washington St. San Francisco, CA 94118
Doris F. Fisher	3456 Washington St. San Francisco, CA 94118
Robert J. Fisher	3456 Washington St. San Francisco, CA 94118
John J. Fisher	3456 Washington St. San Francisco, CA 94118
William S. Fisher	3456 Washington St. San Francisco, CA 94118

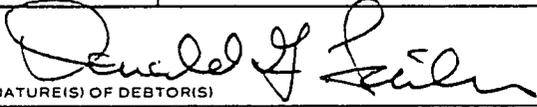
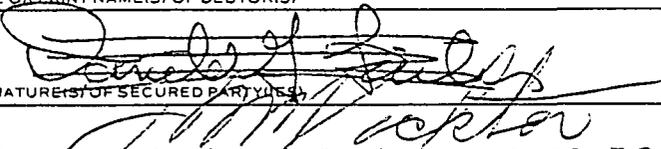
This FINANCING STATEMENT is presented for filing pursuant to the California Uniform Commercial Code.

1. DEBTOR (LAST NAME FIRST - IF AN INDIVIDUAL) DDRWJ Investment Co.		1A. SOCIAL SECURITY OR FEDERAL TAX NO. 94-2531548	
1B. MAILING ADDRESS 900 Cherry Avenue		1C. CITY, STATE San Bruno, CA	1D. ZIP CODE 94066
2. ADDITIONAL DEBTOR (IF ANY) (LAST NAME FIRST - IF AN INDIVIDUAL) See Exhibit A attached hereto and incorporated herein		2A. SOCIAL SECURITY OR FEDERAL TAX NO.	
2B. MAILING ADDRESS		2C. CITY, STATE	2D. ZIP CODE
3. DEBTOR'S TRADE NAMES OR STYLES (IF ANY)		3A. FEDERAL TAX NUMBER	
4. SECURED PARTY NAME Crocker National Bank MAILING ADDRESS One Montgomery Street CITY San Francisco STATE California ZIP CODE 94104		4A. SOCIAL SECURITY NO., FEDERAL TAX NO. OR BANK TRANSIT AND A.B.A. NO.	
5. ASSIGNEE OF SECURED PARTY (IF ANY) NAME MAILING ADDRESS CITY STATE ZIP CODE		5A. SOCIAL SECURITY NO., FEDERAL TAX NO. OR BANK TRANSIT AND A.B.A. NO.	

6. This FINANCING STATEMENT covers the following types or items of property (include description of real property on which located and owner of record when required by instruction 4).

Fifty (50) general purpose 100-ton, 23,500 gallon capacity, insulated, exterior heater coiled, class DOT 111A100W3, railroad tank cars, the serial numbers of which are RUSX 2801 through RUSX 2850, together with any and all additions and accessions thereto and replacements thereof, and any and all products and proceeds of the foregoing.

7. CHECK IF APPLICABLE <input checked="" type="checkbox"/>	7A. PRODUCTS OF COLLATERAL ARE ALSO COVERED <input checked="" type="checkbox"/>	7B. DEBTOR(S) SIGNATURE NOT REQUIRED IN ACCORDANCE WITH INSTRUCTION 5(A) ITEM: <input type="checkbox"/> (1) <input type="checkbox"/> (2) <input type="checkbox"/> (3) <input type="checkbox"/> (4)
8. CHECK IF APPLICABLE <input checked="" type="checkbox"/>	DEBTOR IS A "TRANSMITTING UTILITY" IN ACCORDANCE WITH UCC § 9105 (1) (N) <input type="checkbox"/>	

9. SIGNATURE(S) OF DEBTOR(S) 	DATE: 10/1/80	C O D E	10. THIS SPACE FOR USE OF FILING OFFICER (DATE, TIME, FILE NUMBER AND FILING OFFICER)
DDRWJ Investment Co. <small>TYPE OR PRINT NAME(S) OF DEBTOR(S)</small>		1	
SIGNATURE(S) OF SECURED PARTY(IES) 		2	
Crocker National Bank FRANK M. DOCKTOR <small>TYPE OR PRINT NAME(S) OF SECURED PARTY(IES) VICE PRESIDENT</small>		3	
		4	
		5	
		6	
11. Return copy to:		7	
NAME <input type="checkbox"/>		8	
ADDRESS <input type="checkbox"/>		9	
CITY <input type="checkbox"/>		0	
STATE <input type="checkbox"/>			
ZIP CODE <input type="checkbox"/>			