

SANTA FE ORIGINAL

Form 1659-AG Standard

(Approved by General Solicitor)

CONTRACT FOR INDUSTRY TRACK

Happy Main - Herman Toles

AGREEMENT, Made this 18th day of December, 19 72
between THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
a Delaware corporation, hereinafter called the "Railway Company,"
party of the first part, and MESA PETROLEUM COMPANY, d/b/a HARMAN-TOLES ELEVATOR CO.,
a Delaware corporation,
hereinafter (whether one or more persons or corporations) called the "Industry,"
party of the second part.

RECITALS:—The Industry has requested the Railway Company to operate and maintain a track or track extension, as the case may be, about 862.4 feet in length, hereinafter in its entirety referred to as "The Track," at or near the station of Happy, Swisher County, Texas to serve a facility for handling grain.

(hereinafter called the "Plant"), to be operated by the Industry. The Track is shown by red coloring upon the print hereto attached, marked "Exhibit A" and made a part hereof.

AGREEMENT:

ARTICLE I.

In consideration of the covenants of the Railway Company, the Industry agrees as follows:

1. That it will and hereby does grant to the Railway Company for the term of this agreement, free of cost, a right of way, eight and one-half ($8\frac{1}{2}$) feet on each side of the center line thereof, for all that portion, if any, of The Track located on property belonging to the Industry, with the right to maintain and operate The Track thereon, and where any part of The Track lies on a public street or alley, or upon property belonging to third persons or corporations, that it will secure to the Railway Company by ordinance or grant, as the case may be, in form satisfactory to the Railway Company's counsel, and without cost to the Railway Company, the right to maintain and operate The Track thereon, together with the right to remove the same; in the case of a grant, the right of way shall be eight and one-half ($8\frac{1}{2}$) feet on each side of the center line of The Track.

2. That it will pay to the Railway Company, in advance, the estimated cost of

the cost so to be paid by the Industry

being hereby estimated at

Dollars (\$). If the actual cost shall be more or less than such estimated cost, the difference shall be promptly paid by the Industry or repaid by the Railway Company, as the case may be.

3. That it will pay to the Railway Company, from time to time, within twenty (20) days after bills are rendered therefor, the entire cost (or an equitable share thereof in case other industries shall be served by The Track or a part thereof, or in case the Railway Company shall make any other use of The Track in the exercise of the right given in Article III, Section 1) of maintaining and renewing that portion of The Track beyond the clearance point, the Railway Company to be the judge of the necessity for and character of maintenance required on The Track. It is understood that the expense of maintaining and renewing The Track shall include any expense to which the Railway Company may be put in the way of paving, sewers, crossing protection or other work, because of the existence of The Track.

4. That it will operate the Plant during the term hereof.

5. The Industry agrees to indemnify and hold harmless the Railway Company for loss, damage or injury from any act or omission of the Industry, its employees or agents, to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation, while on or about The Track; and if any claim or liability shall arise from the joint or concurring negligence of both parties hereto, it shall be borne by them equally.

6. That it will at all times keep a space of six (6) feet from the nearest rail of any railroad track entirely clear of structures, material and obstructions of every sort and will observe an overhead clearance of not less than twenty-five (25) feet above the top of rail; but, nevertheless, the Industry may erect loading platforms which shall not be higher than three (3) feet and six (6) inches above the top of the rails and which at no point shall be nearer than four (4) feet to the nearest rail of such track; provided, however, if by statute or order of competent public authority different clearances shall be required than those provided for in this Section 6, then the Industry shall strictly comply with such statute or order. In case of a breach of these obligations, or any of them, the Industry assumes and agrees to indemnify the Railway Company against all liability for loss, damage, injury and death arising therefrom and to reimburse the Railway Company for any sums which the Railway Company may have been required to pay in the way of damages, fines, penalties or other expense resulting from the violation by the Industry of any statute or order as aforesaid.

ARTICLE II.

In consideration of the covenants of the Industry, and the faithful performance thereof, the Railway Company subject to the provisions of Sections 2 and 3 of Article I hereof, agrees to maintain The Track during the term of this agreement, unless its obligation so to maintain it may be sooner terminated as herein provided, and to transfer cars, loaded or empty, thereover to and from the Plant subject to any lawful charges that may be imposed by the Railway Company for such transfer.

ARTICLE III.

The parties mutually agree as follows:

1. The title to The Track and to all property furnished in the maintenance thereof shall be in the Railway Company. The Railway Company shall have the right to use The Track for other than the express purpose of serving the Plant.

2. If the Industry shall fail for a period of six (6) months in any period of twelve months to operate the Plant, or shall fail or refuse to comply with or carry out any of the covenants or agreements herein contained, the Railway Company may, at its option, expressed in writing, terminate this agreement; but no termination shall release the Industry 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.

3. Unless earlier terminated as herein provided, this agreement shall be in force for the term of SIX MONTHS from its date and thereafter until terminated by either party giving to the other six months' written notice of its desire to terminate the same. Upon such or any other termination, the Railway Company shall have the right to remove The Track and every part thereof. This agreement shall also terminate forthwith in the event the Railway Company shall be dispossessed of the right to operate over any privately owned track of which The Track or any part thereof is an extension. one

4. Any notice to be given by the Railway Company to the Industry hereunder shall be deemed to be properly served if the same be delivered to the Industry, or if left at the Plant with any of the agents, servants or employees of the Industry, or if posted on the Plant, or if deposited in the postoffice, postpaid, addressed to the Industry at Happy, Texas.

5. In the event that the Industry embraces two or more persons or corporations, all the covenants and agreements of the Industry herein shall be the joint and several covenants and agreements of such persons or corporations.

6. All the covenants and provisions of this agreement shall be binding upon the successors, legal representatives and assigns of the Industry to the same extent and effect as the same are binding upon the Industry, and each and every covenant herein shall inure in favor of and run to the successors and assigns of the Railway Company and to each and every person, firm or corporation which may hereafter own or be in possession of or operate the railroad of the Railway Company to the same extent and as fully as though such person, firm or corporation were specifically named in this agreement in the place and stead of the Railway Company; provided, however, no assignment hereof by the Industry, its successors, legal representatives or assigns, or any subsequent assignee, shall be binding upon the Railway Company without the written consent of a Vice-President or a General Manager of the Railway Company in each instance.

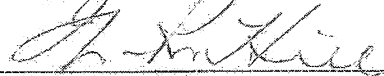
7. It is mutually agreed and understood that this agreement supersedes and cancels those certain documents dated February 6, 1921, December 6, 1929 and February 3, 1945, Railway Secretary's Contract Nos. P&ST 1996, 5150 and 10291, respectively, relating to construction, operation and maintenance of trackage to serve grain elevators at Happy, Swisher County, Texas

8. Upon termination as provided hereinabove, the Railway Company shall pay to the Industry the salvage value, at the time of the materials in such portion of the Red Track as shall have been paid for by the Industry under the provisions of this agreement and the Railway Company shall have the right to remove the Red Track and any part thereof. This agreement shall terminate forthwith in the event the Railway Company shall have and exercise the right or duty to cease operating or abandon that portion of the line of railroad with which The Track is connected, or in the event the Railway Company is dispossessed of the right to operate over The Track, or any part thereof, or any track connecting it, or any part thereof, with said line of railroad.

IN WITNESS WHEREOF, the parties have executed this agreement in duplicate the day and year first above written.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

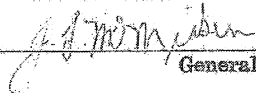
By



Its Assistant to General Manager

Approved:

As to Form



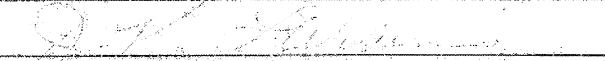
General Attorney.

As to Description

MESA PETROLEUM COMPANY, doing business as

HARMAN-TOLES ELEVATOR CO.,

By



Its Vice President

(Attach print here.)

For AGM - Engineering

1233

SANTA FE ORIGINAL

Form 2760 Standard
(Approved by General Solicitor)
ASSIGNMENT CONTRACT

Contract No. 140874
Secretary, The A. T. & S. F. R. Co., Topeka, Kan.

AGREEMENT, Made as of the 19th day of December, 1974,
between THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware
Corporation (hereinafter called "Santa Fe"), MESA PETROLEUM COMPANY, doing business as
HARMAN-TOLES ELEVATOR CO.,

(hereinafter whether one party or more called "Assignor"), and HARMAN-TOLES GRAIN AND SEED
COMPANY, a Texas corporation,

(hereinafter whether one party or more called "Assignee").

RECITALS:

Santa Fe and Assignor are now parties to a contract dated December 18, 1972

Santa Fe's Secretary's Contract No. 140874, relating to construction, operation
and maintenance of about 862.4 feet of trackage to serve a facility
for handling grain at Happy, Swisher County, Texas,

said contract, together with any and all modifications, supplements and amendments thereto, whether or not referred
to above, being hereinafter called the "Original Contract."

The parties have now agreed to the assignment to Assignee of all of the interest of Assignor in the Original
Contract, upon the terms and conditions hereinafter set forth.

AGREEMENT:

FOR VALUE RECEIVED, Assignor hereby assigns to Assignee all of Assignor's interest in the Original Con-
tract.

IN CONSIDERATION of such assignment and the consent thereto of Santa Fe herein contained, Assignee here-
by accepts said assignment and assumes and agrees to observe and discharge all of the conditions and obligations in
the Original Contract which are by the terms thereof to be observed and kept by Assignor, and Assignee further
agrees not to assign the Original Contract or any right or interest therein, nor sublet the property or any part
thereof embraced in the Original Contract, without the written consent of Santa Fe in each instance.

IN CONSIDERATION of the premises and of the covenants of Assignee herein contained, and the faithful per-
formance of the same, Santa Fe consents to the assignment by Assignor to Assignee of all of Assignor's interest in
the Original Contract.

IT IS MUTUALLY UNDERSTOOD AND AGREED that in the event either Assignor or Assignee, or both,
consist of two or more parties, all the covenants and agreements herein shall be the joint and several covenants and
agreements of such parties.

Any notice to be given by the Santa Fe to the Assignee under the Original Contract, as hereby assigned, shall be
deemed to be properly served if the same be delivered to the Assignee, or if left with any of the agents, servants or
employees of Assignee, or if deposited in the Post Office, postpaid, addressed to Assignee at P.O. Box 8,

Happy, Texas 79042

This agreement shall be effective as of January 1, 1975.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in triplicate as of the day and year
first above written.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

By A. R. Lise

Its Assistant to General Manager

MESA PETROLEUM COMPANY, doing business as
HARMAN-TOLES ELEVATOR CO.,

By J. R. Phipps Its Vice President
(Assignor)

HARMAN-TOLES GRAIN AND SEED COMPANY

By J. R. Phipps

Its President

(Assignee)

SANTA FE ORIGINAL

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Form 2760 Standard
(Approved by General Solicitor)
ASSIGNMENT CONTRACT

Contract No. 140874 **B** Ct 22100
RETURN TO
Secretary, The A.T. & S.F. RY. CO. Topeka

AGREEMENT, Made as of the 7th day of December, 1981,
between THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware
Corporation (hereinafter called "Santa Fe"),
HARMON-TOLES GRAIN AND SEED COMPANY, a Texas corporation,
(hereinafter whether one party or more called "Assignor"), and
ATTEBURY GRAIN, INC., a Texas corporation,
(hereinafter whether one party or more called "Assignee").

RECITALS:

Santa Fe and Assignor are now parties to a contract dated December 18, 1972.

Santa Fe's Secretary's Contract No. 140874, relating to construction, operation
and maintenance of about 862.4 feet of trackage at Happy, Swisher County, Texas,
to serve a grain handling facility,

said contract, together with any and all modifications, supplements and amendments thereto, whether or not referred
to above, being hereinafter called the "Original Contract."

The parties have now agreed to the assignment to Assignee of all of the interest of Assignor in the Original
Contract, upon the terms and conditions hereinafter set forth.

AGREEMENT:

FOR VALUE RECEIVED, Assignor hereby assigns to Assignee all of Assignor's interest in the Original Con-
tract.

IN CONSIDERATION of such assignment and the consent thereto of Santa Fe herein contained, Assignee here-
by accepts said assignment and assumes and agrees to observe and discharge all of the conditions and obligations in
the Original Contract which are by the terms thereof to be observed and kept by Assignor, and Assignee further
agrees not to assign the Original Contract or any right or interest therein, nor sublet the property or any part
thereof embraced in the Original Contract, without the written consent of Santa Fe in each instance.

IN CONSIDERATION of the premises and of the covenants of Assignee herein contained, and the faithful per-
formance of the same, Santa Fe consents to the assignment by Assignor to Assignee of all of Assignor's interest in
the Original Contract.

IT IS MUTUALLY UNDERSTOOD AND AGREED that in the event either Assignor or Assignee, or both,
consist of two or more parties, all the covenants and agreements herein shall be the joint and several covenants and
agreements of such parties.

Any notice to be given by the Santa Fe to the Assignee under the Original Contract, as hereby assigned, shall be
deemed to be properly served if the same be delivered to the Assignee, or if left with any of the agents, servants or
employees of Assignee, or if deposited in the Post Office, postpaid, addressed to Assignee at P O Box 2707,
Amarillo, Texas 79105.

This agreement shall be effective as of December 1, 19 81

IN WITNESS WHEREOF, the parties hereto have executed this agreement in triplicate as of the day and year
first above written.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,

By B. Lancaster
Its Assistant to General Manager

HARMON-TOLES GRAIN AND SEED COMPANY,

By M. F. Kirkham
Its President
(Assignor)

ATTEBURY GRAIN, INC.,

By William C. C. C.
Its President
(Assignee)