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November 3, 2006

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Public Record

Via Federal Express:

The Honorable Vernon Williams, Secretary
SURFACE TRANSPORTATION BOARD
1925 K Street N.W.
Washington, D.C. 20423-0001

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Re: Pyco Industries, Inc. – F.D. 34890, F.D. 34889, F.D. 34802; Before The Surface
Transportation Board

Dear Mr. Secretary:

The undersigned, representing South Plains Switching, Ltd. Co., along with Mr. Thomas McFarland, of Chicago, Illinois, hereby file the original and eleven copies of the enclosed Response to Verified Motion to Void Additional Transfers of Property Interests from South Plains Switching, Ltd., to Choo-Choo Properties.

All counsel of record are being furnished a copy of this response via Federal Express on this date.

Respectfully Submitted,

JAMES L. GORSUCH, P.C.

James L. Gorsuch

JLG:jeb

Enclosures

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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 LTD.	§	

PYCO INDUSTRIES, INC. –	§	
ALTERNATIVE RAIL SERVICE –	§	F.D. 34802
SOUTH PLAINS SWITCHING LTD.	§	

RESPONSE TO VERIFIED MOTION TO
VOID ADDITIONAL TRANSFERS OF PROPERTY INTERESTS
FROM SOUTH PLAINS SWITCHING, LTD.
TO CHOO-CHOO PROPERTIES, INC.

SOUTH PLAINS SWITCHING, LTD. CO. (“SOUTH PLAINS”), and CHOO-CHOO PROPERTIES, INC. (“CHOO-CHOO”), file this, their Response to **PYCO INDUSTRIES, INC.’S (“PYCO”) Verified Motion to Void Additional Transfers of Property Interests from South Plains Switching, Ltd., to Choo-Choo Properties, Inc. (“PYCO’S Motion”),** and would move the Board to enter the following orders:

1. Revisit and reverse its order of August 2, 2006, voiding any transfers from **SOUTH PLAINS** to **CHOO-CHOO** after May 5, 2006.
2. Deny **PYCO’S** request to invalidate and void two deeds dated April 28, 2006, from **SOUTH PLAINS** to **CHOO-CHOO**.
3. Deny **PYCO’S** request to void a transfer of leases from **SOUTH PLAINS** to **CHOO-CHOO** dated March 9, 2006.
4. Deny **PYCO’S** request for an order that any other transfers from **SOUTH PLAINS** to any other party after December 20, 2005, be voided.

ORIGINAL

BASIS OF RESPONSE

This response is based upon the following:

1. The previous filings of **SOUTH PLAINS** herein and the previous orders of The Surface Transportation Board.
2. The Affidavit of Larry Wisener, attached as Exhibit "A".
3. The Verified Statement of Edward Landreth, attached as Exhibit "B".

BACKGROUND

PYCO commenced this proceeding on December 20, 2005, when it filed a Petition for Alternative Rail Service. At that time, the only relief sought by **PYCO** was to have an alternative rail carrier service its rail business in Lubbock, Texas. Certain leases were transferred from **SOUTH PLAINS** to **CHOO-CHOO** in March of 2006. Two tracts of land were deeded from **SOUTH PLAINS** to **CHOO-CHOON** in April of 2006. No Feeder Line Application was filed by **PYCO** until May of 2006. After that Feeder Line Application was filed, the Director dismissed the same on June 6, 2006. Certain property was transferred by **SOUTH PLAINS** to **CHOO-CHOO** on June 12th of 2006. On June 14, 2006, **PYCO** filed a new Feeder Line Application. The Surface Transportation Board ("Board") accepted that application and set a procedural schedule. The Board, by order of August 2, 2006, voided all transfers from **SOUTH PLAINS** to **CHOO-CHOO** that occurred after May 5, 2006.

REVISIT OF BOARD'S DECISION – AUGUST 2, 2006

The Board entered a Decision dated August 6, 2006, in connection with a transfer of certain property between **SOUTH PLAINS** and **CHOO-CHOO**. In the Decision, the Board pointed out that **PYCO'S** original Feeder Line Application was filed on May 6, 2006, and that the Director

rejected that application effective June 2, 2006.

After the Feeder Line Application had been rejected, **SOUTH PLAINS** transferred certain properties to **CHOO-CHOO**. On the date of the transfer, there was no Feeder Line Application pending.

The Board's prior order appears to place a burden on **SOUTH PLAINS** that it knew or should have known that **PYCO** would file a new Feeder Line Application. There is no evidence to support a finding that **SOUTH PLAINS** should have known **PYCO** would file another Feeder Line Application. **SOUTH PLAINS** should not be held to know or predict the future actions of **PYCO** and whether or not **PYCO** would file another Feeder Line Application.

While **PYCO** did file a new Feeder Line Application, on June 14, 2006, there was no indication that **PYCO** was going to file a second Feeder Line Application prior to the date of that filing. The Board's ruling in effect places an unreasonable requirement on **SOUTH PLAINS**.

The Board's ruling is that even though there was no Feeder Line Application on file when the transfer of the property was made, the Board, retroactively, voided those transfers, even though the transfer of the property was legal at the time the transfer was made.

The transfer of the property was not subject to any Board order or any other limitation at the time the transfer was made. The Board's ruling that later voids the transfer of the property is improper since the transfer of the property was made at a time when there was no Feeder Line Application pending and should be reversed.

APRIL 28, 2006 TRANSFER

Deed No. 61161

PYCO questions a transfer by deed from **SOUTH PLAINS** to **CHOO-CHOO** dated April

28, 2006. This deed covers a parcel of land that is located on Locust Avenue in Lubbock, Texas. The parcel starts eight feet from the rail line and runs west covering a portion of a city block. None of the rail line was transferred by this deed. The land is a vacant lot. There is no rail line served on this land and no rail operations have ever been conducted on this land. There was no rail switch on any nearby line to this lot. The lot has never been used for railroad purposes and is not being used for railroad purposes at the present time. Contrary to the unsupported assertion set out in **PYCO'S** motion, there are no shippers served by this vacant lot. The Georgia Pacific/Bluelinx is served by trackage that is near the lot but not on the lot in question. There was no need for a deed to set forth any retained right to operate railroad since no trackage covers this land. (See Exhibit "B", p. 2, Verified Statement of Edward Landreth.)

TRANSFER OF APRIL 28, 2006

Deed No. 53081

There are two tracts of land covered by this deed. The first tract is located near Elm Street in Lubbock, Texas. This tract starts eight feet south of the rail line and runs south. There is no rail line on this land. There is an old unloading dock located on the tract and a boxcar has been placed on the ground next to the unloading dock. The boxcar is not on a track but is on solid ground. The land has not been used for railroad purposes and is not currently being used for railroad purposes.

The second tract of land covered by this deed is a rail line servicing 84 Lumber Company. The rail line is covered by an Operating Agreement between **SOUTH PLAINS** and **CHOO-CHOO** whereby **SOUTH PLAINS**, or any of its successors or assigns, can operate on the line and serve any customers on the line just as **SOUTH PLAINS** has done since 1999.

FOUR DEEDS – AS EXHIBIT “A” 2000

PYCO attached four deeds which it claims support the proposition that the capacity of **SOUTH PLAINS** to reach potential customers was somehow adversely affected by these deeds. Three of these deeds were executed in 2000, and one was executed in 2001. The deeds dealt with property that was not being used for rail service. There were no complaints from customers when these deeds were executed and no filings with the Board or any other agency challenging these deeds. Once again, **PYCO** offers no evidentiary support for its bare assertion that the four deeds in question limited any service to customers, in fact, the property conveyed by these deeds did not concern or affect rail service. (See Exhibit “B”, p. 2, Verified Statement of Edward Landreth.)

Ironically enough, while **PYCO** is complaining about the four deeds in question, the Board should know **PYCO** does not complain about a deed from **SOUTH PLAINS** to **PYCO**, attached to Larry Wisener’s affidavit, which deeded certain property from **SOUTH PLAINS** to **PYCO** located inside **PYCO’S** plant. If **PYCO** has a concern about the four deeds, it apparently does not have a concern about any transfer of property by **SOUTH PLAINS** with **PYCO** as a Grantee.

TRANSFER OF LEASES – MARCH 9, 2006

PYCO challenges an agreement between **SOUTH PLAINS** and **CHOO-CHOO**, of which it was not a party, transferring certain leasehold interests, located generally outside the **PYCO** plant.¹

Initially it should be noted that the transfer was made before the filing of any Feeder Line Application. **PYCO** takes the position that **SOUTH PLAINS** should be on notice because in one of its initial filings, in December of 2005, **PYCO** stated it “might” later file a Feeder Line

¹The documents will be referred to as “leases” but they include an Industrial Track Agreement, two leases and a contract for pipeline right-of-way, a private crossing contract, two pipeline permits and a private track agreement.

Application. A nebulous type statement of that nature in a filing of alternative rail service does not place any party on notice that a Feeder Line Application may be filed, nor is it a basis for this Board to negate property transfers that were made at the time that no Feeder Line Application was on file.

Contrary to the statements made by Mr. Kring, there was no agreement these leases would be extended for twenty years.

Larry Wisener ("Wisener") and Edward Landreth ("Landreth") set out, in Exhibits "A" and "B", respectively, in great detail, the events that consummated in the payment of \$100,000.00.

After **SOUTH PLAINS** purchased the shortline railroad from The Burlington Northern and Santa Fe Railway Company ("BNSF"), **SOUTH PLAINS** had to determine what property was conveyed to **SOUTH PLAINS** under the Asset Sale Agreement. It took **SOUTH PLAINS** many months to ascertain what leases were conveyed to it by the Asset Sale Agreement from BNSF.

Approximately in January of 2000, there was a meeting at **PYCO'S** offices. Present at the meeting were Gail Kring, Larry Wisener, Robert Lacy and Wayne Martin. The status of various leases whereby **SOUTH PLAINS** was the new Lessor was discussed. There were a number of leases that covered property inside the **PYCO** plant. This property at one time was owned by the Fort Worth & Denver Railway Company, later conveyed to BNSF and then conveyed to **SOUTH PLAINS** by the Asset Sale Agreement.

On several of these leases, **PYCO** had not paid rent to BNSF in over three years. In addition, **PYCO** had paid no rent to **SOUTH PLAINS** since July of 1999, the date of the start of **SOUTH PLAINS'** operations until the date of the meeting. An agreement was reached between the parties that **PYCO** would pay **SOUTH PLAINS** \$100,000.00. The \$100,000.00 represented past due rent that was due and owing by **PYCO** on the leases and the sale of the leases inside the **PYCO** plant

from **SOUTH PLAINS** to **PYCO**. **SOUTH PLAINS** executed and delivered a deed to **PYCO** covering these leases. A copy of the deed is attached to Wisener's affidavit as Exhibit "1". **PYCO** has never filed this deed of record. Therefore any assertion by Gail Kring that \$100,000.00 was paid for the extension of other leases, located outside the **PYCO** plant, is simply not the case. (See Exhibit "A", Affidavit of Larry Wisener.)

There was no agreement reached between **PYCO** and **SOUTH PLAINS** that the other leases outside the plant would be continued for twenty years. There was discussion of extending the original term of those leases. A draft agreement was drawn. Under the draft agreement **PYCO** was to identify any other encroachments by **PYCO** that may have been apparent on the property now owned by **SOUTH PLAINS**. **PYCO** was to identify those encroachments and reach agreements with **SOUTH PLAINS** regarding those encroachments. Two of those encroachments turned out to be a small shallow playa lake between the west leg and the east leg of the wye track as well as a railroad crossing south of the junction of the wye track.

PYCO never followed through and identify the encroachments nor did it reach an agreement with **SOUTH PLAINS** regarding the encroachments. Therefore the proposed agreement to extend the leases was never signed. There was no agreement ever reached between **SOUTH PLAINS** and **PYCO** regarding a twenty-year extension of the leases transferred in March of 2006.

NO RETALIATION

PYCO spends a great deal of time and effort trying to assert that the actions of **SOUTH PLAINS** and **CHOO-CHOO** were in retaliation for **PYCO'S** filing of this proceeding. The testimony of Edward Landreth provides clear undeniable facts that retaliation is not the case. Edward Landreth testified he was given work orders to prepare the land descriptions and the sketches

showing the identified properties which are the subject of this motion in the fall of 2005. These properties were conveyed to what was later established as **CHOO-CHOO**. In the fall of 2005, no Board proceeding had been filed and the parties had just begun negotiations with regard to the sale of the railroad. It is clear from the testimony from Edward Landreth that **SOUTH PLAINS** took additional steps to transfer property before **PYCO'S** filing of this proceeding. (See Exhibit "B", p. 5, Verified Statement of Edward Landreth.) **PYCO'S** assertions of retaliation should be totally discounted by this Board.

TRANSFERS DO NOT AFFECT RAIL SERVICE

None of the transfers either complained about or referred to by **PYCO** affect rail service.

The four deeds reflecting the transfer of property in 2000, had nothing to do with rail property or operations. The effect of those deeds did not deprive any customer of any service on the part of **SOUTH PLAINS**. Indeed, it would be foolish for **SOUTH PLAINS** to deed property to a third party that would cause **SOUTH PLAINS** to lose a customer and therefore revenue.

The first deed, executed in April of 2006 with **SOUTH PLAINS** as Grantor and **CHOO-CHOO** as Grantee, transferred a vacant lot upon which no rail line sits. The vacant lot starts eight feet west of a rail line and has no rail line or rail equipment upon it. The land has never been used in connection with a rail line and has never been used to serve any customer of **SOUTH PLAINS** or any of its predecessors. The transfer was simply a transfer of real estate from one company to another.

The second deed involves two tracts of land. The first is a vacant lot that is approximately eight feet from a rail line. At the time of its purchase by **SOUTH PLAINS** from BNSF, there was an abandoned rail platform on the property. There never was any rail line on the property. A boxcar

has been placed on the ground in this property next to the rail platform. There is no rail line on the property and no customers are served by this property.

The second tract of land consists of a rail line running to 84 Lumber Company. 84 Lumber Company is a customer of **SOUTH PLAINS**. Although this line was sold to **CHOO-CHOO**, there is an Operating Agreement in effect between **CHOO-CHOO** and **SOUTH PLAINS** to allow **SOUTH PLAINS** to run on the rail line and serve 84 Lumber Company or any other customers that may be on the line. This Operating Agreement would inure to the benefit of any successor-in-interest to **SOUTH PLAINS**.

None of the leases, transferred in March of 2006, deal with any rail service to **PYCO**. Among the parcels so transferred was a rail line not servicing any customer, a concrete road, a crossing over a track, an encroaching building, an underground electrical line, an underground water line and an overhead conveyor. None of these parcels have anything to do with rail operations and would not affect the service of **PYCO** either by **SOUTH PLAINS** or by some other carrier.

It is interesting to note that **PYCO** has provided no evidentiary support for its allegations that these transfers would affect rail service. There is no evidence from the Lubbock West Texas Railroad, the carrier that is now serving **PYCO**, that any of these property interests transferred could have affected or could possibly affect any of their service to **PYCO**.

There is also no evidentiary support from **PYCO** that any of the leases involved in the March 2006, transfer affect rail service.

PREVIOUS BOARD AUTHORITY

In *Railroad Adventures, Inc.*, 4 STB 567 (January 6, 2000), the Board was asked to rule whether or not the sale of certain property by a railroad should be struck as impeding future rail

operations. The railroad sold utility crossing easements to a third party, assigned all right, title, interest and income arising from third party assignments to a third party, sold a 4.12 acre segment to Boardman Township Park District and entered into a contingent sale of 20.6 acres of a right-of-way for a 4.2 bicycle trail. The Board held as follows:

“We find no evidence of record of a binding agreement that could obstruct future rail operations and therefore we will deny CCPA’s request to reject.”

The standard of whether real estate is “used and required” in a rail operation is contained in *49 CFR 1152.34(c)(1)(iii)*. This regulation provides that railroad land is not used and required for rail service and is not entitled to be valued in determining the compensation to a railroad for an involuntary taking. The rationale behind this regulation is that land is valued as such because the land, not used for rail service, is outside the jurisdiction of the Board and therefore can be sold or transferred without Board approval.

Each of the transactions involved in this case involve property rights that are outside the Board’s jurisdiction. None of the property transferred or the leases transferred are required for rail service to **PYCO**. Therefore the property and the leases could rightfully have been transferred from **SOUTH PLAINS** to **CHOO-CHOO**. **CHOO-CHOO** has the right, under the language of the documents, to exercise its full rights as provided by each document.

WHEREFORE, Premises Considered, the Board should revisit and reverse its Order of August 2, 2006, voiding any transfers from **SOUTH PLAINS** to **CHOO-CHOO** after May 5, 2006, deny **PYCO’S** request to invalidate and void two deeds dated April 28, 2006, from **SOUTH PLAINS** to **CHOO-CHOO**, deny **PYCO’S** request to void a transfer of leases from **SOUTH PLAINS** to **CHOO-CHOO** dated March 9, 2006, and deny **PYCO’S** request for an order that any other transfers from **SOUTH PLAINS** to any other party after December 20, 2005, be voided.

Respectfully submitted,

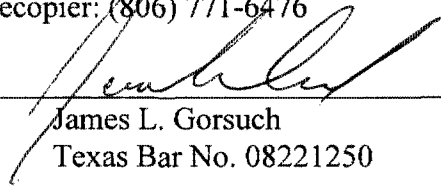
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing response has been sent to the following counsel of record via Federal Express on the 3rd day of November, 2006:

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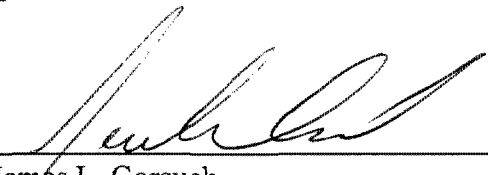
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James L. Gorsuch

**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 LTD.	§	

PYCO INDUSTRIES, INC. –	§	
ALTERNATIVE RAIL SERVICE –	§	F.D. 34802
SOUTH PLAINS SWITCHING LTD.	§	

EXHIBIT “A”
AFFIDAVIT OF LARRY WISENER

**IN SUPPORT OF THE RESPONSE OF SOUTH PLAINS SWITCHING, LTD. CO.
 (“SOUTH PLAINS”), and CHOO-CHOO PROPERTIES, INC. (“CHOO-CHOO”), to the
 Verified Motion to Void Additional Transfers of Property Interests from South Plains Switching,
 Ltd., to Choo-Choo Properties, Inc., before me, the undersigned authority, personally appeared
 LARRY WISENER, who, being by me first duly sworn, deposed and stated as follows:**

“My name is Larry Wisener. I am over the age of twenty-one years. I have never been convicted of a felony or a misdemeanor involving moral turpitude. I have personal knowledge of every statement made herein and every statement made herein is true and correct.

“From May of 1999, until January of 2006, I was President and General Operating Officer of SOUTH PLAINS. I was involved in the negotiations to purchase the shortline railroad from The Burlington Northern and Santa Fe Railway Company (“BNSF”). I was also involved directly in the dealings with Pyco Industries, Inc. (“PYCO”), with regard to various lease issues and real property issues arising between SOUTH PLAINS and PYCO. I was personally involved with the negotiations in the dealings with PYCO with regard to leases, easements, and pipeline permits that are the subject of this motion.

"After the signing of the Asset Sale Agreement, BNSF did not supply SOUTH PLAINS with all of the leases in which it was Lessor covering property that was deeded to SOUTH PLAINS. It took SOUTH PLAINS many months to obtain leases from BNSF to ascertain what property was conveyed to South Plains by the Asset Sale Agreement.

"Within six months after signing an Asset Sale Agreement whereby SOUTH PLAINS purchased the shortline railroad and various property interests from BNSF, I met with PYCO personnel at their main office. Present at the meeting were Gail Kring, myself, Robert Lacy, and Wayne Martin. We discussed the status of various leases whereby SOUTH PLAINS was the new Lessor, as a result of the Sale Agreement, and PYCO was the Lessee. There were a number of leases that covered property inside the PYCO plant. This was property that was one time owned by The Fort Worth & Denver Railway Company, later conveyed to BNSF and then conveyed to SOUTH PLAINS.

"On several of these leases, PYCO had not paid rent to BNSF in over three years. At the time of our meeting, which was approximately six months after SOUTH PLAINS began operations, PYCO had not paid any amounts due and owing on those leases to South Plains.

"PYCO and SOUTH PLAINS agreed at this meeting that certain leases on property within the PYCO plant would be sold to PYCO. In addition, PYCO agreed that the amounts due and owing under these leases, from July 1st of 1999 until the date of the meeting, approximately January of 2000, would be paid also to SOUTH PLAINS. The \$100,000.00 check, referred to in Gail Kring's Declaration, is the check received for both the sale of the leases from South Plains to Pyco covering property inside the Pyco plant and the past rent due on the leases.

"There was no agreement between the parties that other leases would be continued for twenty years. There was no extortion or demand made for the payment of the \$100,000.00. The payment of \$100,000.00 was made by agreement between myself and Wayne Martin, representing PYCO.

"In exchange for the \$100,000.00 payment, SOUTH PLAINS executed a Quitclaim Deed for certain property located within the PYCO plant. Attached to my Affidavit as Exhibit "1" is a copy of the Quitclaim Deed. This deed transferred various properties owned by SOUTH PLAINS to PYCO that were located inside the PYCO plant. Previously these properties had been owned by The Fort Worth & Denver Railway Company, The Burlington Northern, and BNSF. They were transferred to SOUTH PLAINS pursuant to the Asset Sale Agreement signed by SOUTH PLAINS and BNSF in May of 1999. The \$100,000.00 payment does not represent any agreement between the parties to extend the original term of seven other leases involved herein.

"The parties did discuss extending the original term of those leases and a draft agreement was drawn up. However, under the draft agreement, PYCO was to identify and reach agreements with SOUTH PLAINS on certain other encroachments that were apparent on the property. Two of these encroachments turned out to be a small shallow "playa lake", between the west leg and the east leg of the 'wye' track, as well as a railroad crossing south of the junction of the 'wye' track.

"It was understood between the parties that PYCO was to identify the encroachments and reach an arrangement in connection with those encroachments, whether it be the signing of a lease or an easement. PYCO never followed through with that obligation and therefore neither party signed the agreement. The unsigned agreement is attached to my Affidavit as Exhibit "2".

"In the unsigned agreement, the parties set out the leases that have already been sold to PYCO. Those leases are referred to above and were the leases that were agreed upon to be sold to PYCO in the meeting held between PYCO representatives and myself in approximately January of 2000. The other leases set out above in the agreement were leases that were to be held by SOUTH PLAINS. It is these leases that are in issue.

"The March 9, 2006, agreement to sell the leases does evidence a twenty-year extension effective December 5, 2000. This recitation was placed in the agreement by mistake of the drafter of the agreement, Ed Landreth. Mr. Landreth assumed that a twenty-year extension arrangement had been reached with PYCO but in fact, there was no agreement between PYCO and SOUTH PLAINS that the leases were to be extended for twenty years.

"There was never an agreement reached between the parties that the leases were to be extended for twenty years. I find it incredible that PYCO would pay out \$100,000.00 to a lessor and not receive a signed agreement as to what was allegedly covered by the \$100,000.00. In this case, however, PYCO received a Quitclaim Deed from SOUTH PLAINS with regard to certain leases located inside PYCO's plant, in exchange for the \$100,000.00, as well as the full payment for the amounts due and outstanding under those leases.

"The remaining leases were held by SOUTH PLAINS until March of 2006. In March of 2006, those leases were transferred to CHOO-CHOO. The transfer was made of the leases prior to the time of any Feeder Line Application being filed by PYCO or any other party to this case. The first time a Feeder Line Application was filed in this matter was in May of 2006.

"Each of the leases provide that they can be terminated at the option of the lessor. CHOO-CHOO is currently the lessor under the leases. Most of the leases and permits involve a thirty-day notice. One involves a ninety-day notice and one involves a six-month notice.

“CHOO-CHOO, pursuant to the terms of each of the documents, provided a termination notice to PYCO on July 6, 2006. When PYCO refused to vacate the leased property, CHOO-CHOO was forced to seek remedies in state court.

“The leases, agreements and permits were as follows:

1. No. FD 8771 - Industrial Track Agreement, covered rail line not used to service PYCO or any customers.
2. No. FD 4677 - Lease to allow PYCO to build a concrete road.
3. No. FD 8678 - Permit for a water pipeline under track.
4. No. FD 6973 - Private Crossing Contract covering a crossing over rail tracks.
5. No. BN 12021 - A Pipeline Permit for the laying of an underground electric line under the track.
6. No. FD 4536 - A Lease for a building encroachment, drainage ditch and fence.
7. No. BN 12025 - A Lease for an overhead conveyor.

“None of these properties or structures on the properties in any way affect the rail service of PYCO. The cancellation of these leases will in no way affect any rail service to PYCO including the movement of any rail cars.

“PYCO has mentioned a Deed No. 61161, dated April 28, 2006, from SOUTH PLAINS as Grantor to CHOO-CHOO as Grantee. This deed covers land that is located on Locust Avenue in Lubbock. The land is a vacant lot. It starts eight feet west of the rail line and runs to the west. There is no rail line on this land and no rail operations have ever occurred on this land. There is no switch on any nearby line to come into this lot. This lot has never been used for railroad purposes and is not being used for railroad purposes at the present time.

“PYCO has mentioned a second deed, No. 53081, dated April 28, 2006, with SOUTH PLAINS as Grantor and CHOO-CHOO as Grantee. There are two tracts of land covered by this deed. The first tract is located near Elm Street in Lubbock, Texas. This tract starts eight feet south of the rail line and runs south. There is no rail line on this land. There is an old unloading dock located on the track and a boxcar has been placed on the ground next to the unloading dock. The boxcar is not on a track but is rather on solid ground. This land has not been used for railroad purposes and is not currently being used for railroad purposes. The second tract of land covered by this deed is a rail line servicing 84 Lumber Company. This rail line is covered by an

Operating Agreement between SOUTH PLAINS and CHOO-CHOO whereby SOUTH PLAINS, or any of its successors or assigns, can operate on the line and serve any customers on the line just as SOUTH PLAINS has done since 1999.

"Both of these transactions were merely real estate transfers, dealing with property that does not affect the rail service of PYCO or any other customer of SOUTH PLAINS.

"PYCO continues to make references to the attempt by PYCO to purchase SOUTH PLAINS. PYCO continually mis-characterizes the transaction as one where a demand was made that PYCO pay SOUTH PLAINS \$5,500,000.00 on the threat of shutting down PYCO. This is not the case.

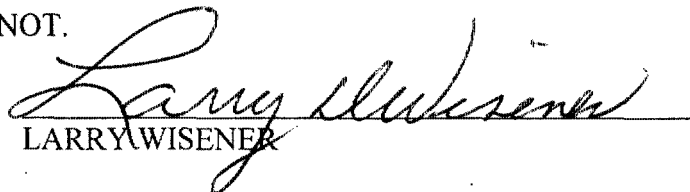
"Attached to my affidavit as Exhibit "3" is a copy of a letter sent to Robert Lacy at PYCO containing a Confidentiality Agreement and a Rail Sale Proposal. As the letter states, PYCO had an interest in the possible purchase of SOUTH PLAINS SWITCHING (SAW). A confidentiality was needed at the start of the negotiation process. Robert Lacy on behalf of PYCO signed the Confidentiality Agreement.

"The parties reached an agreement whereby there would be a sale of SOUTH PLAINS to PYCO. In a conversation with Robert Lacy, Robert Lacy advised me that the Board had given the go-ahead for the sale. Because there was a right of first refusal in the original Sale Contract where SOUTH PLAINS purchased the railroad from BNSF, SOUTH PLAINS requested that PYCO give a letter of intent for its sale so that the sale could be sent to BNSF for their approval. PYCO would not give the letter of intent as requested and therefore the sale negotiations collapsed. There were no threats made on behalf of SOUTH PLAINS against PYCO or any other entity. The Sale Agreement fell through because of PYCO's unwillingness or inability to provide a letter of intent.

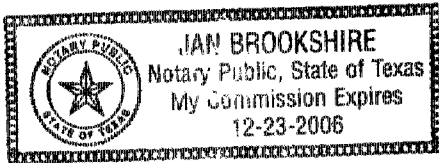
"If PYCO is of the opinion that these leases harm their operation, CHOO-CHOO is willing to enter into discussions with PYCO with regard to the continuation or modification of the leases that are in place.

"Both SOUTH PLAINS and CHOO-CHOO are of the opinion they have the right to conduct business in a normal manner, which includes the transfer and sale of real estate, as long as the real estate does not affect rail service. The transfers set out herein reflect this business. The leases do not affect the rail service provided to PYCO. The STB should concern itself with the Feeder Line Applications and not follow PYCO's invitation to enter orders attempting to run the internal affairs of SOUTH PLAINS and CHOO-CHOO to the satisfaction of PYCO."

FURTHER AFFIANT SAYETH NOT.


LARRY WISENER

3rd SUBSCRIBED AND SWORN TO BEFORE ME by the said Larry Wisener on the
day of November, 2006.



Jan Brookshire
Notary Public, State of Texas

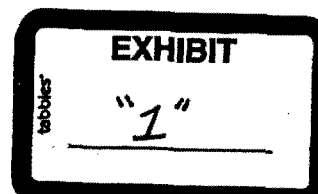
QUITCLAIM DEED

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 **PYCO INDUSTRIES, INC.,** of P. O. Box 1889, Lubbock, Texas 79408, (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 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 5th day of December, 2000.

South Plains Switching Ltd., Company

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

THE STATE OF TEXAS

§

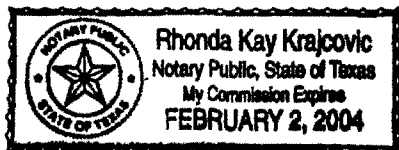
§

COUNTY OF LUBBOCK

§

This instrument was acknowledged before me on this the 5th day of December, 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

COPY

EXHIBIT "A"

DESCRIPTION

BEGINNING at a ½" iron rod with cap, set in the East line of U. S. Highway 87 (Avenue "A") and the South property line of the South Plains Switching Ltd., Company which is one hundred and fifty feet (150') distance and parallel with the original main track of the Fort Worth and Denver South Plains Railway Company (predecessor company) for the Northwest corner of Lot 1 - A, Plains Cooperative Oil Mill Addition to the City of Lubbock, Lubbock County, Texas and the beginning corner of this tract, whence the Southeast corner of Section 7, Block "B" and the Southwest corner of Section 5, Block "B", Lubbock County, Texas bears South, 1895.38 feet and East, 65.68 feet:

THENCE North 02° 12' 46" West, along the East line of U. S. Highway 87 (Avenue "A"), 110.71 feet to a ½" iron rod with cap, set for the Northwest corner of this tract being a point southwesterly and forty-six and four tenths feet (46.4') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South 71° 36' 45" East, passing the West line of said Section 5, Block "B" 800.00 feet to a ½" iron rod with cap, set for a corner of this tract being a point southwesterly and forty-six and three tenths feet (46.3') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South 68° 04' 49" East, 725.41 feet to a ½" iron rod with cap, set for a corner of this tract being a point southwesterly and ninety-one and no tenths feet (91.0') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South 71° 16' 47" East, 569.33 feet to a ½" iron rod with cap, set for a corner of this tract being a point southwesterly and ninety-four and three tenths feet (94.3') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE Southeasterly, along the arc of a curve to the right, 99.40 feet to a ½" iron rod with cap, set for a corner of this tract, said curve has a radius of 507.30 feet, a central angle of 11° 13' 29" and a chord that bears South 68° 22' 45" East, 99.22 feet being a point southwesterly and ninety-nine and nine tenths feet (99.9') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South 62° 45' 20" East, 58.52 feet to a ½" iron rod with cap, set for a corner of this tract being a point southwesterly and one hundred eight and nine tenths feet (108.9') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE Southeasterly, along the arc of a curve to the right, 224.76 feet to a ½" iron rod, found for the Northeast corner of Lot 3, Plains Cooperative Oil Mill Addition to the City of Lubbock, Lubbock Count, Texas and the Southeast corner of this tract, said curve has a radius of 374.06 feet, a central angle of 34° 25' 40" and a chord that bears South 47° 36' 42" East, 221.40 feet;

THENCE North 89° 56' 57" West, along the North line of said Lot 3, 88.39 feet to a ½" iron rod, found for a corner of this tract;

THENCE North 00° 00' 04" West, along the North line of said Lot 3, 80.92 feet to a ½" iron rod, found for a corner of this tract being a point southwesterly and one hundred-fifty and no tenths feet (150.0') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE North 71° 36' 45" West, along the North lines of said Lot 3 and said Lot 1- A and the South line of South Plains Switching Ltd., Company and passing the East line of said Section 7, Block "B", 2304.13 feet to the Place of Beginning.

ADDITIONALLY

All of the South Plains Switching Ltd., Company's fee or easement interest in real property or improvements within Lot 1- A Plains Cooperative Oil Mill Addition to the City of Lubbock, Lubbock County, Texas (Vol. 1681, p. 955) and Lot 3 Plains Cooperative Oil Mill Addition to the City of Lubbock, Lubbock County, Texas (Vol. 1732, p. 178) being west of and not including the property for Lead Track No. 73 (Burlington Industrial District Lead Track).

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

EXHIBIT

"2"

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 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
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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 either 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

South Plains Switching, Ltd. Co.
P. O. BOX 64299 **LUBBOCK, TEXAS 79464**
PHO: (806)828-4841 **FAX: (806)828-4863**

May 10, 2005

Mr. Robert Lacy, Jr.
PYCO Industries, Inc.
P. O. Box 841
Lubbock, Texas 79408-0841

Dear Mr. Lacy:

Re: Your expression of interest in possible purchase of South Plains Switching, Ltd.
Company and Confidentiality agreement:

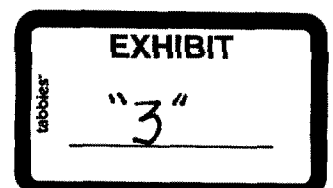
Thank you for your interest in possible purchase of South Plains Switching (SAW). In order to start the process allowing you to examine our property it will be necessary for you to sign the following confidentiality agreement. After signature we will be in a position to supply you with information.

If you have any questions do not hesitate to contact me.

Sincerely,



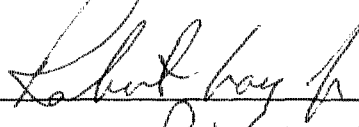
Delilah Wisener
Owner – South Plains Switching Ltd, Company



South Plains Switching, Ltd. Co.
P. O. BOX 64299 **LUBBOCK, TEXAS 79464**
PHO: (806)828-4841 **FAX: (806)828-4863**

CONFIDENTIALITY AGREEMENT

1. Information supplied by SAW will be held in a confidential manner.
2. Written consent by SAW is required to share information with a third party.
3. Information shall be maintained in a secure location.
4. Copies shall not be made of supplied information.
5. At the conclusion of sale negotiations information shall be returned to SAW

By: 

Printed name: Robert Lacy, Jr.

Date: 5-10-05

Sent to
PYCO

Rail Sale Proposal Portions of South Plains Switching, LTD. Company Lubbock, TX

Introduction

This sale package outlines property offered for sale and conditions of sale for portions of South Plains Switching, LTD. (SAW)

Description of Property for Sale

The property for sale consists of rail track generally located south and west of the BNSF south yard in Lubbock, TX. The original sale was made from BNSF to SAW by Sale Agreement for Sale of Certain Assets, Rights, and Obligations of The Burlington Northern and Santa Fe Railway Company to South Plains Switching, LTD dated May 3rd, 1999. Provisions in this sale agreement will be assigned to any new rail line owner.

SAW operations are on both sides of BNSF main line in Lubbock, TX. Crossing of BNSF to connect these properties is done on a regular basis by SAW obtaining dispatch authority from BNSF.

Interchange between SAW and BNSF is made in BNSF South yard as mutually agreed.

Buyer accepts the rights and obligations as set forth in the provisions of the Sale Agreement for Sale of Certain Assets, Rights, and Obligations of the Burlington Northern and Santa Fe Railway Company to South Plains Switching, Ltd. Co. dated May 3, 1999, Quit Claim deed given for property. Bill of Sale given for all tracks, etc., as received from BNSF.

All SAW operating property except those retained below, but including PYCO leases #6793, 8678, PX91-12025, PX91-12021, 4536 and 4677(copies attached).

Some track and property outlined in the Sale Agreement of May 3rd, 1999 has already been sold, or will be retained by SAW. The sold property and removed trackage in general was non-operational and was sold to remove tax liability.

Description of Property not for Sale

Properties to be retained by SAW are as follows:

A portion of the Orchard Lead track (see attachment A)

Track 380 with adjacent side tracks and the shipper/receivers located along those tracks.

A portion of Track 9420 West of Elm Street (sold to 84 Lumber) see attachment A

Track 4, 7, and 12 (Burris properties in litigation)

Non-operating leases currently in litigation

Track 340

Boxcars used for equipment storage in Lubbock

Locomotives and maintenance of way equipment and tools

Divisions of Revenue Paid by BNSF to SAW

The line sale agreement between SAW and BNSF outlines the divisions of revenue paid by BNSF to SAW. There are two different sets of payments; one for cars waybilled in shipments less than 27 cars and a different set for cars waybilled in shipments of over 27 cars.

Provisions in the sale agreement provide for annual adjustment of divisions of revenue paid by BNSF to SAW.

Union Pacific Traffic

Most traffic interchanged between SAW and BNSF moves under BNSF rail provisions.

There is an operating agreement between the Union Pacific Railroad (UP) and BNSF where BNSF contracts to handle traffic to or from Lubbock for UP. There are no payments made by UP to SAW. All payments are made from BNSF from their revenues obtained from the UP.

Free Time on Equipment

Free time for cars interchanged between BNSF and SAW are covered in the sale agreement. Free time, is 120 hours.

Demurrage Car Storage etc.

SAW maintains their own "price and condition sheet" setting forth such things as free time, demurrage, storage of cars, local switching charges etc. A new buyer would need to publish their own price and condition sheet.

Electronic Interchange of Cars

It is very important for a rail line interchanging equipment with BNSF, to have electronic interchange. This function is being performed by SAW through RMI an outside firm.

BNSF also provides an interchange package should a buyer decide to work directly with BNSF.

Locomotives, Maintenance of Way Equipment

Locomotives or Maintenance of Way equipment or materials would not be part of the sale. SAW does, however, have a number of operational locomotives and it is possible that two of these units could be sold as a separate agreement.

BNSF Right of First Refusal

The BNSF has first right of refusal, with their response due within 60 days of an agreement between SAW and a new rail line.

Offer Conditions

The following offer conditions exist:

Minimum offer \$5,900,000.00 (this has been met)

Response due on or before 12:00 Noon, June 16, 2006.

SAW may elect to reject any and all offers:

Response to be made to:

Mr. Thomas F. McFarland
208 South LaSalle Street, Suite 1890
Chicago, Illinois 60604-1194
Phone: (312)236-0204
Fax: (312)201-9695

Attachments

Attachment A Maps
Copies of PYCO Leases

VERIFIED STATEMENT OF EDWARD LANDRETH

I am Edward W. Landreth, P. E., a professional engineer and owner of Landreth Engineering, LLC, a railroad civil engineering firm specializing in design, construction and maintenance of railroad track and structures. I provide inspection of existing railroad track and structures to class III railroads and private track owners as well as design, construction and maintenance plans. Additionally I provide net liquidation value estimates and assistance in the management of railroad property and assets. My business address is P. O. Box 92156, Albuquerque, New Mexico 87199.

I have been in the consulting business since my early retirement from The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) in 1994. During the last 6 of those years, I was the Director of Asset Management (Department Head) for the Santa Fe Real Estate and Contract Department

I have provided administrative support to the South Plains Switching, Ltd., Co. (SAW) management for the SAW real estate assets since 1999. I have been asked to provide background information for the real estate transactions that were misrepresented to the Surface Transportation Board by Mr. Charles H. Montange.

Mr. Charles H. Montange as attorney for PYCO industries, Inc. (PYCO) transmitted with his letter of October 13, 2006 (STB document identification number 217817) a motion that was entered in the public records of STB Finance Docket 34890 on October 16, 2006 to void certain property transfers by South Plains Switching, Ltd.

The Surface Transportation Board in Finance Docket 34890 and other related dockets decided on August 3, 2006 that all SAW deeds and property transfers after May 5, 2006 (the date of PYCO's initial feeder line application in STB Finance Docket 34844 was filed with the Surface Transportation Board) were to be voided and land sales were to be suspended pending the resolution of the feeder line application(s).

Mr. Montange in his motion transmitted October 13, 2006 now wants to invalidate all property transactions pursued in the normal course of business back to either a December 20, 2005 date or January 9, 2006 either of which would be satisfactory to Mr. Montange. Mr. Montange is attempting to cast an unfavorable light on normal business in an attempt to incite the Surface Transportation Board as well as cloud the real estate title presently held by third parties in the Lubbock area.



Exhibit A attached with Mr. Montange's Motion dated October 13, 2006

Mr. Montange, in Exhibit A of his motion, is second-guessing business transactions that were initialed, for the most part, by the adjacent property owners and he is now concerned that these transfers will limit the successor railroad to reach potential customers.

This portion of the warehouse district bounded by 46th Street (North), 50th Street (South), Locust Avenue (West) and Magnolia Avenue (East) has evolved to a non-rail use portion in the industrial area and the adjacent property owners needed additional property to expand their parking and storage operations hence their desire to acquire the railroad property rights adjacent to their warehouses. The Deeds used as examples within Exhibit A by Mr. Montange were dated prior to September 18, 2001 and by virtue of their dates are irrelevant to this proceeding.

1. Deed No. 61161 dated April 28, 2006 SAW (Grantor) to Choo-Choo (Grantee)

This parcel and its land description are shown correctly on Drawing Number 61161 dated April 26, 2006 that is attached with this deed. This land parcel is configured to continue the west property line that is common with the railroad for the existing lot (owned by a third party) located on the North side of this parcel and doesn't conflict with the existing or future railroad operation.

Mr. Montange attempts to cast an unfavorable light on this transaction by jumping to conclusions. Without taking the time to locate the land description within the deed as related to a survey of the adjacent lots, streets and tracks, Mr. Montange makes allegations of possible interfere with service to rail customers and complains that the deed sets forth no retained right to operate a railroad.

The west line of the land description contained within this deed is a continuation of the east railroad property line established within this district originally by the FW&D and the track that serves the existing shipper as described by Mr. Montange as Georgia Pacific/Blue Linx is located on the west side of this property line within the land retained by SAW. No retained railroad easement is required to continue the SAW service on the existing railroad tracks as the tracks are located west of the west property line to this parcel.

The sale of this parcel will have no impact on rail dependent operations or access to any existing or future shippers. In essence this parcel by being severed from the gross rail corridor for this industrial district will provide a defined parcel similar to the existing lots within the industrial district and will facilitate the marketing of this parcel and the possible locating of another rail served industry.

2. Deed No. 53081 dated April 28, 2006 SAW (Grantor) to Choo-Choo (Grantee)

This deed conveyed two parcels of land in the former Burlington Industrial Addition No. 3 to the City of Lubbock.

Tract 1 is a parcel of land approximately 264.5' x 600' that lies south of the SAW retained right of way for the Lead Track No. 107 and was originally acquired by Choo-Choo as an investment property and has no impact on future SAW rail operations.

Tract 2 is a parcel of land bounded by 50th Street (North), Birch Avenue (West), Elm Avenue (East) and 58th Street (South) that was originally acquired by Choo-Choo as an investment property and an agreement for the continued operation of the rail service to 84 Lumber was required by SAW prior to the sale of this parcel to Choo-Choo. The agreement, which is not recorded in the Lubbock County Deed Records, is attached as Exhibit L-1.

The sale of this parcel will have no impact on rail dependent operations or access to any existing or future shippers

3. Agreement dated March 9, 2006 SAW (Grantor) to Choo-Choo (Grantee)

This agreement is the remnant of a transaction originally between SAW and PYCO for the sale of approximately 4.3 acres that PYCO originally leased from the FW&D (SAW) and the assignment of leases between PYCO and SAW.

When SAW acquired the former FW&D properties from the BNSF, PYCO was delinquent in paying rent for approximately 3.4 acres of property to the BNSF. SAW agreed to sale approximately 4.3 acres to PYCO for a consideration that was essentially the back rent owed to BNSF on the site leases.

SAW provided a deed to the 4.3 acres attached as Exhibit L-2 and agreement listing license and lease agreements between SAW and PYCO attached as Exhibit L-3 on December 5, 2000. SAW furnished the deed to PYCO and the assignment of the licenses and leases for the \$100,000 that Mr. Kring alleges in his declaration (attached as Exhibit G to Mr. Montange's motion dated October 13, 2006) was only for a 20-year extension of the existing license and lease agreements. Mr. Montange claims that copy of the assignment of licenses and leases was mysteriously obtained by PYCO and that it was not furnished in December 2000 or in the documents produced for discovery.

SAW in December 2000 sold PYCO the approximately 4.3 acres of SAW property and cancelled the licenses and leases within the property sale. PYCO did not reveal the purchase of the 4.3 acres in Mr. Kring's declaration yet the agreement attached to Mr. Kring's declaration acknowledges that SAW conveyed a portion of the land and improvements to PYCO.

Part of the consideration for the assignment of the licenses and leases (Exhibit L-3) was that PYCO was to acknowledge any miscellaneous encroachments not presently covered by agreement and PYCO was to request that they be covered by agreements with SAW as these encroachments were discovered and identified. It was assumed by SAW that PYCO had no interest in extending the licenses listed in Exhibit L-3 or obtaining additional licenses and leases as approximately 5 years had passed since the agreement for the assignment of the licenses and leases (Exhibit L-3) had been furnished in good faith to PYCO by SAW. It was the miscellaneous encroachments listed in Exhibit L-3 and unidentified PYCO encroachments outside of the original sale of 4.3 acres to PYCO that SAW transferred to Choo-Choo properties.

Inasmuch as the remaining PYCO licenses and leases listed in Exhibit L-3 had little or no remaining value to SAW, they were sold to Choo-Choo properties (Exhibit L-4) in an effort to maximize the residual value to SAW.

Mr. Kring declares in his declaration that PYCO didn't receive exhibit L-3 pertaining to the licenses and leases and hasn't acknowledged receiving exhibit L-2 the deed to the 4.3 acres sold by SAW to PYCO in December 2000.

My last review (July 19, 2006) of the Lubbock County Deed Records didn't reveal that PYCO had filed the deed (Exhibit L-2) obtained by PYCO on December 5, 2000. It is my understanding that PYCO has also not returned the agreement for the transfer of licenses and leases within the property sale and the 20-year extension of the existing leases outside of the property sale signed on behalf of PYCO.

As to why PYCO did not file the original of the deed to the 4.3 acres and return a signed copy of the agreement pertaining to the assignment of the licenses and leases (Exhibit L-3) I have no clue other than mismanagement on the part of PYCO. It is not normal business practices for a business not to receive some kind of documentation for expenditures in the magnitude of \$1,000 much less \$100,000 yet that is what PYCO is alleging and would like us to believe. SAW has referred to this sale in earlier testimony and PYCO has yet to acknowledge the transaction.

While I can't personally testify that PYCO received the deed to the 4.3 acres (Exhibit L-2) or the agreement pertaining to the assignment of the licenses and leases (Exhibit L-3), I can testify that the SAW duplicate copy of the deed (Exhibit L-2) and the copy of the license and lease assignments (Exhibit L-3) has been maintained in the SAW records since December 2000 as an official sale and assignment of licenses and agreements.

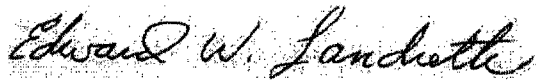
I have provided administrative support for the management of the SAW properties since SAW acquired the former FW&D assets at Lubbock, TX. Major vacant parcels within the former industrial areas were conveyed by the BN to a subsidiary land company prior to the BN and ATSF merger. Prior to the sale of the former FW&D assets to the SAW, the BNSF sold many of the income producing FW&D lease sites primarily to the lessees and the income producing leases that were not purchased by the lessees were sold to a

subsidiary company of the BNSF contract property management firm. Non-income producing lease sites or those lease sites where the lessee was in default or refused to pay the site leases such as the PYCO lease were included in the conveyance to SAW. The SAW in essence acquired primarily the land attached to the main line rail corridor and the industry track corridors.

The initial SAW sales of non-income-producing industry track right-of-way was to adjacent warehouse owners where the warehouse use had evolved to non-rail-shippers with no near-term (10-15 years) expectation that the warehouses would require rail transportation. The SAW did approach the lessees that the BNSF had previously offered to sell their lease sites to provide continuity to the former BNSF property management program.

SAW in its property management program which was an adaptation of the BN and latter BNSF property management program identified SAW properties that were not essential to the railroad in the spring and summer of 2005. I was given the work orders to prepare land descriptions and sketches showing the identified properties in the fall of 2005. These properties were conveyed to what later was established as Choo-Choo Properties.

Respectively Submitted

A handwritten signature in cursive script that reads "Edward W. Landreth". The ink is dark and the signature is fluid, with a large initial 'E'.

Edward W. Landreth
October 31, 2006

VERIFICATION

STATE OF NEW MEXICO)
) SS:
COUNTY OF BERNALILLO)

EDWARD W. LANDRETH, being duly sworn on oath, deposes and states that he has read the foregoing statement, that he knows the contents thereof, and that the facts therein stated are true and correct.

Edward W. Landreth
Edward W. Landreth

SUBSCRIBED AND SWORN to
Before me this 1 day of November, 2006

Viola Y. Bermudez
NOTARY PUBLIC STATE OF NEW MEXICO



OFFICIAL SEAL
VIOLA Y. BERMUDEZ
NOTARY PUBLIC-STATE OF NEW MEXICO

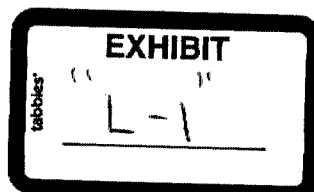
My commission expires: 11-30-08

My Commission Expires: 11-30-08

ELM TRACK CONTRACT

THIS AGREEMENT, made as of the 28th day of April 2006 between the SOUTH PLAINS SWITCHING, LTD., CO., a Texas Limited Liability Corporation, hereinafter referred to as "SAW", and Choo - Choo Properties, Inc., a Texas Corporation, hereinafter, whether one or more persons, corporations, or other entities, referred to as "INDUSTRY".

1. The INDUSTRY has requested the SAW to operate on tracks owned by INDUSTRY, which tracks hereinafter in their entirety are referred to as "The ELM Track", located at or near the Railway Station of Lubbock, Lubbock County, Texas, to serve INDUSTRY'S adjacent Facilities (hereinafter called the "Plant"), to be operated by the INDUSTRY. The ELM Track is shown by bold lines upon the Drawing No. 53081B, dated April 26, 2006 marked "Exhibit A", and made a part hereof.
2. INDUSTRY grants operating rights on The ELM Track to SAW subject to the terms contained herein, SAW agrees to operate over The ELM Track and provide rail service to Plant for the term of this Agreement on the basis and under the conditions hereinafter set forth.
3. INDUSTRY agrees to grant to the SAW for the term of this Agreement, free of cost, a right-of-way eight and one-half (8 1/2) feet on each side of the centerline thereof, for that portion of The ELM Track located on property belonging to INDUSTRY.
4. Effective April 28, 2006, SAW agrees to provide rail service on The ELM Track as requested and as directed by INDUSTRY.
5.
 - (a) SAW shall maintain and renew that segment of The ELM Track located east of the Division of Ownership (West Right of Way of Elm Avenue), as shown on Exhibit A. Industry will own the Lead track west of Elm Avenue and SAW will own the Lead track east of Elm Avenue.
 - (b) SAW shall re-rail all railroad rolling stock including locomotives that derail on The ELM Track. All damage to railroad rolling stock including locomotives that occurs while operated or spotted on The ELM Track will be repaired at the sole expense of SAW. SAW will replace, repair or renew all damage to The ELM Track structure resulting from the derailment of railroad rolling stock including locomotives to the condition preceding the derailment damage all at SAW's expense.
 - (c) INDUSTRY shall maintain and renew, at INDUSTRY's expense, the remaining segment of The ELM Track (identified in Section 1 herein), beyond the West Right of Way of Elm Avenue, when maintenance and renewal is required. All maintenance and renewal shall conform with all applicable standards promulgated by any and all governmental bodies having jurisdiction. The title to The ELM Track and to all property furnished in the maintenance thereof shall be the ownership of INDUSTRY.



6. SAW shall NOT have the right to use The ELM Track for other than the express purpose of serving the Plant as requested and as directed by INDUSTRY.
7. (a) SAW shall indemnify and hold harmless INDUSTRY for any claim, loss, damage, expense or injury, including death, arising in any manner out of the condition of The ELM Track, or any act or omission of the SAW, its employees, agents, contractors or invitees (SAW's parties), to the person or property of the parties hereto and SAW's parties, and to the person or property of any other public body, individual, partnership, corporation, or other legal entity while on or near The ELM Track, while exercising any right or performing any obligation pursuant to this Agreement, or from the failure to undertake any action required by this Agreement or by any laws, rules, regulations or applicable orders of any governmental body, except to the extent that the claim, loss, damage, expense, death, or injury is directly caused by INDUSTRY's negligent acts.

(b) Except to the extent of INDUSTRY's negligent acts, SAW shall indemnify and hold Harmless INDUSTRY from liability or claimed liability arising under the Federal Employers' Liability Act (45 U.S.C. §51 et. seq.) for any liability caused, wholly or in part, by any act or omission of SAW in connection with railroad equipment or devices, or the property, equipment, fixtures or condition belonging to or under the control of SAW.

(c) Whenever employees, agents or contractors of the SAW claim or allege that they are employees of INDUSTRY or that they are furthering operational activities of INDUSTRY within the meaning of the Federal Employers' Liability Act, SAW agrees to indemnify and hold harmless INDUSTRY, and shall assume the cost of the defense of any claims, suit or judgments brought against INDUSTRY under said Act.
8. (a) SAW shall comply with all federal, state and local environmental laws and regulations in its use of The ELM Track, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA). SAW shall not maintain a treatment, storage or disposal facility, or underground storage tank, as defined by RCRA, on or under The ELM Track. SAW shall not release or suffer the release of oil or hazardous substances, as defined by CERCLA, on The ELM Track. Notwithstanding any other requirements in this Agreement, SAW assumes all responsibility for the investigation and cleanup of such release and shall indemnify and defend INDUSTRY and its agents for all costs and claims, including consultant and attorney fees, arising in any manner out of such release or SAW's failure to comply with environmental laws.

(b) SAW shall give INDUSTRY timely notice of any release, violation of environmental laws or inspection or inquiry by governmental authorities charged with enforcing environmental laws with respect to SAW's use of The ELM Track. SAW also shall give INDUSTRY timely notice of all measures undertaken on behalf of SAW to investigate, remediate, respond to or otherwise cure such release or violation.

(c) In the event that INDUSTRY has notice from SAW or otherwise of a release or violation of environmental laws, which occurred or is occurring during the term of this Agreement, INDUSTRY may require SAW to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation.

9. INDUSTRY and SAW shall strictly comply with any and all applicable statutes, ordinances, rules, regulations, orders and judgments of all governmental bodies having jurisdiction in the State in which The ELM Track is located, governing side clearances, overhead clearances and walkways from railroad tracks in that State. INDUSTRY and Saw shall at all times keep a space of seven (7) feet from the nearest rail of any railroad track entirely clear of every sort of obstruction and material.
10. Upon written notice from INDUSTRY, SAW agrees to assume the defense of any lawsuit or other proceeding brought against INDUSTRY by any entity, relating to any matter covered by this Agreement for which SAW has an obligation to assume liability for and/or save and hold harmless INDUSTRY. SAW shall pay all the costs incident to such defense including, but not limited to, attorneys' fees, investigators' fees, litigation expenses, settlement payments, and amounts paid in satisfaction of judgments.
11. (a) If SAW refuses to comply with or carry out any of the covenants or agreements herein contained, INDUSTRY may, at its option, expressed in writing, terminate this Agreement on written notice to SAW, effective immediately. With the exception of this notice requirement, the provisions of Section 12 shall apply to any termination of this Agreement.

(b) No termination shall release SAW from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination.
12. Unless earlier terminated as herein provided, this Agreement shall be in force until terminated by INDUSTRY. In the event this agreement is terminated by INDUSTRY, INDUSTRY will give 30 days' written notice
13. All notices to be given hereunder shall be given in writing, by depositing same in the United States mail, or other acceptable mailing service, with postage prepaid, and addressed to SAW or INDUSTRY, as the case may be, at the address and department identified on the signature page hereof.
14. In the event that SAW embraces two or more persons, corporations or entities, all the covenants and agreements of SAW shall be the joint and several covenants and agreements of such persons, corporations or entities.
15. All the covenants and provisions of this Agreement shall be binding upon the successors and assigns of SAW. No assignment by SAW shall be binding upon INDUSTRY without the written consent of INDUSTRY in each instance.

16. All questions arising under this Agreement shall be decided according to the laws of the State of Texas.
17. To the maximum extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by, or held to be invalid under, applicable law, such provision shall be effective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this Agreement.
18. This Agreement represents the full and complete agreement between SAW and INDUSTRY with respect to all matters relating to the construction, maintenance and operation of The ELM Track and supersedes all other agreements between the parties hereto relating to the construction, maintenance and operation of The ELM Track.

IN WITNESS WHEREOF, the ^{Parties} ~~parties~~ have executed this Agreement, in duplicate, as of the day and year first above written.

SOUTH PLAINS SWITCHING, LTD., CO.

P. O. Box 64299
Lubbock, TX 79464

By

Title

(SAW)

CHOO - CHOO PROPERTIES, INC.

P. O. Box 64420
Lubbock, TX 79464

By

Title

(INDUSTRY)

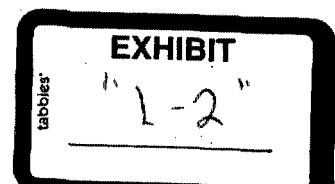
QUITCLAIM DEED

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 **PYCO INDUSTRIES, INC.**, of P. O. Box 1889, Lubbock, Texas 79408, (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 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 5th day of December,
2000.

South Plains Switching Ltd., Company

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

THE STATE OF TEXAS

§

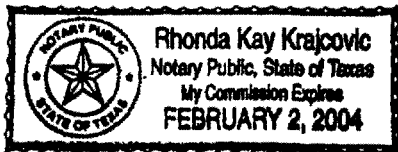
§

COUNTY OF LUBBOCK

§

This instrument was acknowledged before me on this the
5th day of December, 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

COPY

EXHIBIT "A"

DESCRIPTION

BEGINNING at a ½" iron rod with cap, set in the East line of U. S. Highway 87 (Avenue "A") and the South property line of the South Plains Switching Ltd., Company which is one hundred and fifty feet (150') distance and parallel with the original main track of the Fort Worth and Denver South Plains Railway Company (predecessor company) for the Northwest corner of Lot 1 - A, Plains Cooperative Oil Mill Addition to the City of Lubbock, Lubbock County, Texas and the beginning corner of this tract, whence the Southeast corner of Section 7, Block "B" and the Southwest corner of Section 5, Block "B", Lubbock County, Texas bears South, 1895.38 feet and East, 65.68 feet:

THENCE North 02° 12' 46" West, along the East line of U. S. Highway 87 (Avenue "A"), 110.71 feet to a ½" iron rod with cap, set for the Northwest corner of this tract being a point southwesterly and forty-six and four tenths feet (46.4') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South 71° 36' 45" East, passing the West line of said Section 5, Block "B" 800.00 feet to a ½" iron rod with cap, set for a corner of this tract being a point southwesterly and forty-six and three tenths feet (46.3') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South 68° 04' 49" East, 725.41 feet to a ½" iron rod with cap, set for a corner of this tract being a point southwesterly and ninety-one and no tenths feet (91.0') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South 71° 16' 47" East, 569.33 feet to a ½" iron rod with cap, set for a corner of this tract being a point southwesterly and ninety-four and three tenths feet (94.3') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE Southeasterly, along the arc of a curve to the right, 99.40 feet to a ½" iron rod with cap, set for a corner of this tract, said curve has a radius of 507.30 feet, a central angle of 11° 13' 29" and a chord that bears South 68° 22' 45" East, 99.22 feet being a point southwesterly and ninety-nine and nine tenths feet (99.9') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South 62° 45' 20" East, 58.52 feet to a ½" iron rod with cap, set for a corner of this tract being a point southwesterly and one hundred eight and nine tenths feet (108.9') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE Southeasterly, along the arc of a curve to the right, 224.76 feet to a ½" iron rod, found for the Northeast corner of Lot 3, Plains Cooperative Oil Mill Addition to the City of Lubbock, Lubbock Count, Texas and the Southeast corner of this tract, said curve has a radius of 374.06 feet, a central angle of 34° 25' 40" and a chord that bears South 47° 36' 42" East, 221.40 feet;

THENCE North 89° 56' 57" West, along the North line of said Lot 3, 88.39 feet to a ½" iron rod, found for a corner of this tract;

THENCE North 00° 00' 04" West, along the North line of said Lot 3, 80.92 feet to a ½" iron rod, found for a corner of this tract being a point southwesterly and one hundred-fifty and no tenths feet (150.0') distance from and parallel with the original main track of the former Fort Worth and Denver South Plains Railway Company;

THENCE North 71° 36' 45" West, along the North lines of said Lot 3 and said Lot 1- A and the South line of South Plains Switching Ltd., Company and passing the East line of said Section 7, Block "B", 2304.13 feet to the Place of Beginning.

ADDITIONALLY

All of the South Plains Switching Ltd., Company's fee or easement interest in real property or improvements within Lot 1- A Plains Cooperative Oil Mill Addition to the City of Lubbock, Lubbock County, Texas (Vol. 1681, p. 955) and Lot 3 Plains Cooperative Oil Mill Addition to the City of Lubbock, Lubbock County, Texas (Vol. 1732, p. 178) being west of and not including the property for Lead Track No. 73 (Burlington Industrial District Lead Track).

AGREEMENT

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

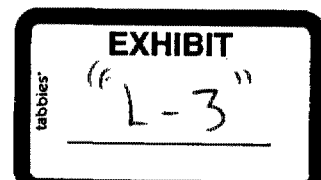
WHEREAS, South Plains Switching, Ltd., Company is successor in interest to the Burlington Northern and Santa Fe Railway Company for properties and assets within and adjacent to PYCO Industries, Inc. at Lubbock, Texas pursuant to Deed dated May 18, 1999.

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



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 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
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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 either 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

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
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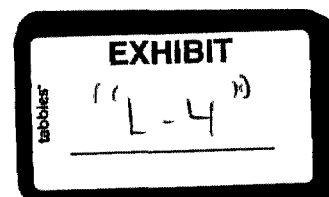
WHEREAS, The original term of the listed Agreements herein continued was extended for a period of 20 years by supplemental agreement dated December 5, 2000 for a nominal consideration of one dollar (\$1.00) per year with no other rental charges. The remaining terms, stipulations, conditions, and obligations, 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.



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.

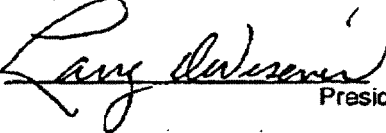
Except as hereby modified or supplemented by written agreement between the parties hereto this Agreement shall be in effect between the parties hereto in accordance with the terms herein.

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