

Form 2761

FW&D LEASE NO. 4784

LEASE

Jill checking w/ Nathan

This Indenture, Made this 7th day of May, 19 82

between the FORT WORTH AND DENVER RAILWAY COMPANY, hereinafter called the Railway Company, and
- Attebury Grain, Inc. -

hereinafter called the Lessee; Witnesseth,

1. That in consideration of the covenants and agreements hereinafter set forth, to be kept and performed by the Lessee, the Railway Company hereby leases to said Lessee certain premises trackage and land thereunder situate at Pullman in the County of Potter and State of Texas which

dashed black line 56-250
said premises are described, and the location thereof shown in yellow outline, on the print No. 313-7 hereto attached, and made a part hereof, reserving to the Railway Company, its successors, and assigns the right to maintain and operate all railroad tracks, now on said premises, and the further right to construct, maintain and operate other railroad tracks upon and over said premises where the same shall not interfere with the structures of the Lessee. The Railway Company also hereby reserves unto itself, its successors, assigns, and licensees the right to operate, maintain, and renew such pipe lines, electric transmission lines, telephone lines, telegraph lines, signal lines, and other facilities of like character as may exist upon, under, or over said premises as of the date of this lease, and from time to time to construct, operate, maintain, and renew such additional facilities of the same character, or relocate existing facilities, in such manner as will not interfere with the use of said premises by Lessee for the purpose hereinafter specified, it being agreed that this lease is subject and subordinate to any and all rights granted by the Railway Company for any such lines and facilities, and the Lessee hereby releases the Railway Company from any and all loss or damage which the Lessee may sustain on account thereof

2. TO HAVE AND TO HOLD the same from May 10, 1982, and thereafter
until such time as this lease shall be terminated as hereinafter provided; and the Lessee in consideration of the leasing of the premises as above set forth, covenants and agrees to pay to the Railway Company as rent for the same the sum of Three thousand nine hundred and 00/100 - - - - - Dollars (\$3,900.00)
per annum payable as follows: annually, in advance

The rent for said premises shall be subject to revision at least once every two (2) years during the time this lease shall continue in effect.

3. It is further agreed that the premises hereby leased are to be used by the Lessee for - grain handling operation -

only; that all the provisions of law applicable to such use shall be fully observed, and that the Lessee will not do or permit to be done, upon said premises, anything forbidden by law, and will maintain and keep said premises, fences, buildings and appurtenances in good repair as well as keep all catch basins and vaults thereon and the streets and sidewalks adjoining such premises in proper condition and as may be required by any law, ordinance or direction of public officials, and whenever required by said Railway Company so to do, will cover all buildings with at least one coat of mineral paint of such color as the Railway Company may direct.

4. All buildings, structures, facilities, fences, and objects of every kind and character constructed, maintained, repaired, extended, or reconstructed on the premises shall have both side and vertical clearances of the track or tracks as those established by the Railroad Commission of Texas, and Lessee hereby promises and agrees to observe such clearances at all times.

5. The Lessee also covenants and agrees to pay all state, county, and municipal taxes or special assessments that may be levied upon the improvements and property owned by the Lessee on or about the demised premises during the continuance of this lease. And in case any taxes are levied on the premises as a whole, the Lessee shall pay such proportion of the same as the value of any improvements or property owned by the Lessee on or about said premises bears to the value

of the entire premises. In the event that the premises hereby demised, or any part thereof, shall be subjected to any special assessment for any public improvement or improvements, the rental herein reserved and stipulated to be paid by the Lessee shall be automatically increased by an amount equal to 6% per annum on the total amount of assessment; and in case any such special assessment is levied as a whole upon premises of which the premises herein demised are only a part, then and in such case the rental herein reserved and stipulated to be paid by the Lessee shall be automatically increased by an amount equal to 6% of that portion of the total amount of such assessment as the value of the premises herein demised bears to the total value of the premises upon which such special assessment is levied.

6. It is further agreed that either party may terminate this lease at any time ~~after~~ upon giving the other party thirty (30) days' written notice of such termination; provided, however, that rent shall be paid by said Lessee to the date of termination fixed by said notice; and if rent has been paid in advance, the proportionate amount for the unexpired term shall be returned to the Lessee.

7. If under the laws of the United States or any state in which these premises are located, public body or tribunal now has, or during the term of this lease shall have, the right to require the termination of this lease, then this lease may be terminated by such public body or tribunal in accordance with law.

8. And the Lessee further agrees to cause, during the continuance of this lease, the policies of fire insurance on the structures of Lessee and the contents thereof whether the property of the Lessee or of others upon or about the demised premises and upon other property of Lessee upon or about the demised premises or there located with the consent of Lessee to be so written that in the event of any destruction or damage by fire, no insurance company shall have recourse against the Railway Company

9. Upon the termination of this lease, by notice as aforesaid, or otherwise, the Lessee shall at once remove from the premises all structures and property not belonging to the Railway Company and restore the demised premises to substantially their former state, and in case of failure so to do the Railway Company may tear down or remove the same and restore said premises at the expense of the Lessee without any liability to damages therefor in any respect whatsoever.

10. It is understood that the movement of railroad locomotives and equipment and the operation of the Railway Company's railroad involves some risk of fire, and the Lessee hereby assumes all responsibility for, and agrees to indemnify the Railway Company against, loss or damage to property of the Lessee or to property of others upon said premises, regardless of railroad negligence, arising from fire caused by the operation of locomotives or railroad equipment, or the railroad, on or in the vicinity of said premises; but this assumption and indemnity shall not apply to property of the Railway Company, or to rolling stock of the Railway Company or others, or to shipments in the course of transportation. The Lessee also agrees to indemnify and hold harmless the Railway Company against all liability, claims, or loss because of damage to or destruction of property of, or injury to or death of, all persons whomsoever, including the parties hereto and their employees, while on or in the vicinity of said premises, when caused by any act or omission of the Lessee, its employees, or agents, and if any claim or liability other than from fire shall arise from the joint or concurring negligence of both parties hereto, it shall be borne by them equally.

11. In the event any part of said premises is used for the loading, unloading, storage, or other handling of any inflammable liquids or petroleum products, Lessee shall observe and comply with all applicable rules published from time to time by the Association of American Railroads or any successor agency relating thereto, and with all applicable laws and regulations of State and local governments regulating loading, unloading, storage and handling of inflammable liquids and the bonding and grounding of railway tracks where such loading or unloading is performed, which laws, rules and regulations are hereby made a part hereof as fully as if written out herein. Lessee also agrees that such loading and unloading shall be done only through dome openings on cars, and that the rails on which the cars stand shall be bonded and grounded to the piping system used in connection with such loading or unloading, and insulated rail joints installed where there is evidence of stray electric currents, all at the expense of Lessee, and in a manner satisfactory to the Railway Company. Lessee agrees to indemnify the Railway Company against all loss or claims arising out of or resulting from failure of Lessee to observe and comply with the provisions of any of said laws, rules or regulations, or the requirements of this paragraph.

12. The Lessee agrees that artificial lighting in pump houses, warehouses, or other enclosures where oil or other inflammable fluid supplies are handled or stored, except when in unbroken original containers, shall be by electricity, and all electrical installations on said premises shall conform to and be maintained in accordance with the provisions of the current edition of the National Electrical Code with respect to Class I hazardous locations, and also in accordance with requirements of all applicable local ordinances and State and Federal laws regulating electrical installations.

13. The Lessee accepts said premises, fences and buildings and appurtenances in their existing state without any warranty, express or implied, of their present or future fit, safe or habitable condition, and the Railway Company shall be under no obligation to repair or support the same or perform any duty in respect to the same imposed by common or statutory law or public authority.

14. Upon the failure of the Lessee to promptly pay the rent herein reserved as and when the same shall become due and payable, or to faithfully perform any of the other covenants and agreements herein stipulated to be by said Lessee observed, the Railway Company may without demand or notice immediately or at any time thereafter enter into and upon said premises and repossess the same as of its former estate and expel the Lessee and those claiming under him and remove their effects (forcibly if necessary) without being guilty of trespass or subject to liability for damages and without prejudice to any other remedies then existing in favor of the Railway Company.

15. The Railway Company shall in addition have a lien for the rent herein reserved, for the entire term of this lease, upon all crops grown, improvements made, and personal property, including household goods exempt from execution, of the said Lessee used or brought upon the said demised premises during the continuance of this lease.

16. This lease shall not be assigned, nor shall said premises, nor any part thereof, be sublet, nor shall the Lessee consent that the same be used or occupied by any party other than the Lessee, without the prior written consent of the Railway Company. If any of the foregoing conditions are violated, all of the provisions of this lease shall be binding upon such assignee, sublessee, user, or occupant, and the Lessee hereby guarantees the performance of all such provisions by any such assignee, sublessee, user, or occupant. Nothing in the last above sentence shall be deemed to be a waiver by the Railway Company of the restrictions set forth in the first sentence of this paragraph. The provisions of this paragraph constitute a part of the consideration without which this lease would not have been made, and said provisions, and each of them, shall run with the land hereby leased.

17. The Lessee will, at his own expense, correct at the direction of the Railway Company any drainage problems occasioned by construction on said premises of any additional buildings or facilities.

18. Any notice to be given under this lease shall be sufficiently given and delivered if mailed in an envelope properly stamped and addressed to the Lessee at P. O. Box 2707, Amarillo, TX 79105 or to Fort Worth and Denver Railway Company, Fort Worth Club Building, Fort Worth, Texas 76101

19. Lessee shall comply with all applicable laws and ordinances and all rules, regulations and requirements of any Governmental authority promulgated thereunder controlling environmental standards and conditions on the premises. If, as a result of the Lessee's occupancy of the premises and its operations hereunder, any such law, ordinance, rule, regulation or requirement is violated, Lessee shall protect, save harmless, defend and indemnify Lessor from and against any penalties, fines, costs and expenses, including legal fees and court costs incurred by Lessor, caused by, resulting from or connected with such violation or violations.

20. This Agreement is performable in Tarrant County, Texas, and Lessor shall be entitled to recover its reasonable Attorney's fees in event of default hereunder.

IN WITNESS WHEREOF the parties have executed this instrument the day and year first above written.

Attest:

W. L. King
Secretary

FORT WORTH AND DENVER RAILWAY COMPANY

By W. B. Smith
Its Regional Manager, Industrial Development
and Property Management Dept.

Witness

Attest:

Bobby Richardson

ATTEBURY GRAIN, INC.

By: Ed. Lauer

Approved as to form:

Jan. 22
Attorney for Railway Company

Recommended:

M.P 328.92 - S.W Bell Telephone Line Xing

17365+40 = M.P. 328.89

Telephone Booth 15' L

Telephone Sign "Pullman" 12.5' L

Telephone Sign 12' L

7+49 & South Gate

Telephone Line
Western Union

32.7' 57.3'



47,050 Sq. Ft. ±

D.W.C.

57.3'

17360+00

1,500'

Lease No. 4371

300'

7357+55 & North Gate

7357+49 & Road Xing.

20' 37' Fence

100'

15'

NO. 5 TEAM TRACK - 583'

No. 1

ELEV. 110.5' 71

ELEV. 110.5' 71

ELEV. 110.5' 71

WAREHOUSE

WAREHOUSE

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WAREHOUSE

WAREHOUSE

WAREHOUSE

WAREHOUSE

WAREHOUSE

WAREHOUSE

Land Lease

Lease No. 4371

Truck Lease
4784

4+07.3 So. End Warehouse

17353+85

17351+12.5 P.S. #7

4+07.3 So. End Warehouse

17353+85

0+65.0 Detail & Sign

17350+40 = M.P. 328.61

0+23 120-240 V. Power L-S.W. Public Serv. Co.

Fort Worth and Denver Railway Company
Lease With
Attebury Grain, Incorporated
Between
M.P. 328.61 and M.P. 328.89
Pullman, Texas

Office of Chief Engineer

Fort Worth, Texas

Scale: 1" = 100'

May 6, 1982

56-250

313-7