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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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ENTERED  
Office of Proceedings  
October 9, 2015  
Part of  
Public Record

FINANCE DOCKET NO. 35141

U S RAIL CORPORATION—CONSTRUCTION AND OPERATION EXEMPTION—  
BROOKHAVEN RAIL TERMINAL

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**NOTIFICATION OF COMPLIANCE WITH BOARD'S REMAINING  
ENVIRONMENTAL CONDITION AND MOTION TO CLOSE THE PROCEEDING**

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**David T. Ralston, Jr.  
Zachary L. Coffelt  
Foley & Lardner LLP  
3000 K Street, N.W., Suite 600  
Washington, D.C. 20007**

***Counsel for Brookhaven Rail Terminal  
and Brookhaven Rail, LLC***

Dated: October 9, 2015

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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The Surface Transportation Board (“Board”), by decision served on July 8, 2015, denied the March 14, 2014 motion by the Town of Brookhaven (“Town”) to re-open the above-titled matter. *U S Rail Corporation—Construction And Operation Exemption—Brookhaven Rail Terminal*, STB Finance Docket 35141 (STB served July 8, 2015) (“2015 Decision”). The Board’s 2015 Decision also determined that respondents Brookhaven Rail Terminal (“BRT”) and Brookhaven Rail, LLC, a Class III rail carrier (“Brookhaven Rail”) (collectively, “Respondents”) were in full compliance with two of the three environmental conditions<sup>1</sup> imposed by the Board in its 2010 decision, *U S Rail Corporation—Construction And Operation Exemption—Brookhaven Rail Terminal*, STB Finance Docket 35141 (STB served Sept. 9, 2010) (“2010 Decision”).<sup>2</sup> As to the remaining environmental condition, the 2015 Decision provided

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<sup>1</sup> The Board also stated that Respondents were in substantial compliance with the third environmental condition. 2015 Decision at 1.

<sup>2</sup> In the 2010 Decision, the Board granted an exemption under 49 U.S.C. § 10502 from the provisions of 49 U.S.C. § 10901 for US Rail Corporation (“US Rail”) to construct and operate an 18,000-foot rail line on a 28-acre parcel (“Parcel A”) in Yaphank, Suffolk County, New York. US Rail assigned its construction and operation authority, and underlying leasehold interest on Parcel A to US Rail New York, LLC (“US Rail NY”). 2014 Decision at 1, n. 2.

that upon Respondents notifying the Board's Office of Environmental Analysis ("OEA") that Respondents' spill prevention, control, and countermeasures plan ("SPCC Plan") satisfied Article 12 of the Suffolk County Sanitary Code (hereinafter referred to as "SCSC Article 12"), Respondents will have complied with the Board's third, and final environmental condition. 2015 Decision at 1, 6.

This filing notifies the Board and OEA that Respondents' revised SPCC Plan (rev'd April 1, 2015) (hereinafter referred to as the "Revised SPCC Plan"), attached hereto as Exhibit 1, satisfies the requirements of, and complies with, SCSC Article 12.<sup>3</sup> Accordingly, as this filing satisfies the only remaining issue in this proceeding, Respondents respectfully move the Board to close the instant proceeding.

### **FACTUAL BACKGROUND**

As referenced above, the Board's 2010 Decision contained three environmental conditions, which are provided below for ease of reference. Respondents were directed to:

1. Employ best management practices before and during construction to minimize erosion, sedimentation, and instability of soils. ("EC No. 1").
2. Develop and implement a spill prevention, control, and countermeasures plan (SPCC Plan) to ensure protection of the Nassau-Suffolk Sole Source Aquifer in the event of an

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Brookhaven Rail is the successor to US Rail NY as to Parcel A, *id.*, and will be referred to herein in lieu of US Rail NY. Brookhaven Rail Terminal, BRT, is the trade name for Brookhaven Terminal Operations, LLC, and will be referred to with respect to the transload facility on Parcel A.

<sup>3</sup> That Respondents' revised SPCC plan, Exhibit 1, complies with SCSC Article 12 is established by a Certificate of Compliance provided by Respondents' consulting engineer, Theresa Colabella of P.W. Grosser Consulting, Inc., dated July 15, 2015 (hereinafter referred to as the "Certificate of Compliance"), attached hereto as Exhibit 2, certifying that Respondents' Revised SPCC Plan for the BRT facility is in full compliance with SCSC Article 12, as well as the Environmental Protection Agency's ("EPA") regulations set forth in Title 40, Code of Federal Regulations, Part 112. Exhibit 2 (second sentence).

accidental spill. The SPCC Plan shall be developed in accordance with Article 12 of the Suffolk County Sanitary Code and EPA regulation at 40 C.F.R. § 112.7. (“EC No. 2”).

3. Consult with the U.S. Department of Agriculture’s Natural Resources Conservation Service at the Syracuse, NY office prior to initiating rail line construction activities at the Brookhaven Rail Terminal Site. (“EC No. 3”).

2010 Decision, Appendix, Nos. 2, 3, and 4.

The Board, by decision served August 28, 2014, directed Respondents to file proof of compliance with the three environmental conditions set forth in its 2010 Decision. *U S Rail Corporation—Construction And Operation Exemption—Brookhaven Rail Terminal*, STB Finance Docket 35141 (STB served August 28, 2014) (“2014 Decision”). Moreover, the Board’s 2014 Decision denied the Town’s motion to reopen the proceedings on all other grounds not related to Respondents’ compliance with the three environmental conditions. 2014 Decision at 3-4; *see* 2015 Decision at 2.

In a series of filings dated September 29, 2014, November 10, 2014, November 25, 2014, and December 9, 2014 (collectively, the “Compliance Filings”), Respondents submitted their Erosion, Sedimentation, and Control Plan, their SPCC Plan, their revised SPCC Plan (rev’d Nov. 18, 2014), copies of their communications with the USDA-NRCS and the Suffolk County Soil and Water Conservation District, answers to questions posed by the Board’s OEA regarding the information provided in Respondents’ filing dated September 29, 2014, as well as other pertinent information, all demonstrating that Respondents were in compliance with the Board’s three environmental conditions.<sup>4</sup>

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<sup>4</sup> *See* 2015 Decision at 3 (summarizing Respondents’ Compliance Filings regarding their compliance with the Board’s three environmental conditions as directed by the 2014 Decision).

In each of its Compliance Filings, Respondents advised the Board that they were in discussions with Suffolk County officials regarding the extent that SCSC Article 12 applied to Respondents' facilities at BRT to ensure compliance with EC No. 2.<sup>5</sup> Respondents informed the Board in filings dated November 25, 2014 and December 10, 2014 that Suffolk County officials had advised Respondents that Article 12 did not apply to Respondents' transloading of soybean oil, but that it did apply to Respondents' transloading of used oil at the BRT facility.<sup>6</sup> Respondents further informed the Board in their December 10, 2014 filing that they were working through the permitting process with Suffolk County officials and in the near future would file a permit application with Suffolk County covering its used oil operations at the BRT facility.<sup>7</sup> Respondents subsequently received an SCSC Article 12 permit from Suffolk County on December 30, 2014, covering an oil storage tank and four oil storage drums on the BRT property, Exhibit 3.<sup>8</sup> *See also infra* p. 6 at n. 9.

In the 2015 Decision, the Board evaluated the information provided by Respondents in the Compliance Filings which evidenced their compliance with the Board's three environmental conditions. The Board found that Respondents' Compliance Filings proved that Respondents

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<sup>5</sup> *See Response to Board Directive to File Proof of Compliance with Specified Environmental Conditions*, dated September 29, 2014 at 8; *Reply to the Town's Reply to BRT's Response*, dated November 10, 2014 at 7-8, n. 6; *Letter to Board*, dated November 25, 2014 at 2; *Respondents' Responses to Board Questions of October 28, 2014*, dated December 10, 2014 at 3, 5-6.

<sup>6</sup> *Letter to Board*, dated November 25, 2014 at 2; *Respondents' Responses to Board Questions of October 28, 2014*, dated December 10, 2014 at 5-6.

<sup>7</sup> *Respondents' Responses to Board Questions of October 28, 2014*, dated December 10, 2014 at 5. As discussed *infra* p. 6 at n. 8, Respondents determined after December 10, 2014 to suspend used oil transloading at BRT, so the used oil transloading issue is now moot.

<sup>8</sup> The oil storage tank has a capacity of 500 gallons and the four oil storage drums collectively hold 220 gallons. *See* Exhibit 3 at 2.

were in compliance with EC No. 1, 2015 Decision at 5, and EC No. 3, 2015 Decision at 6, and that Respondents were in substantial compliance with EC No. 2, 2015 Decision at 1, 5-6. The Board determined the only outstanding requirement regarding EC No. 2 was that Respondents needed to notify the Board that their SPCC Plan was in compliance with SCSC Article 12. 2015 Decision at 6. Furthermore, the Board, as it did in its 2014 Decision, denied the Town's request to reopen the proceeding. 2015 Decision at 1, 7.

### DISCUSSION

#### **A. Respondents' Revised SPCC Plan complies with SCSC Article 12 and have received an SCSC Article 12 permit, thus Respondents are in compliance with EC No. 2.**

The Revised SPCC Plan (rev'd April 1, 2015), Exhibit 1, demonstrates Respondents have satisfied and are compliant with SCSC Article 12, and thus EC No. 2. Respondents engaged Theresa M. Colabella, Professional Engineer, of environmental engineering consulting firm, P.W. Grosser Consulting, Inc., to update Respondents' SPCC Plan,<sup>9</sup> and to assure that the Revised SPCC Plan is compliant with SCSC Article 12. In her Certificate of Compliance, dated July 15, 2015, Ms. Colabella certifies that the Revised SPCC Plan was developed in full compliance with SCSC Article 12. Exhibit 2 (second sentence).<sup>10</sup> Accordingly, the Revised

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<sup>9</sup> Respondents' SPCC Plan was revised on November 18, 2014 by Ms. Colabella, just prior to Respondents' filings dated November 25, 2014 and December 10, 2014. In those filings, Respondents informed the Board that they had been advised that SCSC Article 12 did not apply to Respondents' transloading of soybean oil, but that it did apply to Respondents' transloading of used oil. *See Letter to Board*, dated November 25, 2014 at 2; *BRT's Responses to Board Questions of October 28, 2014* at 5. Since those filings, Respondents determined to suspend transloading of used oil at BRT, and accordingly the SPCC Plan was revised on April 1, 2015 to delete used oil transloading. *See Exhibit 1* at 7, Section 1.3.3, Record of SPCC Plan Reviews, Table 1-1: SPCC Plan Review Log. Furthermore, in an accommodation to the ongoing Federal Court litigation, Respondents have advised the Town and the District Court that they will not resume used oil transloading without providing advance notice to the Town and District Court.

<sup>10</sup> The current SCSC Article 12 covered facilities at BRT are an oil storage tank with a capacity of 500 gallons and four oil storage drums which collectively hold 220 gallons. *See*

SPCC Plan, Exhibit 1, and Ms. Colabella's Certificate of Compliance, Exhibit 2, evidences that Respondents are in full compliance with the Board's EC No. 2.

**B. Respondents are in full compliance with the Board's three environmental conditions and the instant proceeding should be closed.**

This filing satisfies the Board's sole remaining requirement in its 2015 Decision regarding Respondents' compliance with the Board's three environmental conditions from the 2010 Decision; thus, no issues in this proceeding remain before the Board and the instant proceeding should be closed. In the 2015 Decision, the Board found that "Respondents have complied with two of the three environmental conditions imposed by the 2010 Decision and that once Respondents notify OEA that their SPCC Plan satisfies Article 12 of the Suffolk County Sanitary Code . . . they will have complied with the third condition." 2015 Decision at 4. Moreover, the Board, for the second time,<sup>11</sup> denied the Town's request to reopen the instant proceeding on any other grounds than the foregoing directive. 2015 Decision at 1. Therefore, the only remaining issue in the instant proceeding specified by the Board in the 2015 Decision was its directive that Respondents notify the Board's OEA that Respondents' SPCC Plan satisfies SCSC Article 12 as required by EC No. 2. That requirement having been met by the instant filing, this proceeding should be closed.

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Exhibit 3 at 2. As stated in Ms. Colabella's Certificate of Compliance, Respondents received an SCSC Article 12 permit on December 30, 2014, Exhibit 3, specifically to construct and operate the oil storage facilities, which are identified collectively in the Certificate of Compliance as a "Toxic/Hazardous Materials Storage Facility," Exhibit 2 (first sentence), and in the SCSC Article 12 permit as a "Toxic and/or Hazardous Material Storage Facility," Exhibit 3, page 3.

<sup>11</sup> The Board also denied the Town's request to reopen the proceeding in the 2014 Decision for any other reason other than to address Respondents' compliance with the three environmental conditions from the 2010 Decision. 2014 Decision at 4. The Compliance Filings and this filing fulfill the Board's directives in the 2014 Decision and 2015 Decision, and proves that Respondents are fully compliant with all three of the Board's environmental conditions.

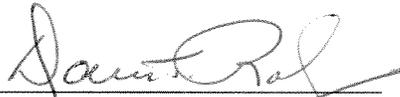
**CONCLUSION**

For all of the foregoing reasons, Respondents respectfully move the Board to issue a decision that: (1) Respondents have satisfied and are in compliance with EC No. 2, and therefore, in compliance with all three of the Board's 2010 environmental conditions; and (2) the instant proceeding is closed.

Dated: October 9, 2015

Respectfully submitted,

*Brookhaven Rail Terminal and Brookhaven  
Rail, LLC*

By: 

David T. Ralston, Jr.  
Zachary L. Coffelt  
Foley & Lardner LLP  
3000 K Street, N.W.  
Washington, D.C. 20007

***Counsel for Brookhaven Rail Terminal and  
Brookhaven Rail, LLC***

## CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2015, I caused to be served the foregoing *Notification of Compliance with Board's Remaining Environmental Condition and Motion to Close the Proceeding* by first-class mail, postage prepaid, upon the following Parties of Record in this proceeding:

TO: Judah Serfaty, Esq.  
Rosenberg Calica & Birney LLP  
100 Garden City Plaza, Suite 408  
Garden City, NY 11530

Robert M. Calica, Esq.  
Rosenberg Calica & Birney LLP  
100 Garden City Plaza, Suite 408  
Garden City, NY 11530

NYS Dept. of Transportation  
50 Wolf Road  
Albany, NY 12232  
Attn: Robert A. Rybak, Esq.

Lyngard Knutson, Esq.  
Region 2 E.P.A.  
290 Broadway, 25<sup>th</sup> Floor  
New York, NY 10007

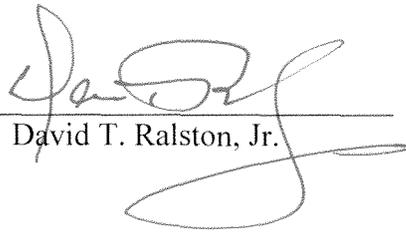
NYS Dept. of Environmental Conservation  
New York Natural Heritage Program  
Albany, NY 12233-4757  
Attn: Tara Seoane

Field Office Supervisor  
U.S. Fish and Wildlife Service  
Long Island Field Office  
340 Smith Road  
Shirley, NY 11967

MTA Long Island Rail Road  
Jamaica Station  
Jamaica, NY 11435-4380  
ATTN: Helena E. Williams

New York & Atlantic Railway  
68-01 Otto Road  
Glendale, NY 11385  
ATTN: Paul Victor

James H. M. Savage  
1750 K. St., N.W.  
Suite 350  
Washington, D.C. 20006



David T. Ralston, Jr.

# **EXHIBIT 1**

# SPILL PREVENTION CONTROL AND COUNTERMEASURE PLAN

## Brookhaven Rail Terminal Yaphank, New York

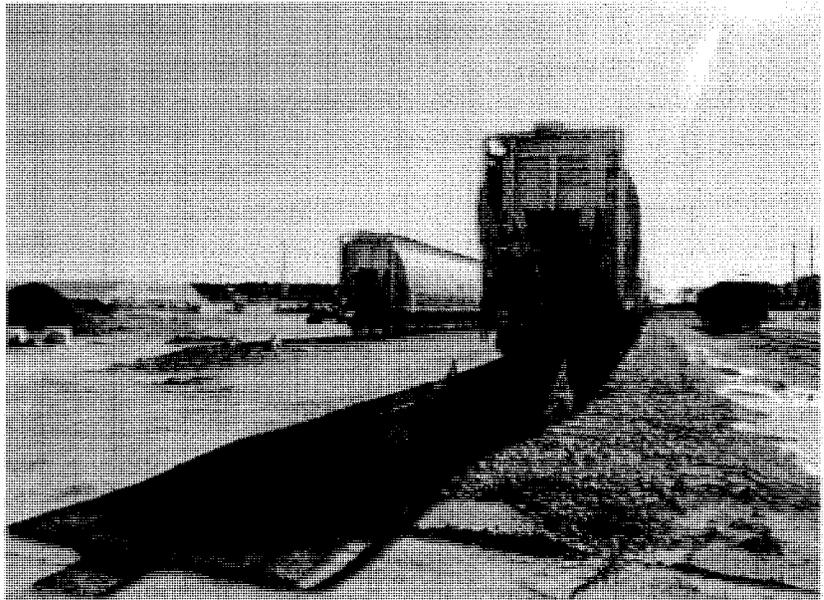
Prepared for:  
Brookhaven Rail Terminal  
205 Sills Road  
Yaphank, NY 11980



Project No.: BRT1301

Prepared By:

P.W. Grosser Consulting, Inc.  
630 Johnson Avenue, Suite 7  
Bohemia, NY 11716  
Phone: (631) 589-6353  
Fax: (631) 589-8705



**PWGC**   
Strategic Environmental Engineering Solutions

Initial Plan: Aug. 22, 2013  
Revision: April 1, 2015

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## **Introduction**

The purpose of the Spill Prevention, Control, and Countermeasure (“SPCC”) Plan is to describe measures implemented by Brookhaven Rail Terminal (“BRT”) to prevent oil discharges from occurring and to prepare BRT to respond in a safe, effective, and timely manner to mitigate the impacts of a discharge event.

This SPCC Plan has been prepared to meet the requirements of the Title 40, Code of Federal Regulations, Part 112 (40 CFR part 112).

In addition to fulfilling regulatory requirements, the SPCC Plan is used as a tool to communicate practices on preventing and responding to discharges with employees, and as a resource during an emergency response.

BRT management has determined that the BRT facility (“Facility”) does not pose a risk of substantial harm under 40 CFR Part 112, as recorded in the “Substantial Harm Determination” included in Appendix B of this SPCC Plan.

This SPCC Plan provides guidance on key actions that BRT must perform to comply with the SPCC rule, including:

- Perform preventive maintenance of equipment, secondary containment systems, and discharge prevention systems described in this SPCC Plan as required to maintain proper operational effectiveness.
- Conduct annual employee training as outlined in the Personnel, Training, and Discharge Prevention Procedures section of this SPCC Plan (Section 3.6) and document the training sessions on the log included in Appendix C.
- If either of the following occurs submit the SPCC Plan to the EPA Region 2 Regional Administrator (RA) and the New York State Department of Environmental Conservation Region 1 (NYSDEC), along with other information as detailed in Section 3.1 of this SPCC Plan:
  - The Facility discharges more than 1,000 gallons of oil into or upon the navigable waters of the U.S. or adjoining shorelines in a single spill event; or
  - The Facility discharges oil in quantity greater than 42 gallons in each of two spill events into or upon the navigable waters of the U.S. or adjoining shorelines within any 12-month period.
- Review the SPCC Plan at least once every five (5) years and amend it to include more effective prevention and control technology, if such technology will significantly reduce the likelihood of a spill event and has been proven effective in the field at the time of the review. SPCC Plan amendments, other than administrative changes discussed below and

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in Section 1.3, must be recertified by a Professional Engineer (PE) on the certification page in Section 1.1 of this SPCC Plan.

- Amend the SPCC immediately whenever there is a change in Facility design, construction, operation, or maintenance that materially affects the Facility's spill potential. The revised SPCC Plan must be recertified by a Professional Engineer.
- Review the SPCC Plan on an annual basis and update to reflect any applicable "administrative changes", for example the list of emergency equipment changes, or if there are personnel changes or revisions to the contact information, such as phone numbers. Administrative changes must be documented in the SPCC Plan review log of Section 1.3 of this SPCC Plan, but do not require recertification by a PE.

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**Part 1: SPCC Plan Administration**

**1.1 Professional Engineer Certification (40 CFR 112.3(d))**

**ENGINEER'S CERTIFICATION OF SPCC PLAN**

In accordance with 40 CFR Part 112.3(d), I hereby certify that I or my agent have visited and examined the Facility, and being familiar with the requirements of 40 CFR Part 112, attest that this SPCC Plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards, and with the requirements of 40 CFR Part 112.. I also certify that procedures for required inspections and testing as referenced in this SPCC Plan have been established and that this SPCC Plan is adequate for this Facility. This certification in no way relieves the owner or operator of this Facility of the duty to fully implement this SPCC Plan in accordance with the requirements of 40 CFR Part 112. This SPCC Plan is valid only to the extent that BRT installs, maintains, tests, and inspects equipment and materials; trains personnel; and maintains documentation as specified in this SPCC Plan.

Theresa M. Colabella, P.E.  
Name of Professional Engineer

*Theresa Colabella*  
Signature of Professional Engineer

Registration Number 081911, State of New York

Date: *April 1, 2015*



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**1.2 Location of SPCC Plan (40 CFR 112.3(e))**

In accordance with 40 CFR 112.3(e), a complete copy of this SPCC Plan is maintained at the Facility in the Scale House Office, which is attended whenever the Facility is operating, i.e., generally 6am to 4pm, six (6) days per week. The security booth at the entrance of the Facility is attended 24 hours a day, seven days a week, 365 days a year.

**1.3 SPCC Plan Review (40 CFR 112.3 and 112.5)**

In accordance with 40 CFR 112.5(a) Brookhaven Rail Terminal periodically reviews and evaluates this SPCC Plan for any change in the Facility design, construction, operation, or maintenance that materially affects the Facility's potential for an oil discharge including, but not limited to, the following:

- Applicable regulations are revised.
- The SPCC Plan fails in an emergency.
- The Facility changes – in its design, construction, operation, maintenance, or other circumstances – in a way that materially increases the potential for fires, explosions, or releases of soybean oil, or changes the response necessary in an emergency.
- The list of emergency coordinators changes.
- The list of emergency equipment changes.
- Commissioning of containers.
- Construction or installation of piping systems.
- Construction or demolition that might alter secondary containment structures.
- Changes of product or service, revisions to standard operation, and use of new or modified industry standards or maintenance procedures.

Amendments to the SPCC Plan made to address changes of this nature are referred to as technical amendments, and must be certified by a PE. Non-technical amendments can be done (and must be documented in this section) by the Facility owner and/or operator. Non-technical amendments include the following:

- Changes to Facility operations or site plan that do not materially affect BRT's potential for an oil discharge.
- Change in the name or contact information, i.e., telephone numbers, of individuals responsible for the implementation of this SPCC Plan.
- Change in the name or contact information of spill response or cleanup contractors.

BRT must review the SPCC Plan and make the needed revisions to the SPCC Plan as soon as possible after the change occurs. The SPCC Plan must be implemented as soon as possible following any technical amendment. BRT management is responsible for initiating and coordinating revisions to the SPCC Plan.

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**1.3.2 Scheduled SPCC Plan Reviews**

In accordance with 40 CFR 112.5(b), BRT reviews this SPCC Plan at least once every five (5) years. Revisions to the SPCC Plan, if needed, are made within six months of the five-year review. A registered Professional Engineer certifies any technical amendment to the SPCC Plan, as described above, in accordance with 40 CFR 112.3(d). The SPCC was created on Aug. 22, 2013 and revised on Oct. 24, 2014, Nov. 18, 2014, and April 1, 2015. The next SPCC Plan review is therefore scheduled to take place on or prior to April 1, 2020.

**1.3.3 Record of SPCC Plan Reviews**

Scheduled reviews and SPCC Plan amendments are recorded in the SPCC Plan Review Log (Table 1-1). This log must be completed even if no amendment is made to the SPCC Plan as a result of the review. Unless a technical or administrative change prompts an earlier review of the SPCC Plan, the next scheduled review of this SPCC Plan must occur by April 1, 2020.

**Table 1-1: SPCC Plan Review Log**

<b>By</b>	<b>Date</b>	<b>Activity</b>	<b>PE certification required?</b>	<b>Comments</b>
Theresa Colabella, PE	Aug 22, 2013	Initial SPCC Plan	Yes	None
Theresa Colabella, PE	Oct 24, 2014	SPCC Plan Modification	Yes	Add soybean oil and 500-gal diesel tank
Theresa Colabella, PE	Nov 18, 2014	SPCC Plan Modification	Yes	Loading/Unloading description, tank changes
Theresa Colabella, PE	April 1, 2015	SPCC Plan Modification	Yes	Remove used oil transloading. Update bulk storage containers

\*Previous PE certifications of this SPCC Plan are summarized below.

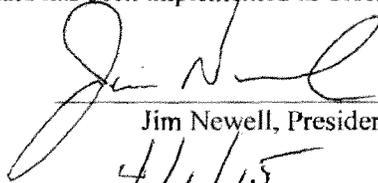
<b>Date</b>	<b>Scope</b>	<b>PE Name</b>	<b>Licensing State and Registration No.</b>
August 2013	Initial SPCC Plan	Theresa Colabella, PE PW Grosser Consulting	NY - 081911

**1.4 Management Approval and Designated Person (40 CFR 112.7)**

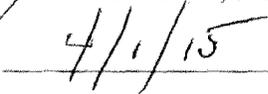
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Brookhaven Rail Terminal (BRT) is committed to the prevention of discharges of oil to navigable waters or the environment, and maintains the highest standards for spill prevention, control and countermeasures through periodic review, updating and implementation of this SPCC Plan. BRT will provide the manpower, equipment and materials required to expeditiously control and remove any quantity of oil discharged that may be harmful. This SPCC Plan is fully approved by the management of BRT as required by 40 CFR 112.7 and has been implemented as described.

Signature:

  
\_\_\_\_\_  
Jim Newell, President

Date:

  
\_\_\_\_\_  
4/1/15

**1.5 Facilities, Procedures, Methods or Equipment Not Yet Fully Operational (40 CFR 112.7)**

N/A

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**1.6 Compliance with Applicable Requirements (40 CFR 112.7(a)(2))**

The Facility is in compliance with 40 CFR 112.7(a)(2). There are no deviations to this SPCC Plan.

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**Part 2: General Facility Information**

Facility Name: Brookhaven Rail Terminal

Location: 205 Sills Road  
Yaphank, New York 11980

Manager: Jim Newell  
President

Phone Number: 631-924-8800, Cell 646-302-1432

Owner/Operator: Brookhaven Terminal Operations, LLC and  
Brookhaven Rail, LLC  
205 Sills Road  
Yaphank, New York 11980

Type: Rail Terminal

Date of Initial Operations: 2011

Latitude: N 40 degrees 49 minutes 30 seconds  
Longitude: W 72 degrees 56 minutes 19 seconds

**2.1 Facility Description (40 CFR 112.7(a)(3))**

**2.1.1 Location and Activities**

The Facility measures approximately 28 acres and is located off Exit 66 of the Long Island Expressway at 205 Sills Road in Yaphank, NY. A Vicinity Map showing the location of the Facility is provided as Figure 1 and a Site Plan showing the Facility layout is provided as Figure 2 in Appendix A. BRT is the first multi-modal rail freight facility on Long Island to provide rail based shipping, warehousing and Logistic Services. The Facility has been in operation since 2011 and at present includes 13,000 feet of track.

Soybean oil transloading operations are conducted at the south end of the property as indicated on Figure 2. Trucks with a maximum capacity of 12,000 gallons receive soybean oil (B100) from railcars with a maximum capacity of 26,000 gallons. On average, three soybean oil railcars are emptied per week from October through April. Soybean oil transfers are not conducted during the remaining calendar year.

**2.1.2 Facility Layout Diagram (40 CFR 112.7(a)(3))**

Figure 1 in Appendix A shows the general location of the Facility on a U.S. Geological Survey topographical map. Figure 2 presents a layout of the Facility and the location of the soybean oil transloading area and the location of one 500-gallon Suffolk County

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approved diesel aboveground storage tank ("AST"), and drum storage. The stormwater leaching pools and catch basins located at the Facility are also noted on Figure 2.

### **2.1.3 Oil Storage**

Non-transportation related storage in railcars is conducted at BRT. Railcars arrive at BRT with soybean oil for unloading into tanker trucks. The soybean oil railcars also have a maximum capacity of 26,000 gallons. A maximum of ten (10) soybean oil railcars at full capacity may be present on-site at any one time waiting to be unloaded.

BRT has one (1) 500-gallon aboveground double-walled diesel AST which supplies fuel to an on-site generator and provide fuel to on-site vehicles. The AST is double-walled construction that is pre-approved by the local municipality. The generator runs a conveyor belt system used to transport aggregate and soil delivered by railcars through an underground tunnel to a conveyor system for stockpiling on the property prior to sale. As shown on Figure 2, this AST is located northeast of the soybean oil transloading area.

One 300-gallon soybean oil AST is located within the soybean oil transload trailer. This AST fuels the boiler system used to heat the soybean oil railcars prior to and during soybean oil transloading operations. As shown on Figure 2, the trailer is located at the south end of the Facility, between the rail line and the soybean oil tank truck loading area.

BRT also stores transmission fluid, hydraulic fluid, motor oil and used maintenance oils in containers up to 55-gallon containers in volume. Up to 220 -gallons of petroleum products are stored on containment pallets within a trailer located west of the rail line.

## **2.2 Evaluation of Discharge Potential**

### **2.2.1 Distance to Navigable Waters and Adjoining Shorelines and Flow Paths**

The Facility is located approximately one mile southwest of Yaphank's Lower Lake. It is not anticipated that a spill from the Facility is capable of reaching navigable waters.

The Facility has no history of discharges.

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### **Part 3: Discharge Prevention – General SPCC Provisions**

The following measures are implemented to prevent oil discharges during the handling, use, or transfer of soybean oil at the Facility. Oil-handling employees have received training in the proper implementation of these measures. Training records are maintained with the SPCC Plan in Appendix C.

#### **3.1 Spill Reporting (40 CFR 112.7(a)(4))**

The discharge notification form included in Appendix F will be completed upon immediate detection of a discharge and prior to reporting a spill to the proper notification contacts.

##### **3.1.1 Discharge Notification**

The President is the Emergency Coordinator for the Facility as identified in the Emergency Contact List in Appendix D. Any size discharge (i.e., one that creates a sheen, emulsion, or sludge) that affects or threatens to affect navigable waters or adjoining shorelines must be reported immediately by the Emergency Coordinator to the National Response Center at 1-800-424-8802 and the NYSDEC HOTLINE (within 2 hours of spill) at 1-800-457-7362. The Center is staffed 24 hours a day. The same notifications must be made by the Emergency Coordinator if it is determined that a release, fire or explosion at the Facility could threaten human health, or the environment, outside the Facility. The Emergency Coordinator will also prepare and submit a discharge notification report to the Transportation Security Administration. The Emergency Coordinator will notify the appropriate local authorities and will be available to help appropriate officials decide whether local areas should be evacuated.

A discharge notification form is included in Appendix F to facilitate reporting to the National Response Center. The person reporting the discharge must provide the following information:

- Name, location, organization, and telephone number.
- Name and address of the party responsible for the incident.
- Date and time of the incident.
- Location of the incident.
- Source and cause of the release or discharge.
- Types of material(s) released or discharged.
- Quantity of materials released or discharged.
- Danger or threat posed by the release or discharge.
- Possible hazards to human health, or the environment, outside the Facility.
- Number and types of injuries (if any).
- Media affected or threatened by the discharge, i.e., water, land, air.
- Weather conditions at the incident location.
- Any other information that may help emergency personnel respond to the incident.

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Contact information for reporting a discharge to the appropriate authorities is listed in Appendix D and is also posted in prominent locations throughout the Facility, e.g., in the Scale House Office and at the soybean oil transload area.

In addition to the above reporting, 40 CFR 112.4 requires that information be submitted to the United States Environmental Protection Agency (EPA) Regional Administrator and the appropriate state agency in charge of oil pollution control activities (see contact information in Appendix D) whenever the Facility discharges (as defined in 40 CFR 112.1(b)) more than 1,000 gallons of oil in a single event, or discharges (as defined in 40 CFR 112.1(b)) more than 42 gallons of oil in each of two discharge incidents within a 12-month period. The following information must be submitted to the EPA Regional Administrator and to NYSDEC within 15 days:

- Name, address and telephone number of the Facility.
- Name, address and telephone number of the owner/operator.
- Date, time and type of incident, e.g. fire, explosion, release.
- Name and quantity of material(s) involved.
- The extent of injuries, if any.
- An assessment of actual or potential hazards to human health or the environment, where this is applicable.
- Estimated quantity and disposition of recovered material that resulted from the incident.
- Maximum storage or handling capacity and normal daily throughput.
- Corrective action and countermeasures taken including a description of equipment repairs and replacements.
- Description of Facility, including maps, flow diagrams, and topographical maps.
- Cause of the discharge(s) to navigable waters and adjoining shorelines, including a failure analysis of the system and subsystem in which the failure occurred.
- Additional preventive measures taken or contemplated to minimize possibility of recurrence.
- Other pertinent information requested by the Regional Administrator.

A standard report for submitting the information to the EPA Regional Administrator and to the NYSDEC is included in Appendix F of this SPCC Plan.

### **3.1.2 Discharge Response**

This section describes the response and cleanup procedures in the event of an oil discharge. The uncontrolled discharge of oil to groundwater, surface water, or soil is prohibited by state and possibly federal laws. Immediate action must be taken to control, contain, and recover discharged product.

In general, the following steps are taken:

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- Eliminate potential spark sources.
- If possible and safe to do so, identify and shut down source of the discharge to stop the flow.
- Contain the discharge with sorbents, berms, fences, trenches, sandbags, or other material.
- Contact the Emergency Coordinator or his/her alternate.
- The Emergency Coordinator or his/her alternate will contact regulatory authorities and the response organization.
- Collect and dispose of recovered products according to regulation.

For the purpose of establishing appropriate response procedures, this SPCC Plan classifies discharges as either “minor” or “major,” depending on the volume and characteristics of the material released.

A list of Emergency Contacts is provided in Appendix D. A list of discharge response material kept at the Facility is included in Appendix E.

### **3.1.3 Response to a Minor Discharge**

A “minor” discharge is defined as one that poses no significant harm (or threat) to human health and safety or to the environment. Minor discharges are generally those where:

- The quantity of product discharged is small, e.g., five (5) gallons of oil.
- Discharged material is easily stopped and controlled at the time of the discharge.
- Discharge is localized near the source.
- Discharged material is not likely to reach water.
- There is little risk to human health or safety.
- There is little risk of fire or explosion.

Minor discharges can usually be cleaned up by trained BRT personnel. The following guidelines apply:

- Immediately notify the Emergency Coordinator.
- Under the direction of the Emergency Coordinator, contain the discharge with discharge response materials and equipment. Place discharged debris in properly labeled waste containers.
- The Emergency Coordinator will complete the discharge notification form (Appendix F) and attach a copy to this SPCC Plan.
- If the discharge involves more than five (5) gallons of oil, the Emergency Coordinator will call the New York State Department of Environmental Conservation (NYSDEC) at 800-457-7362.

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### **3.1.4 Response to a Major Discharge**

A “major” discharge is defined as one that cannot be safely controlled or cleaned up by trained Facility personnel, such as when:

- The discharge is large enough to spread beyond the immediate discharge area.
- The discharged material enters navigable water.
- The discharge requires special equipment or training to clean up.
- The discharged material poses a hazard to human health or safety.
- There is a danger of fire or explosion.

In the event of a major discharge, the following guidelines apply:

- All workers must immediately evacuate the discharge site via the designated exit routes and move to the designated staging areas at a safe distance from the discharge. Personnel will be notified of the evacuation by the Emergency Coordinator via cellular phone. Due to the size of the site and the maximum possible discharge, it is anticipated that the Scale House Office will be a safe area for regrouping personnel. Evacuation routes are indicated on Figure 2.
- If the Emergency Coordinator is not present at the Facility, the Alternate Emergency Coordinator shall notify the Primary Emergency Coordinator of the discharge and has authority to initiate notification and response. Certain notifications are dependent on the circumstances and type of discharge. For example, if oil reaches neighboring property, the owner of the neighboring property must be notified.
- The Emergency Coordinator must call for medical assistance if workers are injured.
- The Emergency Coordinator must notify the Fire Department or Police Department.
- The Emergency Coordinator must immediately contact the DEC Hotline.
- Any such calls must be recorded on the Discharge Notification form in Appendix F and attach a copy to this SPCC Plan.
- The Emergency Coordinator coordinates cleanup and obtains assistance from the Oil Spill Response Organization (OSRO) as identified on the emergency contact list (Appendix D) or other response organization as necessary.
- The Emergency Coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other soybean oil, hazardous waste, solid waste or oil-derived fuels or products at the Facility. These measures will include, where applicable, stopping processes and operation, collecting and containing released soybean oil, and removing or isolating containers.
- The Emergency Coordinator must immediately identify the character, exact source, amount, areal extent of any released materials. This may be done by observation or review of Facility records, logs, invoices, manifests, bills of lading, or other shipping documents and, if necessary, by chemical analysis.
- Concurrently, the Emergency Coordinator must assess possible hazards to human health or the environment that may result from the release, fire or explosion. This assessment must consider both direct and indirect effects of the release, fire or explosion, i.e., the effects of any toxic, irritating, or asphyxiating gases that are

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generated, and the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions.

- If the Facility stops operation in response to a fire, explosion, or release, the Emergency Coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes or other equipment, wherever appropriate.
- If the major discharge causes the Facility to be shut down for more than 24 hours, the Emergency Coordinator will notify the soybean oil railcar companies and the soybean oil tanker truck companies of the situation. Soybean oil will not be accepted at the Facility until the Facility is operational again.
- The Emergency Coordinator will ensure that, in the event of a major discharge, no waste or soybean oil that may be incompatible with released material is recycled, treated, stored, or disposed of until cleanup procedures are completed in the affected Facility area(s).
- The Emergency Coordinator will also ensure that all emergency equipment listed in the SPCC is cleaned and fit for its intended use before operations are resumed.
- The Emergency Coordinator will notify the Regional NYSDEC Director and local authorities that the Facility is in compliance with the previous two bullet points before operations are resumed in the affected area(s) of the Facility.

### **3.1.5 Waste Disposal**

Soybean oil recovered from a spill will be stored in the tanker trucks that will be delivered by the OSRO. This waste will be transported off site by the OSRO to one of the facilities listed in the table below for disposal or recycling. Contaminated spill response materials which may include personnel protective equipment (PPE), decontamination solutions, absorbents, contaminated equipment and materials that could not be properly decontaminated for reuse, and spent chemicals will be stored in compatible containment devices until it is transported offsite by the OSRO.

In the event that a spill contaminates soil, the soil will be properly delineated, remediated and disposed of in accordance with federal, state and local regulations. The OSRO will transport contaminated soil offsite for proper disposal.

As previously stated, wastes including recovered product, contaminated soil, contaminated equipment and material, personnel protective equipment, decontamination solutions, absorbents and spent chemicals resulting from a major discharge response will be removed by a cleanup contractor, transported offsite by a licensed transporter and disposed of at a permitted facility in accordance with applicable federal, state, and local regulatory requirements. Although a spill has never occurred at the site, disposal routes have been anticipated. The table below addresses disposal facilities for the aforementioned wastes.

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**Table 3-1: Spill Materials Disposal Locations**

<b>Material</b>	<b>Disposal Facility</b>	<b>Location</b>	<b>Permit</b>
Recovered Product	Tradebe	Bridgeport, CT	CTD002593887
Contaminated Soil	Clean Earth	Carteret, NJ/Philadelphia, PA	N/A
Contaminated Equipment and Materials (drums, tank parts, valves, etc.)	Tradebe	Bridgeport, CT	CTD002593887
Personnel Protective Equipment (PPE)	Tradebe	Bridgeport, CT	CTD002593887
Decontamination Solutions	Tradebe	Bridgeport, CT	CTD002593887
Absorbents	Tradebe or Clean Earth	Bridgeport, CT or Carteret, NJ, Philadelphia, PA	CTD002593887/ N/A
Spent Chemicals	Tradebe	Bridgeport, CT	CTD002593887

### 3.1.6 Cleanup Contractors and Equipment Suppliers

Contact information for specialized spill response and cleanup contractors are provided in Appendix D. These contractors have the necessary equipment to respond to a discharge of oil that affects adjoining properties in Yaphank, New York.

Spill response supplies are stored in storage sheds located adjacent to the soybean oil transloading area, the conveyor system, and are in the close vicinity of the ASTs and are available to on-site personnel. Spill response supplies include absorbent pads, boots, gloves, safety glasses, non-sparking shovels and a report form. The inventory of response supplies and equipment is provided in Appendix E of this SPCC Plan. The inventory is verified on a monthly basis. Additional supplies and equipment may be ordered from one of many suppliers, such as:

Stauffer Glove & Safety  
361 E. Sixth Street  
Red Hill, PA 18076  
Bob Frey 845-627-2368

New Pig  
One Pork Avenue  
Tipton, PA 16684-0304  
1-800-468-4647  
www.newpig.com

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DENIOS, Inc.  
1152 Industrial Blvd.  
Louisville, KY 40219  
1-877-388-0187

**3.2 Potential Discharge Volumes and Direction of Flow (40 CFR 112.7(b))**

Table 3-2 presents expected volume, discharge rate, general direction of flow in the event of equipment failure, and means of secondary containment possible discharge scenarios. Emergency contacts are provided in Appendix D in case of a spill.

**Table 3-2: Potential Discharge Volume and Direction of Flow**

Potential Event	Maximum volume released (gallons)	Maximum discharge rate (gpm)	Direction of Flow	Secondary Containment
Soybean oil tank truck rupture at loading area	12,000	Gradual to instantaneous	To soil	None
Railcar rupture	26,000	Gradual to instantaneous	To soil	None
Soybean Oil AST leak	300	Gradual to instantaneous	To soil	None
Diesel AST leak	500	Gradual to instantaneous	To soil	To interstitial space 550 gallon containment dike
55-gallon drums	55	Gradual to instantaneous	To soil	To spill pallet 30% containment per drum

**3.3 Containment and Diversionary Structures (40 CFR 112.7(c))**

A combination of portable secondary containment systems, e.g., roll-out secondary containment, drip pans, and land-based spill response measures, e.g., oil absorbents, are used to prevent a discharge from reaching navigable waters.

For railcars:

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**Drip pans** - Drip pans, approximately nine (9) gallons in volume, are used to contain small leaks from piping/hose connections.

**Sorbent material** - Spill response supplies are stored in storage sheds located adjacent to the soybean transloading area, the conveyor system, and are in the close vicinity of the ASTs and are available to on-site personnel. Spill response supplies include absorbent pads, boots, gloves, safety glasses, and non-sparking shovels. In the event of catastrophic failures, BRT has the ability to utilize Facility pay loaders to immediately remove contaminated soils.

Soybean oil is off-loaded from railcars and pumped through a four-inch steel banded rubber hose and into receiving tanker trucks. Drip pans with an approximate capacity of nine (9) gallons each are placed under the hose connections. Compressed air is used to blow residual soybean oil from the hoses prior to disconnecting the hoses from the tanker truck. Each connection is immediately capped when disconnected.

#### **3.4 Practicability of Secondary Containment (40 CFR 112.7(d))**

BRT management has determined that secondary containment is practicable at this Facility for the used oil transloading operations.

Additionally, secondary containment is provided for the soybean oil hose connections,

#### **3.5 Inspections, Tests, and Records (40 CFR 112.7(e))**

Visual inspections of railcars, trucks and hoses are conducted prior to, during and immediately following loading/unloading operations. Written records of these inspections are not maintained.

Inspection records must be maintained with the SPCC for a period of at least three years for the ASTs.

At least monthly, Facility personnel shall:

- Conduct inspections of aboveground equipment including foundations, valves, and liquid sensing devices.
- Identify cracks, evidence of corrosion, poor maintenance and operating procedures, separation or swelling of tank insulation, malfunctioning equipment and structural and foundation weaknesses.
- Inspect and monitor all leak detection systems, if any.

#### **3.6 Personnel, Training, and Discharge Prevention Procedures (40 CFR 112.7(f))**

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The Primary Emergency Coordinator is responsible for oil discharge prevention, control and response preparedness activities at this Facility. At all times there is at least one employee either on the Facility premises or on call with the responsibility for coordinating emergency response measures. The Emergency Coordinators (primary and alternate) are thoroughly familiar with all aspects of the Facility's SPCC Plan, all operations and activities at the Facility, the location and characteristics of used oil handled, the location of all records within the Facility, and Facility layout. The Emergency Coordinators (primary and alternate) also have the authority to commit resources needed to carry out the SPCC Plan.

Oil-handling Facility personnel will be instructed in the operation and maintenance of oil pollution prevention equipment, discharge procedure protocols, applicable pollution control laws, rules and regulations, general Facility operations, and the content of this SPCC Plan. Any new Facility personnel with oil-handling responsibilities are provided with this same training prior to being involved in any oil operations.

Annual discharge prevention briefings are held by the Emergency Coordinator for all Facility personnel involved in oil operations. The briefings are aimed at ensuring continued understanding and adherence to the discharge prevention procedures presented in the SPCC Plan. The briefings also highlight and describe known discharge events and failures, malfunctioning components, and recently implemented precautionary measures and best practices. Facility operators and other personnel will have the opportunity during the briefings to share recommendations concerning health, safety, and environmental issues encountered during Facility operations.

Records of the briefings and discharge prevention training are kept in the form shown in Appendix C and maintained with this SPCC Plan for a period of three years. Records of training are kept in the training log located in the SPCC Plan in the Scale House Office.

**3.7 Security (40 CFR 112.7(g))**

The Facility is partially fenced with security cameras installed around the main portions of the Facility. Security personnel are on-site 24 hours a day, seven day a week, 365 days per year.

The starter control on storage containers that have an oil pump should be locked in the "off" position and located at a site accessible only to authorized personnel when the pump is in a non-operating status.

The loading/unloading connections of the Facility's oil piping should be securely capped or blank-flanged when not in service or when in standby service. This security practice also applies to piping that is emptied of liquid content either by draining or by inert gas pressure.

Facility lighting is provided in the transloading area of the Facility and provides adequate protection against vandalism. Lighting also provides sufficient illumination of the used oil transload area for discovery of spill events during evening hours.

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**3.8 Tank Truck Loading/Unloading Rack Requirements (40 CFR 112.7(h))**

The potential for discharges during tank truck unloading and loading operations is of particular concern at this Facility. BRT management is committed to ensuring the safe transfer of material to and from the railcars. The following measures are implemented to prevent oil discharges during tank truck unloading of used oil and loading of soybean oil operations.

**3.8.1 Secondary Containment (40 CFR 112.7(h)(1))**

All hose connections with the tanker truck are located inside the secondary containment structure. Secondary containment for soybean oil hose connections is provided by drip pans with nine (9) gallon capacity.

**3.8.2 Overfill Protection**

Prior to the start of soybean oil transloading operations, BRT operators verify the capacity of the soybean oil railcar using the way bill in comparison to the available capacity of the receiving tank truck. BRT personnel are staged by the external transfer pump located within the soybean oil transload trailer located between the soybean oil railcar and the receiving tanker truck. The pump is equipped with a meter that BRT personnel monitor to cease pumping when the tanker truck has reached capacity.

The 500-gallon diesel AST is equipped with a gauge and overfill containment around the fill connection. BRT has procured a local municipality approved double wall tank to replace the existing 500-gallon tank.

The 300-gallon soybean oil tank is equipped with an overfill protection gauge and BRT operators are staged directly adjacent to the tank during filling operations.

**3.8.3 Loading/Unloading Procedures (40 CFR 112.7(h)(2) and (3))**

Suppliers must meet minimum requirements and regulations for tank truck unloading established by the U.S. Department of Transportation. BRT management assures that the vendor understands the site layout, knows the protocol for entering the Facility and unloading product, and has the necessary equipment to respond to a discharge from the vehicle or fuel delivery hose.

The Facility Manager or his/her designee supervises soybean oil, and diesel fuel deliveries for all new suppliers, and continually observes deliveries for existing, approved suppliers.

Unloading of tanker trucks takes place only in designated loading/ unloading areas.

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Smoking is not permitted while loading or unloading any flammable liquid. No person carrying any flame or lighted cigar, pipe, or cigarette shall be allowed in the vicinity.

A tanker truck must be attended by a qualified person at all times when it is being loaded/unloaded. The person who is responsible for loading the railcar is also responsible for ensuring that the truck is also attended.

After completion of loading/ unloading operations, BRT personnel perform the following, prior to vehicular departure:

- Check all valves for closure, both on the vehicle and on the receptacle.
- Ensure unloading hose is disconnected from the tank truck and properly stowed.
- Check all drains and outlets for leakage, take corrective actions as required.

No flammable liquid shall be loaded into or unloaded from any motor vehicle while the engine is running.

Vehicle filling operations are performed by Facility personnel trained in proper discharge prevention procedures. The truck driver and Facility personnel remain with the vehicle at all times while fuel is being transferred.

### **3.8.3.1 Soybean Oil Unloading Procedures**

Soybean oil is delivered to BRT in railcars with a maximum capacity of 26,000 gallons and unloaded into tanker trucks with a maximum capacity of 12,000 gallons. Soybean unloading operations occur from October through April. Upon receipt of the railcars to BRT up to two railcars at a time are heated via a closed-loop hot water system located inside the soybean oil trailer for eight (8) to sixteen (16) hours to achieve a minimum of 85 degrees Fahrenheit. Hot water heats the railcars via a series of heating coils located within the railcars; none of the heating coils come into contact with the soybean oil. Once heated to a minimum of 85 degrees Fahrenheit, one (1) railcar can unload soybean oil to a tanker truck at a time. The following procedures are followed during all soybean oil transloading operations:

- The receiving soybean oil tanker truck is weighed in at the Scale House and is directed to park in the designated soybean oil loading area by BRT personnel. See Figure 2.
- BRT personnel verify the available capacity of the receiving soybean oil tanker truck reviewing the waybill generated by the Scale House.
- The soybean oil tanker truck driver connects the tank truck hose to the BRT transfer hose. The connection is placed directly over a nine (9) gallon – approximate volume – drip pan.
- BRT personnel connect the hose to the bottom of the railcar. Prior to making this connection, an approximately nine (9) gallon drip pan is placed under the connection point.

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- BRT personnel are staged by the external transfer pump located within the soybean oil transload trailer located between the soybean railcars and the truck loading area. BRT personnel initiate and supervise all pumping operations. The pump is equipped with a volume meter that BRT personnel monitor for the duration of the transloading operations. When the volume meter indicates that the tanker truck has reached its available capacity, BRT personnel cease pumping.
- Compressed air is used to remove residual soybean oil from the hoses prior to disconnecting the hoses from the tanker truck. Residual liquid in the hoses between the railcar and the pump is drained back into the railcar while residual liquids in the hose between the pump and the tanker truck are drained into the tanker truck.
- Upon completion of soybean oil transloading operations, all hoses are capped by BRT personnel and the tanker truck driver is directed to proceed to the Scale House to weigh the soybean oil received.

### **3.8.3.2 Diesel Fuel AST Filling Procedures**

BRT has one 300-gallon soybean oil tank and one 500-gallon local municipality pre-approved diesel AST. The 500-gallon tank is adjacently located in the vicinity of the aggregate conveyor system generator. The 300-gallon tank is located within the soybean oil transloading trailer. See Figure 2 for the locations of the ASTs. The 500-gallon tank is a double-walled steel tank equipped with overfill protection and permitted with the local municipality. The 500-gallon tank supplies fuel to the on-site generator that is used to power the Facility's aggregate conveyor system, and is also used to fuel BRT vehicles, and the 300-gallon tank is used to fuel the hot water system as described in Section 2.1.3.

Diesel fuel is delivered to BRT in tanker trucks with a maximum capacity of 4,200 gallons; one tanker truck will deliver and unload diesel fuel at a time. Diesel will be unloaded in accordance with the procedures described in 3.8.3.

The 500-gallon diesel AST used to supply fuel to the generator is directly connected to the generator, and is operated in accordance with the local municipality permitting requirements. The tank is equipped with an external pump mounted to the tank and will dispense fuel at a rate of 20 gallons per minute directly to the vehicles. The tank is operated in accordance with the local municipality permitting requirements.

The 300-gallon diesel AST used to supply fuel to the hot water system is directly connected to the hot water system's generator and is not regulated under the local municipality.

### **3.9 Brittle Fracture Evaluation (40 CFR 112.7(i))**

The Facility does not contain any field-constructed tanks and therefore this section is not applicable.

### **3.10 Conformance with State and Local Applicable Requirements (40 CFR 112.7(j))**

The Facility is in conformance with applicable State and local requirements.

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**Part 4: Discharge Prevention – SPCC Provisions for Onshore Facilities (Excluding Production Facilities)**

**4.1 Facility Drainage (40 CFR 112.8(b))**

The Facility has a leaching pool drainage system with the closest catch basin 82 yards from the soybean oil transload area. These storm drains are covered during any soybean oil transload activities.

Any potential discharge from a railcar or tanker truck which is not restrained by secondary containment will be discharged to soil and is not anticipated to travel off-site.

The Facility consists of 28 developed acres, approximately 50 percent of the Facility is covered by buildings or paved impervious surfaces. The remainder of the Facility consists of compacted gravel, grass and low-lying vegetation.

**4.2 Bulk Storage Containers (40 CFR 112.8(c))**

The containers used for the storage of oil at this Facility is of a material and construction compatible with the oil stored and conditions of storage such as pressure and temperature.

One double walled 500-gallon diesel AST is equipped with a secondary containment dike with a capacity of 110 percent containment. BRT has registered the tank with the local municipality.

Secondary containment is not provided for the 300-gallon soybean oil AST. The tank is equipped with a site gauge and is located within a trailer.

The aboveground oil storage container at this Facility should be tested for integrity whenever material repairs are made. Monthly visual inspections verify the integrity of the oil storage containers. Monthly visual inspections include checking the outside of the container, supports and foundations, gauges, valves, fittings and piping for leaks, damage or deterioration, or any accumulation of oil inside the secondary containment. Inspection records are maintained in Appendix G.

**4.2.1 Construction (40 CFR 112.8(c)(1))**

The tanks used at this Facility are constructed of steel. The design and construction of bulk storage containers is compatible with the characteristics of the oil products they contain, and with temperature and pressure conditions.

**4.2.2 Secondary Containment (40 CFR 112.8(c)(2))**

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The 500-gallon diesel tank is a double walled tank which provides sufficient volume to contain 550 gallons.

**4.2.3 Drainage of Diked Areas (40 CFR 112.8(c)(3))**

This section is not applicable since the facility does not have diked tanks or secondary containment.

**4.2.4 Corrosion Protection (40 CFR 112.8(c)(4))**

No buried metallic storage tanks requiring cathodic protection exist at the Facility.

**4.2.5 Partially Buried and Bunkered Storage Tanks (40 CFR 112.8(c)(5))**

This section is not applicable since there are no partially buried or bunkered storage tanks at this Facility.

**4.2.6 Inspections and Tests (40 CFR 112.8(c)(6))**

Aboveground oil-service valves, piping and appurtenances are regularly inspected. During the inspection, the general condition of items, such as flange joints, expansion joints, valve glands and bodies, catch pans, pipe supports, valve locks and metal surfaces, are assessed. Facility piping is protected from traffic and vandalism.

On a monthly basis, Facility personnel identify cracks, evidence of corrosion, poor maintenance and operating procedures, separation or swelling of tank insulation, malfunctioning equipment and structural and foundation weaknesses.

**4.2.7 Heating Coils (40 CFR 112.8(c)(7))**

Soybean oil railcars are equipped with heating coils. Once the non-transportation related activities commence the railcars are considered storage vessels. The railcars are double walled and the heating coils are located between the outer wall of the railcar and the inner liner. The heating coils does not come in contact with the fluids being stored and will not contaminate the hot water closed loop system.

**4.2.7 Overfill Prevention Systems (40 CFR 112.8(c)(8))**

The 500-gallon diesel tank is equipped with a level gauge and filling of the tank is constantly monitored. The 500-gallon diesel tank and 300-gallon tank will also be equipped a level gauge.

**4.2.9 Effluent Treatment Facilities (40 CFR 112.8(c)(9))**

Effluent is not discharged from the Facility and therefore this section is not applicable.

*SPCC PLAN  
Brookhaven Rail Terminal  
205 Sills Road  
Yaphank, NY 11980*

**4.2.10 Visible Discharges (40 CFR 112.8(c)(10))**

Visible discharges from any vehicle, container or appurtenance – including seams, gaskets, piping, pumps, valves, rivets, and bolts – are corrected upon discovery.

**4.2.11 Mobile and Portable Containers (40 CFR 112.8(c)(11))**

Fifty-five gallon drums storing petroleum products are stored within a trailer and are placed on containment pallets with 30 percent secondary containment as required by the local municipality.

**4.3 Transfer Operations, Pumping, and In-Plant Processes (40 CFR 112.8(d))**

Refer to section 3.8.2 Loading/Unloading Procedures.

There is minimal aboveground piping which carries petroleum products at the Facility between the 500-gallon diesel tank and the associated generator, and the 300-gallon soybean oil tank and the boiler. Existing and proposed piping is primarily located in areas inaccessible to the public.

The terminal connection at the transfer point of piping that is not in-service or that is in standby service for an extended time should be capped or blank-flanged and marked as to its origin.

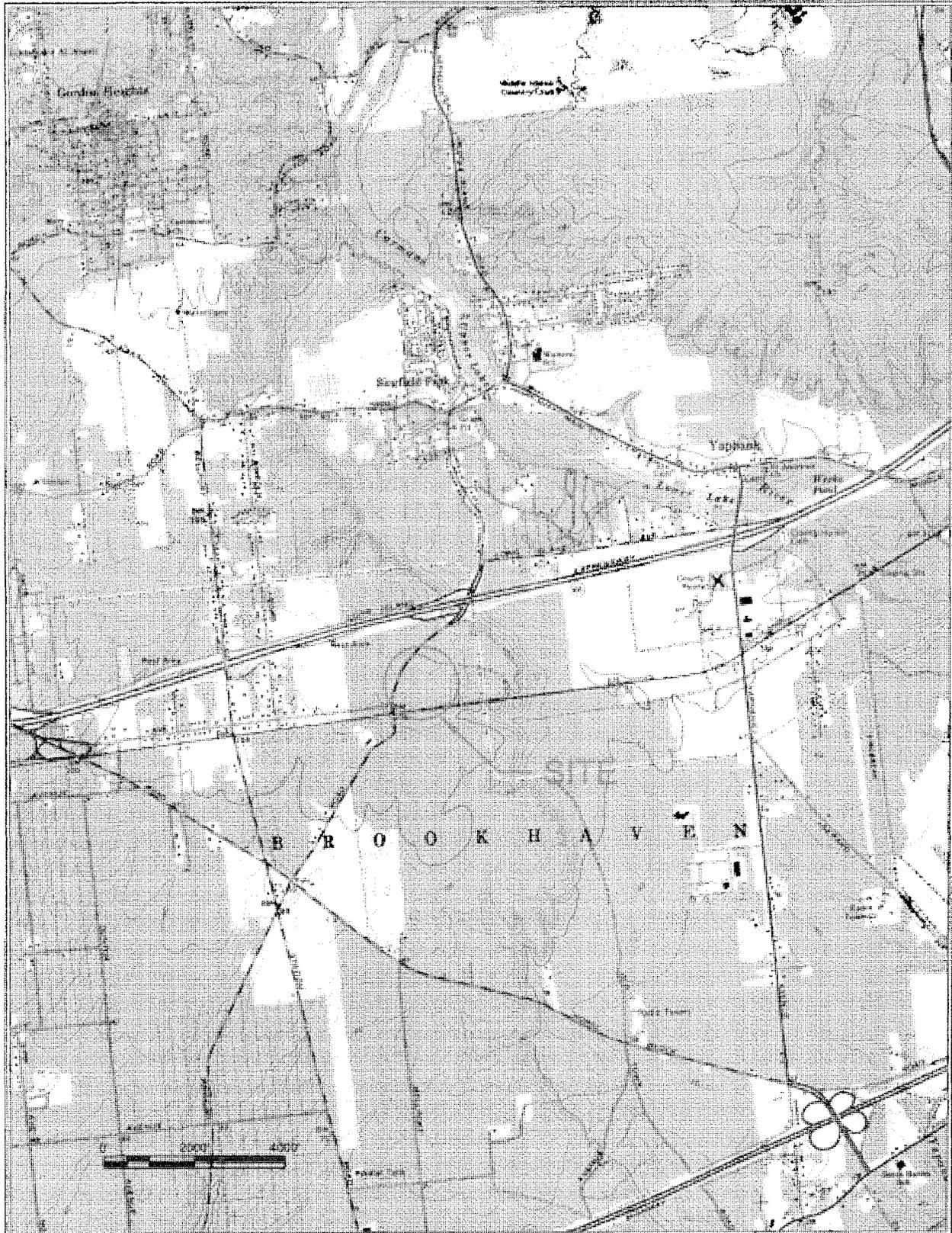
Pipe supports should be properly designed to minimize abrasion and corrosion and allow for expansion and contraction.

All aboveground oil-service valves, piping and appurtenances are regularly inspected. During the inspection, the general condition of items, such as flange joints, expansion joints, valve glands and bodies, catch pans, pipe supports, valve locks and metal surfaces, are assessed. Facility piping is protected from traffic and vandalism.

*SPCC PLAN  
Brookhaven Rail Terminal  
205 Sills Road  
Yaphank, NY 11980*

## **Appendix A**

### **Vicinity Map and Site Plan**



**PWGC**



Professional Services and Engineering Solutions  
 200 Corporate Park, Suite 100 | Yaphank, NY 11980-1000  
 Tel: 516-865-1311 | Fax: 516-865-6700 | www.pwgc.com

**BROOKHAVEN RAIL TERMINAL**  
 205 GILLS ROAD, YAPHANK, NY 11980  
**SITE MAP**

PROJECT	
DATE	1
SCALE	
BY	
CHECKED BY	
DATE	02/11



*SPCC PLAN  
Brookhaven Rail Terminal  
205 Sills Road  
Yaphank, NY 11980*

## Appendix B

### Substantial Harm Determination

Facility Name: Brookhaven Rail Terminal  
Facility Address: 205 Sills Road  
Yaphank, NY 11980

1. Does the Facility transfer oil over water to or from vessels and does the Facility have a total storage capacity greater than or equal to 42,000 gallons?

Yes \_\_\_ No √

2. Does the Facility have a total oil storage capacity greater than or equal to 1 million gallons and does the Facility lack secondary containment that is sufficiently large to contain the capacity of the largest aboveground oil storage tank plus sufficient freeboard to allow for precipitation within any aboveground storage tank area?

Yes \_\_\_ No √

3. Does the Facility have a total oil storage capacity greater than or equal to 1 million gallons and is the Facility located at a distance (as calculated using the appropriate formula in 40 CFR part 112 Appendix C, Attachment C-III or a comparable formula) such that a discharge from the Facility could cause injury to fish and wildlife and sensitive environments?

Yes \_\_\_ No √

4. Does the Facility have a total oil storage capacity greater than or equal to 1 million gallons and is the Facility located at a distance (as calculated using the appropriate formula in 40 CFR part 112 Appendix C, Attachment C-III or a comparable formula) such that a discharge from the Facility would shut down a public drinking water intake?

Yes \_\_\_ No √

5. Does the Facility have a total oil storage capacity greater than or equal to 1 million gallons and has the Facility experienced a reportable oil spill in an amount greater than or equal to 10,000 gallons within the last 5 years?

Yes \_\_\_ No √

#### Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

Signature 

Title President

Name (type or print) JIM NEWELL

Date 4/1/15

*SPCC PLAN  
Brookhaven Rail Terminal  
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## **Appendix C**

### **Record of Discharge Prevention Briefings and Training**

Briefings will be scheduled and conducted by the Facility owner or operator for operating personnel at regular intervals to ensure adequate understanding of this SPCC Plan. The briefings will also highlight and describe known discharge events or failures, malfunctioning components, and recently implemented precautionary measures and best practices. Personnel will also be instructed in operation and maintenance of equipment to prevent the discharge of oil, and in applicable pollution laws, rules, and regulations. Facility operators and other personnel will have an opportunity during the briefings to share recommendations concerning health, safety, and environmental issues encountered during Facility operations.

*SPCC PLAN  
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## **Appendix D Emergency Contacts**

**EMERGENCY TELEPHONE NUMBERS:**

<b>Primary Emergency Coordinator:</b>	<b><u>Office</u></b>	<b><u>Cell</u></b>	<b><u>Home</u></b>
Jim Newell	631-924-8800	646-302-1432	646-302-1432
President			
121 Kingfisher Drive			
Ponte Vedra Beach, FL 32082			

**Alternate**

Chris Flynn	631-924-8800	631-832-5808	631-832-5808
Facility Manager			
69 Joyce Drive			
Hauppauge, NY 11788			

**Alternate**

Tom Miller	631-924-8800	631-338-2923	631-338-2923
7 Galleon Lane			
East Setauket, NY 11733			

**Local Emergency Response**

Yaphank Fire Department

General Emergency	911
Dispatcher	631-924-3200

Suffolk Police Department

General Emergency	911
Non-emergency response	631-852-2677
7 <sup>th</sup> Precinct Front Desk	631-852-8700

Suffolk County Department of Health Services

Office of Pollution Control	631-854-2501
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Brookhaven Memorial Hospital	631-654-7100
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**Oil Spill Response Organization/Cleanup Contractors**

*SPCC PLAN  
Brookhaven Rail Terminal  
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Yaphank, NY 11980*

Miller Environmental Group, Inc.

845-569-1200

**Notification**

NYSDEC HOTLINE (within 2 hours of spill)

800-457-7362

National Response Center- Federal

800-424-8802

United States Coast Guard (for spills reaching water)

718-354-4121

*SPCC PLAN  
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## **Appendix E On-Site and Contractor Discharge Response Equipment Inventory**

The discharge response equipment inventory is verified during the monthly inspection and must be replenished as needed.

**Brookhaven Rail Terminal Spill Response Equipment available on site:**

<b>Equipment Type</b>	<b>Units</b>	<b>Response Time</b>	<b>Location / Effective Daily Recovery Rate</b>
Absorbent pads	10 pads	3 min	Storage Sheds / .5 gal
Shovels	4	3 min	Storage Sheds / NA
Neoprene gloves	4 pairs	3 min	Storage Sheds / NA
Safety glasses	4 pairs	3 min	Storage Sheds / NA
Disposable latex response boots	4 pairs	3 min	Storage Sheds / NA
Fire extinguishers	5	3 min	Storage Sheds / NA
Front end loaders	2	5 min	Within 0.5 mile radius of used oil transload area
Bulldozers	2	5 min	Within 0.5 mile radius of used oil transload area
Excavators	2	5 min	Within 0.5 mile radius of used oil transload area

Storage sheds are located adjacent to the soybean oil transloading areas, and adjacent to the conveyor system. The sheds are all equipped with absorbent pads and personal protective equipment. The shed adjacent to the soybean oil loading area is equipped with shovels.

*SPCC PLAN  
Brookhaven Rail Terminal  
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Inspector Name: \_\_\_\_\_

Inspector Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Brookhaven Rail Terminal Spill Response Equipment Monthly Checklist:**

<b>Equipment Type</b>	<b>Minimum Amount</b>	<b>Quantity available on-site</b>	<b>Notes</b>
Absorbent pads	10 pads		
Shovels	4		
Neoprene gloves	4 pairs		
Safety glasses	4 pairs		
Disposable latex response boots	4 pairs		
Fire extinguishers	5		
Front end loaders	2		
Bulldozers	2		
Excavators	2		

*SPCC PLAN  
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## **Appendix F**

### **Agency Notification Standard Report**

**Part A: Discharge Information**

General Information when reporting a spill to outside authorities:

Name: Brookhaven Rail Terminal

Address: 205 Sills Road

Yaphank, NY 11980

Telephone: 631-924-8800

Owner/Operator: Brookhaven Rail Terminal

Primary Contact Person: Jim Newell, President

Primary Contact #: Office: (631)-924-8800 Cell: (646) 302-1432 Home: (646) 302-1432

Type of oil:

Discharge date and time:

Quantity released:

Discovery date and time:

Quantity released to a waterbody:

Discharge duration:

Location/Source:

Actions taken to stop, remove or mitigate impacts of the discharge:

Affected media:

 air storm water sewer/POTW water dike/berm/oil-water separator soil other: \_\_\_\_\_

Notification person:

Telephone contact:

Business:

24-hr:

Nature of discharges, environmental/health effects, and damages:

Injuries, fatalities or evacuation required?

 Yes No

If yes, please specify:

Agencies Contacted:

Spill response number:

Operator number:

Corrective actions taken:

<b>Part B: Notification Checklist</b>		
	Date and time	Name of person receiving call
<b>Discharge in any amount</b>		
Emergency Coordinators Jim Newell (631)-924-8800 / (646)-302-1432		
Chris Flynn (631)-924-8800 / (631)-832-5808		
<b>Discharge in amount exceeding 5 gallons and not affecting a waterbody or groundwater</b>		
Miller Environmental Group, Inc. (845)-569-1200		
Yaphank Fire Department General Emergency 911 Dispatcher (631)-924-3200		
New York Department of Environmental Conservation (800)-457-7362		
<b>Discharge in any amount and affecting (or threatening to affect) a waterbody</b>		
National Response Center (800) 424-8802		
New York Department of Environmental Conservation (800)-457-7362		
Yaphank Fire Department General Emergency 911 Dispatcher (631)-924-3200		
Miller Environmental Group, Inc. (845)-569-1200		

**Spill Response Notification Form**

*Initial Notification to NRC Must not be Delayed Pending Collection of all Information*

Reporter's Last Name \_\_\_\_\_ First \_\_\_\_\_  
Position \_\_\_\_\_

Phone Numbers: 631-924-8800

Company: Brookhaven Rail Terminal  
Organization Type: Rail Terminal  
Facility Capacity: 0 Gallons Permanent Storage  
Up to 32,800 gallons of temporary used oil storage

Address: 205 Sills Road  
Yaphank, New York 11980

Latitude: N 40 degrees 49 minutes 30 seconds  
Longitude: W 72 degrees 56 minutes 19 seconds

Were Materials Released \_\_\_\_\_ (Y/N) Confidential \_\_\_\_\_ (Y/N)

Meeting Federal Obligations to Report \_\_\_\_\_ (Y/N) Date Called \_\_\_\_\_  
Calling for Responsible Party \_\_\_\_\_ (Y/N) Time Called \_\_\_\_\_

Incident Description

Source and/or Cause of Incident \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_ Time of Incident \_\_\_\_\_ AM/PM

Incident Address/Location \_\_\_\_\_  
\_\_\_\_\_

Nearest City: Brookhaven State: New York County: Suffolk Zip: 11980

Distance from City: 4.5 Units of Measure: miles Direction from City: North  
Rive Mile: N/A

Section: \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_ Borough: \_\_\_\_\_  
Container Type \_\_\_\_\_ Tank Capacity \_\_\_\_\_ Units \_\_\_\_\_

**Material**

CHRIS Code	Material Released	Quantity Released (gallons)	Quantity in Water (gallons)

**Response Action**

Actions Taken to Correct, Control or Mitigate Incident: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Impact**

Number of Injuries: \_\_\_\_\_ Number of Deaths: \_\_\_\_\_  
Were there Evacuations? \_\_\_\_\_ (Y/N) Number Evacuated: \_\_\_\_\_  
Damage in dollars (approximate): \_\_\_\_\_ Medium Affected: \_\_\_\_\_  
Description: \_\_\_\_\_  
Additional Information about Medium: \_\_\_\_\_

**Response Record**

**National Response Center (NRC)**

Name of Caller: \_\_\_\_\_  
Agency Contact: \_\_\_\_\_  
Time and Date of Notification: \_\_\_\_\_  
Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Emergency Coordinator Notified: \_\_\_\_\_

Name of Caller: \_\_\_\_\_

Agency Contact: \_\_\_\_\_

Time and Date of Notification: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Federal On Scene Coordinator**

Name of Caller: \_\_\_\_\_

Agency Contact: \_\_\_\_\_

Time and Date of Notification: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NYSDEC**

Name of Caller: \_\_\_\_\_

Agency Contact: \_\_\_\_\_

Time and Date of Notification: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Others**

Initials of Caller: \_\_\_\_\_

Agency Contact: \_\_\_\_\_

Time and Date of Notification: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_

Additional Information



*SPCC PLAN  
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Yaphank, NY 11980*

## **Appendix G**

### **Monthly Inspection Records**

*SPCC PLAN  
Brookhaven Rail Terminal  
205 Sills Road  
Yaphank, NY 11980*

**SPCC INSPECTION REPORT FORM**

DATE: \_\_\_\_\_

TANK: \_\_\_\_\_

LOCATION: Brookhaven Rail Terminal  
205 Sills Road  
Yaphank, NY 11980

FREQUENCY: Monthly Inspection

CHECKS REQUIRED FOR SPILL PREVENTION CONTROL AND COUNTERMEASURE PLAN:

- Check for signs of leakage from the ASTs \_\_\_\_\_  
If product is present in the interstitial space between the tank and secondary containment wall, written explanation of corrective action is required. Report incident.
- Check for signs of corrosion/deterioration on the ASTs \_\_\_\_\_  
If corrosion/deterioration is present, written explanation of corrective action is required.
- Check for evidence of spills or releases on the ground \_\_\_\_\_  
If leakage or spills are present, a written explanation of corrective action is required.
- Check for availability of spill cleanup equipment \_\_\_\_\_
- Check for signs of leakage at pipe fitting connections \_\_\_\_\_
- Check fuel level in tank using fuel gauge: Fuel Level \_\_\_\_\_

Corrective Action: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

**ABOVEGROUND (AG) PETROLEUM TANK MONTHLY INSPECTION REPORT**

Facility Registration Number _____ Date of Inspection _____	Full Name of Inspector (Print) _____ Address of Inspector (Facility) _____
--	---

ITEM	TANK #	TANK #	TANK #	TANK #	COMMENTS/ REPAIRS NEEDED
<b>TANK CONDITION</b>	CIRCLE BELOW Y=YES, OR N=NO				
Leaks or Spills (1)	Y N	Y N	Y N	Y N	
Cracks/Bulges/Corrosion	Y N	Y N	Y N	Y N	
Exterior Tank Paint - Good Condition (2)	Y N	Y N	Y N	Y N	
Labeled (Product/Design cap./Working cap./Tank ID/Color Code) (3)	Y N	Y N	Y N	Y N	
Auto. Tank Gauge and/or High Level Alarm Working (Test) (4)	Y N	Y N	Y N	Y N	
Manual Product Level Gauge Operational and Labeled (5)	Y N	Y N	Y N	Y N	
Leak Detection Monitored & Inspected (If Present) (6)	Y N	Y N	Y N	Y N	
Interstitial Space Monitored (If Manual Gauge) (7)	Y N	Y N	Y N	Y N	
Interstitial Port Labeled & Locked (8)	Y N	Y N	Y N	Y N	
<b>FOUNDATION/STRUCTURAL</b>					
Settlement/Cracks/Corrosion	Y N	Y N	Y N	Y N	
Supports in Good Condition	Y N	Y N	Y N	Y N	
Anchor Bolts Tight (if present)	Y N	Y N	Y N	Y N	
<b>SECONDARY CONTAINMENT (9)</b>					
Cracks/Gaps/Punctures/Corrosion (10)	Y N	Y N	Y N	Y N	
Paint/Sealant in Good Condition (see 2)	Y N	Y N	Y N	Y N	
Stormwater Build-up (in Diked Area) with Oil/Sheen (11)	Y N	Y N	Y N	Y N	
Stormwater Discharge Date(s) (12)	Y N	Y N	Y N	Y N	
Drainage Valve Locked Closed	Y N	Y N	Y N	Y N	
<b>PIPES/VALVES/PUMPS/SUMPS</b>					
Corrosion/Discoloration/Structural Integrity	Y N	Y N	Y N	Y N	
Leaks/Spills (i.e. from filter, hoses, A.G. piping, nozzles) (see note 1)	Y N	Y N	Y N	Y N	
Fill Port-API Color Coded & Sump Free of Fluid/Debris (13, 14)	Y N	Y N	Y N	Y N	
Dispenser Island Sumps Maintained & Free of Fluid/Debris (14)	Y N	Y N	Y N	Y N	
(U.G.) Piping Sumps Maintained & Free of Fluid/Debris (14)	Y N	Y N	Y N	Y N	
Valves Operational or Present(15)	Y N	Y N	Y N	Y N	

**Inspector Certification** I certify that this inspection was performed in a manner consistent with requirements of 6NYCRR Part 613.6 (see back).      Signature \_\_\_\_\_

\*Note: These inspection reports must be kept on file for 10 years.

Above Ground Tank Inspection Checklist Quarterly Report for the period  
beginning \_\_\_\_\_ and ending \_\_\_\_\_

Tank #		Description		
Frequency	Date	By	Item to Check	Comment
Month 1:			Check hoses, piping, and tank for leaks.	
			Operability of tank Leak detection system	
			Operability of overfill alarm	
			Water in interstice	
			Water in tank	
			Open dispenser-check for leaks Exterior (coating, labeling, leaks)	
Month 2			Check hoses, piping, and tank for leaks.	
			Operability of tank Leak detection system	
			Operability of overfill alarm	
			Water in interstice	
			Water in tank	
			Open dispenser-check for leaks Exterior (coating, labeling, leaks)	
Month 3			Check hoses, piping, and tank for leaks.	
			Operability of tank Leak detection system	
			Operability of overfill alarm	
			Water in interstice	
			Water in tank	
			Open dispenser-check for leaks Exterior (coating, labeling, leaks)	
Quarterly Inspection			Vents, Emergency Vents, spill fill containment, Labeling	
Annual Inspection			Site drainage (check for changes that would affect spill pathway) Emergency vents-o-rings and gaskets Tank supports and foundation	

## **EXHIBIT 2**

# P.W. GROSSER CONSULTING



July 15, 2015  
Mr. Jim Newell  
President  
Brookhaven Rail Terminal  
205 Sills Road  
Yaphank, NY 11980

**RE: Suffolk County Department of Health Services (SCDHS) Article 12 and Spill Prevention, Control and Countermeasure (SPCC) Plan Compliance Certification**

Dear Mr. Newell:

P.W. Grosser Consulting, Inc. ("PWGC") certifies that Brookhaven Rail Terminal ("BRT") has submitted the necessary paperwork and received an Article 12 permit to operate a Toxic/Hazardous Materials Storage Facility from the SCDHS. PWGC also certifies that BRT has prepared a SPCC Plan for the BRT Facility that was developed in full compliance with SCDHS Article 12 and Title 40, Code of Federal Regulations, Part 112. The current version of the BRT SPCC (dated April 1, 2015) is attached hereto.

## ENGINEER'S CERTIFICATION

*Theresa Colabella*

Name of Professional Engineer

*Theresa Colabella*

Signature of Professional Engineer

081911

Registration Number, State of New York

July 15, 2015

Date



ACEC

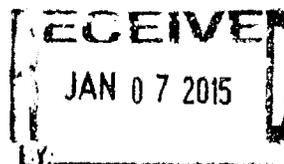
Professional Engineer

## **EXHIBIT 3**

COUNTY OF SUFFOLK



STEVEN BELLONE  
SUFFOLK COUNTY EXECUTIVE



DEPARTMENT OF HEALTH SERVICES

JAMES L. TOMARKEN, MD, MPH, MBA, MSW  
Commissioner

**BUREAU OF ENVIRONMENTAL ENGINEERING**  
**APPROVAL NOTICE**

December 30, 2014

P.W. Grosser Consulting  
Attn.: Gerry Rosen, P.E.  
630 Johnson Ave  
Bohemia, NY 11716

Re: **Approval of Article 12 Construction Permit Application**  
**SCDHS Job No. : HM14-213**  
**SCDHS Fac. ID. No. : 2-2335**  
**SCDHS File Ref. No. : 20258**

Dear Madam or Sir:

Your application for a permit to construct a project at **Brookhaven Rail, LLC., 205 Sills Road, Yaphank, NY 11980** has been reviewed for compliance with Article 12 of the Suffolk County Sanitary Code. The application has been approved.

Enclosed you will find the Permit to Construct. This permit has to be posted at the construction site during the construction.

Please contact the local building department and any fire safety enforcement office for additional requirements that may apply to your project.

If you have any questions regarding the review process or need assistance, feel free to contact this office at (631) 854-2512 or email me at [xiaoyu.chen@suffolkcountyny.gov](mailto:xiaoyu.chen@suffolkcountyny.gov).

Very truly yours,

  
\_\_\_\_\_  
**Xiaoyu Chen, P.E.**  
Assistant Public Health Engineer  
Bureau of Environmental Engineering  
Division of Environmental Quality

CC: Jim Newell, Brookhaven Rail, LLC



DIVISION OF ENVIRONMENTAL QUALITY  
♦ OFFICE OF POLLUTION CONTROL ♦ 15 HORSEBLOCK PLACE ♦ FARMINGVILLE, NY 11738 ♦  
Phone (631) 854-2501 Fax (631) 854-2505

**THIS PERMIT IS VALID FOR THE FOLLOWING  
STORAGE FACILITIES ONLY**

<b>SCDHS #</b>	<b>LOCATION</b>	<b>VOLUME</b>	<b>CONTENTS</b>	<b>NOTE</b>
1	Above / Out	500 Gals.	Diesel	
2	Above / In	220 Gals.	Drum Storage	

For up to 90 days after the Permit to Construct expires, the permit is renewable. The job file will remain open for that period. If the Office of Pollution Control does not receive a renewal application with the appropriate fees within the 90 days, the file will be closed and a new application for a Permit to Construct will have to be filed if the job is to be re-opened. All applicable filing fees will once again become due and payable.

**Issuance of this permit does not supersede any existing agreements with, or mandates by, the Office of Pollution Control or any other government agency. The construction period does not supersede any existing compliance dates agreed to, or mandated by, the Office of Pollution Control or any other government agency. Issuance of this permit does not authorize the use of the storage facility(s) that are in violation of the Suffolk County Sanitary Code or any other government code.**

**Special Conditions:**

# PERMIT TO CONSTRUCT

## Toxic and/or Hazardous Material Storage Facility

Suffolk County Department of Health Services  
JAMES L. TOMAKEN, MD, MPH, MBA, MSW  
Commissioner

SCHDS REFERENCE # 20258  
SCHDS REGISTRATION # 2-2335  
SCHDS PLAN # HM14-213

Date of Issuance: December 30, 2014  
Permit Expiration Date: December 30, 2015

### FACILITY NAME & ADDRESS:

Brookhaven Rail, LLC.  
205 Sills Road  
Yaphank, NY 11980

Your Application for Permit to Construct a Toxic or Hazardous Material Storage Facilities for the above referenced site has been reviewed for compliance with Articles 7 & 12 of the Suffolk County Sanitary Code. The application has been approved. The items listed below and on the back of this Permit are conditions of this Permit and have to be observed during construction:

1. A copy of the approved plan must be kept at the construction site. A copy of this permit must be kept on display at the facility during construction.
2. Safe construction practices must be followed during the installation of the storage facility(s).
3. The storage facility(s) must be constructed in accordance with the approved plan. Any changes in design, materials or use requires prior written consent of both the design professional and the Office of Pollution Control. The changes have to be submitted in a form that is acceptable to the Office of Pollution Control. The contractor and/or design professional is required to inform the owner that the changes are being made.
4. The Office of Pollution Control has the right to inspect this installation at any time to verify its being constructed in compliance with this permit.

The Office of Pollution Control must be contacted at 854-2523 at least 2 business days prior to commencement of any work to arrange for the required construction inspections.

Contact the local building department and/or fire safety enforcement office for any additional requirements that may apply to your project.

The storage facility cannot be placed into service until the Office of Pollution Control performs all required installation inspections and issues an interim permit to operate.

The Office of Pollution Control reserves the right to revoke this permit as allowable by law.

ISSUED BY:

  
**Xiabyu Chen, P.E.**  
Assistant Public Health Engineer  
Bureau of Environmental Engineering  
Division of Environmental Quality

**BRT**

**Brookhaven Rail Terminal  
Long Island**

9/11/2015

Suffolk County Department of Health Services  
Division of Environmental Quality  
15 Horseblock Place  
Farmingville, New York 11738-1274

Re: Registration No. 2-2335 Brookhaven Rail LLC

Please find enclosed our check in the amount of \$181.00 as required for the Permit to Operate covering SCHDS Registration No. 2-2335, as described on "Attachment A" annexed hereto, for the storage of diesel fuel, lubricants and hydraulic fluid used in connection with our transload operations at the facility.



Andrew Kaufman

ATTACHMENT A

OPERATING PERMIT INVOICE

Registration No. 2-2335 BROOKHAVEN RAIL LLC

205 SILLS RD YAPHANK

\*\*\*\*\*

08/25/2015

Tank Number	Volume	Contents
1	550	DIESEL
2	220	DRUM STORAGE
	-----	
	770	Total gallons.

AMOUNT DUE is \$181.00 for 60 months.  
Permit begins 11/1/2015 and expires on 10/31/2020

\*\*\*\*\*

Please include registration number and Tax id no. on your check

1173

BROOKHAVEN TERMINAL OPERATIONS LLC

DATE 9.11.15

50-1442-214

PAY TO THE ORDER OF Suffolk County Department of Health Services \$ 181.00

one hundred eighty one dollars and no/cents — DOLLARS



FOR 37-1651865

⑈001173⑈ ⑆021414426⑆ 9010002669⑈