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BEFORE THE
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 35141

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

**BROOKHAVEN RAIL, LLC AND BROOKHAVEN RAIL TERMINAL'S RESPONSES
TO BOARD QUESTIONS OF OCTOBER 28, 2014**

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Terminal
and Brookhaven Rail, LLC***

Dated: December 9, 2014

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SURFACE TRANSPORTATION BOARD

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On September 29, 2014, Brookhaven Rail, LLC and Brookhaven Rail Terminal (collectively “BRT”) filed with the Surface Transportation Board (“Board”) their *Response to Board Directive to File Proof of Compliance with Specified Environmental Conditions* (“Response”).¹ The Response addressed BRT’s compliance with three conditions imposed by the Board in *U S Rail Corporation—Construction and Operation Exemption—Brookhaven Rail Terminal*, STB Finance Docket 35141 (STB served Sept. 9, 2010) (“2010 Decision”), and provided engineered construction plans, Erosion and Sedimentation Control (“ESC”) plans for the relevant parcels of land, and BRT’s Spill Prevention, Control, and Countermeasures (“SPCC”) Plan. After reviewing the Response, Board staff posed ten (10) questions to BRT counsel related to BRT’s Response on October 28, 2014. This filing responds to those questions.

FACTUAL BACKGROUND

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

¹ The Board directed the filing of the Response in *U S Rail Corporation—Construction and Operation Exemption—Brookhaven Rail Terminal*, STB Finance Docket No. 35141 (STB served Aug. 28, 2014) at 4 (“2014 Decision”).

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 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.

In response to EC No. 1, BRT reported that the professional engineering firm Sidney B. Bowne & Son, LLC (“Bowne”) had developed and engineered construction plans and ESC Plans for Parcel A, which had been implemented during construction. Response at 4-5. BRT further reported that (1) Bowne had determined that a formal Storm Water Pollution Prevention Plan (“SWPPP”) was not needed, *id.* at 5; (2) the Town of Brookhaven (“Town”), by letter dated March 16, 2012, Exhibit 1 hereto, had concurred with that determination; and (3) the Town subsequently notified the New York State’s Department of Environmental Conservation (“NYSDEC”) of its concurrence by emailing a copy of its March 16, 2012 letter to Ms. Sara Dorman of NYSDEC. *Id.* at 6.² BRT further indicated that there had never been any suggestion (much less any determination) that the Parcel A construction project was non-compliant with its ESC Plan, nor had the Town issued citations or stop-work orders to that effect. *Id.* at 7.

² Ms. Dorman is the Environmental Program Specialist for NYSDEC. Response at 6.

In response to EC No. 2, BRT reported that the professional environmental consultant P.W. Grosser (“Grosser”) had developed BRT’s SPCC Plan, conducted training related to the Plan, and prepared SPCC Plan revisions as necessary. *Id.* at 8. BRT further reported that its SPCC Plan is compliant with U.S. Environmental Protection Agency (“EPA”) Regulations at 40 C.F.R. § 112.7, and that BRT was engaged in discussions with Suffolk County officials to address compliance with Article 12 of the Suffolk County Sanitary Code. *Id.*

In response to EC No. 3, BRT reported that consultations with Astor F. Boozer, State Conservationist at the U.S. Department of Agriculture, Natural Resources Conservation Services, had been held prior to hiring a landscape architect to finalize the vegetation plan for its project. *Id.* at 9. BRT also reported that, at Mr. Boozer’s recommendation, BRT had consulted with an expert at the county level on those issues. *Id.*

On October 28, 2014, Board staff member Diana Wood forwarded to BRT’s counsel a list of questions directed at the Response, provided herewith at Exhibit 2(a). Ms. Wood’s questions referred to a set of Exhibits (“Board Exhibits”) provided with the questions, and the Board Exhibits are provided herewith at Exhibit 2(b). For ease of reference, the Board’s questions are repeated in the discussion below, followed by BRT’s responses.

Finally, on November 25, 2014, BRT filed a revised SPCC Plan (rev’d. Nov. 18, 2014) with the Board, which is provided as Exhibit 3. The cover letter accompanying the filing indicated the SPCC Plan would be further revised to reflect the outcome of continuing discussion with Suffolk County regarding the specific requirements as to Article 12, and may be revised if required by BRT’s responses to the Board’s October 28, 2014 questions.

DISCUSSION

- 1. BOARD QUESTION:** Per [Board] Exhibit 1, please provide evidence that the referenced letters were sent to Ms. Sara Dorman, and provide any response back, as this information appears to be missing from the September 29, 2014 filing. Please provide contact information for Ms. Dorman. Also, what is the SIC code at the site, as I do believe a State NPDES [National Pollutant Discharge Elimination System] and Stormwater Management Pollution Prevention Plan [SWPPP] would be required for the type of activities that are occurring at the site, given the location of the sole source aquifer (note that NPDES permit is required for SIC codes 4011 [Railroads, Line-Haul Operating] and 4013, rail transportation facilities [Railroad Switching and Terminal Establishments]). Exhibit 2(a) at 1.

BRT RESPONSE: Board Exhibit 1 (Exhibit 2(b) hereto) is an excerpt from BRT's Response which highlights that the Town "advised the NYSDEC that the Town concurred that a formal SWPPP would not be required by an email copy of the Town's letter to Ms. Sara Dorman, NYSDEC Environmental Program Specialist. Exhibit 1(c) at 2." Board Exhibit 1, at 2. Ms. Wood indicates that Board staff does not have a copy of the correspondence with Ms. Dorman. *Id.* at marginal comment. So far as BRT knows, the Town did not correspond directly with Ms. Dorman; rather, the Town copied Ms. Dorman on the letter to BRT, as indicated at Response Exhibit 1(c), at 2, which confirms that the Town provided Ms. Dorman with an email copy of its concurrence. Response Exhibit 1(c) (also provided as Exhibit 1 hereto). To the best of BRT's knowledge, there was no written response from Ms. Dorman to the Town.

Jim Newell, President of BRT, contacted Ms. Dorman on October 30, 2014 to verify that NYSDEC agreed that a formal SWPPP was not needed for the BRT site. Ms. Dorman confirmed in that phone call that a formal SWPPP was not required. She first explained that the applicable NYSDEC permit requirements address potential stormwater discharges associated with industrial activity from land transportation and/or warehousing facilities. These activities are generally identified by SIC Codes 4011, 4013, 4111-4173, 4212-4231, 4311 and 5171, which, as noted by Ms. Wood's question, would include rail transportation. Nonetheless, Ms. Dorman verified that,

because no surface waters or storm drains are in the vicinity of BRT's intermittent fueling operations, BRT is not subject to New York's State Pollutant Discharge Elimination permit program or the requirements of a SWPPP. Further, the NYSDEC spill reporting requirements would govern the clean-up and management of any incidental spills at BRT's facility.

Ms. Dorman's contact information is provided below.

Sara Dorman, Environmental Program Specialist
New York State Department of Environmental Conservation, Region 1
50 Circle Road
Stony Brook, NY 11790-3409
(631) 444-0425

- 2. BOARD QUESTION: Per [Board] Exhibit 2, please explain what is meant by the following: "the extent to which the Suffolk County Sanitary Code Article 12 permit requirements are applicable to BRT's present and future operations (principally bio-diesel and used oil transfer)." Exhibit 2(a) at 2.**

BRT RESPONSE: As previously mentioned, and as discussed in the cover letter accompanying the filing of BRT's revised SPCC Plan, BRT has been engaged in ongoing discussions with Suffolk County officials regarding which of the commodities BRT handles, if any, may be covered by Article 12 of the Suffolk County Sanitary Code. Suffolk County officials have clarified that Article 12 does not apply to the soybean oil that BRT transloads at its facility. On the other hand, BRT has been advised that Article 12 does apply to transloading of used oil. BRT and Suffolk County representatives have been working through the Article 12 permitting process for used oil, and BRT will file in the near future a permit application covering used oil. Suffolk County officials indicate the permit approval process will take approximately six to eight weeks. BRT will limit its aboveground storage capacity to fewer than 750 gallons, consistent with the requirements of Article 7 of the Suffolk County Sanitary Code, and will use storage tanks pre-approved by Suffolk County to facilitate the permitting process.

There is an apparent disagreement between the parties as to the application of Article 12's secondary containment requirements to transloading of used oil in BRT's rail operations. In short, BRT contends that, as written, Article 12's secondary containment requirements require only that BRT provide containment sufficient to contain a spill from the largest volume tanker truck engaged in transloading used oil. BRT has been told, however, that the Suffolk County Department of Health Services will likely take the position that BRT is required to provide containment for both the largest volume tanker truck engaged in transloading used oil and the rail car to which the used oil is being transloaded. Should Suffolk County ultimately not agree with BRT's interpretation of Article 12, BRT may need to apply to the Board of Review for a variance to the Article 12 requirements, which will be addressed as part of the permitting process with Suffolk County. While BRT is cautiously optimistic that this matter will be resolved between the parties, should that not occur, Brookhaven Rail, LLC may need to return to the Board for Board consideration of the matter.

- 3. BOARD QUESTION: Per EPA's comment in [Board] Exhibit 3, all above ground fuel storage tanks on site (regardless of ownership, including Watral's tanks) must have secondary containment of a capacity equal to that of the tank plus possible rainwater that might accumulate in the containment enclosure. Please include this information in the SPCC. Exhibit 2(a) at 3.**

BRT RESPONSE: BRT's current 500-gallon aboveground diesel storage tank used for an on-site generator is double-walled, providing it with required secondary containment capacity. Exhibit 3 at 11, ¶ 2.1.3. BRT is in the process of replacing the 500-gal aboveground tank with a tank that is pre-approved by Suffolk County. BRT expects to receive a Permit to Install this tank from the County in early 2015, at which time the tank will be procured and installed. BRT anticipates transitioning the 300-gallon diesel fuel aboveground tank now used to heat the soybean oil boiler system from the storage of diesel fuel to the storage of soybean oil. It is

expected that all these changes will be made during the first quarter of 2015, at which time the revised SPCC Plan will be further revised to reflect those changes and updates.

4. BOARD QUESTION: Per [Board] Exhibit 4, the SPCC should discuss the applicable BMPs (good housekeeping practices, minimizing exposure, and managing runoff) being used so as to minimize contamination to the underlying Nassau-Suffolk Sole Source Aquifer. Exhibit 2(a) at 4.

BRT RESPONSE: EC No. 2 requires that BRT’s SPCC Plan ensure protection of the Nassau-Suffolk Sole Source Aquifer from accidental spills, and that the SPCC Plan be developed in accord with Suffolk County Sanitary Code Article 12 and EPA regulations at 40 C.F.R § 112.7. The revised SPCC Plan meets those requirements (subject to further modification for changes required by Article 12 and these responses). EC No. 2 does not require implementation of a post-construction storm water management program for the BRT Parcel A site (other than as incidental to accidental spill management). To the extent Board Question 4 could be read to impose such a requirement, BRT notes its objection.

Subject to that objection, please see BRT’s response to Board Question 5.

5. BOARD QUESTION: Per the Table 2 in [Board] Exhibit 4, the SPCC should list which BMPs are being used for all onsite operations, regardless of ownership. Exhibit 2(a) at 5.

BRT RESPONSE: Subject to the objection noted above, BRT’s revised SPCC Plan correlates to EPA-recommended BMPs that prevent multiple sources of pollution. Specifically, the SPCC Plan correlates to the following BMPs:

Prevention of Pollutants from Fueling Operations

<i>EPA Best Management Practice</i>	<i>BRT SPCC Plan Provision(s)</i>
<i>Use drip plans where leaks or spills of fuel can occur, and where making and breaking hose connections.</i>	<ul style="list-style-type: none"> • In the event overfilling of used oil into a railcar occurs, a portable 102-gallon drip plan is permanently placed underneath a railcar. (3.3, p. 20) • Soybean tank truck hose is connected to the BRT transfer hose directly over a 9-gallon drip pan. (3.8.3.2, p. 25)

<i>Minimize/eliminate run-on to fueling areas with diversion dikes, berms, curbing, and surface grading.</i>	<ul style="list-style-type: none"> The 500-gallon diesel tank is provided with a metal secondary containment dike which has sufficient volume to contain 550 gallons. (4.2.2, p. 28) In the event a discharge occurs, it is to be contained with sorbents, berms, fences, trenches, sandbags, or other material. (3.1.2., p. 15)
<i>Inspect the fueling area for leaks and spills.</i>	BRT inspects accumulated storm water for any spilled product or sheen prior to draining the dikes. (4.2.3, p. 28)
<i>Ensure the fueling vehicle is equipped with a manual shutoff valve.</i>	BRT's personnel are able to continually monitor the capacity within a railcar and shut off the pump when necessary. (3.8.3.1, p. 24)
<i>Train personnel on vehicle fueling BMPs.</i>	Vehicle fueling operations are performed by Facility personnel trained in proper discharge prevention procedures. (3.8.3, p. 24)

Vehicle and Equipment Maintenance

<i>EPA Best Management Practice</i>	<i>BRT SPCC Plan Provision(s)</i>
GOOD HOUSEKEEPING	
<i>Drain all parts of fluids into the appropriate containers for waste disposal or re-use prior to disposal.</i>	Compressed air is used to remove residual soybean oil from the hoses prior to disconnection of 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 tanker truck are drained into the tanker truck. (3.8.3.2, p. 25)
<i>Do not pour liquid waste into floor drains, sinks, outdoor storm drain inlets, or other storm drains or sewer connections. Liquid wastes should be collected in a properly labeled container, and disposed of by a licensed waste hauler or other appropriate method.</i>	<ul style="list-style-type: none"> Discharged debris is placed into properly labeled waste containers. (3.1.3, p. 15) The Emergency Coordinator will ensure that, in the event of a major discharge, no waste or used 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). (3.1.4, p. 17) Used oil recovered from a spill will be stored in the tanker trucks that will be delivered by the Oil Spill Response Organization (OSRO). This waste will be transported off site by the OSRO to [one of several enumerated facilities] for disposal or recycling. (3.1.5., p. 17)
<i>Label and track the recycling of waste material (e.g., used oil, spent solvents, batteries).</i>	
<i>Maintain an organized inventory of materials.</i>	A list of spill response equipment available on site is documented in Appendix E., p. 35. This inventory is verified on a monthly basis (3.1.6., p. 18)
MINIMIZING EXPOSURE	
<i>Check vehicles closely for leaks and use pans to collect fluid when</i>	Visual inspections of railcars, trucks, and hoses are conducted prior to, during, and immediately following

<i>leaks occur.</i>	loading/unloading operations. (3.5, p. 20)
MANAGEMENT OF RUNOFF	
<i>Use berms, curbs, grassed swales or other diversion measures to ensure that stormwater runoff from other parts of the facility does not flow over the maintenance area.</i>	The Facility has a leaching pool drainage system with the closest catch basin 29 yards from the used oil transload area and another catch basin 82 yards from the soybean oil transload area. These storm drains are covered during any used oil or soybean oil transload activities. (4.1, p. 27)
INSPECTIONS AND TRAINING	
<i>Inspect the maintenance area regularly to ensure BMPs are implemented.</i>	<ul style="list-style-type: none"> • 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. 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. (4.2.6, p. 28) • Visual inspections of railcars, trucks, and hoses are conducted prior to, during, and immediately following loading/unloading operations. (3.5, p. 20)
<i>Train employees on waste control and disposal procedures.</i>	<ul style="list-style-type: none"> • Oil handling employees have received training in the proper implementation of the discharge prevention measures. Annual discharge prevention briefings are held by the Emergency Coordinator for all Facility personnel involved in oil operations. (3.6, p. 21) • Records of the briefings and discharge prevention training are kept in the form shown in Appendix C. (p. 32)

Outdoor Vehicle and Equipment Storage and Parking

<i>EPA Best Management Practice</i>	<i>BRT SPCC Plan Provision(s)</i>
<i>Use drip pans under all vehicles and equipment waiting for maintenance.</i>	In the event overfilling of used oil into a railcar occurs, a portable 102-gallon drip pan is permanently placed underneath a railcar. (3.3, p. 20)
<i>Provide diversion berms, dikes or grassed swales around the perimeter of the area to limit run-on.</i>	In the event a discharge occurs, it is to be contained with sorbents, berms, fences, trenches, sandbags, or other material. (3.1.2., p. 15)
<i>Use absorbents for dry cleanup for spills and leaks.</i>	

<p><i>Inspect the storage yard for filling drip pans regularly to ensure BMPs are implemented.</i></p>	<p>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 pipings for leaks, damage or deterioration, or any accumulation of oil inside the secondary containment. Inspection records are maintained in Appendix G. (4.2, p. 27)</p>
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Liquid Storage in Above Ground Storage Tanks

<i>EPA Best Management Practice</i>	<i>BRT SPCC Plan Provision(s)</i>
<p><i>Develop and implement spill plans.</i></p>	<p>Part 3 of the SPCC Plan addresses the responses to both a major and a minor discharge. (pp. 13-26)</p>
<p><i>Train employees in spill prevention and control.</i></p>	<ul style="list-style-type: none"> • Oil handling employees have received training in the proper implementation of the discharge prevention measures. Annual discharge prevention briefings are held by the Emergency Coordinator for all Facility personnel involved in oil operations. (3.6, p. 21) • Records of the briefings and discharge prevention training are kept in the form shown in Appendix C (p. 32)
<p><i>Provide secondary containment, such as dikes, with a height sufficient to contain a spill (the greater of 10 percent of the total enclosed tank volume or 110 percent of the volume contained in the largest tank).</i></p> <p><i>Used double-walled tanks with overflow protection.</i></p>	<ul style="list-style-type: none"> • One double-walled 500-gallon diesel aboveground storage tank (AST) is equipped with a secondary containment dike with a capacity of 110 percent containment. BRT plans to procure and register with the local municipality a similarly equipped tank to fuel BRT onsite vehicles. • During the first quarter of 2015, BRT anticipates transitioning the 300-gallon diesel fuel aboveground tank (currently located inside a trailer) used to heat the soybean oil boiler system from the storage of diesel fuel to the storage of soybean oil. <p>(4.2, p. 27)</p>
<p><i>If containment structures have drains, ensure that the drains have valves, and that valves are maintained in the closed position. Institute protocols for checking/testing stormwater in containment areas prior to discharge.</i></p>	<p>BRT inspects accumulated storm water for any spilled product or sheen prior to draining the dikes. (4.2.3, p. 28)</p>

<p><i>Store drums, including empty or used drums, in secondary containment with a roof or cover (including temporary cover such as a tarp that prevents contact with precipitation.</i></p> <p><i>Provide secondary containment, such as dikes or portable containers, with a height sufficient to contain a spill (the greater of 10 percent of the total enclosed tank volume or 110 percent of the volume contained in the largest tank).</i></p>	<p>BRT stores transmission fluid, hydraulic fluid, motor oil and used maintenance oils in 55-gallon containers, which are stored on containment pallets within a trailer located west of the rail line. (2.1.3, p. 11)</p>
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6. BOARD QUESTION: Per [Board] Exhibit 4, the SPCC should include the RR’s standard operating procedures that are to be used at the fuel transfer area. Exhibit 2(a) at 6.

BRT RESPONSE: The revised SPCC identifies BRT’s standard operating procedures that apply to fuel transloading operations to prevent a discharge, *see* Exhibit 3 at 13-26, and those cover the fuel transfer area. Those include procedures addressing (1) adherence to transloading procedures for both used oil and soybean oil transloading operations; (2) tanker truck unloading procedures for the aboveground storage tanks; (3) personnel training procedures; (4) maintenance of containment and diversionary structures; and (5) spill reporting, including discharge notification, discharge response, disposal of waste, and cleanup. *Id.*

7. BOARD QUESTION: Per [Board] Exhibit 4, the SPCC should clearly identify all operations, including those of other contractors, and storage areas on site. Also, the fuel transfer area should clearly demarcate where the trucks and rail cars are to be located during the transfer of materials. Exhibit 2(a) at 7.

BRT RESPONSE: The revised SPCC identifies the following operations and storage areas on site, including the fuel transfer area:

- Shipping, warehousing, and logistic services for rail-based freight.

- Used oil transloading operations. Trucks with a maximum capacity of 6,800 gallons of used oil transfer contents to an awaiting railcar with a maximum capacity of 26,000 gallons.
- Soybean oil transloading operations. Trucks with a maximum capacity of 12,000 gallons receive soybean oil (B100) from railcars with a maximum capacity of 26,000 gallons.
- Oil storage. Non-transportation related storage involves the railcars at full capacity present on site while they await departure from the facility. BRT also has one 55-gal waste drum for the disposal of oily rags and used oil generated during on-site maintenance activities. Clean Harbors collects and disposes of this waste drum on a regular basis.

Exhibit 3 at 10-11.

The used oil and soybean transfer areas demarcate the location of trucks and rail cars during the transfer of materials. Exhibit 4 (color, and black and white versions). (These maps are an updated version of the map at Exhibit 3, Appendix A, Map 2. A revised version of Map 2 will also be provided in the next revision of the SPCC Plan.)

8. BOARD QUESTION: Explain what commodities are currently being handled at the site and those expected to be handled in the future. Exhibit 2(a) at 8.

BRT RESPONSE: The commodities BRT currently handles at the site include soybean oil, used oil, flour, construction goods and building products (including lumber, shingles, and piling poles), soil, and crushed stone aggregate. As to commodities to be handled in the future, BRT expects to be able to accommodate all commodities required by shippers and consignors, as permitted by and consistent with law and Board regulation.

9. BOARD QUESTION: Explain how the site is in compliance with NYSDEC regulations with regard to the possible discharge or release of hazardous substances into the sole source aquifer. Exhibit 2(a) at 9.

BRT RESPONSE: Compliance with Article 12 of the Suffolk County Sanitary Code and adherence to BRT's SPCC Plan will place the facility in compliance with the NYSDEC regulations with regard to preventing the discharge or release of hazardous substances into the aquifer. The NYSDEC regulations provide for spill reporting, response, and corrective action at NYSDEC §§ 595-596. BRT's SPCC Plan addresses the requirements of those regulations.

10. BOARD QUESTION: Per [Board] Exhibit 6, please provide the referenced correspondence. Exhibit 2(a) at 10.

BRT RESPONSE: Board Exhibit 6 references a letter from Gerald T. Drumm (then counsel for Sill Road Realty, LLC) to Astor F. Boozer, State Conservationist at the U.S. Department of Agriculture, Natural Resources Conservation Services. As discussed in BRT's Response, Mr. Drumm's letter confirmed his call to Mr. Boozer on September 13, 2010 regarding E.C. No. 3. Response at 9. In his letter, Mr. Drumm indicated BRT's intention to engage a landscape architect "to finalize the vegetation plan for the project and will advise our architect to consult with you or your staff, as you direct, about the appropriate vegetation selections and ongoing practices which will meet the goals of successful establishment, survival, and functionality of new plantings contemplated by the TB and your agency's comments to the STB." That letter was enclosed as Exhibit 5 to BRT's Response, and is enclosed herein for convenience as Exhibit 5.

Respectfully submitted,

*Brookhaven Rail Terminal and Brookhaven
Rail, LLC*

By: 

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

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

Dated: December 9, 2014

CERTIFICATE OF SERVICE

I hereby certify that on December 9, 2014, I caused to be served the foregoing *Brookhaven Rail, LLC and Brookhaven Rail Terminal's Responses to Board Questions of October 28, 2014*, by first-class mail, postage prepaid, upon the following Parties of Record in this proceeding:

TO: Judah Serfaty, Esq.
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Garden City, NY 11530

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U.S. Fish and Wildlife Service
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Jamaica, NY 11435-4380
ATTN: Helena E. Williams

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



David T. Ralston, Jr.

**BROOKHAVEN RAIL, LLC AND BROOKHAVEN RAIL TERMINAL'S RESPONSES
TO BOARD QUESTIONS OF OCTOBER 28, 2014**

EXHIBITS

- | | |
|--------------|--------------------------------------------------------------------------------------|
| Exhibit 1 | Town of Brookhaven Letter of March 16, 2012 |
| Exhibit 2(a) | Board Questions to BRT dated October 28, 2014 |
| Exhibit 2(b) | Board Exhibits Corresponding to Board Questions to BRT |
| Exhibit 3 | BRT Spill Prevention Control and Countermeasures Plan
(Revised November 18, 2014) |
| Exhibit 4 | BRT Site Plan of November 18, 2014 (Color and Black & White Copies) |
| Exhibit 5 | Gerald T. Drumm's Letter of September 15, 2010 |

EXHIBIT 1



Town of Brookhaven Long Island

Mark Lesko, Supervisor
March 16, 2012

Paul Stevens, P.E.
Sidney B. Bowne & Son, LLP
235 East Jericho Turnpike
Mineola, NY 11501

MAR 20 2012

RE: Brookhaven Rail Terminal
Sills Road Realty
SWPPP Conditional release
Surface Transportation Board Docket No. FD 35141
SCTM# 0200 66300 0300 001000

Dear Mr. Stevens:

We are in receipt of your letter dated September 15, 2011 that indicates your position on the above site's status concerning the coverage under the NYSDEC General Storm water Permit. After reviewing the information provided in your letter, it appears that runoff from site development has no potential for discharge into waters of the US or to a MS4 system that discharges to waters of the US.

This project's construction and post construction activities will not result in discharge to waters of the US. The attached aerial photos, marked up site plan and relief maps made from 2007 LIDAR digital terrain modeling demonstrates this claim.

The proposed site plan provides for a combination of gravel roadways, aggregate storage areas, paved parking, access roadway and natural re-vegetated low points with generally a two-inch storage in leaching pools and an additional three inch storage in on-site ponding plus infiltration into well-drained sandy soils. A significant portion of the site is below the road elevation or collects in ponding areas so most on-site runoff will remain on-site. The site is being graded to be lower in elevation to the existing rail line to the south. This creates a new low point in the area and all access roads will be higher in elevation than the site. The exception to this is along the northern end of the property where the site meets the existing South Service Road of the Long Island Expressway, Route 495. A possible overflow from the site is the emergency access driveway on the South Service Road. The existing Service Road drainage system is comprised of a collection system that discharges into an area recharge basin south of the Long Island Expressway service road, just east of the emergency access driveway. Overflow from the site would travel over the roadway, enter the drainage catch basins and the collection system for the

Department of Planning, Environment and Land Management

Brenda Prusinowski, AICP, Deputy Commissioner

Division of Engineering

Gregg G. Kelsey, P.E., Assistant Town Engineer

One Independence Hill • Farmingville • NY 11738 • Phone (631) 451-6298 • Fax (631) 451-6419

www.brookhaven.org

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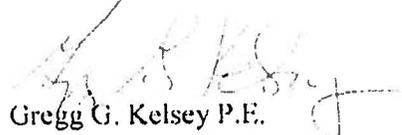
State recharge basin. The State recharge basin would overflow locally as ponding areas in the road way and the surrounding area low points further to the East.

The site access will be a connection to the existing roadway to the west, Sills Road, CR 101, which is generally higher in elevation than the site and is served by a positive collection system connected to the existing State recharge basin. Construction runoff and post construction overflow from this site would proceed to this off-site collection system, recharge basins and local low point until recharged into the ground.

We hope this clarifies our belief on this issue. If you need additional information, please contact us. If the NYSDEC requires additional information to substantiate these claims, we will request you provide them this information in a timely manner and provide us with a copy of their response. If any conditions on site change in a matter that could potentially lead to a discharge of stormwater to surface waters, it is the sole responsibility of the owner to gain the appropriate coverage under GP-0-10-001.

Please contact me should you have any questions.

Sincerely,



Gregg G. Kelsey P.E.
Assistant Town Engineer

GGK:gk

Encl:

cc: Sara Dorman, NYSDEC – via e-mail only
 Germaine Ortiz, Assistant Civil Engineer – via e-mail only
 Anthony Graves, Acting Storm Water Manager – via e-mail only
 James Esposito, Principal Engineering Inspector – via e-mail only
 David Barnes, Red Team Leader – via e-mail only
 Isabel Morris – via e-mail only
 Andy Kaufman – via e-mail only

EXHIBIT 2(a)

FD 35141 - Brookhaven Rail Terminal
OEA's Review Comments to Board Directive for
Proof of Compliance with Specified Environmental Conditions
October 28, 2014

Board Imposed Environmental Conditions:

1. U.S. Rail shall employ best management practices before and during construction to minimize erosion, sedimentation, and instability of soils.
2. U.S. Rail shall develop and implement a spill prevention, control, and countermeasures plan (SPCC) to ensure protection of the Nassau-Suffolk Sole Source Aquifer in the event of an accidental spill. The SPCC shall be developed in accordance with Article 12 of the Suffolk County Sanitary Code and EPA regulations at 40 C.F.R. § 112.7.
3. U.S. Rail shall consult with the USDA Natural Resources Conservation Service at the Syracuse, New York office prior to initiating rail line construction activities at the Brookhaven Rail Terminal site.

OEA's Comments *(Please refer to the attached documents with corresponding Exhibit numbers when reading the comments below):*

1. Per Exhibit 1, please provide evidence that the referenced letters were sent to Ms. Sara Dorman, and provide any response back, as this information appears to be missing from the September 29, 2014 filing. Please provide contact information for Ms. Dorman. Also, what is the SIC code at the site, as I do believe a State NPDES and Stormwater Management Pollution Prevention Plan would be required for the type of activities that are occurring at the site, given the location of the sole source aquifer (note that NPDES permit is required for SIC codes 4011 and 4013, rail transportation facilities).
2. Per Exhibit 2, please explain what is meant by the following: "the extent to which the Suffolk County Sanitary Code Article 12 permit requirements are applicable to BRT's present and future operations (principally bio-diesel and used oil transfer)."
3. Per EPA's comment in Exhibit 3, all above ground fuel storage tanks on site (regardless of ownership, including Watral's tanks) must have secondary containment of a capacity equal to that of the tank plus possible rainwater that might accumulate in the containment enclosure. Please include this information in the SPCC.
4. Per Exhibit 4, the SPCC should discuss the applicable BMPs (good housekeeping practices, minimizing exposure, and managing runoff) being used so as to minimize contamination to the underlying Nassau-Suffolk Sole Source Aquifer.
5. Per the Table 2 in Exhibit 4, the SPCC should list which BMPs are being used for all onsite operations, regardless of ownership.
6. Per Exhibit 4, the SPCC should include the RR's standard operating procedures that are to be used at the fuel transfer area.
7. Per Exhibit 4, the SPCC should clearly identify all operations, including those of other contractors, and storage areas on site. Also, the fuel transfer area should clearly demarcate where the trucks and rail cars are to be located during the transfer of materials.
8. Explain what commodities are currently being handled at the site and those expected to be handled in the future.
9. Explain how the site is in compliance with NYSDEC regulations with regard to the possible discharge or release of hazardous substances into the sole source aquifer.
10. Per Exhibit 6, please provide the referenced correspondence.

####

EXHIBIT 2(b)

Exhibit #1

P. 1

dated August 2007, versions of which were used by the parties as documents in the stipulation and related matters. Bowne is a professional engineering firm that prepares engineering plans for site development, storm water management, environmental engineering, municipal planning, structural engineering, traffic engineering, construction management, and the like. Declaration of Larry Kuo, Exhibit 1. As noted above, Respondents' engagement of Bowne for engineering and inspections was specifically approved in the Stipulation, *supra* 4.

On September 22, 2010, shortly after the Board's 2010 decision was issued, Bowne revised the Parcel A engineering plans to add the Erosion and Sedimentation Control Plan ("Parcel A ESC Plan" or "Plan") for Parcel A, Construction Phases 1, 2 and 3. Exhibits 1 and 1(a).³ The Parcel A ESC Plan, Exhibit 1(a), during construction activities, constitutes a best management practice consistent with the Board's 2010 Decision and the Draft EA glossary definition. Exhibit 1.

Bowne also considered, shortly after the Board's 2010 Decision, whether a formal Storm Water Pollution Prevention Plan ("SWPPP") would be needed in addition to the Parcel A ESC Plan.⁴ Having concluded it was not needed, Bowne, on BRT's behalf, sought approval of the

³ Exhibit 1(a) provides a reference copy of the Parcel A ESC Plan. Respondents have separately filed with Board an engineering drawing with the Plan and a CD-Rom with the Plan to facilitate ease of reading the Plan.

⁴ New York State Department of Environmental Conservation ("NYSDEC") administers New York's State Pollutant Discharge Elimination System ("SPDES"), an approved state program under the National Pollutant Discharge Elimination System ("NPDES"), a federal program under Section 402 of the Clean Water Act. Construction activities that result in storm water discharges to state or federal waters require a permit from NYSDEC. Under the SPDES, NYSDEC provides a general permit, *SPDES General Permit For Stormwater Discharges From Construction Activity*, Permit No. GP-0-10-001 (effective Jan. 29, 2010), under which owners or operators of construction activities can elect coverage, provided they comply with the requirements of the permit. See, http://www.dec.ny.gov/docs/water_pdf/gpsconspmt10.pdf. A SWPPP is one of the requirements of General Stormwater Permit No. GP-0-10-001.

Exhibit #1

p. 2

Town to proceed with the Parcel A project under a waiver of the formal SWPPP requirement. Exhibit 1 and 1(b). In Bowne's letter seeking the formal SWPPP-waiver, Bowne described the erosion control and run-off steps that, even in the absence of a formal SWPPP, would be taken under the Parcel A ESC Plan during construction:

During all phases of construction, runoff would be stored on-site and if it exceeds the capacity as indicated in each phase, the additional runoff would be discharged to the roadway catch basins/drywells and infiltrate into the ground. Erosion control measures as shown on the Erosion Control Plan, such as silt fence, stabilization construction entrance and straw bales will be implemented. There is no potential discharge to surface waters.

Exhibit 1(b) at 2.⁵ The Town concurred that a formal SWPPP would not be needed, and so advised Bowne by letter dated March 16, 2012, Exhibit 1(c). *we have this*

The Town also advised the NYSDEC that the Town concurred that a formal SWPPP would not be required by an email copy of the Town's letter to Ms. Sara Dorman, NYSDEC Environmental Program Specialist, Exhibit 1(c) at 2. Since the March 2012 Town letter, NYSDEC has not requested additional information from Respondents concerning Parcel A storm water management, and therefore Respondents have not sought coverage under NYSDEC General Stormwater Permit No. GP-0-10-001. Declaration of Thomas Miller, Exhibit 2. Accordingly, the Parcel A ESC Plan is the governing erosion and sedimentation control and soil stability best management practice document with respect to EC No. 1.

We don't have this correspondence to Sara Dorman

BRT implemented the Parcel A ESC Plan requirements during the three construction phases on Parcel A. Exhibit 2 and Exhibit 2(a). Commencing on November 17, 2010, Bowne conducted twice monthly inspections of BRT's implementation of the overall Parcel A

⁵ The Bowne letter discusses construction Phases 1, 2 and 3, which refer to the phasing plan outlined in Attachment E to the Stipulation.

⁶ The reference in Exhibit 1(c) to a letter of September 15, 2011 is an error. It should refer to the letter of November 15, 2010, Exhibit 1(b).

Exhibit #2
p. 1

Colabella, Professional Engineer, dated August 22, 2013, Declaration of Theresa M. Colabella, Exhibit 3 and Exhibit 3(a)(signature pages at end of Exhibit 3(a)). Grosser is an environmental engineering, consulting and compliance firm headquartered in Bohemia, New York, holding the requisite New York licenses, that has served a wide variety of federal, state, municipal and private clients for more than 20 years. Exhibit 3. Grosser is an approved contractor on the U.S. General Services Administration Multiple Award Schedule for environmental consulting and remediation services. *Id.*

Jim Newell, Brookhaven Rail's President and authorized signatory for BRT, approved the SPCC Plan and stated management was committed to implementing the SPCC measures, SPCC Plan, Exhibit 3(a), at 8 (signature page at end of Exhibit 3(a)); Declaration of Jim Newell, Exhibit 4. BRT's SPCC Plan complies with U.S. Environmental Protection Agency ("EPA") regulation 40 C.F.R. § 112.7-General requirements for Spill Prevention, Control, and Countermeasures Plans, EPA regulation 40 C.F.R. § 112.8-Spill prevention, Control, and Countermeasure Plan requirements for onshore facilities (excluding production facilities), and NYSDEC regulation 6 NYCRR 374-2.6 – Standards for Used Oil Processors and Refiners. Exhibit 3. Additionally, Respondents and P.W. Grosser are discussing with Suffolk County staff the extent to which the Suffolk County Sanitary Code Article 12 permit requirements are applicable to BRT's present and future operations (principally bio-diesel and used oil transfers). *please explain*

Exhibit 4. Respondents will file a notice with the Board once that determination is made.

Brookhaven Rail and BRT have implemented the requirements of the SPCC Plan, including the SPCC training required by its SPCC Plan, with the next annual training to be conducted by P.W. Grosser scheduled for September 29, 2014. Exhibit 4. On September 29, P.W. Grosser will also be surveying Respondents' current operations and site conditions, and

E
1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
210 BROADWAY
NEW YORK, NY 10007-1666

FJ- 18243
Exhibit #3
P. 1

AUG 10 2010

Mr. Troy Brady
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

RE: Docket No. FD 35141

Dear Mr. Brady:

The Environmental Protection Agency (EPA) has reviewed the Surface Transportation Board's (STB) Environmental Assessment dated July 26, 2010, for the construction and operation of 18,000 feet (3.4 miles) of a new rail line at a site to be called the Brookhaven Rail Terminal (BRT), located in the Town of Brookhaven, Suffolk County, NY. The applicant, U.S. Rail Corporation, proposes to construct and operate both the new rail line and certain facilities on the 28-acre BRT site. The facilities include a rail switch connecting to the Long Island Rail Road (LIRR), 134 feet of track within the turnout, 200 feet of lead track on LIRR property, 100 feet of lead track on BRT property, and crushed stone aggregate handling and storage facilities consisting of an aggregate storage area, a freight storage area and a transload area with truck scales. The purpose of the facility is to provide a terminal to receive rock and aggregate via rail and transload the material to trucks.

EPA concurs with the STB's Finding of no Significant Impacts for the BRT. However, we offer the following comments:

- While EPA understands that the STB's authority through the Interstate Commerce Act is only to license the new rail line, a General Conformity Applicability Analysis must be completed (40 CFR 93.153) as Suffolk County is in non-attainment for the PM_{2.5} and ozone National Ambient Air Quality Standards. All emissions related to the construction of the new rail line must be included, such as soil excavation, preparation of track beds and tracklaying.

In order to safeguard the Nassau-Suffolk Aquifer, any fuel storage in an above-ground, on-site tank should have secondary containment of a capacity equal to that of the tank plus possible rainwater that might accumulate in the containment enclosure.

Internet Address (URL) = <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 60% Postconsumer content)

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector P: Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

Exhibit #4
p. 1

What BMPs can be used to minimize contact between stormwater and potential pollutants at my facility?

A variety of BMP options may be applicable to eliminate or minimize the presence of pollutants in stormwater discharges from land transportation and warehousing activities. You will likely need to implement a combination or suite of BMPs to address stormwater runoff at your facility. Your first consideration should be for pollution prevention BMPs, which are designed to prevent or minimize pollutants from entering stormwater runoff and/or reduce the volume of stormwater requiring management. Prevention BMPs can include regular cleanup, collection and containment of debris in storage areas, and other housekeeping practices, spill control, and employee training. It may also be necessary to implement treatment BMPs, which are engineered structures intended to treat stormwater runoff and/or mitigate the effects of increased stormwater runoff peak rate, volume, and velocity. Treatment BMPs are generally more expensive to install and maintain and include oil-water separators, wet ponds, and proprietary filter devices.

BMPs must be selected and implemented to address the following

Good Housekeeping Practices

Good housekeeping is a practical, cost-effective way to maintain a clean and orderly facility to prevent potential pollution sources from coming into contact with stormwater. It includes establishing protocols to reduce the possibility of mishandling materials or equipment and training employees in good housekeeping techniques. Common areas where good housekeeping practices should be followed include trash containers and adjacent areas, material storage areas, vehicle and equipment maintenance areas, and loading docks. Good housekeeping practices must include a schedule for regular pickup and disposal of garbage and waste materials and routine inspections of drums, tanks, and containers for leaks and structural conditions. Practices also include containing and covering garbage, waste materials, and debris. Involving employees in routine monitoring of housekeeping practices has proven to be an effective means of ensuring the continued implementation of these measures.

Minimizing Exposure

Where feasible, minimizing exposure of potential pollutant sources to precipitation is an important control option. Minimizing exposure prevents pollutants, including debris, from coming into contact with precipitation and can reduce the need for BMPs to treat contaminated stormwater runoff. It can also prevent debris from being picked up by stormwater and carried into drains and surface waters. Examples of BMPs for exposure minimization include covering materials or activities with temporary structures (e.g., tarps) when wet weather is expected or moving materials or activities to existing or new permanent structures (e.g., buildings, silos, sheds). Even the simple practice of keeping a dumpster lid closed can be a very effective pollution prevention measure.

Erosion and Sediment Control

BMPs must be selected and implemented to limit erosion on areas of your site that, due to topography, activities, soils, cover, materials, or other factors are likely to experience erosion. Erosion control BMPs such as seeding, mulching, and sodding prevent soil from becoming dislodged and should be considered first. Sediment control BMPs such as silt fences, sediment ponds, and stabilized entrances trap sediment after it has eroded. Sediment control BMPs should be used to back-up erosion control BMPs.

Management of Runoff

Your SWPPP must contain a narrative evaluation of the appropriateness of stormwater management practices that divert, infiltrate, reuse, or otherwise manage stormwater runoff so as to reduce the discharge of pollutants. Appropriate measures are highly site-specific, but may include, among others,

INDUSTRIAL & WASTEWATER FACT SHEET SERIES

P. 2

Sector P: Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

vegetative swales, collection and reuse of stormwater, inlet controls, snow management, infiltration devices, and wet retention measures.

A combination of preventive and treatment BMPs will yield the most effective stormwater management for minimizing the offsite discharge of pollutants via stormwater runoff. Though not specifically outlined in this fact sheet, BMPs must also address preventive maintenance records or logbooks, regular facility inspections, spill prevention and response, and employee training.

All BMPs require regular maintenance to function as intended. Some management measures have simple maintenance requirements, others are quite involved. You must regularly inspect all BMPs to ensure they are operating properly, including during runoff events. As soon as a problem is found, action to resolve it should be initiated immediately.

Implement BMPs, such as those listed below in Table 2 and 2A for the control of pollutants at land transportation and warehousing facilities, to minimize and prevent the discharge of pollutants in stormwater. Identifying weaknesses in current facility practices will aid the permittee in determining appropriate BMPs that will achieve a reduction in pollutant loadings. BMPs listed in Table 2 and 2A are broadly applicable to land transportation and warehousing facilities; however, this is not a complete list and you are recommended to consult with regulatory agencies or a stormwater engineer/consultant to identify appropriate BMPs for your facility.

Table 2. BMPs for Potential Pollutant Sources at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

Pollutant Source	BMPs
Fueling	<p>Stationary fueling areas</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conduct fueling operations (including the transfer of fuel from tank trucks) on an impervious or contained pad or under a roof or canopy where possible. Covering should cover extend beyond spill containment pad to prevent rain from entering. <input type="checkbox"/> When fueling in uncovered area, use concrete pad (not asphalt, which is not chemically resistant to the fuels being handled). <input type="checkbox"/> Use drip pans where leaks or spills of fuel can occur, and where making and breaking hose connections. <input type="checkbox"/> Use fueling hoses with check valves to prevent hose drainage after filling <input type="checkbox"/> Keep spill cleanup materials readily available. Clean up spills and leaks immediately. <input type="checkbox"/> Minimize/eliminate run-on to fueling areas with diversion dikes, berms, curbing, surface grading or other equivalent measures. <input type="checkbox"/> Collect stormwater runoff and provide treatment or recycling. <input type="checkbox"/> Use dry cleanup methods for fuel area rather than hosing down the fuel area. Perform preventive maintenance on storage tanks to detect potential leaks before they occur <input type="checkbox"/> Inspect the fueling area for leaks and spills. <input type="checkbox"/> Provide curbing or posts around fuel pumps to prevent collisions during vehicle ingress and egress. <input type="checkbox"/> Discourage "topping off" of fuel tanks <p>Mobile fueling area</p> <ul style="list-style-type: none"> <input type="checkbox"/> Use drip pan under the transfer hose. <input type="checkbox"/> Use fueling hoses with check valves to prevent hose drainage after filling

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector P: Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

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Table 2. BMPs for Potential Pollutant Sources at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Rail Transportation Facilities, and United States Postal Service Transportation Facilities (continued)

Pollutant Source	BMPs
Fueling (continued)	Mobile fueling areas (continued) <ul style="list-style-type: none"> <input type="checkbox"/> Ensure the fueling vehicle is equipped with a manual shutoff valve <input type="checkbox"/> Discourage "topping off" of fuel tanks. <input type="checkbox"/> Train personnel on vehicle fueling BMPs
Vehicle and equipment maintenance	Good Housekeeping <ul style="list-style-type: none"> <input type="checkbox"/> Eliminate floor drains that are connected to the storm or sanitary sewer. If necessary, install a sump that is pumped regularly. Collected wastes should be properly treated or disposed of by a licensed waste disposal company. <input type="checkbox"/> Do all cleaning at a centralized station so the solvents stay in one area. <input type="checkbox"/> If parts are dipped in liquid, remove them slowly to avoid spills. <input type="checkbox"/> Use drip pans, drain boards, and drying racks to direct drips back into a fluid holding tank for reuse. <input type="checkbox"/> Drain all parts of fluids into appropriate containers for waste disposal or re-use prior to disposal. Oil filters can be crushed and recycled. <input type="checkbox"/> Promptly transfer used fluids to the proper container, do not leave full drip pans or other open containers around the shop. Empty and clean drip pans and containers. Washwater should also generally be treated as a waste material and disposed of appropriately. <input type="checkbox"/> Clean up leaks, drips, and other spills without using large amounts of water. Use absorbents for dry cleanup whenever possible. <input type="checkbox"/> Prohibit the practice of hosing down an area where the practice would result in the discharge of pollutants to a storm sewer system. <input type="checkbox"/> Do not pour liquid waste into floor drains, sinks, outdoor storm drain inlets, or other storm drains or sewer connections. Liquid wastes should be collected in a properly labeled container, and disposed of by a licensed waste hauler or other appropriate method. <input type="checkbox"/> Maintain an organized inventory of materials. <input type="checkbox"/> Eliminate or reduce the number and amount of hazardous materials and waste by substituting nonhazardous or less hazardous materials. <input type="checkbox"/> Label and track the recycling of waste material (e.g., used oil, spent solvents, batteries). <input type="checkbox"/> Store batteries and other significant materials inside. <input type="checkbox"/> Dispose of greasy rags, oil filters, air filters, batteries, spent coolant, and degreasers in compliance with RCRA regulations. <input type="checkbox"/> Request and keep manifests of all waste materials hauled away from your facility. Minimizing Exposure <ul style="list-style-type: none"> <input type="checkbox"/> Perform all cleaning operations indoors or under cover when possible. Conduct the cleaning operations in an area with a concrete floor with no floor drain other than to sanitary sewers or treatment facilities. Notable discharges to sanitary sewer systems must be done in compliance with rules and policies of the POTW operator. <input type="checkbox"/> If operations are outside and exposed to stormwater, perform them on a concrete pad that is impervious and contained. <input type="checkbox"/> Park vehicles and equipment indoors or under a roof whenever possible. <input type="checkbox"/> Check vehicles closely for leaks and use pans to collect fluid when leaks occur.

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector P: Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

P. 4

Table 2. BMPs for Potential Pollutant Sources at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Rail Transportation Facilities, and United States Postal Service Transportation Facilities (continued)

Pollutant Source	BMPs
Vehicle and equipment maintenance (continued)	<p>Management of Runoff</p> <ul style="list-style-type: none"> <input type="checkbox"/> Use berms, curbs, grassed swales or other diversion measures to ensure that stormwater runoff from other parts of the facility does not flow over the maintenance area. <input type="checkbox"/> Collect the stormwater runoff from the cleaning area and provide treatment or recycling. <input type="checkbox"/> Discharge vehicle wash or rinse water to the sanitary sewer (if allowed by sewer authority), wastewater treatment, a land application site, or recycle on-site. DO NOT discharge washwater to a storm drain or to surface water. <p>Inspections and Training</p> <ul style="list-style-type: none"> <input type="checkbox"/> Inspect the maintenance area regularly to ensure BMPs are implemented. <input type="checkbox"/> Train employees on waste control and disposal procedures.
Outdoor vehicle and equipment storage and parking	<ul style="list-style-type: none"> <input type="checkbox"/> Store vehicles and equipment indoors when possible <input type="checkbox"/> Cover the storage area with a roof. <input type="checkbox"/> Provide diversion berms, dikes or grassed swales around the perimeter of the area to limit run-on. <input type="checkbox"/> Use drip pans under all vehicles and equipment waiting for maintenance. <input type="checkbox"/> Use absorbents for dry cleanup for spills and leaks. <input type="checkbox"/> Clean pavement surface to remove oil and grease without using large amounts of water. <input type="checkbox"/> Regularly sweep area to minimize debris on the ground. <input type="checkbox"/> Provide dust control if necessary. When controlling dust, sweep and/or apply water or materials that will not impact surface or ground water. <input type="checkbox"/> Inspect the storage yard for filling drip pans and regularly to ensure BMPs are implemented <input type="checkbox"/> Train employees on procedures for storage and inspection items.
Locomotive sanding areas	<ul style="list-style-type: none"> <input type="checkbox"/> Cover sand storage piles. <input type="checkbox"/> Confine storage to areas outside of drainage pathways and away from surface waters. <input type="checkbox"/> Divert stormwater around storage areas with vegetated swales, and/or berms <input type="checkbox"/> Practice good housekeeping measures such as frequent removal of dust and debris. Cleanup methods may include sweepers, scrapers, or scoops. <input type="checkbox"/> Use properly designed basins for containment and collection, <input type="checkbox"/> Use control measures such as berms, silt fences, waddles or sediment traps to control sediment from leaving storage area. <input type="checkbox"/> Inspect the area regularly to ensure BMPs are implemented. <input type="checkbox"/> Train employees on BMP inspection and maintenance procedures.
Painting areas	<ul style="list-style-type: none"> <input type="checkbox"/> Confine activities to designated areas outside drainage pathways and away from surface waters. <input type="checkbox"/> Enclose, cover, or contain painting activities to the maximum extent practical to prevent overspray from reaching surface waters. <input type="checkbox"/> Hang plastic barriers or tarpaulins during blasting or painting operations to contain debris <input type="checkbox"/> Prohibit uncontained spray painting activities.

Table 2. BMPs for Potential Pollutant Sources at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Rail Transportation Facilities, and United States Postal Service Transportation Facilities (continued)

Pollutant Source	BMPs
Painting areas (continued)	<ul style="list-style-type: none"> <input type="checkbox"/> Prohibit spray painting activities during windy conditions which render containment ineffective. <input type="checkbox"/> Use spray equipment that delivers more paint to the target and less overspray. <input type="checkbox"/> Mix paints and solvents in designated areas away from drains, ditches, piers, and surface waters, preferably indoors or under cover. <input type="checkbox"/> Have absorbent and other cleanup items readily available for immediate cleanup of spills. <input type="checkbox"/> Allow empty paint cans to dry before disposal. <input type="checkbox"/> Store paint and paint thinner away from traffic areas to avoid spills. <input type="checkbox"/> Recycle paint, paint thinner, and solvents. <input type="checkbox"/> Establish and implement effective inventory control to reduce paint waste, including tracking date received and expiration dates. <input type="checkbox"/> Store waste paint, solvents, and rags in covered containers to prevent evaporation to the atmosphere. <input type="checkbox"/> Use solvents with low volatility and coatings with low VOC content; use high transfer efficiency coating techniques such as brushing and rolling to reduce overspray and solvent emissions. <input type="checkbox"/> Inspect painting procedures to ensure that they are conducted properly. <input type="checkbox"/> Train employees on proper sanding, painting, and spraying techniques. <input type="checkbox"/> Wash paint brushes, rollers and other equipment in utility sinks or other locations where wash water is treated or hauled. Do not wash equipment outside on pavement or into storm drains.
Vehicle washing	<ul style="list-style-type: none"> <input type="checkbox"/> Avoid washing parts or equipment outside. <input type="checkbox"/> Confine activities to designated areas outside drainage pathways and away from surface waters. <input type="checkbox"/> If washing outdoors, cover the cleaning operation and ensure that all washwaters drain to the intended collection system. <input type="checkbox"/> Use phosphate-free biodegradable detergents. <input type="checkbox"/> Contain and recycle washwaters. <input type="checkbox"/> Collect stormwater runoff from the cleaning area and provide treatment or recycling. <input type="checkbox"/> Inspect cleaning area regularly to ensure BMPs are implemented and maintained. <input type="checkbox"/> Train employees on proper washing procedures.
Liquid storage in above ground storage tanks	<ul style="list-style-type: none"> <input type="checkbox"/> Store materials inside. <input type="checkbox"/> If area is uncovered, connect sump outlet to sanitary sewer (if possible) or an oil/water separator, catch basin filter, etc. If connecting to a sanitary sewer check with the system operator to ensure that the discharge is acceptable. If implementing separator or filter technologies ensure that regular inspections and maintenance procedures are in place. <input type="checkbox"/> Develop and implement spill plans. <input type="checkbox"/> Train employees in spill prevention and control. <p>Above ground tanks</p> <ul style="list-style-type: none"> <input type="checkbox"/> Provide secondary containment, such as dikes, with a height sufficient to contain a spill (the greater of 10 percent of the total enclosed tank volume or 110 percent of the volume contained in the largest tank).

INDUSTRIAL WASTEWATER FACT SHEET SERIES

Sector P: Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

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Table 2. BMPs for Potential Pollutant Sources at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Rail Transportation Facilities, and United States Postal Service Transportation Facilities (continued)

Pollutant Source	BMPs
Liquid storage in above ground storage tanks (continued)	<p>Above ground tanks (continued)</p> <ul style="list-style-type: none"> <input type="checkbox"/> If containment structures have drains, ensure that the drains have valves, and that valves are maintained in the closed position. Institute protocols for checking/testing stormwater in containment areas prior to discharge <input type="checkbox"/> Use double-walled tanks with overflow protection <input type="checkbox"/> Keep liquid transfer nozzles/hoses in secondary containment area. <p>Portable containers/drums</p> <ul style="list-style-type: none"> <input type="checkbox"/> Store drums indoors when possible <input type="checkbox"/> Store drums, including empty or used drums, in secondary containment with a roof or cover (including temporary cover such as a tarp that prevents contact with precipitation). <input type="checkbox"/> Provide secondary containment, such as dikes or portable containers, with a height sufficient to contain a spill (the greater of 10 percent of the total enclosed tank volume or 110 percent of the volume contained in the largest tank). <input type="checkbox"/> Clearly label drum with its contents. <input type="checkbox"/> Train employees on proper filling and transfer procedures.
Cold weather activities	<ul style="list-style-type: none"> <input type="checkbox"/> Minimize salt and abrasive application. <input type="checkbox"/> When abrasives are necessary, use uncontaminated sand or ash. <input type="checkbox"/> Train employees on salt and abrasive application.
Improper connections to storm sewer (illicit connections)	<ul style="list-style-type: none"> <input type="checkbox"/> Plug all floor drains connected to sanitary or storm sewer or if connection is unknown. Alternatively, install a sump that is pumped regularly. <input type="checkbox"/> Perform smoke or dye testing to determine if interconnections exist between sanitary water system and storm sewer system. <input type="checkbox"/> Update facility schematics to accurately reflect all plumbing connections <input type="checkbox"/> Install a safeguard against vehicle washwaters entering the storm sewer unless permitted. <input type="checkbox"/> Inspect and maintain the integrity of all underground storage tanks, replace when necessary. <input type="checkbox"/> Train employees on BMP disposal practices for all materials

Table 2A. BMPs for Potential Pollutant Sources at Petroleum Bulk Oil Stations and Terminals

Pollutant Source	BMPs
Liquid storage in above ground storage	<ul style="list-style-type: none"> <input type="checkbox"/> If area is uncovered, connect sump outlet to sanitary sewer (if possible) or an oil/water separator, catch basin filter, etc. If connecting to a sanitary sewer check with the system operator to ensure that the discharge is acceptable. If implementing separator or filter technologies ensure that regular inspections and maintenance procedures are in place. <input type="checkbox"/> Provide secondary containment, such as dikes, with a height sufficient to contain a spill (the greater of 10 percent of the total enclosed tank volume or 110 percent of the volume contained in the largest tank) <input type="checkbox"/> If containment structures have drains, ensure that the drains have valves, and that valves are maintained in the closed position. Institute protocols for checking/testing stormwater in containment areas prior to discharge. <input type="checkbox"/> Use double-walled tanks with overflow protection

INDUSTRIAL STORMWATER FACT SHEET SERIES

Sector P: Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

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Table 2A. BMPs for Potential Pollutant Sources at Petroleum Bulk Oil Stations and Terminals (continued)

Pollutant Source	BMPs
Liquid storage in above ground storage (continued)	<ul style="list-style-type: none"> <input type="checkbox"/> Keep liquid transfer nozzles/hoses in secondary containment area. <input type="checkbox"/> Develop and implement spill plans and spill prevention, containment and countermeasures (SPCC). <input type="checkbox"/> Train employees in spill prevention and control
Petroleum loading/unloading	<ul style="list-style-type: none"> <input type="checkbox"/> Confine loading/unloading activities to designated areas outside drainage pathways and away from surface waters. <input type="checkbox"/> Provide diversion berms, dikes or grassed swales around the perimeter of the area to limit run-on. <input type="checkbox"/> Avoid loading/unloading materials in the rain or provide cover or other protection for loading docks <input type="checkbox"/> Cover loading and unloading areas and perform these activities on an impervious pad to enable easy collection of spilled materials. <input type="checkbox"/> Provide overhangs at truck loading/unloading docks <input type="checkbox"/> Slope the impervious concrete floor to collect spills and leaks and convey them to proper containment and treatment. <input type="checkbox"/> For rail transfer, a drip pan shall be installed within the rails to collect spillage from the tank. <input type="checkbox"/> For transfer to/from truck or rail cars, ensure hose connection points at storage containers are inside containment areas, or drip pans are used in areas where spillage may occur which are not in a containment area. <input type="checkbox"/> Regularly sweep area to minimize debris on the ground. <input type="checkbox"/> Develop and implement spill prevention, containment, and countermeasure (SPCC) plans. <input type="checkbox"/> Train employees in spill prevention, control, cleanup and transfer techniques.

What if activities and materials at my facility are not exposed to precipitation?

The industrial stormwater program requires permit coverage for a number of specified types of industrial activities. However, when a facility is able to prevent the exposure of ALL relevant activities and materials to precipitation, it may be eligible to claim no exposure and qualify for a waiver from permit coverage

If you are regulated under the industrial permitting program, you must either obtain permit coverage or submit a no exposure certification form, if available. Check with your permitting authority for additional information as not every permitting authority program provides no exposure exemptions

Where do I get more information?

For additional information on the industrial stormwater program see www.epa.gov/npdes/stormwater/msgp.

A list of names and telephone numbers for each EPA Region or state NPDES permitting authority can be found at www.epa.gov/npdes/stormwatercontacts

~~4~~
Exhibit # ~~4~~ 5
p. 1

update the SPCC Plan as needed. *Id.* BRT recently acquired additional SPCC safety equipment, Exhibit 4(a). BRT has not experienced a toxic or hazardous waste spill or incident of similar nature at the site. Exhibit 4.

3. EC No. 3: Consultation with USDA, NRCS.

Compliance with EC No. 3 was accomplished by letter from Gerard T. Drumm (then counsel for Sill Road Realty, LLC), to Astor F. Boozer, State Conservationist at the U.S. Department of Agriculture, Natural Resources Conservation Services ("NRCS"), dated September 15, 2010, on Sills Road Realty, LLC letterhead, Exhibit 5. Mr. Drumm's letter recounts that he had called Mr. Boozer on September 13, 2010 to discuss the Board's EC No. 3, which Mr. Drumm described as encompassing "the final site plan, NRCS practices to improve successful establishment, long-term survival and future functional value of new plantings at the BRT." *Id.*

where
to
Exhibit 5?
please
provide

Mr. Drumm reported that BRT intended to "engage in the near future a landscape architect to finalize the vegetation plan for the project and will advise our architect to consult with you or your staff, as you direct, about the appropriate vegetation selections and ongoing practices which will meet the goals of successful establishment, survival and functionality of new plantings contemplated by the TB and your agency's comments to the STB." *Id.*

Mr. Boozer advised BRT to consult with an expert at the county level on those issues, which Respondents did, as confirmed by the email dated September 28, 2012, from Polly Weigand, Soil District Technician at the Suffolk County Soil and Water Conservation District, titled "Planting recommendations," to Mr. Drumm, Exhibit 6. Accordingly, Respondents have fulfilled the requirement of EC No. 3.

EXHIBIT 3

SPILL PREVENTION CONTROL AND COUNTERMEASURE PLAN

Brookhaven Rail Terminal Yaphank, New York

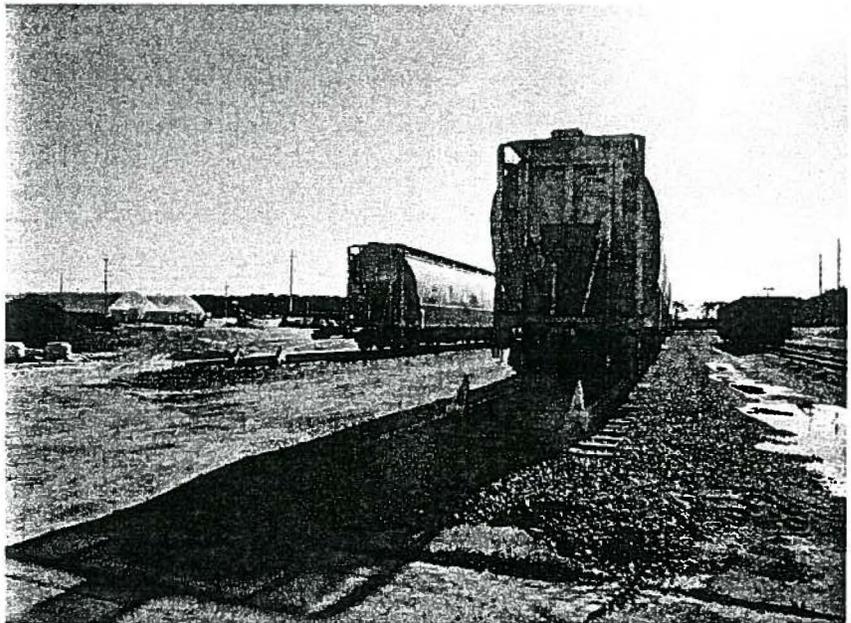
Prepared for:
Brookhaven Rail Terminal
205 Sills Road
Yaphank, NY 11980



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: Nov. 18, 2014

SPILL PREVENTION CONTROL AND COUNTERMEASURE PLAN

Brookhaven Rail Terminal
Yaphank, New York



Prepared for: Brookhaven Rail Terminal

Prepared By: P.W. Grosser Consulting, Inc.

*SPCC PLAN
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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 reference for used oil storage information, 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.

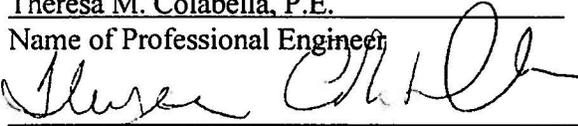
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Part 1: SPCC Plan Administration

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

Signature of Professional Engineer

Registration Number 081911, State of New York
Date: November 18, 2014



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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 used 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, and Nov. 18, 2014. The next SPCC Plan review is therefore scheduled to take place on or prior to Nov. xx, 2019.

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 Nov. 18, 2019.

Table 1-1: SPCC Plan Review Log

By	Date	Activity	PE certification required?	Comments
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

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

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

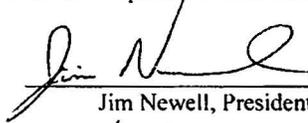
1.4 Management Approval and Designated Person (40 CFR 112.7)

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1.4 Management Approval and Designated Person (40 CFR 112.7)

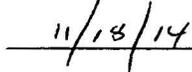
Brookhaven Rail Terminal (BRT) is committed to the prevention of discharges of oil to navigable waters or the environment, and maintains the highest standards for spill prevention, control and countermeasures through periodic review, updating and implementation of this SPCC Plan. BRT will provide the 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:



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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.

Used oil transloading operations are conducted at the south end of the property as indicated on Figure 2. Trucks with a maximum capacity of 6,800 gallons of used oil transfer contents to an awaiting railcar with a maximum capacity of 26,000 gallons. On average, three railcars per week are filled and shipped out to destination facilities or transfer stations.

Soybean oil transloading operations are also 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))

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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 used oil and soybean oil transloading areas and the location of the two 500-gallon and one 300-gallon diesel aboveground storage tanks ("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. Tanker trucks load used oil into railcars with a maximum capacity of 26,000 gallons. A maximum of one (1) railcar at full capacity and one (1) railcar at half capacity are present on-site at any one time. Similarly, 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. 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. BRT is in the process of replacing this AST with a new AST of the same size and double-walled construction that is pre-approved by the local municipality.

Further, BRT also plans to procure and register with the local municipality a second pre-approved 500-gallon double-walled diesel AST to fuel Facility owned vehicles. As shown on Figure 2, this AST will be located adjacent to the generator AST.

One 300-gallon diesel 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 is in the process of replacing this AST with a new AST of the same size that is pre-approved by the local municipality.

BRT also stores transmission fluid, hydraulic fluid, motor oil and used maintenance oils in 55-gallon containers. Up to eight (8) 55-gallon containers are stored on containment pallets within a trailer located west of the rail line.

2.2 Evaluation of Discharge Potential

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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 used 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 used 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 used oil, hazardous waste, solid waste or used oil-derived fuels or products at the Facility. These measures will include, where applicable, stopping processes and operation, collecting and containing released used 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 used oil railcar companies and the used oil tanker truck companies of the situation. Used 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 used 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

Used 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

Material	Disposal Facility	Location	Permit
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 used oil transloading area, 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
Railcar overfill	33	200	To soil	102-gallon drip pan placed underneath railcar
Used oil tank truck rupture at unloading area	6,800	Gradual to instantaneous	To soil	Roll-out secondary containment system with 7,000 gallon capacity
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
Diesel AST leak	300	Gradual to instantaneous	To soil	None
Diesel AST(s) leak	500 (each)	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))

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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:

Drip pans - Drip pans, approximately nine (9) gallons in volume, are used to contain small leaks from piping/hose connections. In the event overfilling of used oil into a railcar occurs, portable drip pans with 102-gal of containment capacity are permanently placed underneath the used oil railcar.

Sorbent material - Spill response supplies are stored in storage sheds located adjacent to the used oil transloading area, 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.

For tanker trucks:

Roll-out secondary containment – A 7,000-gal capacity roll-out secondary containment system is utilized to provide secondary containment for used oil delivery trucks during railcar loading operations. All hose connections with the tanker truck are located inside the secondary containment structure.

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 500-gallon diesel tanks.

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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))

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))

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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.

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))

A roll-out secondary containment system is utilized to provide secondary containment for used oil delivery tank trucks during railcar loading operations. The delivery truck hose connection to the BRT hose is contained within the roll-out secondary containment system. The BRT hose is affixed to a portable railcar stairway that rises to a stanchion placed directly above the railcar. An approximate 102-gallon containment pallet is permanently placed within the rails directly beneath the railcar receiving the used oil.

Secondary containment for soybean oil hose connections is provided by drip pans with a nine (9) gallon capacity. .

3.8.2 Overfill Protection

BRT personnel are staged at the top of the railcar during all used oil transloading operations. BRT personnel are equipped with a measuring stick that translates the capacity of used oil based on the type of railcar. Prior to initiating the loading process BRT personnel verify the amount of used oil available for delivery and the available capacity of the railcar. Additionally, portable yet permanently placed 102-gallon drip pans are placed underneath the used oil railcar in case overfilling occurs. As the railcar loading operation is continually observed, it is estimated that it will take a maximum of 10 seconds for either the truck driver or the overseeing Facility personnel to shut down the pump in an overfill event. As the used

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oil is pumped at approximately 200-gallons-per-minute (GPM), the 102-gallon drip pan has been deemed acceptable for overfill protection.

Similarly, prior to the start of soybean oil transloading operations, BRT operators verify the capacity of the soybean oil railcar using the weigh 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 is in the process of procuring and permitting a local municipality approved double wall tank to replace the existing 500-gallon tank.

The 300-gallon diesel oil tank is equipped with an overfill protection gauge and BRT operators are staged directly adjacent to the tank during filling operations. BRT is in the process of procuring and permitting a local municipality approved double wall tank to replace the existing 300-gallon tank.

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 used oil, soybean oil, and diesel fuel deliveries for all new suppliers, and continually observes deliveries for existing, approved suppliers.

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

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.

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- 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 Used Oil Transloading Procedures

Used oil is delivered to BRT in tanker trucks with a maximum capacity of 6,800 gallons; one tanker truck can unload at a time. Two operators assist with transloading used oil into the railcars: the used oil delivery driver, and one BRT operations personnel. The following procedures are followed during all used oil transloading operations:

- The used oil truck is weighed in at the Scale House and is directed to park directly on a portable but permanent secondary containment pool-type structure located on the south portion of the Facility. See Figure 2.
- BRT personnel verify the delivery volume of used oil.
- BRT personnel verify the amount of capacity available in the receiving railcar by measuring with a stick and verifying the maximum fill amount using a guidance sheet per type of railcar.
- The used oil delivery driver connects the truck to the BRT transfer hose that is staged within the secondary containment structure.
- BRT personnel insert the hose into the top of the railcar. The hose is permanently affixed to a portable railcar stairway that rises to a stanchion placed directly above the railcar.
- The used oil delivery driver turns on the pump within the delivery vehicle to initiate the loading of used oil into the railcar.
- BRT personnel continually monitor the available capacity within the railcar and notify the delivery driver by voice communication to shut off the pump.
- BRT personnel disconnect the hose from the top of the railcar and hold the hose vertically.
- The delivery driver places the delivery vehicle's pump into suction to vacate residual used oil back into the delivery truck.
- The delivery truck caps the delivery truck hose connection after first removing any residual used oil.
- Upon completion, the BRT hoses are capped by BRT personnel and the delivery driver is directed to the Scale House to formally weigh the used oil delivered.

3.8.3.2 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

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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.
- 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.

3.8.3.3 Diesel Fuel AST Filling Procedures

BRT has or plans to install one 300-gallon and two 500-gallon local municipality pre-approved diesel ASTs. The two 500-gallon tanks will be adjacently located in the vicinity of the aggregate conveyor system generator. The 300-gallon tank will be located within the soybean oil transloading trailer. See Figure 2 for the locations of the ASTs. The tanks will be double-walled steel tanks equipped with overfill protection and will be permitted with the local municipality. One 500-gallon tank will be used to supply fuel to the on-site generator that is used to power the Facility's aggregate conveyor system, one 500-gallon tank will be used to fuel BRT vehicles, and the 300-gallon tank will be 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.

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The 500-gallon diesel AST used to supply fuel to the generator will be directly connected to the generator, and will be operated in accordance with the local municipality permitting requirements.

The 500-gallon diesel AST used to fuel BRT vehicles will be 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 will be 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 operated in accordance with the local municipality permitting requirements.

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 the process of conforming 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 29 yards from the used oil transload area and another catch basin 82 yards from the soybean oil transload area. These storm drains are covered during any used oil or 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 plans to procure and register with the local municipality a similarly equipped tank to fuel BRT onsite vehicles.

Secondary containment is not provided for the 300-gallon diesel AST. The tank is equipped with a site gauge and is located within a trailer. BRT is in the process of procuring and permitting a local municipality pre-approved double walled tank with the necessary secondary containment to replace the existing 300-gallon tank.

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.

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

The 500-gallon diesel tank is provided with a metal secondary containment dike which has sufficient volume to contain 550 gallons.

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

BRT maintains written logs of the secondary containment dike drainage for the 500-gallon diesel tank. Accumulated storm water is inspected for any spilled product or sheen prior to discharge. Dike drainage records are maintained in Appendix H.

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 proposed 500-gallon diesel tank and 300-gallon tank to be installed will also be equipped a level gauge.

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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.

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 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.

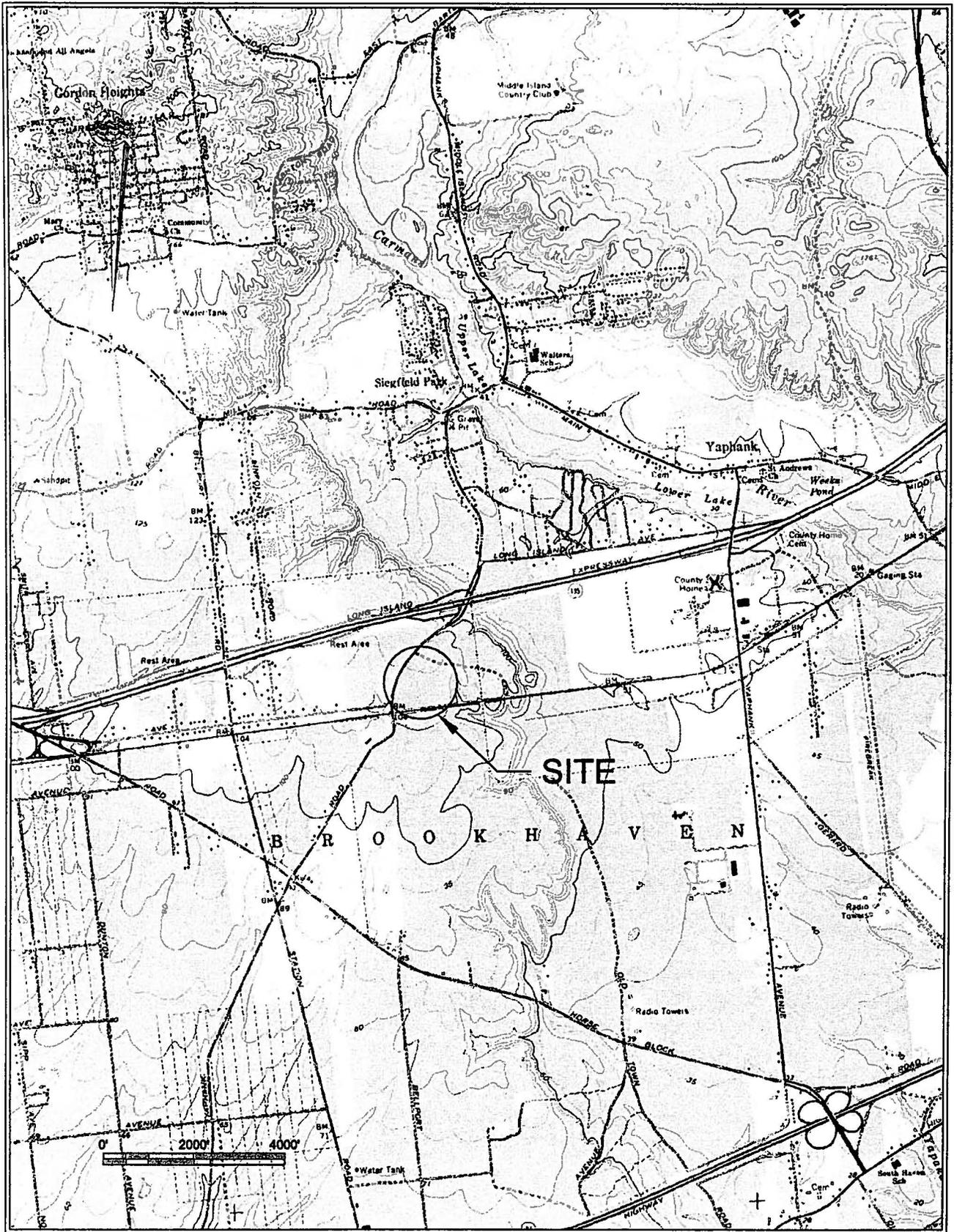
Pipe supports should be properly designed to minimize abrasion and corrosion and allow for expansion and contraction.

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.

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Appendix A

Vicinity Map and Site Plan



PWGC
 Planning & Engineering
 630 Johnson Ave. Suite 7
 P.O. Box 508-6303 P.O. Box 631 608-4708
 Bohemia, N.Y. 11716-3818
 E-mail: info@pwgcr.com

BROOKHAVEN RAIL TERMINAL
205 SILLS ROAD, YAPHANK, NY 11980
SITE MAP

Project:	BRT1301	Figure No.:	1
Designed By:	MEB		
Approved By:	GM		
Drawn By:	MEB	Date:	8/22/13

Appendix B

Substantial Harm Determination

Facility Name: Brookhaven Rail Terminal
Facility Address: 205 Sills Road
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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 J. M. Newell Title PRESIDENT
Name (type or print) J. M. NEWELL Date 11/18/14

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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.

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Appendix D Emergency Contacts

EMERGENCY TELEPHONE NUMBERS:

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

Alternate

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

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

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 th 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

Oil Spill Response Organization/Cleanup Contractors

Miller Environmental Group, Inc.

845-569-1200

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

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
Brookhaven Rail Terminal
205 Sills Road
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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:

Equipment Type	Units	Response Time	Location / Effective Daily Recovery Rate
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 used oil and 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 used oil loading area is equipped with shovels.

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

Inspector Name: _____

Inspector Signature: _____

Date: _____

Brookhaven Rail Terminal Spill Response Equipment Monthly Checklist:

Equipment Type	Minimum Amount	Quantity available on-site	Notes
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
Brookhaven Rail Terminal
205 Sills Road
Yaphank, NY 11980*

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 water soil storm water sewer/POTW dike/berm/oil-water separator 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:

Part B: Notification Checklist		
	Date and time	Name of person receiving call
Discharge in any amount		
Emergency Coordinators Jim Newell (631)-924-8800 / (646)-302-1432		
Chris Flynn (631)-924-8800 / (631)-832-5808		
Discharge in amount exceeding 5 gallons and not affecting a waterbody or groundwater		
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		
Discharge in any amount and affecting (or threatening to affect) a waterbody		
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
River 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
Brookhaven Rail Terminal
205 Sills Road
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: _____

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

Appendix H
Dike Drainage Records

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

Brookhaven Rail Terminal
205 Sills Road, Yaphank, NY 11980

DIKE DRAINAGE SYSTEM INSPECTION FORM **MONTH:**

Tank No.	Date	Time Start	Time Finish	Volume Discharged (Inches)	Comments	Inspector's Name

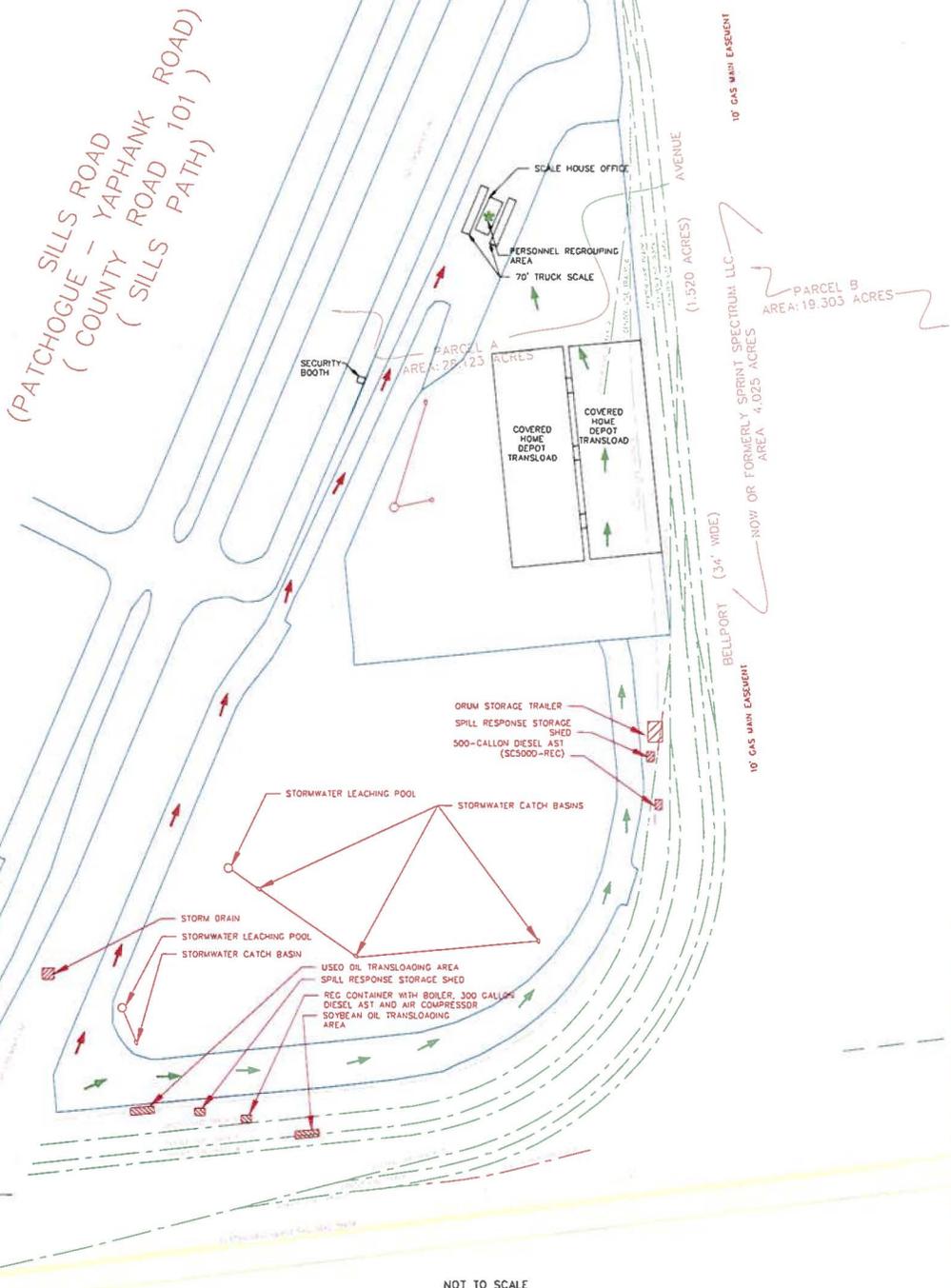
EXHIBIT 4



LEGEND

- ★ PERSONNEL REGROUPING AREA
- PRIMARY EVACUATION ROUTE
- ALTERNATE EVACUATION ROUTE

SILLS ROAD
 (PATCHOGUE - YAPHANK ROAD)
 (COUNTY ROAD 101)
 (SILLS PATH)



NOT TO SCALE
 BASEMAP PROVIDE
 BY BOWNE AE&T
 GROUP



630 JOHNSON AVE., SUITE 7
 BOHEMIA, NY 11716-2618
 PH: (631)539-6333 • FX: (631)599-8705
 E-MAIL: INFO@PWGC.COM

CONSULTANTS	DRAWINGS PREPARED FOR
	BROOKHAVEN RAIL TERMINAL 205 SILLS ROAD, YAPHANK, NY 11980
UNAUTHORIZED ALTERATION OR ADDITION TO THIS DRAWING AND RELATED DOCUMENTS IS A VIOLATION OF SEC. 2099 OF THE N.Y.S. EDUCATION LAW	

REVISION	DATE	INITIALS	REVISIONS
1	1/18/14	TC	ADDED SOYBEAN OIL TRANSLOADING AND BULK STORAGE AREAS
DRAWING INFORMATION			
PROJECT	DATE	APPROVED BY	DATE
REG'D BY	DATE	SCALE	SCALE
DRAWN BY	DATE	SCALE	SCALE

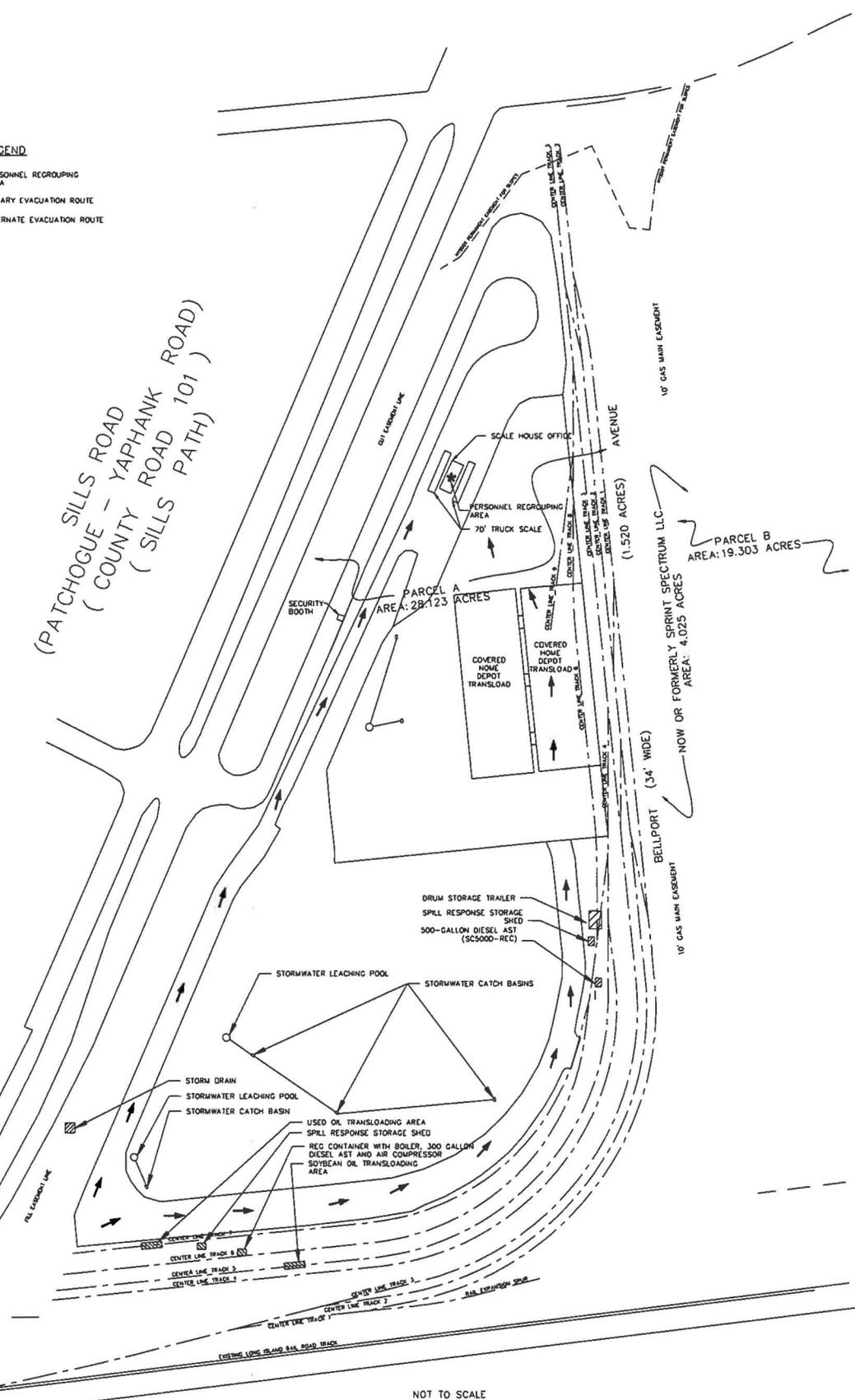
SHEET TITLE	FIGURE NO
BROOKHAVEN RAIL TERMINAL SITE PLAN AND EVACUATION MAP	2
SHEET	1 OF 1



LEGEND

- * PERSONNEL REGROUPING AREA
- PRIMARY EVACUATION ROUTE
- ALTERNATE EVACUATION ROUTE

(PATCHOGUE - SILLS ROAD
(COUNTY ROAD 101)
(SILLS PATH)



NOT TO SCALE
BASEMAP PROVIDED
BY BOWNE AE&T
GROUP

PWGC
Strategic Environmental & Engineering Solutions



630 JOHNSON AVE., SUITE 7
ROCHESTER, NY 14618-2418
PH: (631)589-6353 FAX: (631)589-8705
E-MAIL: INFO@PWGC.COM

CONSULTANTS	DRAWINGS PREPARED FOR
	BROOKHAVEN RAIL TERMINAL 205 SILLS ROAD, YAPHANK, NY 11980

REVISION	DATE	DESCRIPTION
1	8/22/13	ADDED SOYBEAN OIL TRANSLOADING AND BULK STORAGE AREAS
DRAWING INFORMATION		
PROJECT:	BROOKHAVEN	APPROVED BY: GJM
DESIGNED BY:	MEB	DATE: 8/22/13
DRAWN BY:	MEB	SCALE: NONE

SHEET TITLE	FIGURE NO
BROOKHAVEN RAIL TERMINAL SITE PLAN AND EVACUATION MAP	2
SHEET	1 OF 1

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EXHIBIT 5



Sills Road Realty, LLC

September 15, 2010

Astor F. Boozer
State Conservationist
United States Department of Agriculture
Natural Resources Conservation Services
441 South Salinas Street
Suite 354
Syracuse, New York 13202-2450

Re: U S Rail Corporation-Construction and Operation Exemption-Brookhaven Rail Terminal-
STB Docket No. FD 35141

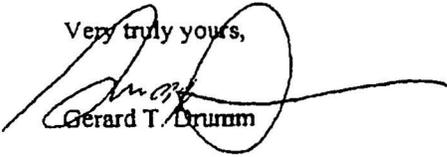
Dear Mr. Boozer:

Confirming my telephone message to you of September 13, 2010, I am the legal counsel to the Brookhaven Rail Terminal ("BRT") project. As you may know, on September 9, 2010, the Surface Transportation Board ("STB") authorized the construction and operation of the BRT with the directive, among other environmental mitigation measures, to consult with your offices and consider, in the project's final site plan, NCRS practices to improve the successful establishment, long term survival and future functional value of new plantings at the BRT.

We welcome this opportunity to initiate the contemplated consultation process with NCRS and to consider NCRS recommendations for appropriate vegetation and practices to be used at the BRT. We intend to engage in the near future a landscape architect to finalize the vegetation plan for the project and will advise our architect to consult with you or your staff, as you direct, about the appropriate vegetation selections and ongoing practices which will meet the goals of successful establishment, survival and functionality of new plantings contemplated by the STB and your agency's comments to the STB.

We look forward to working with NCRS in implementing the environmental mitigation measures outlined in the STB's decision.

Very truly yours,



Gerard T. Drumm

cc: Troy Brady
Mark Cuthbertson
Robert Ryback
James H.M. Savage, Esq.

485 Underhill Boulevard, Suite 103, Syosset, NY 11791
Tel. (516) 364-4433 Fax (516) 677-1911
