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Attorneys at Law

David C. Dillon
Mary Ellen Nash



41 West Washington
Chicago, Illinois 60602
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Fax (312) 236-0472

November 15, 2012

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 East Street, S.W., Room 1034
Washington, DC 20423-0001

233362

Re: Finance Docket Number 35698
Buckeye East Chicago Railroad, LLC

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the Verified Notice of Exemption of Buckeye East Chicago Railroad, LLC pursuant to 49 C.F.R. §1150.31 dated November 15, 2012. Checks totaling \$1,800 representing the appropriate filing fee are also enclosed.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink that reads "David C. Dillon".

David C. Dillon

ENTERED
Office of Proceedings

NOV 15 2012

Part of
Public Record

Enclosures

FEE RECEIVED

NOV 15 2012

SURFACE
TRANSPORTATION BOARD

FILED

NOV 15 2012

SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



Buckeye East Chicago Railroad, LLC

)
)

Finance Docket Number: FD 35698

**VERIFIED NOTICES OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**

By: David C. Dillon
Dillon & Nash, Ltd.
111 West Washington Street
Suite 1023
Chicago, Illinois 60602
(312) 782-9025

Buckeye East Chicago Railroad, LLC

*Attorney for Applicant
in Finance Docket No. 35698*

Applicant in Finance Docket No. FD 35698

DATE FILED: November 15, 2012

183 F.3d 606 (7th Cir. 1999). The applicant has acquired ownership of the property. As owner, the determination under the tenant-use test would be equally applicable to an owner-operator of an acquired property.

In that case, as here pertinent, Agracel Corporation transloaded beer from rail to truck at a warehouse that it operated in an industrial park at Effingham, IL. Agracel owned approximately 206 feet of right-of-way and track that extended between its warehouse and trackage owned and operated by Conrail. Previously, Conrail had operated over the Agracel trackage to provide service to Agracel. It was proposed that Effingham Railroad Company (ERRC), a non-carrier, substitute for Conrail as provider of the rail service over the Agracel trackage. ERRC filed a notice of exemption under 49 C.F.R. § 1150.31 for its operation over that trackage. The United Transportation Union (UTU) contended that the Board lacked authority over the proposed operation because Agracel trackage is spur, switching or side track excepted from Board operation authority under 49 U.S.C. § 10906.

In finding that the Agracel trackage was a line of railroad under 49 U.S.C. § 10901, the Board said (1998 STB LEXIS 253, at 8-9 (emphasis in original)):

...(I)n those cases where a tenant railroad's intended use of a track segment is different from the use made by the railroad owning the track, we have determined that the tenant's use, rather than the character of the trackage itself, is controlling with regard to its own operations, subject to consideration of the purpose and effect of the construction under *Texas & Pacific* (citations omitted).

In the initial notice, even under its new approach, ERRC became the operator of a line of track connecting Conrail to the site of the industrial park. Conrail clearly had operated this short track segment as an exempt siding or spur. However, because it was ERRC's initial railroad operation, this track segment became ERRC's entire line of railroad and was not, as to ERRC, a siding or spur. This

THE BUCKEYE EAST CHICAGO RAILROAD, LLC TRackage IS A LINE OF RAILROAD THAT QUALIFIES FOR THE CLASS EXEMPTION FROM 49 U.S.C. § 10901, RATHER THAN TRACK EXCEPTED FROM BOARD ACQUISITION AND OPERATION AUTHORITY UNDER § 10906

Buckeye Partners, L.P. owned the East Chicago Transload Facility up until conveyance of title to BERR in October 2012. The trackage is used in conjunction with interchanging tank cars to and from the Indiana Harbor Belt Railroad Company, which cars will contain ethanol and related products for transloading into tank trucks and also outbound tank cars for post-transload outbound shipment and for transloading into trucks for final delivery.

It is intended that the initial level of operation will consist of one, 110 car inbound unit train per week, with anticipated increase to three unit trains per week. It is intended to expand this business by seeking additional customers.

There are currently 7,065 linear feet of track located on the East Chicago Transload Facility, all of which will be operated by Buckeye East Chicago Railroad, LLC.

In those circumstances, the East Chicago Transload Facility trackage, as operated by Buckeye East Chicago Railroad, LLC, is properly considered to be a line of railroad under 49 U.S.C. § 10901 pursuant to the Board's tenant-use test, rather than spur, switching or side tracks excepted from Board authority over their acquisition and operation by virtue of 49 U.S.C. § 10906. The tenant-use test is described in the Board's decision denying reconsideration in *Effingham Railroad Company - Petition for Declaratory Order - Construction at Effingham, IL*, STB Docket No. 41986 and embraced proceedings, 1998 STB LEXIS 253, decision served September 18, 1998; *aff'd sub nom. United Transp. Union v. Surface Transportation Board.*,

small piece of trackage initiated ERRC's service from a connection or interchange point with Conrail to a shipper's facility within the industrial park. Thus ERRC's becoming the operator was the proper subject of the initial notice of exemption and was not statutorily exempt under section 10906.

It is apparent from the Board's decision in that case that the tenant-use test also applies when a new rail carrier is using trackage which it owns rather than leases, and when the prior use of the track was by a third-party carrier rather than by the shipper-owner of the trackage. In upholding the Board's decision in that case, the reviewing court held that it was reasonable for the Board to classify the trackage by virtue of the tenant's use. *United Transp. Union vs. Surface Transportation Bd.*, *supra*. 193 F.3d at 614. *Accord: Chicago Rail Link LLC - Lease & Oper. - Union Pacific R.R. Co.*, 2 S.T.B. 534 (1997), *aff'd sub nom. United Transp. Union - Illinois v. Surface Transp.*, 169 F.3d 474 (7th Cir. 1999). Use by a newly formed railroad of its own newly acquired tracks is akin to the uses described in the above-cited cases as that of a railroad-operator of a subject trackage.

Inasmuch as the subject transaction will be BERR's initial railroad acquisition, and the East Chicago Transload Facility trackage will constitute the entire line of railroad of BERR, it follows that the East Chicago Transload Facility trackage is a line of railroad under 49 U.S.C. § 10901, rather than spur, switching or side tracks excepted from Board acquisition and operation authority by virtue of 49 U.S.C. § 10906.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.33

The full name and address of the applicant;

The full name and address of the applicant in Finance Docket Number 35698 is Buckeye East Chicago Railroad, LLC, 2400 Michigan Street, East Chicago, Indiana, 46320.

The name, address, and telephone number of the representative of the applicant who should receive correspondence;

BERR representative is David C. Dillon, Dillon & Nash, Ltd., 111 West Washington Street, Suite 1023, Chicago, Illinois, 60602, 312-782-9025.

A statement that an agreement has been reached or details when an agreement will be reached;

An agreement between Buckeye East Chicago Railroad, LLC and Landisville Railroad concerning the operation of the East Chicago Transload Facility trackage and transload facilities has been entered into. A copy of the Railcar Switching and Transloading Service Agreement is attached hereto.

(d) The operator of the property;

BERR will be the operator of the property.

(e) A brief summary of the proposed transaction, including:

(a) The name and address of the railroad transferring the subject property,

The above entity in Finance Docket Number 35698 is Buckeye East Chicago Railroad, LLC, 2400 Michigan Street, East Chicago, Indiana, 46320.

(b) The proposed time schedule for consummation of the transaction,

The operating agreement and operation was entered into on November 1, 2012.

(c) *The mile-posts of the subject property, including any branch lines, and*

The East Chicago Transload Facility trackage is not described by milepost numbers.

That trackage is described and depicted in Appendix 1-A and 1-B attached to this Notice.

(d) *The total route miles being acquired;*

A total of approximately 7,065 feet/1.34 miles of trackage is to be operated under an operating agreement.

(f) *A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States:*

The required map is attached to this Notice as Appendix 1-B.

(g) *A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.*

The required certificate is attached to this Notice as Appendix 2.

CAPTION SUMMARY

A caption summary required by 49 C.F.R. § 1150.34 for Finance Docket Number FD 35698 is attached to this Notice as Appendix 3.

ENVIRONMENTAL AND HISTORIC REPORT

The proposed acquisition and operation do not require environmental and historic reporting. See 49 C.F.R. § 1105.6(c)(2)(i) and 49 C.F.R. § 1105.8(b)(1).

LABOR PROTECTION

Pursuant to 49 U.S.C. § 10901(c), labor protection requirements do not apply to this transaction.

VERIFICATION

The verification is attached to this Notice as Appendix 4.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within 30 days of the filing of this Notice, the Director of the Board's Office of Proceedings should publish notices in the Federal Register of the filing of notices of exemption in Finance Docket No. 35698. See 49 C.F.R. § 1150.32(b).

Respectfully submitted,



Buckeye East Chicago Railroad, LLC

By: David C. Dillon
Dillon & Nash, Ltd.
111 West Washington Street
Suite 1023
Chicago, Illinois 60602
(312) 782-9025

*Attorney for Applicant
in Finance Docket No. FD 35698*

Applicant in Finance Docket No. FD 35698

DATE FILED: November 15, 2012

Finance Docket Number: FD 35698

Appendix 1-A

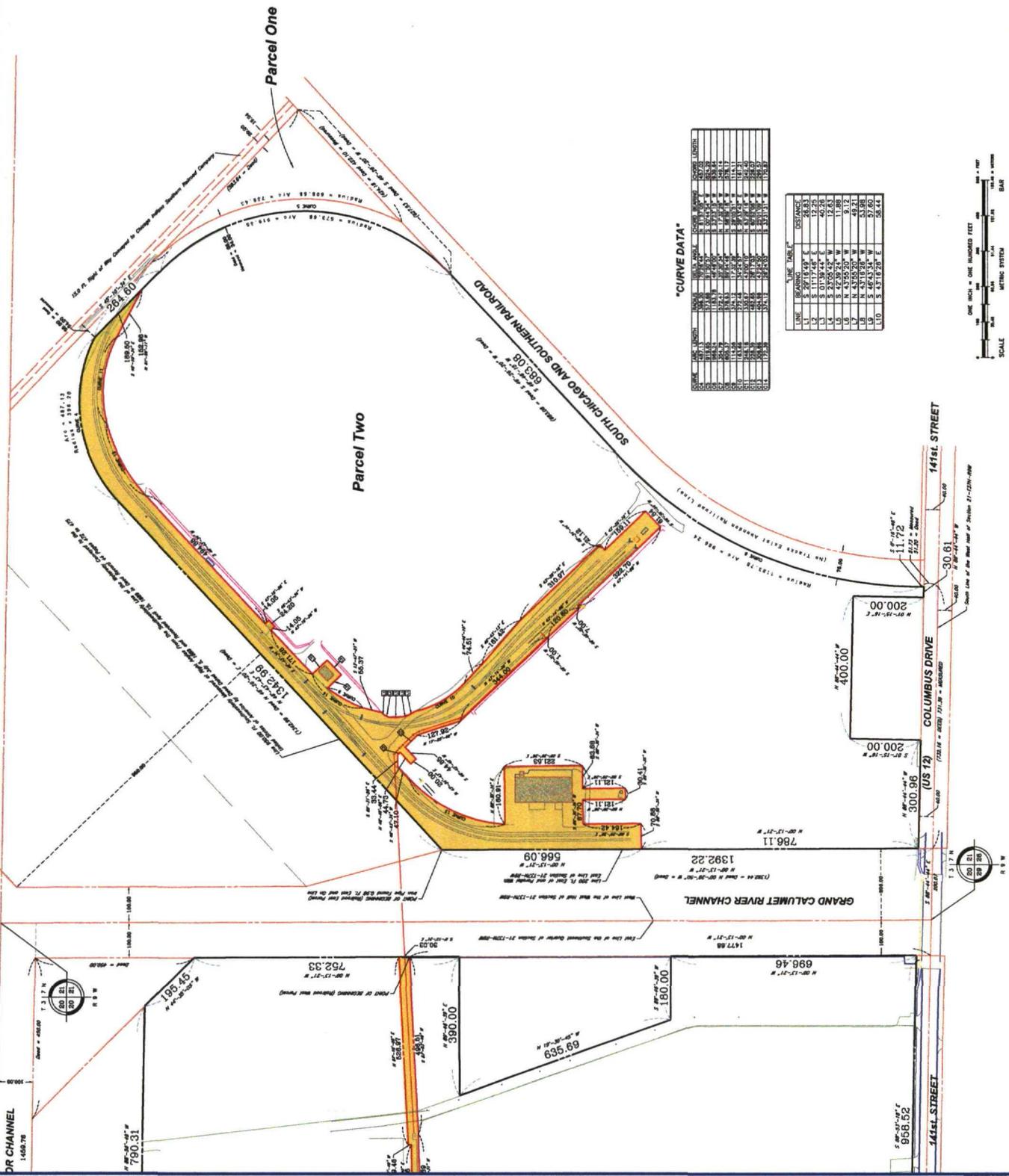
**LENGTH OF BUCKEYE EAST CHICAGO RAILROAD, LLC
EAST CHICAGO TRANSLOAD FACILITY**

Total Track: 7,065 linear feet = 1.34 miles of track

PLAT OF SURVEY
MARCHESE AND SONS, Inc.
land - marine - construction surveys
 10 Monroe Drive
 South, West 10172
 Phone: (630) 941-8880
 Fax: (630) 941-8888

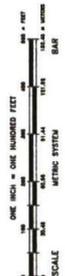


SHEET: 1 OF 2
 MET. NO. 13-611
 ADDRESS: 141ST STREET
 SOUTH CHICAGO, ILLINOIS
 SCALE: ONE INCH = ONE HUNDRED FEET
 ORDER NO.: 12-10860
 ORDERED BY: MS. MARIE LYNCH
 FOR BUCKEYE PARTNERS, LLC
 COMPASS ALL POINT BEARS BELONG TO SAME AND AT ONCE
 REFERENCE TO ANY OTHER SURVEY OR RECORD DRAWING IS
 INTENTIONAL AND NOT BEING MADE HEREIN TO YOUR CONFUSION.
 THIS SURVEY IS THE PROPERTY OF MARCHESE AND SONS, INC.
 AND WILL BE REPRODUCED WITHOUT PERMISSION OR
 WRITTEN PERMISSION FROM MARCHESE AND SONS, INC.
 STATE OF ILLINOIS
 COUNTY OF COOK
 I, PAUL N. MARCHESI, hereby certify that I have surveyed the
 above described land and that this plat is a correct
 representation of said survey.
 DATED AT EMERALD, ILLINOIS, OCTOBER 24, 2012



"CURVE DATA"

STATION	CHORD BEARING	CHORD DISTANCE	CHORD BEARING	CHORD DISTANCE
1+00.00	S 27° 14' 47" E	12.25	S 27° 14' 47" E	12.25
1+12.25	S 111° 17' 45" E	12.25	S 111° 17' 45" E	12.25
1+24.50	S 23° 08' 42" W	12.25	S 23° 08' 42" W	12.25
1+36.75	S 12° 29' 14" W	11.88	S 12° 29' 14" W	11.88
1+48.63	N 43° 15' 59" W	46.37	N 43° 15' 59" W	46.37
1+55.00	S 41° 12' 31" W	55.00	S 41° 12' 31" W	55.00
1+66.88	S 27° 14' 47" E	12.25	S 27° 14' 47" E	12.25
1+79.13	S 111° 17' 45" E	12.25	S 111° 17' 45" E	12.25
1+91.38	S 23° 08' 42" W	12.25	S 23° 08' 42" W	12.25
1+103.63	S 12° 29' 14" W	11.88	S 12° 29' 14" W	11.88
1+115.51	N 43° 15' 59" W	46.37	N 43° 15' 59" W	46.37
1+121.88	S 41° 12' 31" W	55.00	S 41° 12' 31" W	55.00
1+133.76	S 27° 14' 47" E	12.25	S 27° 14' 47" E	12.25
1+146.01	S 111° 17' 45" E	12.25	S 111° 17' 45" E	12.25
1+158.26	S 23° 08' 42" W	12.25	S 23° 08' 42" W	12.25
1+170.51	S 12° 29' 14" W	11.88	S 12° 29' 14" W	11.88
1+182.39	N 43° 15' 59" W	46.37	N 43° 15' 59" W	46.37
1+188.76	S 41° 12' 31" W	55.00	S 41° 12' 31" W	55.00



CERTIFICATION UNDER 49 C.F.R. § 1150.33(g)

Buckeye East Chicago Railroad, LLC hereby certifies under 49 C.F.R. § 1150.33(g), that the projected revenues from the acquisition and operation proposed in this matter do not exceed those that would qualify it as a Class III rail carrier.



David C. Dillon
*Authorized Representative of
Buckeye East Chicago Railroad, LLC*

SUBSCRIBED AND SWORN TO before
me this 15th of November, 2012.



Notary Public



CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. FD 35698

**BUCKEYE EAST CHICAGO TRANSLOAD RAILROAD, LLC
- ACQUISITION EXEMPTION -
RAIL LINE OF BUCKEYE PARTNERS, L.P.
AT EAST CHICAGO TRANSLOAD FACILITY, EAST CHICAGO, INDIANA**

Buckeye East Chicago Railroad, LLC (BERR), has filed a Notice of Exemption to acquire and operate from Buckeye Partners, L.P., a non-carrier, approximately 1.34 miles of right-of-way and trackage at Buckeye Partners, L.P.'s East Chicago Transload Facility in East Chicago, Indiana. Comments must be filed with the Board and be served on BERR's representative, David C. Dillon, Dillon & Nash, Ltd., 111 W. Washington Street, Suite 1023, Chicago, IL, 60602, (312) 782-9025.

This Notice is filed under 49 C.F.R. § 1150.31. If the Notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. §10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

By the Board

(Seal)

**Cynthia T. Brown,
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board**

VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF COOK)

David C. Dillon, being duly sworn, states that he is an attorney for Buckeye East Chicago Railroad, LLC; that he is familiar with the factual allegations made in the foregoing Notice of Exemption on behalf of BERR; and that such allegations are true as stated.



David C. Dillon, Attorney for
Buckeye East Chicago Railroad, LLC

SUBSCRIBED AND SWORN to before
me this 15th day of November, 2012.



Notary Public



**RAILCAR SWITCHING AND TRANSLOADING
SERVICE AGREEMENT**

This Agreement, entered into this 1st day of November, 2012, by and between LANDISVILLE RAILROAD, LLC, a Pennsylvania limited liability company, hereinafter called "Landisville", and BUCKEYE EAST CHICAGO RAILROAD LLC, a Texas limited liability company, hereinafter referred to as "Buckeye" (each also individually referred to as a "Party", and collectively referred to as "Parties").

WITNESSETH:

WHEREAS, Buckeye has secured or will shortly secure authorization from the Surface Transportation Board to acquire an interest in and to operate the infrastructure of a railroad facility located at 400 E. Columbus Dr., East Chicago, IN 46312 (the "Facility");

WHEREAS, Buckeye wishes to engage Landisville for maintenance of track and minor maintenance, switching, inspection, purging, venting and loading and unloading (i.e., transloading) of railcars at the Facility;

WHEREAS, Landisville is willing to provide maintenance, switching, purging, venting and loading and unloading (i.e., transloading) services at the Facility, as set forth below, in accordance with all applicable Federal and State regulations;

WHEREAS, Buckeye is willing to provide necessary support as delineated below for Landisville in its performance of such services;

NOW THEREFORE, for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. Landisville hereby represents and agrees to provide the following services during the Term (as hereinafter defined) of this Agreement:

(a) Movement of Railcars/Terminal Switching. Landisville will move inbound railcars received from the Indiana Harbor Belt Railroad Company ("IHBRR") from the storage tracks delivered to the Facility from the serving railroad and return same to the storage tracks for delivery to the serving railroad. Intra-terminal switching of railcars shall be done as directed by Buckeye and charged to Buckeye in accordance with Section 4 hereof.

(b) Maintenance. Landisville will provide all maintenance services required to keep the Facility in condition to preserve the FRA (as defined below) class of track that is in effect as of the effective date of this Agreement, provided however, any maintenance costs attributable to damage caused by Buckeye or the serving railroad shall be reimbursed by Buckeye in the following Monthly Invoice payment (as defined below).

(c) Loading and Unloading Services. Landisville shall provide loading and unloading of propylene railcars within the Facility from and to holding tanks located within the Facility (the "Loading Systems"), and in so doing transloading liquid and or vapor propylene from pipeline to

railcars for shipment or vice versa for storage. For avoidance of doubt, these services will include the purging and or venting of railcars.

(d) Qualified Personnel. Landisville shall provide an operating plan to Buckeye that specifies the number of personnel that will be required to provide the services under this Agreement. All personnel provided by Landisville to perform any of the services to be provided under this Agreement shall be employees or contractors of Landisville and not of Buckeye, and shall be fully trained and Qualified (as defined below) to perform the services prior to starting work on the services to be provided hereunder and shall be subject to the direction, supervision and control of Landisville and not of Buckeye. For the purposes of this Agreement, "Qualified" shall mean that a person has satisfied the training requirements for a position and possesses the background, certifications, skills and experience necessary to fulfill the duties of a job included in the provision of services, which shall include but not be limited to railroad conductor or engineering licensing as required, or Trackmobile qualification pursuant to applicable rules of the Federal Railroad Administration ("FRA") as well as any other certifications required by applicable Federal and State statutes or regulations for a person performing the tasks or services to which that person is assigned. Attached to this Agreement as Exhibit A is a list of applicable trainings and certifications that Landisville maintains or will maintain, as well as any certifications that will be secured by employees providing services under this Agreement, during the Term of this Agreement. Thereafter, each year on the anniversary date of this Agreement, Landisville shall provide certification to Buckeye that the employees engaged in providing services to Buckeye have remained Qualified to perform such services, listing (a) any certification for any such employee that has been obtained or renewed in the previous 12 months; and (b) any training or re-certification program in which such employees will participate in the coming 12 months in order to retain any such certification.

(e) Railcar Inspection. Landisville will inspect each railcar when received from the connecting carrier or IHBRR as per Exhibit B and prior to loading or unloading. Landisville will inspect each railcar prior to delivery to the connecting carrier or IHBRR as per Exhibit B and after loading or unloading. Further, Landisville will install a surveillance system that will record all Landisville activities within the Facility and movement of the railcars as they leave the Facility.

2. Buckeye hereby represents and agrees to provide the following services and perform the following actions during the Term (as hereinafter defined) of this Agreement:

(a) Trackmobile. Buckeye shall purchase, at Buckeye's own cost, a "SWX630 Shuttlewagon" or equivalent for Landisville's use within the facility. Buckeye shall at its own expense enter into and maintain a service agreement for such trackmobile. Buckeye shall pay the cost for the fuel and any other day-to-day or service expenses for such trackmobile.

(b) In-Motion Scale. Buckeye shall provide and maintain, or arrange for the provision and maintenance, at its own expense an in-motion scale to be used within the Facility.

(c) Loading Systems. Buckeye shall provide required training to Landisville employees on the use of the Loading Systems in accordance with applicable law and regulations. As specified in paragraph 1(d) above, Landisville shall be responsible for ensuring that all employees providing services to Buckeye have received appropriate training and any

certifications prior to commencing service under this Agreement and shall ensure that all such employees remain Qualified during the term hereof.

(d) Snow Removal. Buckeye shall provide snow removal services within the Facility; provided, however, that in the course of conducting operations pursuant to this Agreement Landisville shall sweep and keep clear the switches on tracks used in providing the services hereunder and any other snow removal necessary for maintaining the tracks in order to load or unload railcars and to receive and deliver railcars from and to the IHBRR.

(e) Building Use. Buckeye shall provide a facility for use by Landisville employees for the changing of clothing. Such facility shall comply with all federal, state and local statutes, ordinances and regulations and provide access to electricity and water.

(f) Monthly Forecasts. Forty-Five (45) calendar days preceding each month during the Term of this Agreement, Buckeye shall provide Landisville a written forecast of the anticipated amount of services needed for the month (the "Monthly Forecast"). Then, within fifteen (15) days of receipt of the Monthly Forecast, Landisville shall provide Buckeye with a proposed operating plan specifying how it intends to meet Buckeye's statement of anticipated services.

3. Term and Termination.

(a) This Agreement shall commence upon its execution by both parties and continue for three (3) years from receipt of the first railcar for commercial purposes (the "Commercial Start Date") unless terminated in accordance with this Agreement (the "Term"). For avoidance of doubt, commercial purposes means the receipt or discharge of a railcar wherein Buckeye receives monetary compensation from a third party customer.

(b) Landisville may terminate this Agreement with two (2) days written notice if Buckeye fails to pay any invoice within thirty (30) calendar days of presentment or defaults in the performance of any material term or condition of this Agreement, including but not limited to payment of the Minimum Payment (as defined below) and fails to correct such delinquency within thirty (30) calendar days after receipt of written notice from Landisville describing the default.

(c) Buckeye may terminate this Agreement with two (2) days written notice for Cause (as defined below) if Landisville fails to correct such breach within thirty (30) calendar days after receipt of written notice from Buckeye describing the default. Upon receipt of such termination notice, Landisville shall immediately take action not to incur any additional obligation, cost or expense, except as may be necessary to provide the services and reasonably necessary to terminate its activities. "Cause" shall mean a significant violation of OSHA Laws, operating procedures attached hereto as Exhibit A, Environmental Laws, Applicable Laws, or a failure to comply with any term, condition or obligation of this Agreement.

4. Payment.

(a) Buckeye shall pay to Landisville Twenty Five Thousand Dollars (\$25,000) upon execution of this Agreement.

(b) Buckeye shall pay to Landisville a minimum of Six Hundred Fifteen Thousand Dollars (\$495,000) per contract year as provided below (the "Minimum Payment") beginning on the Commercial Start Date as follows:

- (i) Fifteen Thousand Dollars (\$15,000) annually for snow removal services; and
- (ii) One Hundred and Twenty-Three Dollars (\$123) per railcar loaded or unloaded in each calendar month by Landisville (collectively, the "Monthly Payment"), provided however, if the Monthly Payment is less than Forty Thousand Dollars (\$40,000) (the "Minimum Monthly Payment"), the Minimum Monthly Payment shall be payable.

Subject to the following sentence, loading or unloading a railcar due to errors caused solely or partially by Landisville such as, but not limited to, overfilling or venting required due to overpressure will be exempt from this charge. Landisville will only be reimbursed on railcars where Buckeye is reimbursed by a third party except Landisville will be reimbursed for Special Handling (as defined in Exhibit D) at the same rate as specified above to the extent that the number of railcars needing Special Handling exceeds 2% of the total number of railcars handled in a month.

Should the Monthly Payment be less than the Minimum Monthly Payment, Buckeye shall receive a credit (the "Monthly Credit") to be applied toward future Monthly Payments wherein those Monthly Payments are greater than the Minimum Monthly Payment. For avoidance of doubt, in no case will Landisville receive less than the Minimum Monthly Payment and Buckeye shall only have the right to recoup the Monthly Maintenance Credits, not monetary payments, throughout the Term of this Agreement; and

(c) Within fifteen (15) calendar days following the month-end for each month following execution of this Agreement, Landisville shall prepare and deliver to Buckeye an invoice (the "Monthly Invoice") setting forth in reasonable detail Landisville's determination of the Monthly Payment due to Landisville. Buckeye shall deliver to Landisville, by certified check or electronic ACH payment made payable to Landisville, an amount equal to the applicable Monthly Invoice within fifteen (15) calendar days of the delivery of the Monthly Invoice. If Buckeye objects within the 15 calendar day period provided for in Section 4(d) for Buckeye to object, no payment, if any, shall be made until fifteen (15) calendar days following the earlier of: (i) the joint written agreement of Landisville and Buckeye; or (ii) the resolution of any dispute in accordance with Section 4(d).

(d) If Buckeye delivers to Landisville, within fifteen (15) calendar days following receipt of any Monthly Invoice, written notice disagreeing with the determination of such Monthly Invoice (with the failure of Buckeye to deliver such written notice within the foregoing 15 calendar day period being deemed to be conclusive acceptance of such calculations), Landisville and Buckeye shall attempt to resolve such dispute and if they have not done so within fifteen (15) calendar days after Buckeye provides notice of such dispute then the parties agree that they shall jointly refer such dispute to a certified public accounting firm of national or

regional standing reasonably acceptable to both parties (the "Accountants"). Such written notice of disagreement shall set forth in reasonable detail the basis of Buckeye's disagreement with the calculation of the Monthly Invoice, and Buckeye's calculation of what it believes the Monthly Invoice should be. The Accountants shall, acting as certified public accountants and not arbitrators, issue a report setting forth their determination of the Monthly Invoice, within sixty (60) calendar days after such dispute is referred to them, and such determination shall be final and binding upon the parties. Landisville and Buckeye shall provide the Accountants with all financial information concerning the Monthly Invoice that is reasonably requested by the Accountants for purposes of making the determination required by this Section 4(d). This provision for dispute resolution shall, notwithstanding any other provision set forth in this Agreement, be specifically enforceable by the parties. Any and all expenses relating to the Audit shall be borne solely and exclusively by Buckeye.

5. Liability and Indemnification.

(a) Landisville shall to the extent permitted by law indemnify and hold Buckeye harmless from all claims, damages or expenses arising out of all other actions, suits, claims, liabilities and damages arising out of the services provided by Landisville under this Agreement. The claims, damages and expenses in the foregoing sentence shall include but are not limited to any claim, action, or demand for damages, penalties, costs (including cleanup costs), and losses and expenses of any kind asserted against Buckeye as a direct or indirect result of the presence or escape of any hazardous materials, substances, wastes, or other environmentally regulated substances on the Facility, when the claim, action, or demand arises out of Landisville's provision of the services under this Agreement. Payment by Landisville pursuant to such indemnity shall be made promptly upon receipt of an invoice. Landisville's obligation under this Section 5.a. shall be without regard to insurance coverage.

(b) Notwithstanding the provisions of Section 5(a), above, Buckeye shall defend, indemnify and hold harmless Landisville for any claims, liabilities, damages, attorney fees and expenses that arise out of the actions of its employees, agents or subcontractors to the extent that Buckeye and not Landisville has control over the equipment at issue or over the employee, agent or subcontractor personnel who engaged in the action or inaction that gave rise to the claim, liability, damage, attorney's fees and/or expenses.

(c) Buckeye will defend, indemnify and hold harmless Landisville, its officers, employees, agents or subcontractors, from any liability for any loss or damages to the environment that occurred or existed prior to the date of this Agreement and any liability, loss, or damage caused solely by IHBR. Liability for any loss or damages to the environment after such date shall be allocated according to Section 5(a) of this Agreement.

6. Compliance with Environmental Laws

(a) In conducting any activity on the Facility, each Party shall comply with, and shall require its employees, agents, consultants, and/or contractors, to comply with, all Environmental Laws. In addition, and without limiting the foregoing:

(i) Each Party shall obtain or require its agents, consultants, and contractors, to obtain all necessary federal, State, and local environmental permits, and to comply with all

applicable federal, State, and local Environmental permit requirements relating to such Party's or its agents', consultants', or contractors' activities on the Facility.

(ii) Each Party shall avoid exacerbating Environmental contamination (including the quantity, quality, or distribution of any such Environmental contamination) in, on, under, or migrating from the Facility.

(iii) Each Party shall prevent any unlawful discharge or disposal of any Hazardous Materials to storm or sanitary sewer systems, surface water, air, soils or groundwater, in, on, under or migrating from the Facility. A Party discovering the existence of any such discharge or disposal shall immediately notify the other Party to this Agreement of the existence of such discharge, disposal, release, spill or leak.

(iv) In the event of an actual, suspected or threatened discharge, release, spill, or leak of Hazardous Materials ("Release Event") as a result of a Party's activities under this Agreement or upon discovery of a Release Event by either Party, the Party that initially becomes aware of the Release Event ("Responsible Party") shall immediately, upon discovering or becoming aware of the Release Event, advise the other Party. The Party that is legally responsible for notification or reporting at the time of the Release Event shall make all notifications and reports to the appropriate Governmental Authority required under the Environmental Laws.

(b) For the purposes of this Agreement:

(i) "Environmental" means relating to air, land, water and ecological systems, both aquatic and terrestrial, or any combination or part thereof.

(ii) "Environmental Laws" means any and all Applicable Law, regulating or imposing standards of liability or exposure or standards of conduct or other requirements concerning air, land, water, ecological systems, both aquatic and terrestrial, solid waste, Hazardous Materials, worker and community right-to-know, hazard communication, noise, radioactive material, storage tanks, resource protection, health protection, and safety.

(iii) "Applicable Law" means federal, State, local, and municipal laws, statutes, ordinances, codes, rules, regulations, permits, licenses, guidance documents, authorizations, directives, judicial or administrative orders, decisions or rulings, and other legally binding requirements of governmental authorities that now or hereafter may be applicable to the Parties, the Facility, or the activities performed under this Agreement, including Environmental Laws, all as amended and effective during the term of this Agreement.

(iv) "Hazardous Materials" means any oil (including petroleum fraction, petroleum, petroleum products, crude oil, waste oils, fuel oils, liquefied petroleum, and edible oils), fuel additives, liquefied natural gas and natural gas of any kind), pesticides, herbicides, PCBs, asbestos-containing materials, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, pollutants, contaminants, and any other element, compound, mixture, solution, or substance which poses a present or potential risk to human health or the Environment, or is

regulated by, or subject to or for which standards of liability or exposure or standards of conduct or management requirements are imposed under, any Environmental Laws.

7. Insurance.

(a) Landisville shall procure and maintain for the term of the Agreement commercial general liability insurance in the amount of \$10,000,000 which at a minimum shall cover all claims and all matters for which Landisville is responsible to indemnify Buckeye pursuant to section 5 of this Agreement. Such insurance shall include an insurer's waiver of subrogation in favor of Buckeye, shall name Buckeye as an additional insured and shall be in a form acceptable to Buckeye.

(b) Landisville shall maintain, for the duration of the Agreement, Employers' Liability Insurance with limits of no less than \$1,000,000 each accident, \$1,000,000 disease each employee, \$1,000,000 disease policy limit. Such insurance shall include an insurer's waiver of subrogation in favor of Buckeye, shall name Buckeye as an additional named insured and shall be in a form acceptable to Buckeye. Landisville waives all rights against Buckeye and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the employer's liability insurance.

(c) Prior to beginning work pursuant to this Agreement, Landisville shall provide certificates of insurance in a form acceptable to Buckeye that confirm the existence of the insurance required by this Section 7. Each year, on the anniversary date of this Agreement Landisville shall provide certificates of insurance in a form acceptable to Buckeye that confirm that the insurance required by this Section 7 remains in effect.

(d) Landisville shall maintain, for the duration of the Agreement, Contractors Pollution Liability Insurance with limits of no less than \$10,000,000 each accident. Such insurance shall include an insurer's waiver of subrogation in favor of Buckeye, shall name Buckeye as an additional insured and shall be in a form acceptable to Buckeye.

(e) Landisville shall maintain auto insurance coverage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

(f) Should Landisville not be able to meet all or some of the above insurance requirements, Buckeye shall help Landisville to obtain insurance that will provide an equivalent level of coverage to both parties at no greater than 5% cost increase than Landisville is paying for such coverage upon execution of this Agreement or alternatively the Parties may mutually agree to renegotiate the above insurance requirements. For the avoidance of doubt, nothing in this section shall obligate Buckeye to incur any cost related to this Section 7.

8. Railroad Retirement Obligations. Landisville hereby represents and confirms that it is an employer as defined in 45 U.S.C. §231(a) and that it will fulfill all obligations of an employer under the Railroad Retirement Act of 1974, 45 U.S.C. §231, *et seq.*, and the Railroad Unemployment Insurance Act, 45 U.S.C. §351, *et seq.*, with respect to the employees who are working on provision of services to Buckeye under this Agreement.

9. Confidential Information. In connection with this Agreement and the services contemplated herein, the parties may need to exchange business and/or technical information that any party may regard as confidential and proprietary including but not limited to the terms and existence of this Agreement. The term "Confidential Information" means any and all business and technical information provided to any party by the other, via documents or via oral

disclosures, except for information that: (i) was in the party's possession before receipt from any party; (ii) is or becomes generally available to the public, by publication or otherwise, through no fault of any party; (iii) is or becomes available to any party, without restriction, from a third party who is legally entitled to provide such information; or (iv) was or is independently developed by any party without recourse to any confidential information. For a period of three (3) years from the termination date of this Agreement, neither party will, without the prior written approval of the other party, use any Confidential Information obtained from the other party for any purpose other than as provided in this Agreement, or except as required by law, disclose any information obtained from the other party to a third party other than employees or consultants of affiliated companies who have agreed in writing to keep such information confidential as contemplated by this Section 9 and who need the information to assist any party in the transaction contemplated herein.

10. Notices. All notices required to be given to any of the parties to this Agreement shall be in writing and shall be deemed to have been sufficiently given, subject to the further provisions of this Section 8, for all purposes when presented personally to such party or sent by certified or registered mail, return receipt requested, with proper postage prepaid, or any national overnight delivery service, with proper charges prepaid, to such party at its address set forth below:

If to Buckeye: Buckeye East Chicago Railroad LLC
400 E. Columbus Dr.

East Chicago, IN 46312
Attention: Kathy Boslett
Email: KBoslett@buckeye.com

With a copy to: Buckeye Partners, LLC
One Greenway Plaza
Suite 600
Houston, TX 77046
Attention: Assistant General Counsel
Email: JLawhorn@buckeye.com

If to Landisville: Landisville Railroad, LLC
4910 Simpson Ferry Road
Mechanicsburg, PA 17050
Attention: Michael Kennedy
Email: MKennedy@railroadtrac.com

With a copy to: Bybel Rutledge LLP
1017 Mumma Road, Suite 302
Lemoyne, PA 17043
Attention: Nicole Stezar Kaylor, Esquire
Email: kaylor@bybelrutledge.com

Such notice shall be deemed to be received when delivered if delivered personally, the next business day after the date sent if sent by a national overnight delivery service, or three business days after the date mailed if mailed by certified or registered mail. Any notice of any change in such address shall also be given in the manner set forth above. Whenever the giving of notice is required, the giving of such notice may be waived in writing by the party entitled to receive such notice.

11. No Third Party Beneficiaries. Except as is otherwise expressly provided in this Agreement, this Agreement is not intended to, and does not, create any rights in or confer any benefits upon anyone other than the parties hereto.

12. Entire Agreement; Amendment. This Agreement and any other documents, instruments or other writings delivered or to be delivered pursuant to this Agreement constitute the entire agreement among the parties with respect to the subject matter of this Agreement and supersede all prior agreements, understandings, and negotiations, whether written or oral, with respect to the subject matter of this Agreement. None of the terms and provisions contained in this Agreement may be changed without a writing signed by all parties hereto.

13. No Waiver of Rights. No waiver of any rights of Buckeye, on the one hand, or Landisville, on the other hand, under this Agreement shall be effective unless it is in writing and executed by a duly authorized representative of the party against whom enforcement of any such waiver is sought. No failure or delay on the part of any party in the exercise of any power or right under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such power or right. The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach under this Agreement.

14. Section Titles. The Section titles used in this Agreement are for convenience only and are not intended to define or limit the contents or substance of any such Section or paragraph.

15. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of each of the parties to this Agreement and their respective heirs, personal representatives, and successors and permitted assigns. Buckeye, on the one hand, and Landisville, on the other hand, shall have the right to assign this Agreement without the prior written consent of the other party; *provided, however*, that the assignee of Buckeye demonstrates in writing sufficient financial resources for the Minimum Annual Payments under this Agreement.

16. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or such provision, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

17. Governing Law. This Agreement shall be governed and construed as to its validity, interpretation and effect by the laws of the Commonwealth of Pennsylvania, notwithstanding the choice of law rules of Pennsylvania or any other jurisdiction. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE IN THE STATE AND FEDERAL COURTS IN THE COMMONWEALTH OF PENNSYLVANIA, WHICH COURTS SHALL

HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE, AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURTS.

18. Waiver of Jury Trial. EACH PARTY TO THIS AGREEMENT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT SUCH PARTY MAY LEGALLY AND EFFECTIVELY DO SO, TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING UNDER THIS AGREEMENT.

19. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any counterpart signature page delivered by facsimile transmission shall be deemed to be and have the same force and effect as an originally executed signature page. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

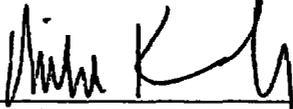
[Signature Page Follows.]

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

ATTEST:

A handwritten signature in black ink, appearing to be "A. J. ...", written over a horizontal line.

LANDISVILLE RAILROAD, LLC

By: 
Michael Kennedy, President

ATTEST:

A handwritten signature in black ink, appearing to be "Robin Clark", written over a horizontal line.

BUCKEYE EAST CHICAGO RAILROAD LLC

By: 
Carl Ostach, Vice President
Domestic Field Operations

EXHIBIT A

Training and Certification Requirements



Landisville Training at Buckeye:

- Buckeye Railroad Operating Rules
- Landisville Safety Rules
- HazMat Awareness
- Loading/Unloading Procedure
- HazMat Initial Response
- Track Mobile Operation
- Tank Car Inspection
- ~~Tank Car Repair~~ DUE
- HazMat Security Plan

EXHIBIT B

Railcar Pre-load/unload Inspection

Railcar Pre-trip Inspection

EXHIBIT- B-

RAIL CAR CHECK LIST

WBU PROPYLENE RAILCAR Loading Report (FRONT)

Railcar Number:	Location:	Date:
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BEFORE LOADING INBOUND INSPECTION (Pre Load/Unload):		Acceptable?	
Per 49 CFR 173.31(d) and B.O.E. Pamphlet 34		LOADER initials for this Section →	
Check YES or NO column after loader initials are entered!			
CAR PREPARATION		YES	NO
1	DERAIL SET & LOCKED (BEFORE getting on top of the railcars!)?		
2	BLUE FLAG SIGNS: "DERAIL" & "STOP" set? (BEFORE getting on top of railcars!)?		
3	WHEELS CHOCKED? (Is Tank Car properly chocked?)		
4	HAND BRAKE set?		
5	DEFECT card or BAD ORDER card? (If yes, DO NOT LOAD CAR!)		
6	Inspect car for INTEGRITY, VISIBLE DAMAGE, &/or LEAKAGE?		
CAR INSPECTION		YES	NO
7	HAND BRAKE free of obvious defects? (NO wear marks on axles?)		
8	TANK/TANK jacket is in good condition? (Free of visible damage and leakage?)		
9	PAINT on tank/jacket in good condition? (No Graffiti, bare metal over large area?)		
10	DOUBLE SHELF COUPLERS on both ends? (DSC in place on both A & B end?)		
11	Inspect TANK SHELL/HEADS for abrasions, corrosion, cracks, dents, distortions, defects in welds, or any other unsafe conditions (ANY DEFECTS, BAD ORDER the car!)		
12	Inspect for MISSING or LOOSE BOLTS/NUTS?		
13	AEI TAGS present on both sides of the railcar? (AEI tags HORIZONTAL?)		
14	ROLLER BEARING END PLATE TABS in place on all wheels? (On all 8 wheels?)		
15	SAFETY APPLIANCES (EQUIPEMENT) free of all defects? (Ladders, Running Board Gratings, Handrails, Platforms, Steps, etc?)		
16	STENCILS & REPORTING MARKS legible/visible from 100'? ("NON-ODORIZED" marking in place? IMUST have ALL 4 "1077" placards; orange panels optional!)		
17	PRD VALVE (Safety Relief) in test?	YEAR TESTED:	YEAR DUE:
18	TANK QUALIFICATION in test?	YEAR TESTED:	YEAR DUE:
19	TANK SHELL THICKNESS in test?	YEAR TESTED:	YEAR DUE:
20	SERVICE EQUIPMENT in test?	YEAR TESTED:	YEAR DUE:
21	All VALVES operate properly and have and have no missing or damaged parts?		
22	All VALVES securely CLOSED and in the proper LOADING position?		
23	PRESSURE RELIEF (PR) DEVICE		
24	All FITTINGS, VALVES, GASKETS, and FASTNERS (chains) in proper condition?		
25	PRESSURE RELIEF VALVE must be inspected for debris?		
26	Inspect THERMOWELL CAP & GAUGE ROD to determine if NO leaks?		
27	Inspect O-RING and GAUGE ROD BODY?		
28	Is the rail car properly GROUNDED/BONDED before loading?		
29	Inspect TANK SHELL/HEADS for abrasions, corrosion, cracks, dents, distortions, defects in welds, or any other unsafe conditions? (ANY DEFECTS, BAD ORDER the car!)		
30	PLACARD HOLDERS (w/ like new/un-faded PLACARDS) in place? [PROPYLENE 1077]	4 ORANGE 1077 PANELS (optional)?	4 MATCHING PLACARDS?

Last UPDATED 04/05/11, REV #0, by DOT Compliance, <http://wst2.bp.com/KM/WhitingRefinery/for>

WBU PROPYLENE RAILCAR Loading Report (BACK)

Railcar Number:	Location:	Date:
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CAR INSPECTION		YES	NO
Per 49 CFR 173.31(d) and B.O.E. Pamphlet 34 LOADER initials for this Section →			
Check YES or NO column after loader initials are entered!			
DURING LOADING		YES	NO
31	Monitor TANK CAR for LEAKAGE during loading?		
32	Ensure adequate OUTAGE remains in the car when loading complete?		
Per 49 CFR 173.31(d) and B.O.E. Pamphlet 34 LOADER initials for this Section →			
Check YES or NO column after loader initials are entered!			
OUTBOUND INSPECTION		YES	NO
33	When LOADING COMPLETE recheck Tank Car for signs of LEAKAGE?		
34	Verify there are no detectable leaks on VALVES and FLANGES?		
35	Secure all PLUGS and OUTLET CAPS to ensure a TOOL TIGHT condition?		
36	All PLUGS/CAPS (X6 in manway) must be fastened (chained) to railcar (SAMPLE VALVE PLUG)?		
37	THERMAL WELL/MAGNETIC GAUGING device closures HAND TIGHT?		
38	CAR SEAL applied and SEAL NUMBER recorded on loading ticket.		
39	SEALS Applied? 1. <input style="width: 150px;" type="text"/> 2. <input style="width: 150px;" type="text"/> 3. <input style="width: 150px;" type="text"/>		
40	PRODUCT: <input style="width: 500px;" type="text"/>		
41	INCHES of OUTAGE in tank: <input style="width: 500px;" type="text"/>		
42	Product TEMPERATURE: <input style="width: 500px;" type="text"/>		
43	Product API GRAVITY: <input style="width: 500px;" type="text"/>		

CHECK ONE BELOW:

OK TO SHIP?
 MUST BE REPAIRED before shipping!
 BAD ORDER!

IMPORTANT: IF car can't be repaired, BAD ORDER the car! DO NOT LOAD! Explain defect in REMARKS!

COMMENTS/REMARKS: Sample Valve Plug/chain Replaced?

FULL SIGNATURE(S) of Inspection Personnel (INITIALS NOT ACCEPTABLE):

1. SIGN	1. PRINT NAME
2. SIGN	2. PRINT NAME

EXHIBIT C

Intentionally Deleted

EXHIBIT D

Special Handling of Railcars

The following actions qualify for special handling of railcars ("Special Handling")

- 1) Railcar contents that must be off-loaded due to reasons other than the railcar being loaded by Landisville beyond the filling limits as defined in 49 CFR 173.314 (published by the Pipeline and Hazardous Materials Safety Administration, DOT) or the railcar being damaged by Landisville which then requires off-loading.
- 2) Railcars needing to be vented to the vapor combustor unit or condenser due to being over-pressured with non-condensables (such as, but not limited to, nitrogen).