

RUDEN
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SMITH
SCHUSTER &
RUSSELL, P.A.
ATTORNEYS AT LAW

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May 12, 1999

VIA FEDERAL EXPRESS

Surface Transportation Board
1925 K Street NW Suite 704
Attn: Recordation of Railroad Equipment
Washington DC 20423-0001

RECORDATION NO. **20593-A** FILED

MAY 13 '99

10-00AM

Re: NationsBank, N.A. Loan to Durango
Our File No. 21326-0311
Recordation No. 20593 filed March 24, 1997 at 10:16 A.M.

Dear Ladies and Gentlemen:

Enclosed herein please find one original and one copy (with original notary pages 9, 10 and 11) of a Modification Agreement dated effective April 30, 1999. The parties to the Modification Agreement are as follows:

Borrower: The Durango & Silverton Narrow Gauge Railroad Company
2445 Hollywood Boulevard
Hollywood, Florida 33020

Guarantors: American Heritage Railways, Inc.
1360 South Dixie Highway
Coral Gables, FL 33146

Allen C. Harper and Carol E. Harper
5841 S.W. 116 Street
Miami, Florida 33156

Lender: NationsBank, N.A., its nominees and/or assigns
One Financial Plaza
10th Floor
Fort Lauderdale, FL 33394

The equipment involved in this transaction is as follows: See Exhibit A attached.

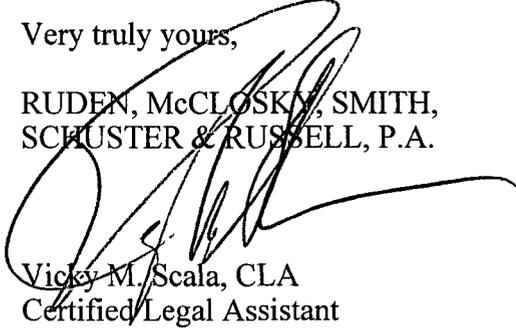
Please file this Modification Agreement as a supplementary document to the Rolling Stock Security Agreement filed March 24, 1997 at 10:16 A.M. Recordation No. 20593 and return one (1) stamped copy to my attention. A check in the amount of \$26.00 is enclosed for the recording of same.

May 12, 1999
Page 2

Should you have any questions regarding the above matter, please do not hesitate to contact our office.

Very truly yours,

RUDEN, McCLOSKEY, SMITH,
SCHUSTER & RUSSELL, P.A.



Vicky M. Scala, CLA
Certified Legal Assistant

Enclosures

EXHIBIT A

Forty-four (44) passenger cars and ten (10) locomotives bearing Durango & Silverton Road numbers as follows:

<u>Passenger Cars</u>					<u>Locomotives</u>	
64	319	336	406	415	420	481
126	323	337	407	416	473	482
212	327	350	408	566	476	493
213	330	400	409	630	478	498
257	331	401	410	631	480	499
270	332	402	411	632		
291	333	403	412	B-2		
311	334	404	413	B-7		
312	335	405	414			

This Instrument Prepared By
and Return To:

MARK K. SOMERSTEIN, ESQ.
Ruden, McClosky, Smith,
Schuster & Russell, P.A.
P O Box 1900
Fort Lauderdale, Florida 33302

RECORDATION NO. 20593-A FILED

MAY 13 '99

10-00AM

MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT ("Agreement") is made by and between THE DURANGO & SILVERTON NARROW GAUGE RAILROAD COMPANY, a Colorado corporation ("Borrower"), AMERICAN HERITAGE RAILWAYS, INC., a Florida corporation, ALLEN C. HARPER and CAROL E. HARPER (jointly and severally, the "Guarantors") (the Borrower and the Guarantors are collectively, the "Obligors"), and NATIONSBANK, N.A., its nominees and/or assigns ("Bank") effective April 30, 1999.

RECITALS:

A. The Borrower is indebted to the Bank pursuant to that certain Promissory Note ("Existing Note") dated March 13, 1997, executed by Borrower in the original principal amount of EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS (\$8,500,000) (the "Indebtedness").

B. The Indebtedness is secured by, *inter alia*: (i) Deed of Trust, Security Agreement, Financing Statement and Assignment of Leases and Rents dated March 13, 1997, recorded under Reception No. 723308, of the Public Records of La Plata County, Colorado, and under Reception No. 138575, in Book 244, at Page 642, of the Public Records of San Juan County, Colorado (collectively, the "Deed of Trust"); (ii) UCC-1 recorded under Reception No. 97000085 in the UCC Records and Under Reception No. 723309 in the real estate records, as amended by amendment recorded under Reception No. 97001087, in the UCC Records and Reception No. 736886 in the real estate records, all of the Public Records of La Plata County, Colorado, and under Reception No. 138577 in Book 245, Page 175, of the Public Records of San Juan County, Colorado (collectively, "UCC-A"); (iii) UCC-1 recorded under Reception No. 138576, in Book 245, at Page 151, as amended in Book 245, at Page 794, of the Public Records of San Juan County, Colorado (collectively, "UCC-B"); (iv) UCC-1 recorded under Reception No. 723310 in the real estate records and under Reception No. 97000086 in the UCC records, all of La Plata County, Colorado ("UCC-C"); (v) UCC-1 recorded under File No. 9700000554453 with the Florida Secretary of State ("UCC-D"); (vi) UCC-1 recorded under File No. 970000055455 with the Florida Secretary of State ("UCC-E") (UCC-A, UCC-B, UCC-C, UCC-D and UCC-E are hereinafter collectively referred to as the "UCC"); (vi) Collateral Assignment of all Appurtenances and Operating Rights executed by

Borrower in favor of Bank ("Assignment"); (vii) Security Agreement executed by Borrower in favor of Bank dated March 13, 1997 ("Security Agreement"); and (viii) Rolling Stock Security Agreement between Borrower and Bank dated March 13, 1997 ("Rolling Stock Security Agreement").

C. The Indebtedness, Deed of Trust, Assignment, UCC, the Security Agreement, the Rolling Stock Security Agreement, and any other documents executed in connection with the foregoing are hereinafter collectively referred to as the "Loan Documents".

D. The Obligors have requested and the Bank has agreed to modify the terms of the Loan Documents as more particularly set forth herein.

NOW, THEREFORE, in consideration of the foregoing, and for TEN DOLLARS (\$10) and other good and valuable considerations, the parties agree as follows:

1. The foregoing recitations are true and correct and are incorporated herein by reference.
2. The provisions of this Agreement shall control in the event of any conflict with the provisions of the Loan Documents, the unaffected provisions of which are specifically reaffirmed and incorporated herein by reference.
3. The Indebtedness is restated and modified by deleting the terms and provisions of said note and substituting in lieu thereof the following: (i) Promissory Note of even date herewith in the original principal amount of Five Hundred Thousand Dollars (\$500,000) (the "Line Note"); and (ii) Consolidated, Amended and Restated Promissory Note of even date herewith in the original principal amount of Fifteen Million Dollars (\$15,000,000) ("Consolidated Note") (the Line Note and the Consolidated Note are hereinafter collectively referred to as the "Renewal Note"). All references in the Loan Documents to the Existing Note is hereby amended to reference and secure the Renewal Note. As of the date hereof, the outstanding principal balance due under the Indebtedness is Fifteen Million Dollars (\$15,000,000) under the Consolidated Note and Five Hundred Thousand Dollars (\$500,000) available under the Line Note. The maturity date of the Consolidated Note is seven (7) years following the date hereof and the maturity date of the Line Note is one (1) year following the date hereof. In addition to securing the Renewal Note, each of the Loan Documents shall also secure Borrower's obligations under that certain International SWAP Dealers Association, Inc. Master Agreement dated even date herewith, and all exhibits, schedules and addenda attached thereto by and between Borrower and Bank.
4. The Loan Documents as amended by this Agreement, shall continue to secure the Indebtedness.
5. The Obligors acknowledge and agree that the Bank shall not be obligated to further modify the Indebtedness or the Deed of Trust. In conjunction with the foregoing, Bank shall not be obligated to make any additional advances under the Loan Documents.

6. AS A MATERIAL INDUCEMENT FOR BANK TO EXECUTE THIS AGREEMENT, THE OBLIGORS DO HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE BANK, ITS OFFICERS AND DIRECTORS, EMPLOYEES AND AGENTS AND ITS AFFILIATES, AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH THE OBLIGORS EVER HAD, OR HAVE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OBLIGORS HEREAFTER CAN, SHALL OR MAY HAVE AGAINST THE BANK, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RELATED TO THE LOAN DOCUMENTS THROUGH THE DATE THIS AGREEMENT HAS BEEN EXECUTED. OBLIGORS FURTHER EXPRESSLY AGREE THAT THE FOREGOING RELEASE AND WAIVER AGREEMENT IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY ALL APPLICABLE LAW. IN ADDITION TO, AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, AND IN CONSIDERATION OF THE BANK'S EXECUTION OF THIS AGREEMENT, OBLIGORS COVENANT WITH AND WARRANT UNTO BANK, AND ITS AFFILIATES AND ASSIGNS, THAT THERE EXISTS NO CLAIMS, COUNTERCLAIMS, DEFENSES, OBJECTIONS, OFFSETS OR CLAIMS OF OFFSETS AGAINST BANK RELATED TO THE LOAN DOCUMENTS OR THE OBLIGATION OF OBLIGORS TO PAY THE INDEBTEDNESS TO BANK WHEN AND AS THE SAME BECOMES DUE AND PAYABLE.

7. The Obligors hereby agree that, in consideration of the recitals and mutual covenants contained herein, and for other good and valuable consideration, including the forbearance of Bank from exercising its rights and remedies otherwise available to it, as hereby amended, the receipt and sufficiency of which are hereby acknowledged, in the event the Obligors (or any of them) shall: (i) file with any bankruptcy court of competent jurisdiction or be the subject of any petition (which is not dismissed within ninety [90] days from the filing) under Title 11 of the U.S.C. Code, as amended; (ii) be the subject of any order for relief issued under such Title 11 of the U.S.C. Code, as amended (which is not dismissed within ninety [90] days from the filing); (iii) file or be the subject of any petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency or other relief for debtors (which is not dismissed within ninety [90] days from the filing); (iv) have sought or consented to or acquiesced in the appointment of any trustee, receiver, conservator or liquidator; (v) be the subject of any order, judgment or decree entered by any court of competent jurisdiction approving a petition filed against such party for any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency or relief for debtors (which is not dismissed within ninety [90] days from the filing); and/or (vi) be the subject of any action (which is not dismissed within ninety [90] days from the filing) to set aside or otherwise prevent the provisions of this Agreement (subparagraphs [i] - [vi] above are hereinafter collectively defined as "Bankruptcy Proceedings"), Bank shall thereupon be entitled to relief from any automatic stay imposed by Section 362 of Title 11 of the U.S.C. Code, as amended, or otherwise,

on or against the exercise of the rights and remedies otherwise available to Bank as provided in the Loan Documents and as otherwise provided by law.

8. Obligors agree to pay to Bank any and all documentary stamps and/or intangible taxes and all interest and penalties associated therewith which may be assessed on account of the execution and/or recording of this Agreement. Obligors shall pay such sums immediately upon receipt of notice of such amounts from Bank or its assigns. In the event Obligors fail to pay such sums, Bank or its assigns may, at its option, pay such taxes and/or documentary stamps. Any such payment by Bank or its assigns shall be added to the Indebtedness and shall bear interest from the date advanced to the date of recovery at the maximum rate permissible under Florida law. If Obligors fail to pay any and all documentary stamps and/or intangible taxes and any interest or penalties associated therewith which may be assessed on account of the execution and/or recording of this Agreement, it shall be deemed to be a default under the terms hereof and shall immediately accelerate the principal balance due hereunder, together with accrued interest.

9. The Guarantors hereby confirm that all obligations of the Guarantors to the Bank remain in full force and effect and shall, *inter alia*, guarantee the repayment of the Renewal Note. The Guarantors acknowledge and agree that the failure of any of the Guarantors to execute this Agreement shall not affect the obligation of the remaining Guarantors.

10. This Agreement shall not be construed more strictly against either party by virtue of the preparation hereof.

11. Except as herein specifically provided, all of the terms, provisions and representations of the Loan Documents are hereby specifically reaffirmed by the Obligors and are incorporated herein by this reference. THE OBLIGORS (AND EACH OF THEM) HEREBY AGREE AND CONFIRM THAT, AS OF THE DATE HEREOF, THE LOAN DOCUMENTS ARE IN FULL FORCE AND EFFECT. THIS AGREEMENT SUPERSEDES ALL PRIOR NEGOTIATIONS AND/OR CORRESPONDENCE RELATING TO THE LOAN DOCUMENTS.

12. Time is of the essence under the Loan Documents and this Agreement.

13. The Obligors warrant and represent that all of the parties executing this Agreement on behalf of the Obligors are duly authorized to execute this Agreement and that this Agreement is valid and binding upon the Obligors in accordance with its terms.

14. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one (1) and the same agreement. This Agreement may be executed and delivered via telecopy.

15. This Agreement is not intended to be a novation, but merely to evidence a modification, and it is not the intention of the parties to create a novation of the Loan Documents.

16. This Agreement shall not be binding upon the Bank nor shall this Agreement constitute an offer by the Bank until such time as this Agreement is fully executed.

17. A default or breach of a representation or warranty by the Obligors, or any of them, under this Agreement shall constitute a default under the Loan Documents.

18. The obligations of the Obligors under this Agreement shall be joint and several. The reference to the Obligors hereunder shall, at the Bank's option, be to all or any of the Obligors.

19. So long as the Indebtedness remains outstanding, Borrower covenants and agrees not to make any distributions to any of the parties of the Borrower.

20. MANDATORY ARBITRATION. Any controversy or claim between or among the parties hereto including, but not limited to, those arising out of or relating to this Agreement, any of the Loan Documents, or any related agreements or instruments, including any claim based on or arising from an alleged tort, shall be determined by binding arbitration in accordance with the Federal Arbitration Act (or if not applicable, the applicable state law), the Rules of Practice and Procedure for the Arbitration of Commercial Disputes of Judicial Arbitration and Mediation Services, Inc. (J.A.M.S.), and the "Special Rules" set forth below. In the event of any inconsistency, the Special Rules shall control. Judgment upon any arbitration award may be entered in any court having jurisdiction. Any party to this Agreement may bring an action, including a summary or expedited proceeding, to compel arbitration of any controversy or claim to which this Agreement applies in any court having jurisdiction over such action.

(a) Special Rules. The arbitration shall be conducted in the city of Fort Lauderdale, Florida, and administered by Endispute, Inc., d/b/a J.A.M.S./Endispute, who will appoint an arbitrator; if J.A.M.S./Endispute is unable or legally precluded from administering the arbitration, then the American Arbitration Association will serve. All arbitration hearings will be commenced within ninety (90) days of the demand for arbitration; further, the arbitrator shall only, upon a showing of cause, be permitted to extend the commencement of such hearing for up to an additional sixty (60) days.

(b) Reservation of Rights. Nothing in this Agreement shall be deemed to: (i) limit the applicability of any otherwise applicable statutes of limitation or repose and any waivers contained in this agreement; or (ii) be a waiver by the Bank of the protection afforded to it by 12 U.S.C. Sec. 91 or any substantially equivalent state law; or (iii) limit the right of the Bank hereto (A) to exercise self-help remedies such as (but not limited to) setoff, or (B) to foreclose against any real or personal property collateral, or (C) to obtain from a court provisional or ancillary remedies such as (but not limited to) injunctive relief or the appointment of a receiver. The Bank may exercise such self-help rights, foreclose upon such property, or obtain such provisional or ancillary remedies before, during or after the pendency of any arbitration proceeding brought pursuant to this Agreement. At Bank's option, foreclosure under a deed of trust or mortgage may be accomplished by any of the following: the exercise of a power of sale under the deed of trust or mortgage, or by judicial sale under the deed of trust or mortgage, or by judicial foreclosure. Neither this exercise of

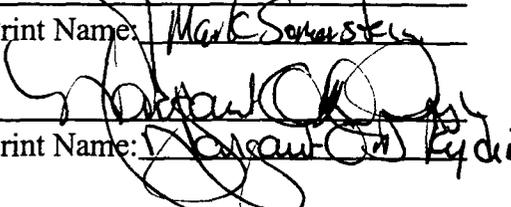
self-help remedies nor the institution or maintenance of an action for foreclosure or provisional or ancillary remedies shall constitute a waiver of the right of any party, including the claimant in any such action, to arbitrate the merits of the controversy or claim occasioning resort to such remedies.

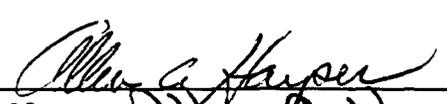
IN WITNESS WHEREOF, Obligors and Bank have executed this Agreement as of the day and year set forth below.

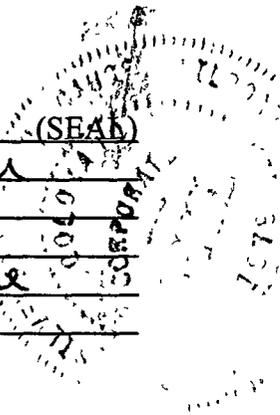
Signed, sealed and delivered
in the presence of:

BORROWER:

THE DURANGO & SILVERTON NARROW
GAUGE RAILROAD COMPANY, a Colorado
corporation

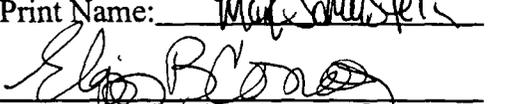

Print Name: Mark Samuels

Print Name: Margaret O'Connell

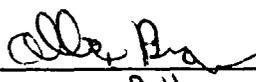
By:  (SEAL)
Print Name: Allen C. Harper
Title: President
Date: 4/29/99
Address: 479 Main Avenue
Durango, CO 81301



BANK:

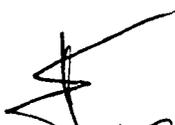
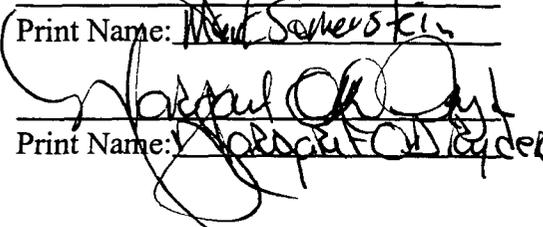
NATIONSBANK, N.A.

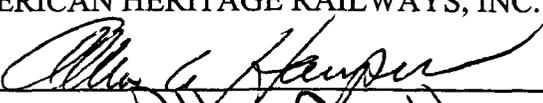

Print Name: Mark Samuels

Print Name: Elizabeth R. Conner

By:  (SEAL)
Print Name: Allen Brown
Title: Senior Vice President
Date: 4/30/99
Address: One Financial Plaza
Fort Lauderdale, FL

GUARANTORS:

AMERICAN HERITAGE RAILWAYS, INC.


Print Name: Mark Samuels

Print Name: Margaret O'Connell

By: 
Print Name: Allen C. Harper
Date: 4/29/99
Address: 2425 Hollywood Blvd.
Hollywood, FL 33020

Print Name:

Print Name:

Print Name:

Print Name:

ALLEN C. HARPER

Date:

Address:

CAROL E. HARPER

Date:

Address:

Handwritten signatures and scribbles over the first two name fields.

Handwritten signature: Allen C. Harper
Date: 4/29/99
Address: 1360 South Dixie Highway
Coral Gables, FL 33146

Handwritten signatures and scribbles over the last two name fields.

Handwritten signature: Carol E. Harper
Date: 4/29/99
Address: 1360 South Dixie Highway
Coral Gables, FL 33146

JOINDER AND SUBORDINATION TO MODIFICATION AGREEMENT

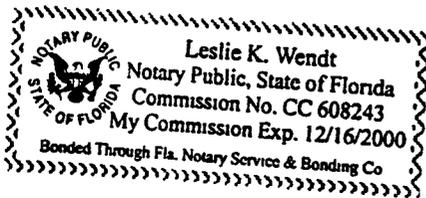
The undersigned, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby subordinates the Deed of Trust executed by the Borrower in favor of the undersigned recorded under Reception No. 723313 on March 14, 1997, in the Public Records of La Plata County, Colorado, and under Reception No. 138580 in Official Records Book 244, Page 691, of the Public Records of San Juan County, Colorado, to the lien and priority of the Loan Documents.

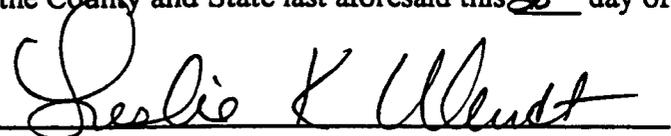

CHARLES E. BRADSHAW, JR.

STATE OF FLORIDA)
) SS:
COUNTY OF ORANGE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by CHARLES E. BRADSHAW, JR., who is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 28th day of April, 1999.




Notary Public

LESLIE K WENDT
Typed, printed or stamped name of Notary Public

My Commission Expires:

STATE OF Florida)
) SS:
COUNTY OF Broward)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Allen C. Harper, the President of THE DURANGO & SILVERTON NARROW GAUGE RAILROAD COMPANY, a Colorado corporation, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/She is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 30 day of April, 1999.

Notary Public

My Commission Expires:

Typed, printed or stamped name of Notary Public



MARK K. SOMERSTEIN
MY COMMISSION # CC481548 EXPIRES
September 27, 1999
BONDED THRU TROY FAIN INSURANCE, INC

STATE OF Florida)
) SS:
COUNTY OF Broward)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Allen Brown, the Sr. VP of NATIONSBANK, N.A., a national banking corporation, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/She is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 30 day of April, 1999.

Notary Public

My Commission Expires:

Typed, printed or stamped name of Notary Public



MARK K. SOMERSTEIN
MY COMMISSION # CC481548 EXPIRES
September 27, 1999
BONDED THRU TROY FAIN INSURANCE, INC

MARK K. SOMERSTEIN
MY COMMISSION # CC481548 EXPIRES
September 27, 1999
BONDED THRU TROY FAIN INSURANCE, INC

STATE OF Florida)
) SS:
COUNTY OF Broward)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Allen C. Harper, the President of AMERICAN HERITAGE RAILWAYS, INC., a Florida corporation, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/She is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 30 day of April, 1999.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

STATE OF Florida)
) SS:
COUNTY OF Broward)



MARK K. SOMERSTEIN
MY COMMISSION # CC481548 EXPIRES
September 27, 1999
BONDED THRU TROY FAIN INSURANCE, INC

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by ALLEN C. HARPER, who is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 30 day of April, 1999.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:



MARK K. SOMERSTEIN
MY COMMISSION # CC481548 EXPIRES
September 27, 1999
BONDED THRU TROY FAIN INSURANCE, INC

STATE OF Florida)
) SS:
COUNTY OF Broward)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by CAROL E. HARPER, who is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 30 day of April, 1999.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:



MARK K SOMERSTEIN
MY COMMISSION # CC481548 EXPIRES
September 27, 1999
BONDED THRU TROY FAIN INSURANCE, INC