

Kirkpatrick & Lockhart LLP

May 2, 2003

207731

1800 Massachusetts Avenue, NW
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202.778.9000
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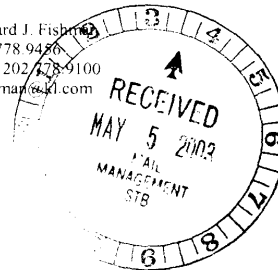
VIA HAND DELIVERY

MAY - 5 2003

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

**SURFACE
TRANSPORTATION BOARD**

Edward J. Fishman
202.778.9456
Fax: 202.778-9100
efishman@kl.com



**Re: Finance Docket No. 34346
Dallas Area Rapid Transit -Acquisition Exemption - Certain Assets
of Regional Rail Right of Way Company**

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Verified Notice of Exemption of Dallas Area Rapid Transit Pursuant to 49 C.F.R. § 1150.42**, dated May 2, 2003. A check in the amount of \$1,300.00, representing the appropriate fee for this filing, is also enclosed.

Should any questions arise regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

Edward J. Fishman

Enclosures

ENTERED
Office of Proceeding:

MAY - 5 2003

Part of
Public Record

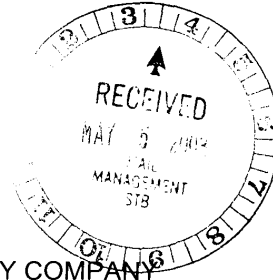
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MAY - 5 2003

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34346
DALLAS AREA RAPID TRANSIT
-- ACQUISITION EXEMPTION --
CERTAIN ASSETS OF REGIONAL RAIL RIGHT OF WAY COMPANY



VERIFIED NOTICE OF EXEMPTION
OF
DALLAS AREA RAPID TRANSIT
PURSUANT TO 49 C.F.R. § 1150.42

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ENTERED
Office of Proceedings.

MAY - 5 2003

Part of
Public Record

Edward J. Fishman
Tracie D. Spear
Kirkpatrick & Lockhart LLP
1800 Massachusetts Avenue NW
Washington, DC 20036
(202) 778-9000

ATTORNEYS FOR DALLAS AREA
RAPID TRANSIT

Dated: May 2, 2003

FILED

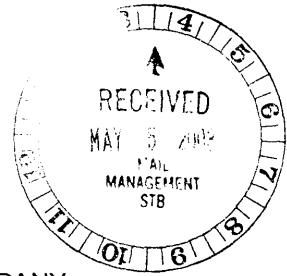
MAY - 5 2003

SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34346

DALLAS AREA RAPID TRANSIT
-- ACQUISITION EXEMPTION --
CERTAIN ASSETS OF REGIONAL RAIL RIGHT OF WAY COMPANY



**VERIFIED NOTICE OF EXEMPTION
OF
DALLAS AREA RAPID TRANSIT
PURSUANT TO 49 C.F.R. § 1150.42**

Dallas Area Rapid Transit ("DART"), a political subdivision of the State of Texas, hereby files this Verified Notice of Exemption ("Notice") under 49 C.F.R. § 1150.41, et seq. to acquire the right-of-way, trackage and other physical assets of approximately 56 route miles of railroad line and related trackage owned by its affiliate, Regional Rail Right of Way Company ("RRROW"), in Dallas, Collin and Tarrant Counties, Texas (the "Subject Lines").

Pursuant to a Transfer Agreement to be entered into by and between DART and RRROW, DART will acquire RRROW's right, title and ownership interest in the right-of-way, trackage and other physical assets of the Subject Lines. Under the terms of that Transfer Agreement, DART's acquisition will be subject to RRROW's reservation of an exclusive, perpetual freight rail operations easement and any attendant freight rail common carrier obligations on the Subject Lines (the "Freight Easement"). DART will not acquire the right or obligation to conduct any freight rail operations of any kind on the Subject Lines.

DART expects to file shortly in this docket a motion to dismiss this Notice. DART is utilizing this procedure to obtain a jurisdictional determination regarding its prospective common carrier status on the Subject Lines. See State of Maine, Department of Transportation – Acquisition and Operation Exemption – Maine Central Railroad Company, 8 I.C.C. 2d 835 (1991).

In accordance with the requirements of 49 C.F.R. § 1150.43, DART submits the following:

Advance Notice: **49 C.F.R. § 1150.42(e)**

The projected annual freight common carrier revenues of DART will not exceed \$5 million. Accordingly, the requirements of 49 C.F.R. § 1150.42(e) do not apply to this transaction.

Name and Address of Applicant: **49 C.F.R. § 1150.43(a)**

The full name and address of the applicant herein is as follows:

Dallas Area Rapid Transit
1401 Pacific Avenue
Dallas, TX 75202

Applicant's Representative: **49 C.F.R. § 1150.43(b)**

DART's representative to whom correspondence regarding this transaction should be addressed is as follows:

Edward J. Fishman
Kirkpatrick & Lockhart LLP
1800 Massachusetts Avenue, NW
Washington, DC 20036-1221
(202) 778-9000

Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)

Pursuant to the Transfer Agreement, RRROW will convey to DART the right-of-way, trackage and other physical assets associated with the Subject Lines subject to RRROW's retention of the Freight Easement.

Operation of the Property: 49 C.F.R. § 1150.43(d)

DART will not acquire the right or obligation to conduct any freight rail service on the Subject Lines. Instead, RRROW will retain the exclusive right and obligation to provide freight rail service on the Subject Lines and will fulfill that obligation by allowing third party freight railroads to continue to provide freight rail operations on the Subject Lines pursuant to existing trackage rights agreements. This transaction will have no effect on those operations.

Summary of the Transaction: 49 C.F.R. § 1150.43(e)

Pursuant to the Transfer Agreement to be entered into by and between DART and RRROW, DART will acquire RRROW's right, title and ownership interest in the right-of-way, trackage and other physical assets associated with the line of railroad extending between approximately milepost 632.27 near Ft. Worth, Texas and approximately milepost 578.20 near Wylie, Texas. DART also will acquire RRROW's right, title and ownership interest in the existing trackage between Tower 19 and Oakland Avenue in East Dallas. The total distance of the Subject Lines is approximately 56 route miles in Dallas, Tarrant and Collin Counties, Texas. DART will not acquire the right or obligation to operate freight rail service of any kind on the Subject Lines. RRROW will retain the Freight Easement on the Subject Lines.

The name and address of the entity transferring the Subject Lines to DART is as follows:

Regional Rail Right of Way Company
P.O. Box 660163
Dallas, TX 75266-7210

DART expects to file shortly a motion to dismiss this Notice in order to obtain a jurisdictional determination regarding DART's prospective status as a common carrier on the Subject Lines. See State of Maine, Department of Transportation – Acquisition and Operation Exemption – Maine Central Railroad Company, 8 I.C.C. 2d 835 (1991).

DART will not consummate acquisition of the Subject Lines until this Notice becomes effective.

Map: 49 C.F.R. § 1150.43(f)

A map showing the Subject Lines is attached as Exhibit A to this Notice.

Certificate of Class III Status: 49 C.F.R. § 1150.43(g)

The projected freight rail revenues of DART as a result of this transaction will not result in the creation of a Class I or Class II rail carrier. A certificate complying with the provisions of 49 C.F.R. § 1150.43(g) is attached as Exhibit B to this Notice.

Environmental/Historic Preservation Data: 49 C.F.R. Part 1105

Under the clear intent of 49 C.F.R. § 1105.6(c)(2), the proposed acquisition of the Subject Lines by DART is exempt from environmental reporting requirements. DART's acquisition will not result in significant changes in carrier operations (i.e., changes which exceed the thresholds established in 49 C.F.R. § 1105.7(c)(4) or (5)).

Under 49 C.F.R. § 1150.8(b)(1), the proposed acquisition of the Subject Lines by DART also is exempt from historic preservation reporting requirements. DART's

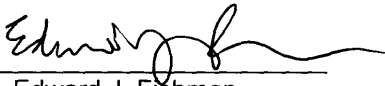
acquisition will not interrupt or disturb freight rail operations on the Subject Lines.

Further Board approval is required to abandon any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.44

A caption summary in the appropriate form is attached as Exhibit C to this Notice.

Respectfully submitted,

By: 

Edward J. Fishman

Tracie D. Spear

Kirkpatrick & Lockhart LLP

1800 Massachusetts Avenue, NW

Washington, DC 20036-1221

(202) 778-9000

**ATTORNEYS FOR DALLAS AREA
RAPID TRANSIT**

Dated: May 2, 2003

Exhibit A-1
Wylie to N. Ft. Worth

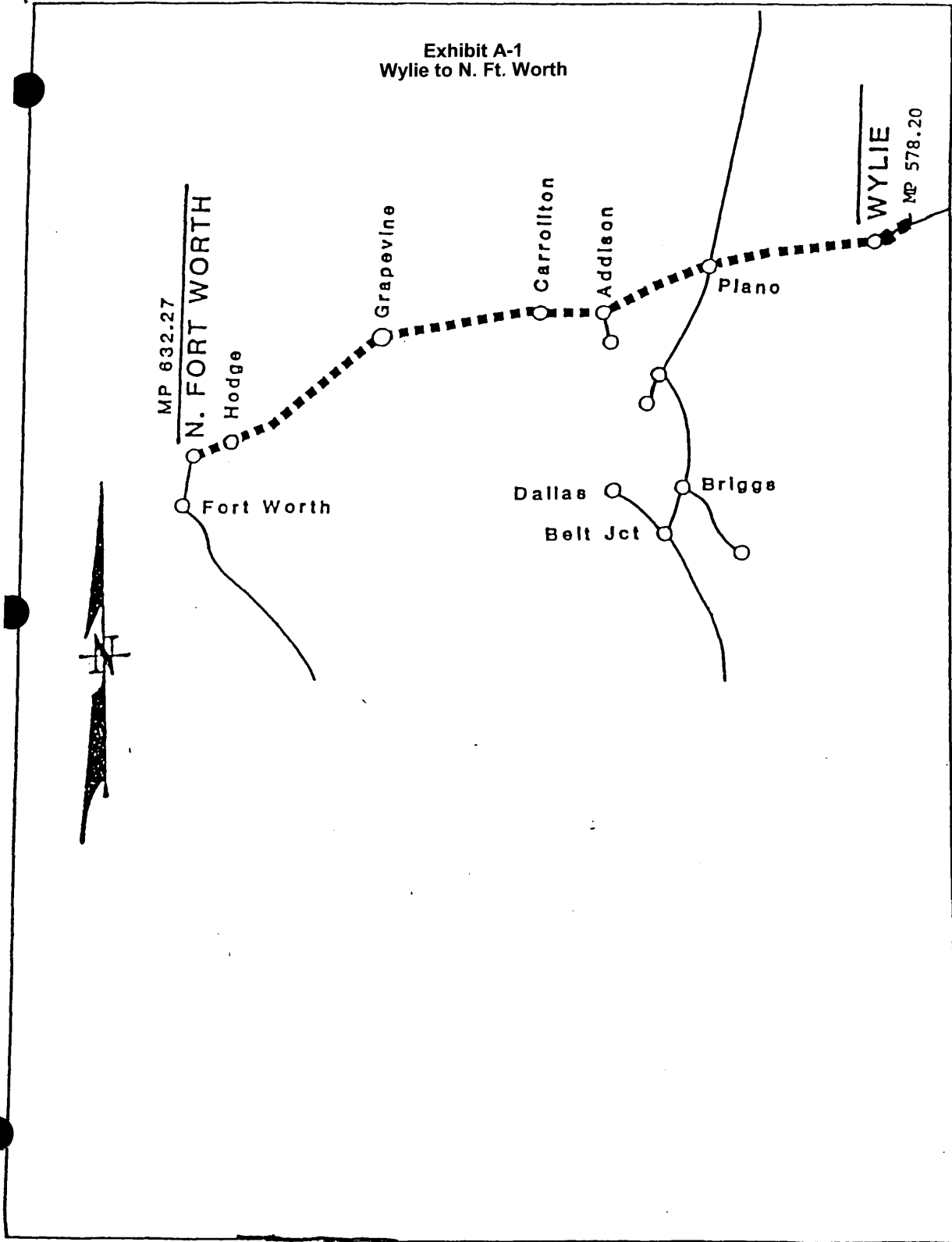


Exhibit A-2
Tower 19 to Oakland Avenue

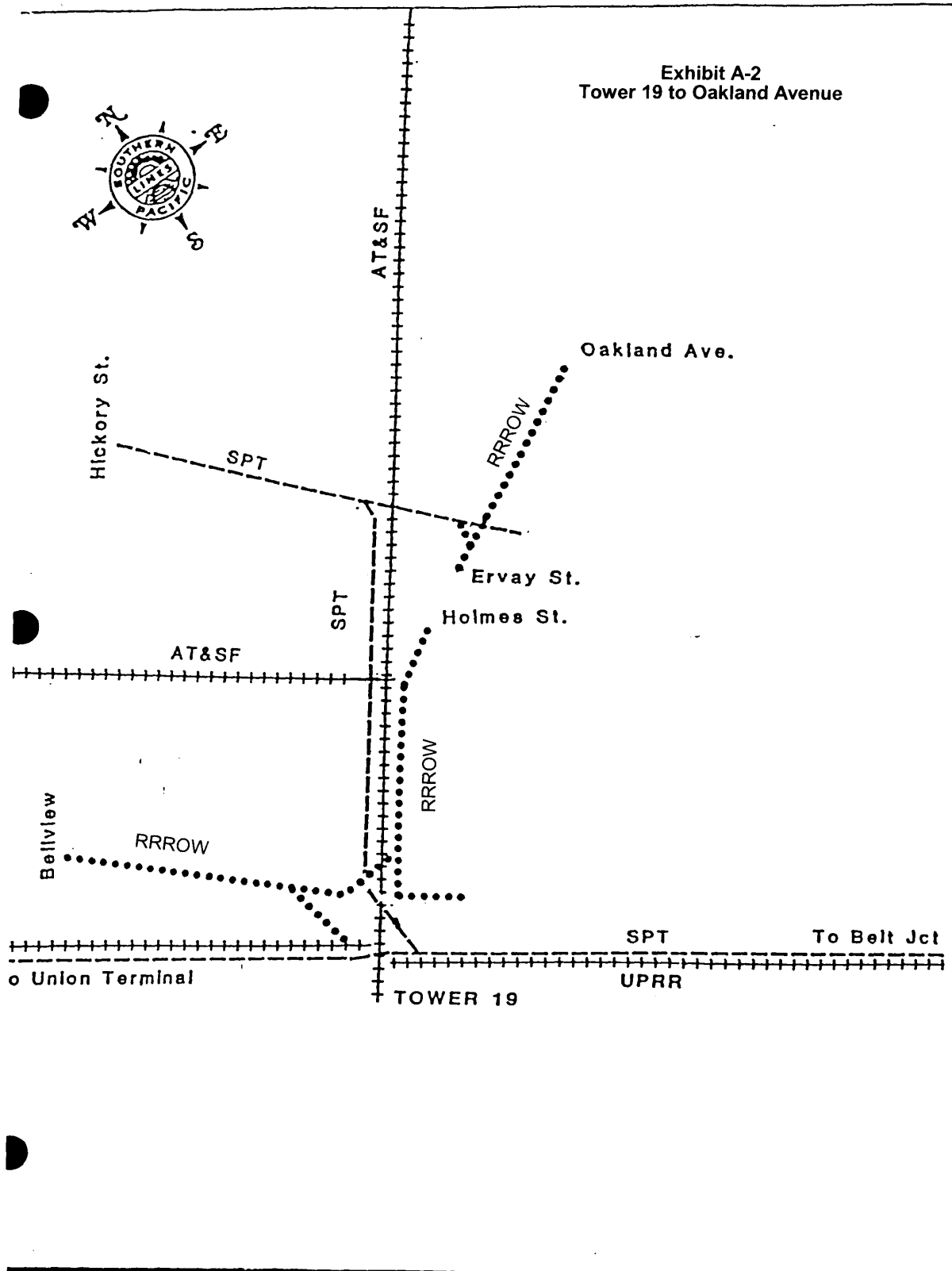


EXHIBIT B

CERTIFICATION

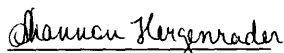
State of Texas)
) SS:
County of Dallas)

Janis Seidner, being duly sworn, hereby certifies that the projected freight rail revenues of DART upon consummation of the proposed transaction will not result in the creation of a Class I or Class II rail carrier under the provisions of 49 C.F.R. § 1201(1-1).



Janis Seidner

SUBSCRIBED AND SWORN TO
Before me this 20th day
of April, 2003.


Notary Public

My Commission expires: July 9, 2006



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 34346

DALLAS AREA RAPID TRANSIT
-- ACQUISITION EXEMPTION--
CERTAIN ASSETS OF REGIONAL RAIL RIGHT OF WAY COMPANY

Dallas Area Rapid Transit ("DART"), a political subdivision of the State of Texas, has filed a notice of exemption under 49 C.F.R. § 1150.41, et seq. to acquire the right-of-way, trackage and other physical assets associated with approximately 56 route miles of railroad line and related trackage owned by its affiliate, Regional Rail Right of Way Company ("RRROW"), in Dallas, Collin and Tarrant Counties, Texas (the "Subject Lines"). The Subject Lines include: (1) the line of railroad extending between approximately milepost 632.27 near Ft. Worth, Texas and approximately milepost 578.20 near Wylie, Texas; and (2) the existing trackage between Tower 19 and Oakland Avenue in East Dallas. RRROW will reserve an exclusive, perpetual freight rail operations easement on the Subject Lines.

DART expects to file shortly in this docket a motion to dismiss its notice of exemption. DART is utilizing this procedure to obtain a jurisdictional determination regarding its prospective common carrier status with respect to the Subject Lines. See State of Maine, Department of Transportation – Acquisition and Operation Exemption – Maine Central Railroad Company, 8 I.C.C.2d 835 (1991).

DART will not under any circumstances consummate this acquisition until this notice becomes effective.

Comments must be filed with the Board and served on Edward J. Fishman, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue, N.W., Second Floor, Washington, DC 20036; (202) 778-9000.

This notice is filed under 49 C.F.R. § 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: May 2, 2003

By the Board

Vernon A. Williams

Secretary

VERIFICATION

State of Texas)
)
County of Dallas) SS:

Janis Seidner, being duly sworn, deposes and says that she is the Assistant Vice President of Commuter Rail and Railroad Management, that she has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.

Janis Seidner

Janis Seidner

SUBSCRIBED AND SWORN TO
Before me this 29th day
of April, 2003

Shannon Hergenrader
Notary Public

My Commission expires: July 9, 2006

