

CHARLES H. MONTANGE

ATTORNEY AT LAW

426 NW 162ND STREET
SEATTLE, WASHINGTON 98177

(206) 546-1936
FAX: (206) 546-3739



13 October 2006
by express

ENTERED
Office of Proceedings

OCT 16 2006

Part of
Public Record

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

Re: PYCO Industries -- Feeder Line Application --
South Plains Switching, Ltd., F.D. 34890 - 217817
and related Alternative Rail Service
proceedings F.D. 34889 and 34802

217816 217819
motion to void certain additional property
transfers by SAW to Choo-Choo

Dear Mr. Williams:

On behalf of PYCO Industries, enclosed please find an original and ten copies of a verified motion and supporting exhibits to void certain additional property transfers by incumbent railroad South Plains Switching, Ltd. to Choo-Choo Properties. This motion is tendered for filing in F.D. 34890, 34889, and 34802, and is based on further analysis by PYCO of discovery responses recently supplied by SAW.

Thank you for your assistance.

Very truly,

Charles H. Montange
for PYCO Industries, Inc.

Encls.

cc. counsel per certificate of service (w/encl.)
Mr. McLaren

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. --	)	
FEEDER LINE DEVELOPMENT --	)	F.D. 34890
SOUTH PLAINS SWITCHING LTD.	)	
PYCO INDUSTRIES, INC. --	)	
ALTERNATIVE RAIL SERVICE --	)	F.D. 34889
SOUTH PLAINS SWITCHING	)	
PYCO INDUSTRIES, INC. --	)	
ALTERNATIVE RAIL SERVICE --	)	F.D. 34802
SOUTH PLAINS SWITCHING	)	

Verified
Motion to Void Additional
Transfers of Property Interests from
South Plains Switching, Ltd. to
Choo-Choo Properties, Inc.

ENTERED
Office of Proceedings

OCT 16 2006

Part of
Public Record

PYCO Industries, Inc., hereby moves for an Order by this Board invalidating and voiding (1) two deeds dated April 28, 2006, from incumbent railroad South Plains Switching, Ltd. (SAW) to Choo-Choo Properties, (2) a lease transfer from SAW to Choo-Choo dated March 9, 2006, and (3) any other transfer from SAW to another party post-dating December 20, 2005 when PYCO initiated F.D. 34802, or at least January 9, 2006, when PYCO put SAW (and the Board) on notice that a feeder line application would likely be pursued to obtain long-term relief for SAW's inadequate rail service.

Background

PYCO Industries, Inc. (PYCO) first became aware that incumbent railroad South Plains Switching, Ltd. (SAW) had made certain transfers to Choo-Choo Properties, Inc. (Choo-Choo), when Choo-Choo purported to terminate leases essential to PYCO's

rail dependent operations and to prevent PYCO from accessing its cottonseed stockpile on the basis of a June 13, 2006, deed from SAW. PYCO requested emergency relief from these retaliatory measure from this Board. In this Board's decision in F.D. 34890 and other dockets served August 3, 2006, this Board invalidated all SAW deeds and property transfers after May 5, 2006 (the date PYCO's initial feeder line application in F.D. 34844 was filed), and also invalidated all lease terminations after May 5, 2006, by SAW or Choo-Choo.

In response to the discovery requests which PYCO tendered to SAW as part of PYCO's May 5 feeder line application in F.D. 34844, SAW on September 21 finally made available to PYCO a large number of deeds and other documents by which SAW since the inception of its ownership of rail property in Lubbock has purported to transfer portions of that rail property to others.

While PYCO is concerned that a large number of those transfers to third parties will limit the capacity of a successor railroad to reach potential customers,¹ PYCO is mindful of the desirability not to upset long-vested property interests on the part of independent third parties. However, subsequent to December 20, 2005, SAW made certain transfers to

¹ PYCO attaches as Exhibit A a set of deeds by which SAW transferred a rail line serving a number of warehouses to adjoining property owners in 2000. This is an example of how SAW management has not sought to grow its business, but instead has severed itself from potential customers. There are other examples. The location of the sales is indicated in the Lubbock Central Appraisal District map attached as Exhibit B. The property is between Locust and Magnolia Avenues, from E. 46th Street to E. 50th Street.

Choo-Choo Properties, Inc. Choo-Choo is owned by Larry Wisener, who also was president of SAW.² Larry Wisener's wife (Delilah) now claims to manage SAW. More particularly, based on SAW's discovery response to date, SAW made three transfers to Choo-Choo (two deeds and one assignment of leases) between March 9 and April 28, 2006.

The three purported transfers are described below.

1. Deed 61161, SAW to Choo-Choo, April 28, 2006 (Exhibit C). The property encompassed by this deed is located in the Lubbock Central Appraisal District map attached as Exhibit B. The deeded property appears to abut the edge of current SAW trackage, such that the owner could interfere with service to customers on the lead immediately north and parallel to E. 46th Street, the lead between and parallel to E. 46th Street and E. 47th Street, and the lead immediately south and parallel to E. 47th Street, all immediately west of Locust Avenue. PYCO understands that at least one existing shipper on SAW (Georgia Pacific/Blue Linx) is served on this trackage. The deed sets forth no retained right to operate a railroad.

2. Deed 53081, SAW to Choo-Choo, April 28, 2006 (Exhibit D). The property encompassed by this deed is located in the Lubbock Central Appraisal District map attached as Exhibit E. It encompasses a rail line used to serve 84 Lumber, an existing shipper, from E. 50th Street to E. 58th Street, for the most

² He purportedly resigned as president of SAW shortly after this Board authorized alternative rail service in F.D. 34802.

part between and parallel to Birch and Elm Avenues. The deed sets forth no retained right to operate a railroad.

3. Agreement dated 9 March 2006, SAW and Choo-Choo (Exhibit F). This Agreement purports to transfer various leases, utility (water line, overhead conveyor, electrical) crossing rights, and tracks used by PYCO from SAW to Choo-Choo. The Agreement notes that the original term of all those rights "was extended for a period of 20 years by a supplemental agreement dated December 5, 2000 for a nominal consideration of one dollar (\$1.00) per year with no other rental charges." This is only partially true. As Mr. Kring explains in his attached Declaration (Exhibit G), Mr. Wisener of SAW demanded that PYCO pay \$100,000 for a 20-year lease extension, and PYCO in fact paid Mr. Wisener (d/b/a SAW) \$100,000 (photocopy of check dated December 4, 2000, attached to Kring Declaration) for that extension in light of Wisener's threats to terminate the leases, because termination would halt PYCO's rail dependent operations. Although SAW did not deliver PYCO a copy of the agreement dated December 5, 2000, either at the time or in response to PYCO's discovery requests, PYCO has an unsigned draft copy of the lease extension, also attached to Mr. Kring's Declaration.

Notwithstanding the fact that Mr. Wisener d/b/a SAW was paid \$100,000 for a 20-year extension on December 4, 2005, Mr. Wisener d/b/a Choo-Choo purported to terminate all these leases by letter dated July 6, 2006. This termination was simply to retaliate against PYCO and to pressure PYCO for pursuing shipper

remedies at this Board. This Board in its August 3 Decision voided the lease termination by Choo-Choo, as well as the transfer by SAW of certain real property to Choo-Choo including the "wye."³ This Board also voided all transfers of property interests, including transfers of leases, by SAW to Choo-Choo that took place after May 5, 2006. At the time of the Board's order, neither PYCO nor the Board were aware that SAW had purported to transfer the leases on March 9, 2006.

Summary of Relief Sought

PYCO at this time requests that both deeds described above be declared null and void by this Board prior to transfer of SAW's property to PYCO should PYCO be authorized to acquire SAW's property pursuant to 49 U.S.C. § 10907 in F.D. 34890. In each case, the transfer will hamper rail dependent operations of shippers on SAW's lines, including in some cases access to those shippers.

PYCO requests that the lease transfer of March 9, 2006 also be voided. The transfer is part of a scheme of retaliation that the Board's action in F.D. 34802 was intended to obviate. Any implementation of that scheme (e.g., the March 9 transfer agreement) that post-dates PYCO's filing of its Petition on

³ The transfer was pursuant to a deed dated June 13, 2006. Since this deed has already been voided, PYCO does not move for an order invalidating it here. PYCO does note that notwithstanding the Board's invalidation of the deed, Choo-Choo petitioned a Texas state court to enforce the invalid deed against PYCO on September 22, 2006 (see Exhibit C to PYCO's "Status Report" and "Initial Comments" filed October 12 in F.D. 34890 and 34992).

December 20, 2005, should be voided. In all events, under the reasoning of this Board's August 3 Decision, any transfers out by SAW after it had notice of PYCO's intent to file a feeder line application are subject to being voided. PYCO provided notice to SAW and the world on January 9, 2006, that it intended to file a feeder line application for long term relief should this Board grant its alternative service petition and protect it from further retaliation.

Argument

This Board invalidated all transfers of property interests by SAW and all lease terminations by SAW or Choo-Choo after May 5, 2006, on the ground that SAW was aware that PYCO was invoking the feeder line statute as of that date. Decision in F.D. 34890, 34889, and 34802 served August 3, 2006.

In actual fact, PYCO stated to SAW, the Board, and the world in a pleading filed 9 January 2006 in F.D. 34802 that

"[t]o be sure, the only long term solution for SAW's repeated rail service inadequacies may be a feeder line application (49 U.S.C. § 10907) for all or a portion of SAW's facilities, but that will be undertaken by PYCO and other shippers on SAW's line once this Board takes action necessary so PYCO can stay in business, and so other shippers are freed from the fear of retaliation and retribution by SAW for joining in requests for relief designed to ensure permanent adequate rail service in Lubbock."

Petitioner PYCO Industries' Reply to SAW's Part 1117 Petition,

at p. 12, filed in F.D. 34802 on January 9, 2006, available on the STB website, and hereby incorporated herein. Under the same reasoning employed by the Board in its decision served August 3, 2006, the Board may invalidate all transfers subsequent to January 9, 2006, since SAW had notice that a feeder line application was coming.

PYCO hereby also incorporates all its arguments, and the authorities cited, for the Board's power to grant the relief herein which PYCO set forth in its "Motion for Enforcement of Protocol, et al." on July 17, 2006 in F.D. 34802, F.D. 34889, and F.D. 34890. To paraphrase this Board's decision in Railroad Ventures, Inc. -- Acquisition and Operation Exemption-- Youngstown & Southern Railroad Company, F.D. 33385, served Oct. 4, 2000, slip op. p. 11-12, aff'd Railroad Ventures v. STB, 299 F.3d 523 (6th Cir. 2003), SAW's "attempts to sell portions of the right-of-way to [Choo Choo], after [SAW] was placed on notice that [PYCO] would be submitting [a feeder line application], was a blatant effort to strip away as much of the property as possible to avoid including those portions of the property in the [forced] sale. ... allowing these transfers of property would undermine the ... sale by jeopardizing [PYCO's] ability to provide effective, uninterrupted rail service."

If PYCO is permitted to acquire SAW, PYCO wishes to ensure that its rail operator can reach SAW's current customers without facing charges of trespass by Mr. Wisener d/b/a Choo-Choo. In order to avoid Mr. Wisener's litigious antics, PYCO therefore

requests that the Board invalidate sales to him d/b/a Choo-Choo which cut off existing customers. The two deeds dated April 28, 2006, appear to sever or partially sever SAW's lines, such that a rail operator cannot reach existing customers. In any event, these two sales constitute an illegal de facto abandonment of property necessary to serve rail customers without an authorization from this Board in violation of 49 U.S.C. § 10901. They should be voided for that reason, in addition to the fact that they are an unlawful avoidance of this Board's jurisdiction to implement a transfer under 49 U.S.C. § 10907.

SAW's March 9 transfer to Choo-Choo of leases relating to PYCO falls in a somewhat different category. That transfer is purely retaliatory, and should be invalidated as a challenge (by attempting to intimidate and punish petitioners to this Board) of this Board's jurisdiction in F.D. 34802 and F.D. 34889. Indeed, on this ground any SAW property transfer of property affecting PYCO should be invalidated if it was after PYCO's December 20 initiation of F.D. 34802.⁴

⁴ This Board has declared transfers of rail property null and void or ordered reconveyance when it has perceived the transfer to be contrary to the integrity of the Board's regulations. E.g., The Land Conservancy of King County--Acquisition and Operation Exemption -- The Burlington Northern and Santa Fe Ry Co., F.D. 33388, served Sept. 26, 1997 (orders reconveyance). Accord, Jefferson Terminal RR co.--Acquisition and Operation Exemption -- Crown Enterprises, Inc., F.D. 33950, served March 15, 2001 (revokes authority to acquire in order, among other things, to protect integrity of processes). See also ICC v. American Trucking Ass'ns, 467 U.S. 354, 364-65 (1984) (agency has inherent authority to protect its statutory processes from abuse); Permian Basis Area Rate Cases, 390 U.S. 747, 780 (1968) (agency can take action that is imperative for achievement of the statute's ultimate purpose).

In addition, the lease transfer is in derogation of this Board's 49 U.S.C. § 10907 authority. SAW was on notice as of January 9 that a feeder line application would be forthcoming in the event alternative service was authorized, and such service was authorized in F.D. 34802 by decision served January 26, 2006. Indeed, all SAW property transfers out to Choo-Choo appear to postdate PYCO's January 9, 2006, notice to SAW.

In PYCO's Verified Petition for Alternative Rail Service, filed 20 December 2005 at p. 9 (F.D. 34802), PYCO summarized Mr. Wisener's threats to use SAW to punish PYCO in November of 2005. Wisener's wrath was precipitated by PYCO's refusal to give him a check for \$5.5 million for some unspecified portion of SAW's assets. Wisener responded on November 3, 2005, with a demand that PYCO cease all plant operations on SAW property. On November 18, 2005, Mr. Wisener told PYCO executives that PYCO "would have to figure out how to take care of [itself]" and that it would "cost a lot more for [PYCO] to continue doing business with [SAW]."

SAW/Choo-Choo/Wisener through the purported transfer of leases on March 9, 2006, is simply continuing to implement Wisener's pattern of misconduct that he pledged himself to do in November 2005, and that precipitated PYCO's invocation of shipper remedies in the first place. SAW/Wisener's effort to transfer out the leases to Choo-Choo/Wisener so Mr. Wisener can continue to hammer PYCO should be seen as the ruse it is, and

voided.⁵ Any transfer out by SAW involving PYCO that post-dates the December 20, 2005 filing of the Petition in F.D. 34802 should be voided. Certainly any transfer out by SAW (this would cover the two deeds to Choo-Choo dated April 28, 2006 as well) after PYCO put SAW on notice on January 9, 2006 that a feeder line application was on the way should be invalidated, per a simple extension of the reasoning in the Board's August 3 decision: SAW was on notice.

PYCO would make one final comment to illustrate the kind of tactics used by Mr. Wisener d/b/a SAW to extort from shippers. Shortly after SAW acquired these lines, Larry Wisener d/b/a SAW demanded PYCO pay SAW \$100,000 for a lease extension for 20 years so PYCO could remain in business. PYCO paid the sum, but SAW never delivered the lease extension. SAW acknowledged the existence of the extension (in the March 9 assignment of the leases to Mr. Wisener d/b/a Choo-Choo). But then Mr. Wisener purports to terminate the leases anyway, well before lapse of the 20 year term for which PYCO paid. This is typical SAW practice, generally accompanied by bluster and angry outbursts including but not limited to profanities.

The March 9 lease transfer by SAW to Choo-Choo served no

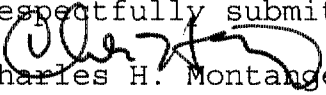
⁵ This is doubly the case since Wisener extorted \$100,000 for a 20-year lease extension d/b/a SAW which he now purports to terminate d/b/a Choo-Choo. As noted, Wisener d/b/a Choo-Choo is seeking to enforce the lease terminations in Texas state court, notwithstanding this Board's August 3 Decision voiding all lease terminations after May 5, 2006. See PYCo's "Status Report" and "Initial Comments" in F.D. 34890, Exhibit C (request for TRO by Choo-Choo filed in state court on September 22, 2006).

railroad purpose. Wisener's subsequent termination of the leases served no railroad purpose and effectively robbed PYCO of the \$100,000 which it paid Wisener for peace. But there can be no peace in Lubbock as long as SAW/Wisener is in charge, or is in charge of picking his successor railroad, because he has shown that if given the choice, his choice is to retaliate, regardless of his economic best interests. SAW is not interested in growing business. It is interested in punishing business.

Conclusion

For the reasons stated, PYCO requests that deeds 61161 and 53081 (Exhibits C and D) be voided as part of any transfer of rail property from SAW to PYCO pursuant to F.D. 34890. PYCO requests that the Agreement of March 9, 2006, between SAW and Choo-Choo purporting to transfer PYCO leases and utility rights to Choo-Choo, and any other transfers of PYCO interests post-dating December 20, 2005, be voided as an unlawful attempt to circumvent this Board's jurisdiction in docket F.D. 34802 (49 C.F.R. Part 1146). At the very least, all transfers post-dating PYCO's public notice of a possible feeder line application on January 9, 2006, should be voided per the Board's reasoning in its Decision served August 3 in F.D. 34802, 34889, and 34890.

Respectfully submitted,


Charles H. Montange
for PYCO Industries, Inc.
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
fax: -3739

Of counsel:

Gary McLaren, Esq.
Phillips & McLaren
3305 66th St., Suite 1A
Lubbock, TX 79413
(806) 788-0609
for PYCO Industries, Inc.

Exhibit A -- Examples of SAW deeds to third parties that
 hamper access to potential business
Exhibit B -- C. Appraisal Dist. map
Exhibit C -- Deed 61161
Exhibit D -- Deed 53081
Exhibit E -- C. Appraisal Dist. map
Exhibit F -- 9 March 2006 lease transfer, SAW to Choo-Choo
Exhibit G -- Gail Kring Declaration (contains verification of
 Motion)

Certificate of Service

I hereby certify service of the foregoing Appeal and Petition upon the following counsel of record by express service, next business day delivery, this 13th day of October 2006:

Thomas McFarland
208 South LaSalle Street, Suite 1890
Chicago, IL 60606-1112 (for SAW)

William Sippel, Esq.
Fletcher & Sippel
29 North Wacker Drive, Suite 920
Chicago, IL 60606-2832 (for US Rail Partners)

John Heffner, Esq.
1920 N Street, N.W., Suite 800
Washington, D.C. 20036 (for WTL)

William A. Mullins, Esq.
Baker & Miller
2401 Pennsylvania Ave. NW, Suite 300
Washington, D.C. 20037 (for Pioneer/KJRY)

Adrian Steel, Esq.
Mayer, Brown, Rowe & Maw
1909 K Street, N.W.
Washington, D.C. 20006-1101

Andrew Goldstein, Esq.
McCarthy, Sweeney & Harkaway
2175 K Street, N.W., Suite 600
Washington, D.C. 20027

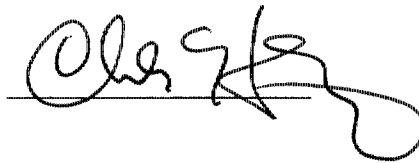
A handwritten signature in black ink, appearing to read "Andrew Goldstein", written over a horizontal line.

Exhibit A

#2

After Filing Return To: Lubbock Machine Tool, 1206 East 46th, Lubbock, Texas 79404

COPY

QUITCLAIM DEED

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF LUBBOCK §

THAT the SOUTH PLAINS SWITCHING LTD., COMPANY, a Texas Limited Liability Company, of the County of Lubbock, State of Texas, (hereinafter "Grantor"), for and in consideration of the sum of TEN DOLLARS AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, in hand paid by the grantee herein named, the receipt and sufficiency of which is hereby acknowledged, has QUITCLAIMED, and by these presents does QUITCLAIM unto LUBBOCK MACHINE TOOL, of 1206 East 46th Street, Lubbock, Texas 79404, (Hereinafter "Grantee"), all of its right, title and interest, if any, in and to the real property situated in Lubbock County, Texas, more particularly described in Exhibit "A" attached hereto and hereby made a part hereof (Hereinafter "the Property")

This deed is given and Grantee accepts same subject to those items shown on Exhibit "B" attached hereto and hereby made a part hereof.

COPY

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the Property and premises, if any, unto Grantee, its successors and assigns forever, so that neither Grantor nor its legal representatives or assigns shall have, claim or demand any right or title to the Property, premises or appurtenances or any part thereof.

This conveyance is made without warranty of any kind, express or implied and no covenant of warranty shall be implied from the use of any word or words herein contained, including without limitation any warranty that might arise by common law, or the warranties in Section 5.023 of the Texas Property Code (or its successors). By the acceptance of this deed, Grantee takes the Property "AS IS". Grantor has not made and does not make any representations as to the physical condition, layout, footage, expenses, zoning, operation, or any other matter affecting or related to the Property, and Grantee hereby expressly acknowledges that no such representations have been made. Grantor makes no other warranties, express or implied, of merchantability, marketability, fitness or suitability for a particular purpose or otherwise except as set forth and limited herein. Any implied warranties are expressly disclaimed and excluded.

EXECUTED on this the 15th day of September, 2000.

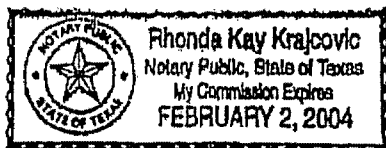
South Plains Switching Ltd., Company

Larry D. Wisener
By; Larry D. Wisener, President

THE STATE OF TEXAS
COUNTY OF LUBBOCK

\$
\$
\$

This instrument was acknowledged before me on this the 15th day of September, 2000 by Larry D. Wisener, President of South Plains Switching, Ltd., Company, a Texas Limited Liability Company, on behalf of said Company.



Rhonda Kay Krajcovic
NOTARY PUBLIC, STATE OF TEXAS

Rhonda Kay Krajcovic
Printed Name of Notary
My Commission Expires: 2-2-04

EXHIBIT "A"

A STRIP OF LAND LYING IN SURVEY 6, BLOCK B, T.T.R.R. SURVEY AND
LOCATED IN THE NELSON-BROWN ADDITION TO THE CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS

THE FOLLOWING DESCRIBED STRIP OF PROPERTY IS BOUNDED ON THE
NORTH BY THE NORTH LINE OF BLOCK THIRTY-SEVEN (37) (SOUTH LINE
OF 46TH STREET) AND IS BOUNDED ON THE SOUTH BY THE SOUTH LINE OF
BLOCK THIRTY-SEVEN (37) AND IS FURTHER DESCRIBED AS FOLLOWS:

THE EAST TWENTY-THREE FEET (23') OF LOT TWO (2) IN BLOCK THIRTY-
SEVEN (37) IN THE NELSON-BROWN ADDITION, AN ADDITION TO THE CITY
OF LUBBOCK, LUBBOCK COUNTY, TEXAS.

*Duplicate
#2*

EXHIBIT "B"

1. Outstanding fees and taxes for the year 2000 and prior years, to be paid by Grantor.

2. Payment of subsequent ad valorem taxes, property taxes, or assessments for prior years due to change in land usage or ownership to be paid by Grantee.

3. Any and all restrictions, covenants, conditions, reservations, liens, rights-of-way, taxes, licenses, easements, highways, roads, pipelines, wire lines, conduits, ditches, ordinances, and other encumbrances, affecting the Property, whether of record or not, and all matters a current survey or visual inspection of the property would disclose.

4. Right of parties in possession.

5. Grantor reserves an easement upon the property for one year (12 months) from the date of closing, for the removal of Grantor's personal property including rail, track fastenings, crossties and track ballast.

#3 & #4

After Filing Return To: Rodman Properties, 620 North Grant Street, Suite 1204, Odessa, Texas 79761

QUITCLAIM DEED

THE STATE OF TEXAS

§

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK

§

COPY

Duplicate

THAT the SOUTH PLAINS SWITCHING LTD., COMPANY, a Texas Limited Liability Company, of the County of Lubbock, State of Texas, (hereinafter "Grantor"), for and in consideration of the sum of TEN DOLLARS AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, in hand paid by the grantee herein named, the receipt and sufficiency of which is hereby acknowledged, has QUITCLAIMED, and by these presents does QUITCLAIM unto RODMAN PROPERTIES, LLC., an undivided one-half (1/2); Noel/Wagner Interests, Ltd., an undivided sixty percent (60%) of one-half (1/2); and Noel/McGuigan Interests, Ltd., an undivided forty percent (40%) of one-half (1/2) of 620 North Grant Avenue, Suite 1204, Odessa, Texas 79761, (Hereinafter "Grantee"), all of its right, title and interest, if any, in and to the real property situated in Lubbock County, Texas, more particularly described in Exhibit "A" attached hereto and hereby made a part hereof (Hereinafter "the Property")

QUITCLAIM DEED

South Plains Switching Ltd., Company to Rodman Properties, LLC.

Page 1 of 6

This deed is given and Grantee accepts same subject to those items shown on Exhibit "B" attached hereto and hereby made a part hereof.

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the Property and premises, if any, unto Grantee, its successors and assigns forever, so that neither Grantor nor its legal representatives or assigns shall have, claim or demand any right or title to the Property, premises or appurtenances or any part thereof.

This conveyance is made without warranty of any kind, express or implied and no covenant of warranty shall be implied from the use of any word or words herein contained, including without limitation any warranty that might arise by common law, or the warranties in Section 5.023 of the Texas Property Code (or its successors). By the acceptance of this deed, Grantee takes the Property "AS IS". Grantor has not made and does not make any representations as to the physical condition, layout, footage, expenses, zoning, operation, or any other matter affecting or related to the Property, and Grantee hereby expressly acknowledges that no such representations have been

COPY

QUITCLAIM DEED

South Plains Switching Ltd., Company to Rodman Properties, LLC.

Page 2 of 6

made. Grantor makes no other warranties, express or implied, of merchantability, marketability, fitness or suitability for a particular purpose or otherwise except as set forth and limited herein. Any implied warranties are expressly disclaimed and excluded.

COPY

QUITCLAIM DEED

South Plains Switching Ltd., Company to Rodman Properties, LLC.

Page 3 of 6

EXECUTED on this the

28th

day of

September,
2000.

South Plains Switching Ltd., Company

Larry D. Wisener
By: Larry D. Wisener, President

THE STATE OF TEXAS

§

§

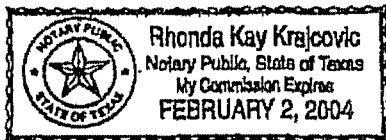
COUNTY OF LUBBOCK

§

This instrument was acknowledged before me on this the
28th day of September, 2000 by Larry D.
Wisener, President of South Plains Switching, Ltd., Company, a
Texas Limited Liability Company, on behalf of said Company.

Rhonda Kay Krajcovic

NOTARY PUBLIC, STATE OF TEXAS



Rhonda Kay Krajcovic

Printed Name of Notary

My Commission Expires: 2-2-04

QUITCLAIM DEED

South Plains Switching Ltd., Company to Rodman Properties, LLC.

Page 4 of 6

EXHIBIT "A"

A STRIP OF LAND LYING IN SURVEY 6, BLOCK B.T.T.R.R. SURVEY AND
LOCATED IN THE NELSON-BROWN ADDITION TO THE CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS

Sume
#3
THE FOLLOWING DESCRIBED STRIP OF PROPERTY IS BOUNDED ON THE
NORTH BY THE FORMER SOUTH LINE OF VACATED 48TH STREET AND IS
BOUNDED ON THE SOUTH BY THE NORTH LINE OF 50TH STREET AND IS
FURTHER DESCRIBED AS FOLLOWS:

Sume
THE WEST TWENTY-THREE FEET (23') OF LOT ONE (1) IN BLOCK THIRTY-
NINE (39) AND THE WEST TWENTY-THREE FEET (23') OF THE NORTH TWO
HUNDRED SIXTY FEET (260') OF LOT TWO (2) IN BLOCK THIRTY-NINE
(39) ALL IN THE NELSON-BROWN ADDITION, AND ADDITION TO THE CITY
OF LUBBOCK, LUBBOCK COUNTY, TEXAS.

Sume
#4
THE EAST TWENTY-THREE FEET (23') OF LOT ONE (1) IN BLOCK FORTY
(40) AND THE EAST TWENTY-THREE FEET (23') OF THE NORTH TWO
HUNDRED SIXTY FEET (260') OF LOT TWO (2) IN BLOCK FORTY (40) ALL
IN THE NELSON-BROWN ADDITION, AN ADDITION TO THE CITY OF
LUBBOCK, LUBBOCK COUNTY, TEXAS.

QUITCLAIM DEED

South Plains Switching Ltd., Company to Rodman Properties, LLC.

Page 5 of 6

copy

EXHIBIT "B"

1. Outstanding fees and taxes for the year 2000 and prior years, to be paid by Grantor.
2. Payment of subsequent ad valorem taxes, property taxes, or assessments for prior years due to change in land usage or ownership to be paid by Grantee.
3. Any and all restrictions, covenants, conditions, reservations, liens, rights-of-way, taxes, licenses, easements, highways, roads, pipelines, wire lines, conduits, ditches, ordinances, and other encumbrances, affecting the Property, whether of record or not, and all matters a current survey or visual inspection of the property would disclose.
4. Right of parties in possession.
5. Grantor reserves an easement upon the property for one year (12 months) from the date of closing, for the removal of Grantor's personal property including rail, track fastenings, crossties and track ballast.

COPI

QUITCLAIM DEED

South Plains Switching Ltd., Company to Rodman Properties, LLC.
Page 6 of 6

#5 1 46

After Filing Return To: Bob Clark, Brandon & Clark, Inc., 36231 I-27, Lubbock, Texas 79404

QUITCLAIM DEED

COPY

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF LUBBOCK §

THAT the SOUTH PLAINS SWITCHING LTD., COMPANY, a Texas Limited Liability Company, of the County of Lubbock, State of Texas, (hereinafter "Grantor"), for and in consideration of the sum of TEN DOLLARS AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, in hand paid by the grantee herein named, the receipt and sufficiency of which is hereby acknowledged, has QUITCLAIMED, and by these presents does QUITCLAIM unto WILLIAM WALTON CLARK, JR. and ROBERT EUGENE CLARK, a partnership, of 3623 I-27, Lubbock, Texas 79404, (Hereinafter "Grantee"), all of its right, title and interest, if any, in and to the real property situated in Lubbock County, Texas, more particularly described in Exhibit "A" attached hereto and hereby made a part hereof (Hereinafter "the Property")

This deed is given and Grantee accepts same subject to those items shown on Exhibit "B" attached hereto and hereby made a part hereof.

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the Property and premises, if any, unto Grantee, its successors and assigns forever, so that neither Grantor nor its legal representatives or assigns shall have,

COPY

claim or demand any right or title to the Property, premises or appurtenances or any part thereof.

This conveyance is made without warranty of any kind, express or implied and no covenant of warranty shall be implied from the use of any word or words herein contained, including without limitation any warranty that might arise by common law, or the warranties in Section 5.023 of the Texas Property Code (or its successors). By the acceptance of this deed, Grantee takes the Property "AS IS". Grantor has not made and does not make any representations as to the physical condition, layout footage, expenses, zoning, operation, or any other matter affecting or related to the Property, and Grantee hereby expressly acknowledges that no such representations have been made. Grantor makes no other warranties, express or implied, of merchantability, marketability, fitness or suitability for a particular purpose or otherwise except as set forth and limited herein. Any implied warranties are expressly disclaimed and excluded.

EXECUTED on this the 19 day of September,
2000.

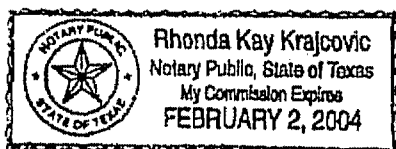
South Plains Switching Ltd., Company

Larry D. Wisener
By: Larry D. Wisener, President

THE STATE OF TEXAS §
 §
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on this the
19th day of September, 2000 by Larry D.
Wisener, President of South Plains Switching, Ltd., Company, a
Texas Limited Liability Company, on behalf of said Company.

Rhonda Kay Krajcovic
NOTARY PUBLIC, STATE OF TEXAS



Rhonda Kay Krajcovic
Printed Name of Notary

My Commission Expires: 02-02-04

EXHIBIT "A"

A STRIP OF LAND LYING IN SURVEY 6, BLOCK B, T.T.R.R. SURVEY AND LOCATED IN THE NELSON-BROWN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS

TRACT 1

THE FOLLOWING DESCRIBED STRIP OF PROPERTY IS BOUNDED ON THE NORTH BY THE NORTH LINE OF BLOCK THIRTY-EIGHT (38) AND IS BOUNDED ON THE SOUTH SIDE BY THE SOUTH LINE OF BLOCK THIRTY-EIGHT (38) AND IS FURTHER DESCRIBED AS FOLLOWS: Duplicate #5

THE EAST TWENTY-THREE FEET (23') OF LOT TWO (2) IN BLOCK THIRTY-EIGHT (38) AND THE WEST TWENTY-THREE FEET (23') OF LOT ONE (1) IN BLOCK THIRTY-EIGHT (38) IN THE NELSON-BROWN ADDITION, AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS.

TRACT 2

#6
THE FOLLOWING DESCRIBED STRIP OF PROPERTY IS BOUNDED ON THE NORTH BY THE NORTH LINE OF BLOCK THIRTY-SEVEN (37) (SOUTH LINE OF 46TH STREET) AND IS BOUNDED ON THE SOUTH BY THE SOUTH LINE OF BLOCK THIRTY-SEVEN (37) AND IS FURTHER DESCRIBED AS FOLLOWS:

THE WEST TWENTY-THREE FEET (23') OF LOT ONE (1) IN BLOCK THIRTY-SEVEN (37) IN THE NELSON-BROWN ADDITION, AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS.

EXHIBIT "B"

1. Outstanding fees and taxes for the year 2000 and prior years, to be paid by Grantor.
2. Payment of subsequent ad valorem taxes, property taxes, or assessments for prior years due to change in land usage or ownership to be paid by Grantee.
3. Any and all restrictions, covenants, conditions, reservations, liens, rights-of-way, taxes, licenses, easements, highways, roads, pipelines, wire lines, conduits, ditches, ordinances, and other encumbrances, affecting the Property, whether of record or not, and all matters a current survey or visual inspection of the property would disclose.
4. Right of parties in possession.
5. Grantor reserves an easement upon the property for one year (12 months) from the date of closing, for the removal of Grantor's personal property including rail, track fastenings, crossties and track ballast.

9-20-00

ADDENDUM

QUICK CLAIM DEED

All Claims to easements or railroad rights across Lot #1, Block 37, Nelson Brown Addition, Lubbock, Texas, are released.

Larry Wiskosen President South Plains Sewerage L.P.

Robert E. Clark



Karen R. Hudgeons
NOTARY

7

After Filing Return To: Milton & Betty Henson, Family Limited Partnership,
5006 92nd Street, Lubbock, Texas 79424

COPY

QUITCLAIM DEED

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF LUBBOCK §

THAT the SOUTH PLAINS SWITCHING LTD., COMPANY, a Texas Limited Liability Company, of the County of Lubbock, State of Texas, (hereinafter "Grantor"), for and in consideration of the sum of TEN DOLLARS AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, in hand paid by the grantee herein named, the receipt and sufficiency of which is hereby acknowledged, has QUITCLAIMED, and by these presents does QUITCLAIM unto MILTON and BETTY HENSON, Family Limited Partnership, of 5006 92nd Street, Lubbock, Texas 79424 (Hereinafter "Grantee"), all of its right, title and interest, if any, in and to the real property situated in Lubbock County, Texas, more particularly described in Exhibit "A" attached hereto and hereby made a part hereof (Hereinafter "the Property")

This deed is given and Grantee accepts same subject to those items shown on Exhibit "B" attached hereto and hereby made a part hereof.

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the Property and premises, if any, unto Grantee, its successors and assigns forever, so that neither Grantor nor its legal representatives or assigns shall have, claim or demand any right or title to the Property, premises or appurtenances or any part thereof.

This conveyance is made without warranty of any kind, express or implied and no covenant of warranty shall be implied from the use of any word or words herein contained, including without limitation any warranty that might arise by common law, or the warranties in Section 5.023 of the Texas Property Code (or its successors). By the acceptance of this deed, Grantee takes the Property "AS IS". Grantor has not made and does not make any representations as to the physical condition, layout, footage, expenses, zoning, operation, or any other matter affecting or related to the Property, and Grantee hereby expressly acknowledges that no such representations have been

QUITCLAIM DEED

South Plains Switching Ltd., Company to Milton & Betty Henson,
Family Limited Partnership

Page 2 of 6

made. Grantor makes no other warranties, express or implied, of merchantability, marketability, fitness or suitability for a particular purpose or otherwise except as set forth and limited herein. Any implied warranties are expressly disclaimed and excluded.

QUITCLAIM DEED

South Plains Switching Ltd., Company to Milton & Betty Henson,
Family Limited Partnership

Page 3 of 6

EXECUTED on this the 18th day of September, 2001.

South Plains Switching Ltd., Company

Larry D. Wisener
By: Larry D. Wisener, President

THE STATE OF TEXAS

§

§

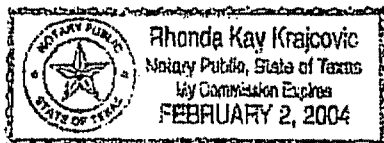
COUNTY OF LUBBOCK

§

This instrument was acknowledged before me on this the 18th day of September, 2001 by Larry D. Wisener, President of South Plains Switching, Ltd., Company, a Texas Limited Liability Company, on behalf of said Company.

Rhonda Kay Krajcovic

NOTARY PUBLIC, STATE OF TEXAS



Rhonda Kay Krajcovic

Printed Name of Notary

My Commission Expires: 2-02-04

QUITCLAIM DEED

South Plains Switching Ltd., Company to Milton & Betty Henson,
Family Limited Partnership

Page 4 of 6

EXHIBIT "A"

*Supl
Same # 1*

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 6,
BLOCK B, TYLER TAP R. R. CO. SURVEY, LUBBOCK COUNTY, TEXAS,
BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT POINT THAT BEARS SOUTH THIRTY-SEVEN DEGREES
THIRTY MINUTES FORTY-FIVE AND ONE TENTHS SECONDS EAST (37°
30'45.1" E) A DISTANCE OF ONE THOUSAND TWO HUNDRED FORTY AND ONE
HUNDRED NINETY-EIGHT THOUSANDTHS FEET (1,240.198') FROM THE
NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 6, BLOCK B;

THENCE EAST ~~ALONG THE SOUTH LINE OF SAID LOT 1~~ A DISTANCE *4 7/8*
OF ONE HUNDRED EIGHTY-SIX AND FORTY-NINE HUNDREDTHS FEET *9/18/01*
(186.49') TO A POINT;

THENCE SOUTH A DISTANCE OF THIRTY-TWO FEET (32.0') TO THE
NORTHEAST CORNER OF LOT 1, HENSON ADDITION;

THENCE WEST A DISTANCE OF ONE HUNDRED EIGHTY-SIX AND FORTY-
NINE HUNDREDTHS FEET (186.49') ALONG THE NORTH LINE OF SAID LOT
1 A DISTANCE OF ONE HUNDRED EIGHTY-SIX AND FORTY-NINE HUNDREDTHS
FEET (186.49') TO A POINT;

THENCE NORTH A DISTANCE OF THIRTY-TWO FEET (32.0') TO THE
POINT OF BEGINNING.

QUITCLAIM DEED

South Plains Switching Ltd., Company to Milton & Betty Henson,
Family Limited Partnership

Page 5 of 6

EXHIBIT "B"

1. Outstanding fees and taxes for the year 2000 and prior years, to be paid by Grantor.

2. Payment of subsequent ad valorem taxes, property taxes, or assessments for prior years due to change in land usage or ownership to be paid by Grantee.

3. Any and all restrictions, covenants, conditions, reservations, liens, rights-of-way, taxes, licenses, easements, highways, roads, pipelines, wire lines, conduits, ditches, ordinances, and other encumbrances, affecting the Property, whether of record or not, and all matters a current survey or visual inspection of the property would disclose.

4. Right of parties in possession.

~~5. Grantor reserves an easement upon the property for one year (12 months) from the date of closing, for the removal of Grantor's personal property including rail, track fastenings, crossties and track ballast.~~ *7/18/01* *AW*

QUITCLAIM DEED

South Plains Switching Ltd., Company to Milton & Betty Henson,
Family Limited Partnership

Page 6 of 6

Exhibit B



E

1

Exhibit C

#12

After Filing Return to: CHOO CHOO PROPERTIES, INC, P. O. BOX 64420, LUBBOCK, TEXAS 79464-4420

DEED NO.: 61161

QUITCLAIM DEED

THE STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

KNOW ALL MEN BY THESE PRESENTS:

THAT the SOUTH PLAINS SWITCHING LTD. CO., a Texas Limited Liability Company, of the County of Lubbock, State of Texas, (hereinafter "Grantor") for and in consideration of the sum of TEN DOLLARS AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, in hand paid by the grantee herein named, the receipt and sufficiency of which is hereby acknowledged, has **QUITCLAIMED**, and by the presents does **QUITCLAIM** unto **CHOO CHOO PROPERTIES, INC.** of P. O. Box 64420, Lubbock, Texas 79464-4420 (hereinafter "Grantee"), all of its right, title and interest in and to the real property situated in Lubbock County, Texas, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter "the Property").

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the Property and premises unto Grantee, its successors and assigns forever, so that neither Grantor nor its legal representatives or assigns shall have, claim or demand any right or title to the Property, premises or appurtenances or any part thereof.

This conveyance is made without warranty of any kind, express or implied and no covenant of warranty shall be implied from the use of any word or words herein contained, including without limitation any warranty that might arise by common law, or the warranties in Section 5.023 of the Texas Property Code (or its successor). By the acceptance of this deed,

EXHIBIT "A"

#12 TW 9
R148846

METES AND BOUNDS DESCRIPTION of a TRACT OF LAND located in the Southeast Quarter of Block 9 of the BURLINGTON INDUSTRIAL ADDITION NO. 2 in Section 6, Block B, Tyler Tap R. R. Co. Survey, Lubbock County, Texas and being further described as follows:

BEGINNING at the intersection of a projection of the North right of way line of East 46th Street (a 75' right of way) and the West right of way line of Locust Avenue (a 75' right of way).

THENCE North fifteen feet (15') along a projection of the West right of way line of Locust Avenue to the True Point of Beginning for this tract.

THENCE North Two Hundred Thirty-three and Seventy-five Hundredths feet (233.75') along the West right of way line of Locust Avenue to the Southeast corner of Lot 5 in Block 9 of the Burlington Industrial Addition No. 2.

THENCE West Two Hundred Eighty-six and Fifteen Hundredths feet (286.15') along the South line of Lot 5 in Block 9 of the Burlington Industrial Addition No. 2 to the Southwest corner of Lot 5 in Block 9 of the Burlington Industrial Addition No. 2.

THENCE South Two Hundred Forty-eight and Seventy-five Hundredths feet (248.75') to a point in the North right of way line of East 46th street for the Southwest corner of this tract.

THENCE East Two Hundred Seventy-one and Fifteen Hundredths feet (271.15') along the North right of way line of 46th Street to a point beginning also the point of curve (PC) for a curve to the left.

THENCE Northeasterly Twenty-three and Fifty-six Hundredths feet (23.56') along a curve to the left, said curve having a radius of Fifteen feet (15.0'), a central angle of Ninety Degrees (90°) and a cord bearing Twenty-one and Twenty-one Hundredths feet (21.21') North Forty-five Degrees (45°) East to a point of tangent in the West right of way of Locust Avenue being also the true point of beginning.

COPIES

Grantee takes the Property "AS IS". Grantor has not made and does not make any representations as to the physical condition, layout footage, expenses, zoning, operation, or any other matter affecting or related to the Property, and Grantee hereby expressly acknowledges that now such representations have been made. Grantor makes no other warranties, express or implied, of merchantability, marketability, fitness or suitability for a particular purpose or otherwise except as set forth and limited herein. Any implied warranties are expressly disclaimed and excluded.

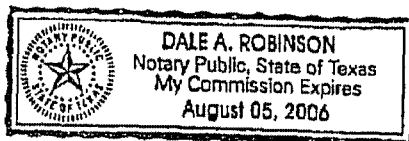
EXECUTED on this the 28th day of April, 2006.

South Plains Switching, Ltd., Co.

Delilah Wisener
By: Delilah Wisener, Owner

THE STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on this the 28th day of April, 2006 by DELILAH WISENER, Owner of South Plains Switching, Ltd. Co., a Texas Limited Liability Company, on behalf of said company.

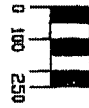


Dale A. Robinson
NOTARY PUBLIC, STATE OF TEXAS
Dale A. Robinson
Printed Name of Notary

My Commission Expires: August, 05, 2006



Graphic Scale



Choo-Choo Properties, Inc.
Burlington Industrial District 2

EXHIBIT "A"

NOTES AND BOUNDS DESCRIPTION of a TRACT OF LAND located in the Southwest Quarter of Block 9 of the BURLINGTON INDUSTRIAL ADDITION No. 2 in Section 6, Block 6, T14N R. 10E, Co. Survey, Lubbock County, Texas and being further described as follows:

beginning at the intersection of a projection of the North right of way line of East 40th Street (a 75' right of way) and the West right of way line of Locust Avenue (a 75' right of way);

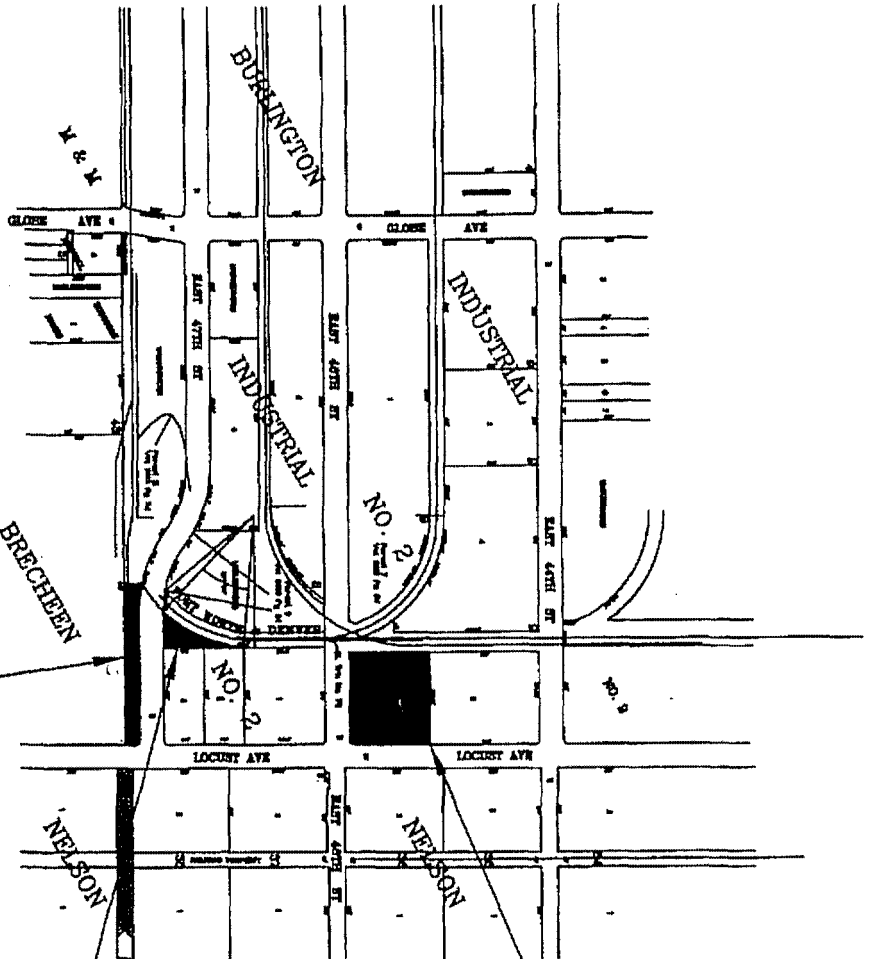
thence North 15 feet along a projection of the West right of way line of Locust Avenue to the True Point of Beginning for this tract;

thence North 773.15 feet along the West right of way line of Locust Avenue to the southeast corner of Lot 5 in Block 9 of the Burlington Industrial Addition No. 2;

thence West 298.15 feet along the south line of Lot 5 in Block 9 of the Burlington Industrial Addition No. 2;

thence South 246.75 feet to a point in the North right of way line of East 40th Street for the Southwest corner of the tract;

thence East 271.15 feet along the north right of way line of 40th Street to a point beginning also the point of curve (PC) for a curve having a radius of 21.56 feet, a central angle of 90 degrees and a chord bearing N 121 degrees 14' 45" E to a point of tangency in the West right of way line of Locust Avenue being also the true point of beginning



Previous Sale
+/- 0.54 Ac. S Plains Food Bank

Food Bank II
Previous Sale
+/- 0.23 Ac. S Plains Food Bank

+/- 1.63 Ac. Choo-Choo Properties, Inc.

Food Bank
Inack 1

Exhibit "A"

Drawing No. 61161

Exhibit D

DEED NO.: 53081

QUITCLAIM DEED

**THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF LUBBOCK §**

THAT the SOUTH PLAINS SWITCHING LTD. CO., a Texas Limited Liability Company, of the County of Lubbock, State of Texas, (hereinafter "Grantor") for and in consideration of the sum of TEN DOLLARS AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, in hand paid by the grantee herein named, the receipt and sufficiency of which is hereby acknowledged, has **QUITCLAIMED**, and by the presents does **QUITCLAIM** unto **CHOO CHOO PROPERTIES, INC. of P. O. Box 64420, Lubbock, Texas 79464-4420** (hereinafter "Grantee"), all of its right, title and interest in and to the real property situated in Lubbock County, Texas, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter "the Property").

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the Property and premises unto Grantee, its successors and assigns forever, so that neither Grantor nor its legal representatives or assigns shall have, claim or demand any right or title to the Property, premises or appurtenances or any part thereof.

This conveyance is made without warranty of any kind, express or implied and no covenant of warranty shall be implied from the use of any word or words herein contained, including without limitation any warranty that might arise by common law, or the warranties in Section 5.023 of the Texas Property Code (or its successor). By the acceptance of this deed,

Grantee takes the Property "AS IS". Grantor has not made and does not make any representations as to the physical condition, layout footage, expenses, zoning, operation, or any other matter affecting or related to the Property, and Grantee hereby expressly acknowledges that now such representations have been made. Grantor makes no other warranties, express or implied, of merchantability, marketability, fitness or suitability for a particular purpose or otherwise except as set forth and limited herein. Any implied warranties are expressly disclaimed and excluded.

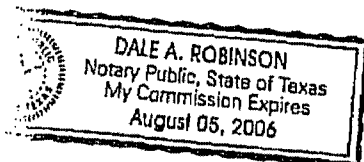
EXECUTED on this the 28th day of April, 2006.

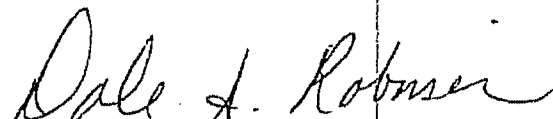
South Plains Switching, Ltd., Co.


By: Delilah Wisener, Owner

THE STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on this the 28th day of April, 2006 by DELILAH WISENER, Owner of South Plains Switching, Ltd. Co., a Texas Limited Liability Company, on behalf of said company.




NOTARY PUBLIC, STATE OF TEXAS
Dale A. Robinson
Printed Name of Notary

My Commission Expires: August 05, 2006

EXHIBIT "A".

13

TRACT 1:

That portion of the SOUTH PLAINS SWITCHING, LTD. CO. (SAW) property, tracks, easements, and fixtures located within the borders of the following tract of land located within Section 1, Block E, GC&SF RR Survey, City of Lubbock, Lubbock County, Texas.

BEGINNING at the intersection of the North Right of Way Line of East 58th Street and the East Right of Way Line of Elm Avenue,

THENCE East along the North Right of Way Line of East 58th Street Six Hundred Feet (600') to the Southeast corner of this tract,

THENCE Northerly parallel and Six Hundred Feet (600') Easterly of Elm Avenue along a common line described in QCD recorded in Vol. 3074 Page 186 of the Lubbock County Texas Deed Records Two Hundred Sixty-four and Five Tenths Feet (264.5') to a corner being also Eight and Five Tenths Feet (8.5') Southerly of the center line of the SAW Lead Track No. 107,

THENCE Westerly Eight and Five Tenths Feet (8.5') Southerly of the SAW Lead Track No. 107 being parallel with the center line of SAW Lead Track No. 107 to a corner in the East Right of Way Line of Elm Avenue,

THENCE Southerly along the East Right of Way Line of Elm Avenue to the point of beginning.

TRACT 2:

All of that portion of the SOUTH PLAINS SWITCHING, LTD., CO. (SAW) property, tracks, easements, and fixtures located within the borders of the following described land as bordered by 50th Street (Farm Road 835) on the North, 58th Street on the South, Birch Avenue on the West and the West Right of Way Line of Elm Avenue on the East all as presently located within Section 1, Block E, GC&SF RR Survey, City of Lubbock, Lubbock County, Texas.

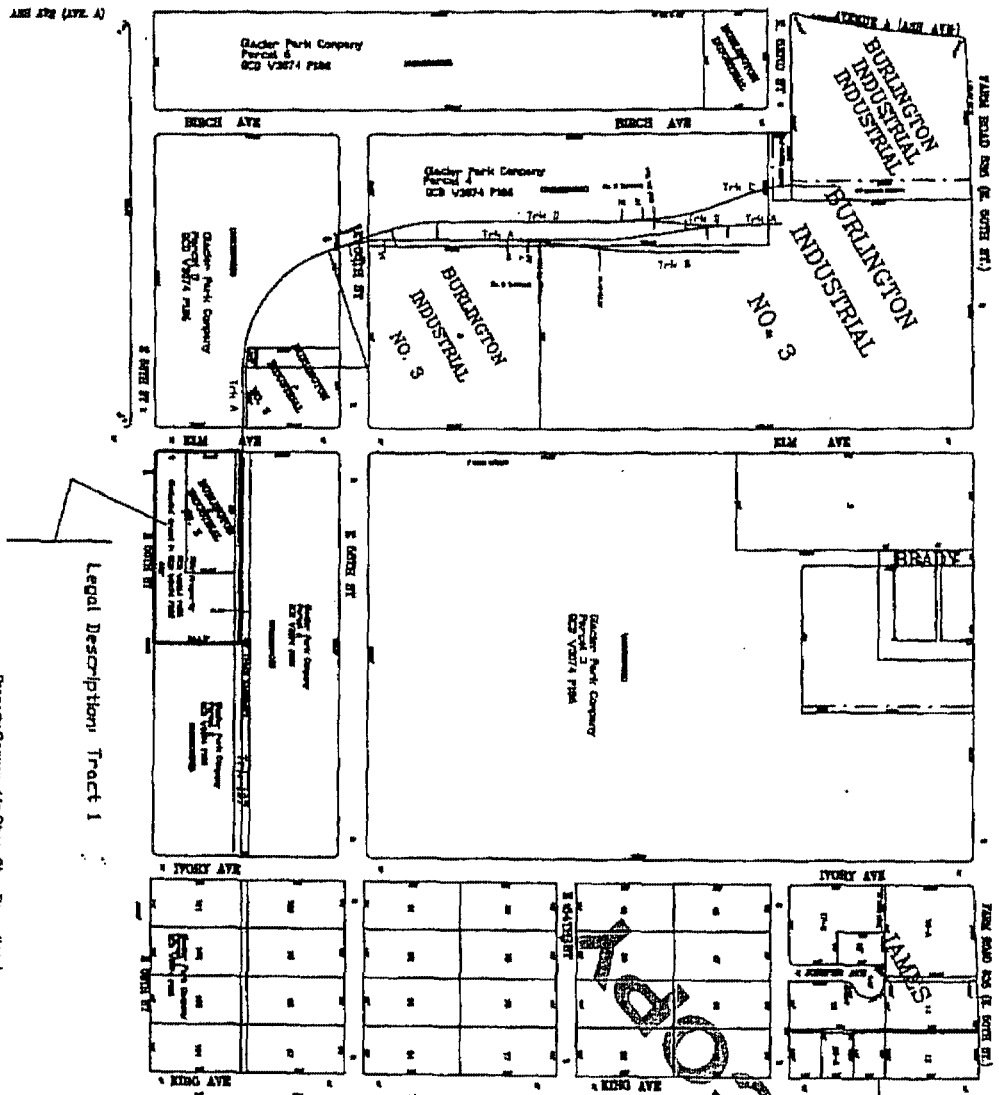
*84 Lumber
Flaming Food
Service*

Chao-Chao Properties Trackage

Trk A = 2160 TF
Trk B = 285 TF
Trk C = 680 TF
Trk D = 1255 TF
4,380 TF

Property Conveyed to Chao-Chao Properties, Inc.
Legal Description Tract 2

All of that portion of the SOUTH PLAINS SWITCHING, LTD., CO. (SAW) property, tracks, easements, and fixtures located within the borders of the following described land as bordered by 50th Street (Farm Road 835) on the North, 58th Street on the South, Birch Avenue on the West and the West Right of Way; line of Elm Avenue on the East all as presently located within Section 1, Block E, GC&SF RR Survey, City of Lubbock, Lubbock County, Texas.



Legal Description Tract 1

Property Conveyed to Chao-Chao Properties, Inc.

Legal Description Tract 1

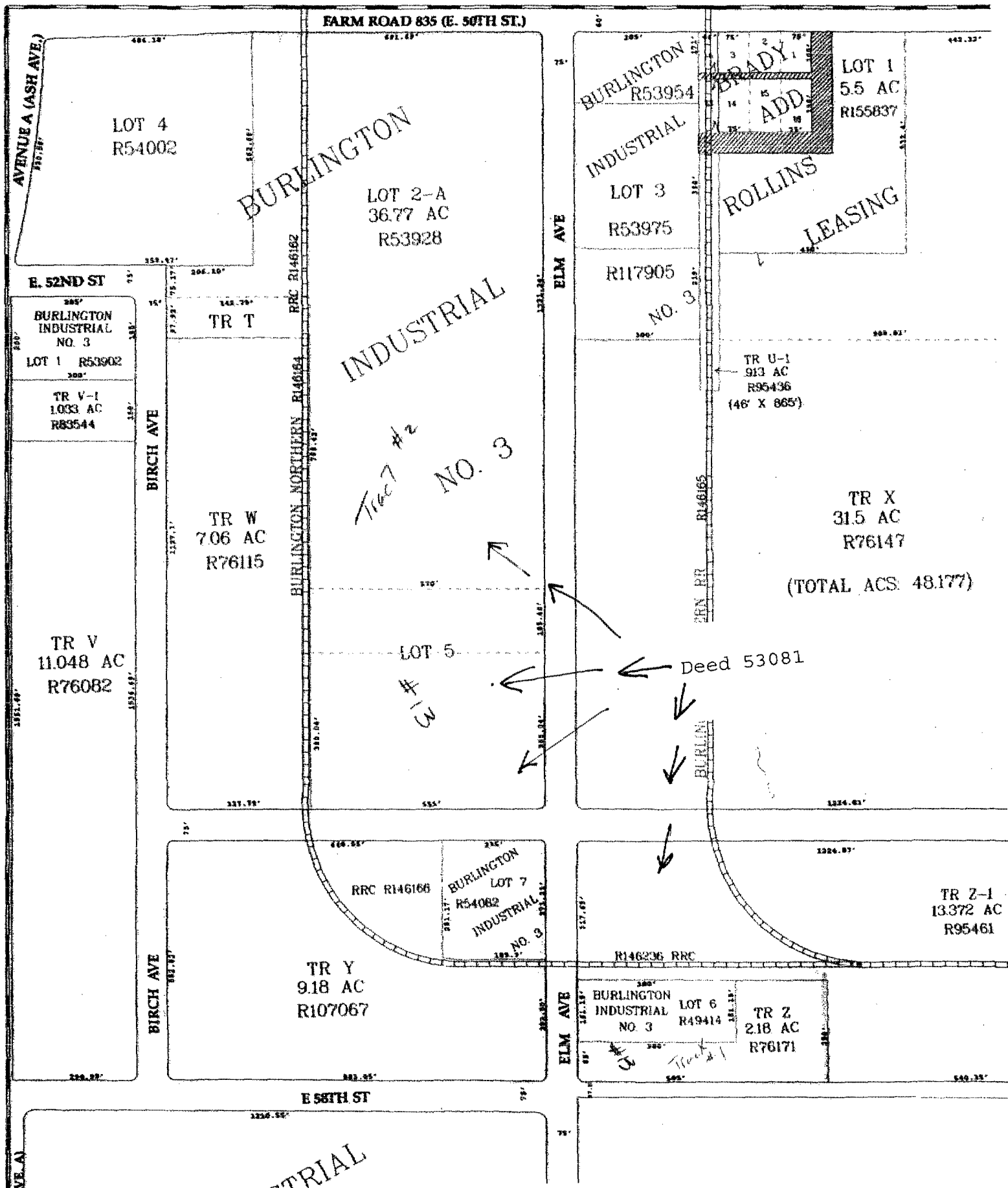
That portion of the SOUTH PLAINS SWITCHING, LTD., CO. (SAW) property, tracks, easements, and fixtures located within the borders of the following tract of land located within Section 1, Block E, GC&SF RR Survey, City of Lubbock, Lubbock County, Texas. Beginning at the intersection of the north right of way line of East 58th Street and the east right of way line of Elm Avenue, Thence East along the north right of way line of East 58th Street 800.0' to the southeast corner of this tract, Thence northward parallel and 500.0' westerly of Elm Avenue along a common line described in OGD recorded in Vol. 3074 Page 186 of the Lubbock County, Texas Deed Records 264.5 feet to a corner being also 6.5' southerly of the center line of the SAW lead track no. 107, Thence westerly 6.5' southerly of the SAW lead track no. 107 being parallel with the center line of SAW lead track no. 107 to a corner in the east right of way line of Elm Avenue, Thence southerly along the east right of way line of Elm Avenue to the point of beginning.

Graphic Scale



Exhibit "A"
Drawing No. 53081

Exhibit E



FARM ROAD 835 (E. 50TH ST.)

AVENUE A (ASH AVE.)

LOT 4
R54002

BURLINGTON

LOT 2-A
36.77 AC
R53928

BURLINGTON
R53954
INDUSTRIAL

LOT 3
R53975

BRADY
ADD

LOT 1
5.5 AC
R155837

ROLLINS

LEASING

E. 52ND ST

BURLINGTON
INDUSTRIAL
NO. 3

LOT 1 R53902

TR V-1
1.033 AC
R63544

BIRCH AVE

TR T

INDUSTRIAL

Tract #2

NO. 3

TR W
7.06 AC
R76115

BURLINGTON NORTHERN R146164

TR V
11.048 AC
R76082

LOT 5

#1 W

Deed 53081

TR X
31.5 AC
R76147

(TOTAL ACS. 48.177)

RRC R146166

BURLINGTON
LOT 7
R54082
INDUSTRIAL
NO. 3

TR Y
9.18 AC
R107067

TR Z-1
13.372 AC
R95461

BURLINGTON
INDUSTRIAL
NO. 3
LOT 6
R49414

TR Z
2.18 AC
R76171

E 58TH ST

TRIAL

Exhibit F

*overhead/this
of this yard*

AGREEMENT

This Agreement made and entered into this 9th day of March 2006, between the South Plains Switching, Ltd., Company and Choo - Choo Properties, Inc.

WHEREAS, South Plains Switching, Ltd., Company is successor in interest to the Burlington Northern and Santa Fe Railway Company for properties and assets within and adjacent to PYCO Industries, Inc. at Lubbock, Texas pursuant to Deed dated May 18, 1999.

WHEREAS, the Burlington Northern and Santa Fe Railway Company is a successor company to the Burlington Northern Railroad Company and the Fort Worth and Denver Railway Company.

WHEREAS, PYCO Industries, Inc. is the successor in interest to the Plains Cooperative Oil Mill, Inc. and Plains Coop Oil Mill Inc. or Plains Co-operative Gins, Inc.

WHEREAS, Burlington Northern Railroad Company and/or Fort Worth and Denver Railway Company and Plains Cooperative Oil Mill, Inc., and/or Plains Coop Oil Mill, Inc. were parties to the following agreements, together with any and all modifications, supplements, and amendments thereto, whether or not referred to below, being hereinafter called the "Agreements".

Contract No.	Date	Location	Description
FD 4536	01-13-1976	LUBBOCK, TX	SITE LEASE (.18 ACRES)
FD 4677	02-13-1979	LUBBOCK, TX	SITE LEASE (.07 ACRES)
FD 6793	03-30-1962	LUBBOCK, TX	GRADE X-ING TRKS 126, MT, 3
FD 8643	03-30-1972	LUBBOCK, TX	GRADE X-ING TRKS 126, MT, 3
FD 8678	10-08-1972	LUBBOCK, TX	12" DIA WATER LINE
FD 8771	05-16-1973	LUBBOCK, TX	TRK 137
BN 12021	04-25-1991	LUBBOCK, TX	UG ELECTRICAL X-ING TRK 73
BN 12025	04-25-1991	LUBBOCK, TX	OH CONVEYOR TRK 73

WHEREAS, the South Plains Switching, Ltd., Company conveyed a portion of the land and improvements shown on the following Agreement to PYCO Industries wherein both parties agreed to the continuation of the Agreement subject to the new division of ownership:

FD 7802	05-08-1966	LUBBOCK, TX 300' TRACK 74
---------	------------	---------------------------

WHEREAS, The original term of the listed Agreements herein continued was extended for a period of 20 years by supplemental agreement dated December 5, 2000 for a nominal consideration of one dollar (\$1.00) per year with no other rental charges. The remaining terms, stipulations, conditions, and obligations, all singular, of said Agreements continue to be binding upon the parties thereto, their successors or assigns.

WHEREAS, South Plains Switching, Ltd., Company hereby agrees to sell all of that portion of the SOUTH PLAINS SWITCHING, LTD., CO. (SAW) property, tracks, easements, and fixtures located within the borders of the above described land in the PYCO contracts and hereby assigns the above listed PYCO contracts to CHOO - CHOO PROPERTIES, INC.

NOW, THEREFORE, In consideration of the mutual covenants herein contained it is agreed between the parties as follows:

CHOO - CHOO PROPERTIES, INC. will assume all future obligations of SOUTH PLAINS SWITCHING, LTD. COMPANY required in the above listed contracts.

CHOO - CHOO PROPERTIES, INC. will pay SOUTH PLAINS SWITCHING, LTD. COMPANY \$10.00 and other valuable consideration for this agreement, the purchase of the property and assignment of the above contracts to CHOO - CHOO PROPERTIES, INC.

COPY

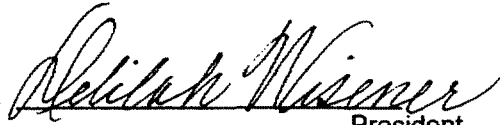
SOUTH PLAINS SWITCHING, LTD. COMPANY will provide CHOO – CHOO PROPERTIES, INC. quit claim deed or deeds, without warranty, upon demand of CHOO – CHOO PROPERTIES, INC. conveying all of SOUTH PLAINS SWITCHING, LTD. COMPANY interest in the property that is within the contracts or site leases in the above PYCO contracts to CHOO – CHOO PROPERTIES, INC.

SOUTH PLAINS SWITCHING, LTD. COMPANY will retain a railroad track easement for railroad tracks now existing on the properties not exceeding 8.5' either side of the track centerline for continuing railroad operations.

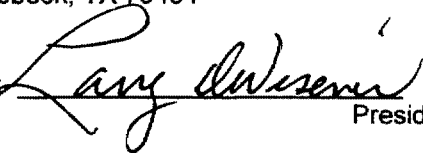
Except as hereby modified or supplemented by written agreement between the parties hereto this Agreement shall be in effect between the parties hereto in accordance with the terms herein.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year first above written.

SOUTH PLAINS SWITCHING, LTD. COMPANY
P. O. Box 64299
Lubbock, TX 79464

By: 
President

CHOO – CHOO PROPERTIES, INC.
P. O. Box 64420
Lubbock, TX 79464

By: 
President

COPY

Exhibit G

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. --	)	
FEEDER LINE DEVELOPMENT --	)	F.D. 34890
SOUTH PLAINS SWITCHING LTD.	)	
PYCO INDUSTRIES, INC. --	)	
ALTERNATIVE RAIL SERVICE --	)	F.D. 34889
SOUTH PLAINS SWITCHING	)	
PYCO INDUSTRIES, INC. --	)	
ALTERNATIVE RAIL SERVICE --	)	F.D. 34802
SOUTH PLAINS SWITCHING	)	

Declaration of Gail Kring

I, Gail Kring, make the following Declaration in support of the Motion filed by PYCO Industries, Inc. (PYCO), to invalidate certain property transfers by South Plains Switching, Ltd. (SAW) to Choo-Choo Properties, Inc.

1. I am the Chief Executive Officer of PYCO. My staff has analyzed information about property transfers supplied to PYCO on or about September 21, 2006, in response to our May 5 discovery requests. As indicated in the Motion, which I have read and hereby verify as true and correct as to the facts to the best of my knowledge and belief, we have identified three transfers from SAW to Choo-Choo which must be voided in order to ensure that our operator can provide rail service to current customers on SAW's lines, and to ensure that PYCO can continue its rail-dependent operations.

2. I wish to focus the remainder of my Declaration on one of

the transfers, which is the transfer of eight PYCO leases or agreements from SAW to Choo-Choo, which is entitled Agreement and dated March 9, 2006. A copy is attached as Exhibit F to the Motion. We obtained this copy through discovery against SAW on September 21, 2006. Shortly after Mr. Wisener as SAW acquired the BNSF trackage now claimed by SAW in Lubbock, Mr. Wisener demanded that PYCO pay him first \$50,000 and then \$100,000 to secure our leases for the next 20 years. PYCO agreed to pay him \$100,000 for a 20-year extension. I attach a photocopy from our files of the check dated November 4, 2000, to SAW in that amount. Our company files only have the first page of a draft lease extension agreement, with the notation that he "verbal[ly]" agreed to a 20 year extension. We attach that, along with the check. We also attach a draft of the original extension agreement from our attorney's files.

3. The March 9, 2006, lease agreement notes that there was a 20 year extension effective on December 5, 2000, but does not disclose that PYCO in fact paid \$100,000 for that. On July 6, 2006, Mr. Wisener's attorney, Mr. Gorsuch, sent PYCO a letter terminating the leases, contrary to the extension Mr. Wisener had agreed to. The Board voided this termination in its order served August 3, 2006, but Mr. Gorsuch filed papers in state court on September 22, 2006, to enforce the terminations that this Board voided. PYCO filed a copy of those papers with the Board on

October 12 as part of our initial comments on the feeder line application filed by SAW's "white knight" (Pioneer). So far as we can tell, Mr. Wisener has never provided us with a copy of the extension agreement he and his wife acknowledge to exist, and SAW did not produce it to us in discovery. This whole episode is classic conduct for SAW and further shows why it is impossible to do business with them in Lubbock. We attempted for years to buy peace, but in the end all we got was a demand that we pay Mr. Wisener d/b/a SAW \$5,500,000 on pain of shutting down our business. PYCO is rail dependent, but should not be subject to extortion.

4. We request that the Board void all SAW to Choo-Choo transfers of leases and property subsequent to our taking these matters to the Board on December 20, 2005. Since we notified SAW on January 9, 2006, that it could expect a feeder line application, we believe that any transfers from SAW to Choo-Choo or other third parties after that date should also be voided.

Pursuant to 28 U.S.C. 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the statements I make in the foregoing are true and correct.

Executed on October 13, 2006.


Gail Kring

PYCO Industries, Inc.
P.O. BOX 841 • LUBBOCK TEXAS 79408-0841

AGREEMENT

This Agreement made and entered into this ____ day of November, 2000, between the South Plains Switching, Ltd., Company and PYCO Industries, Inc.

WHEREAS, South Plains Switching, Ltd., Company is successor in interest to the Burlington Northern and Santa Fe Railway Company for properties and assets within and adjacent to PYCO Industries, Inc. at Lubbock, Texas pursuant to Deed dated May 18, 1999.

WHEREAS, the Burlington Northern and Santa Fe Railway Company is a successor company to the Burlington Northern Railroad Company and the Fort Worth and Denver Railway Company.

WHEREAS, PYCO Industries, Inc. is the successor in interest to the Plains Cooperative Oil Mill, Inc. and Plains Coop Oil Mill Inc. or Plains Co-operative Gins, Inc.

WHEREAS, Burlington Northern Railroad Company and/or Fort Worth and Denver Railway Company and Plains Cooperative Oil Mill, Inc., and/or Plains Coop Oil Mill, Inc. were parties to the following agreements, together with any and all modifications, supplements, and amendments thereto, whether or not referred to below, being hereinafter called the "Agreements".

Contract No.	Date	Location	Description
FD 3148	10-01-1937	LUBBOCK, TX	1,150' TRK 17
FD 3478	04-08-1959	LUBBOCK, TX	SITE LEASE (2.89 ACRES)
FD 3478A	10-10-1966	LUBBOCK, TX	SITE LEASE (.49 ACRES)
FD 4311	08-10-1949	LUBBOCK, TX	150' TRK 17
FD 4404	02-14-1973	LUBBOCK, TX	SITE LEASE SCALES, TRK 23
FD 4536	01-13-1976	LUBBOCK, TX	SITE LEASE (.18 ACRES)
FD 4677	02-13-1979	LUBBOCK, TX	SITE LEASE (.07 ACRES)
FD 6009	09-15-1958	LUBBOCK, TX	400' TRK 17
FD 7781	12-01-1966	LUBBOCK, TX	TRK'S 126, 125, 43
FD 7802	05-08-1966	LUBBOCK, TX	300' TRACK 74
FD 8643	03-30-1972	LUBBOCK, TX	GRADE X-ING TRKS 126, MT, 3
FD 8678	10-08-1972	LUBBOCK, TX	12" DIA WATER LINE
FD 8771	05-16-1973	LUBBOCK, TX	TRK 137
FD 9961	11-01-1981	LUBBOCK, TX	UG ELECTRIC LINE
FD 10049	07-22-1982	LUBBOCK, TX	SCALES, TRK 23
BN 12021	04-25-1991	LUBBOCK, TX	UG ELECTRICAL X-ING TRK 73
BN 12025	04-25-1991	LUBBOCK, TX	OH CONVEYOR TRK 73
BN 25989	07-18-1988	LUBBOCK, TX	PYCO TRKS 1 & 2

* verbal agreement.
on lease by
\$100,000.⁰⁰

COPY

AGREEMENT

This Agreement made and entered into this ____ day of November, 2000, between the South Plains Switching, Ltd., Company and PYCO Industries, Inc.

WHEREAS, South Plains Switching, Ltd., Company is successor in interest to the Burlington Northern and Santa Fe Railway Company for properties and assets within and adjacent to PYCO Industries, Inc. at Lubbock, Texas pursuant to Deed dated May 18, 1999.

WHEREAS, the Burlington Northern and Santa Fe Railway Company is a successor company to the Burlington Northern Railroad Company and the Fort Worth and Denver Railway Company.

WHEREAS, PYCO Industries, Inc. is the successor in interest to the Plains Cooperative Oil Mill, Inc. and Plains Coop Oil Mill Inc. or Plains Co-operative Gins, Inc.

WHEREAS, Burlington Northern Railroad Company and/or Fort Worth and Denver Railway Company and Plains Cooperative Oil Mill, Inc., and/or Plains Coop Oil Mill, Inc. were parties to the following agreements, together with any and all modifications, supplements, and amendments thereto, whether or not referred to below, being hereinafter called the "Agreements".

Contract No.	Date	Location	Description
FD 3148	10-01-1937	LUBBOCK, TX	1,150' TRK 17
FD 3478	04-08-1959	LUBBOCK, TX	SITE LEASE (2.89 ACRES)
FD 3478A	10-10-1966	LUBBOCK, TX	SITE LEASE (.49 ACRES)
FD 4311	08-10-1949	LUBBOCK, TX	150' TRK 17
FD 4404	02-14-1973	LUBBOCK, TX	SITE LEASE SCALES, TRK 23
FD 4536	01-13-1976	LUBBOCK, TX	SITE LEASE (.18 ACRES)
FD 4677	02-13-1979	LUBBOCK, TX	SITE LEASE (.07 ACRES)
FD 6009	09-15-1958	LUBBOCK, TX	400' TRK 17
FD 7781	12-01-1966	LUBBOCK, TX	TRK'S 126, 125, 43
FD 7802	05-08-1966	LUBBOCK, TX	300' TRACK 74
FD 8643	03-30-1972	LUBBOCK, TX	GRADE X-ING TRKS 126, MT, 3
FD 8678	10-08-1972	LUBBOCK, TX	12" DIA WATER LINE
FD 8771	05-16-1973	LUBBOCK, TX	TRK 137
FD 9961	11-01-1981	LUBBOCK, TX	UG ELECTRIC LINE
FD 10049	07-22-1982	LUBBOCK, TX	SCALES, TRK 23
BN 12021	04-25-1991	LUBBOCK, TX	UG ELECTRICAL X-ING TRK 73
BN 12025	04-25-1991	LUBBOCK, TX	OH CONVEYOR TRK 73
BN 25989	07-18-1988	LUBBOCK, TX	PYCO TRKS 1 & 2

COPY

WHEREAS, the parties, hereto, desire to provide for the continuation of the following Agreements:

FD 4536	01-13-1976	LUBBOCK, TX	SITE LEASE (.18 ACRES)
FD 4677	02-13-1979	LUBBOCK, TX	SITE LEASE (.07 ACRES)
FD 8643	03-30-1972	LUBBOCK, TX	GRADE X-ING TRKS 126, MT, 3
FD 8678	10-08-1972	LUBBOCK, TX	12" DIA WATER LINE
FD 8771	05-16-1973	LUBBOCK, TX	TRK 137
BN 12021	04-25-1991	LUBBOCK, TX	UG ELECTRICAL X-ING TRK 73
BN 12025	04-25-1991	LUBBOCK, TX	OH CONVEYOR TRK 73

WHEREAS, the South Plains Switching, Ltd., Company has conveyed either all or a portion of the land and improvements shown on the following Agreements to PYCO Industries both parties agree to the cancellation of the following Agreements:

FD 3148	10-01-1937	LUBBOCK, TX	1,150' TRK 17
FD 3478	04-08-1959	LUBBOCK, TX	SITE LEASE (2.89 ACRES)
FD 3478A	10-10-1966	LUBBOCK, TX	SITE LEASE (.49 ACRES)
FD 4311	08-10-1949	LUBBOCK, TX	150' TRK 17
FD 4404	02-14-1973	LUBBOCK, TX	SITE LEASE SCALES, TRK 23
FD 6009	09-15-1958	LUBBOCK, TX	400' TRK 17
FD 7781	12-01-1966	LUBBOCK, TX	TRK'S 126, 125, 43
FD 9961	11-01-1981	LUBBOCK, TX	UG ELECTRIC LINE
FD 10049	07-22-1982	LUBBOCK, TX	SCALES, TRK 23
BN 25989	07-18-1988	LUBBOCK, TX	PYCO TRKS 1 & 2

WHEREAS, the South Plains Switching, Ltd., Company has conveyed a portion of the land and improvements shown on the following Agreement to PYCO Industries ^{and} both parties agree to the continuation of the Agreement subject to the new division of ownership:

FD 7802	05-08-1966	LUBBOCK, TX	300' TRACK 74
---------	------------	-------------	---------------

NOW, THEREFORE, In consideration of the mutual covenants herein contained it is agreed between the parties as follows:

The terms, stipulations, conditions, and obligations, all singular, of said original eighteen (18) Agreements shall extend to and be binding upon the parties hereto, their successors or assigns, as if they were the original parties to said above Agreements.

The termination or cancellation of ten (10) of the listed Agreements shall not affect the rights and liabilities, if any, of the parties pursuant to the Agreement prior to termination or cancellation.

The eight (8) remaining listed Agreements herein continued between the parties hereto shall be continued for a period of 20 years for a nominal consideration of one dollar (\$1.00) per year with no other rental charges. The remaining terms, stipulations, conditions, and obligations, all singular, of said eight (8) Agreements shall extend to and be binding upon the parties hereto, their successors or assigns.

As part of the consideration for this agreement PYCO Industries acknowledges that miscellaneous encroachments not presently covered by agreement remain on South Plains Switching, Ltd., Company property. PYCO Industries agrees to enter into agreements with South Plains Switching, Ltd., Company as these encroachments are discovered and identified. PYCO Industries agrees to accept agreements containing the same terms and conditions as the existing agreements between PYCO Industries and South Plains Switching, Ltd., Company for these miscellaneous encroachments.

Except as hereby modified, supplemented and amended, ~~amended~~, said above Agreements shall be and remain in full force and effect between the parties hereto in accordance with their terms.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year first above written.

SOUTH PLAINS SWITCHING, LTD. COMPANY
P. O. Box 676
Slaton, TX 79364

By: _____
Larry D. Wisner, President

PYCO INDUSTRIES, INC.
P. O. Box 1889
Lubbock, TX 79408

By: _____
President