

LL. 5701 - 20
Hartsdale-11/In SL 8" PPL
Loc. 50-5701

*Arco Bldg
Independence Kansas
67301*

10 741957

THIS AGREEMENT, made and entered into effective the 1st day of April, 1983, by and between ELGIN, JOLIET AND EASTERN RAILWAY COMPANY, a corporation (hereinafter termed "Railway"), party of the first part, and ARCO PIPE LINE COMPANY, a corporation, (hereinafter termed "APL"), party of the second part;

W I T N E S S E T H:

FIRST: In consideration of the payment of Ten Dollars and other valuable consideration, the receipt of which is hereby acknowledged, the Railway hereby grants to APL a perpetual easement to continue to maintain and operate and to repair, reconstruct, and replace, as required, an existing carrier pipeline eight (8) inches diameter for the transportation of petroleum products under and across the mainline right-of-way and tracks of the Railway in Hartsdale, Indiana, at about Railway Survey Station 5686+21.0, said Survey Station marking the centerline of the easement being a strip of land twenty (20) feet in width, ten (10) feet thereof lying on each side of such centerline, all situated in the Southeast Quarter (SE 1/4) of Section Four (4), Township Thirty-Five (35) North, Range Nine (9) West of the Second Principal Meridian in Lake County, Indiana. The location of said carrier pipeline and easement is indicated in red color on the Plat hereto attached dated August 26, 1983 marked Exhibit "A" and made a part hereof.

SECOND: APL agrees that said carrier pipeline and all appurtenances for the installation and operation thereof (hereinafter for

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD
JAN 19 2 24 PM '84
WILLIAM BIELAK, JR.
RECORDER

FILED

JAN 18 1984

*Wm B Bielak Jr
Auditor Lake County*

1750

convenience termed "equipment") shall be constructed, installed, maintained, repaired and operated in accordance with "Specifications for Pipe Line Crossings under Railway Track," adopted in 1933 by the American Railway Engineering Association, as amended, and in a manner satisfactory to the Chief Engineer of the Railway and at the expense of APL. The Railway hereby agrees that upon request it will furnish APL with a copy of said specifications.

APL further agrees that plans and specifications for the construction, method of installation and the location of said equipment, shall be submitted to and written approval of the same shall be secured from said Chief Engineer before APL shall commence any work in connection with the installation thereof upon the right-of-way of the Railway.

THIRD: APL agrees to maintain and operate said equipment at all times in accordance with all laws and ordinances that may be applicable thereto, and also in accordance with the rules and regulations of the proper public authorities now or at any time hereafter having jurisdiction thereof. APL also agrees to reimburse the Railway for all expense which the Railway may be put to or incur at any time or from time to time by reason of such installation, maintenance, operation, repair or removal of said equipment and each and every part thereof.

FOURTH: APL covenants and agrees to release the Railway from all claims for loss or damage to said equipment, or any part or parts

thereof, however caused or occasioned except when caused by the sole negligence of the Railway, its agents or employees.

FIFTH: APL covenants and agrees to reimburse Railway for any and all loss or damage and to indemnify, save harmless and defend the Railway from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorneys' fees in any manner caused by, arising from, incident to, connected with or growing out of this Agreement or the installation of said equipment or the maintenance, operation, repair, leakage, replacement, removal, change or alteration in location or use of said equipment or any part thereof except when caused by the sole negligence of the Railway, its agents or employees.

SIXTH: In case the Railway at any time shall desire any repairs to or replacements of said equipment, or any part thereof, then APL shall commence such repairs or replacements as the case may be, within ten (10) days after such notice is sent or given as aforesaid, and shall complete the same not more than ninety (90) days thereafter and if APL shall fail so to do then the Railway may make such repairs or replacements and APL shall pay to the Railway immediately thereafter the entire cost and expense thereof.

SEVENTH: It is understood and agreed that APL may enter upon the property of the Railway at all reasonable times for the purpose of installing, maintaining, repairing, renewing or removing said equipment, provided, however, that the Chief Engineer of the Railway

shall be given not less than seventy-two (72) hours' notice of intention to enter prior to the time of such entry. Such notice may be given by mail to the Chief Engineer at P. O. Box 880, Joliet, Illinois 60434 or by telephone to the Secretary of the Chief Engineer at (815) 740-6566. It is understood, however, that all such work of installation, maintenance, repair, renewal and removal shall be done without cost or expense to the Railway, in a proper manner and without injury to said property of the Railway, and APL shall remove all materials and rubbish and shall fill up and tamp thoroughly all excavations made for the installation, maintenance, repair, renewal or removal of said equipment, and shall keep the material covering the pipe in said equipment at the same level as the ground adjacent thereto at all times during the life of this Agreement.

EIGHTH: It is understood and agreed that the easement herein granted to APL does not include the right to move heavy equipment or vehicles over unprotected tracks of the Railway. Any such movements shall be made only at the nearest properly installed crossing or if no such crossing exists reasonably close to the work area, a temporary crossing shall be installed by the Railway at the sole expense of APL. In the event APL fails to request said temporary crossing, the Railway reserves the right to install the same at the discretion of the Chief Engineer of the Railway and APL upon presentation of a bill therefor shall pay all costs and expenses connected therewith.

It is understood and agreed that when in the judgment of the Chief Engineer of the Railway, it shall be necessary to protect the property of the Railway or that in its care and custody by the use of crossing flagmen or other protective measures, APL shall reimburse the Railway promptly for the entire cost and expense thereof.

NINTH: It is understood and agreed that notwithstanding the easement herein granted by the Railway it at all times shall have the right to permit others to use said property for any purpose whatsoever but in a manner that does not interfere with the maintenance and operation of said equipment. If, at any time or from time to time while this Agreement shall be in effect, the presence of said equipment in the judgment of the Railway, shall interfere in any way with Railway operations, APL shall move said equipment to such location upon the property of the Railway as the Railway shall designate, upon not less than ninety (90) days' written notice being sent or given by the Railway to APL so to do and install and construct the same to the satisfaction of the Chief Engineer of the Railway, and if APL shall have failed to move said equipment as aforesaid, upon the termination of said notice, the Railway shall have the right to move such equipment and APL immediately shall pay to the Railway the entire cost and expense thereof. Upon removal of said equipment the easement granted at the location described above in Section FIRST of this Agreement shall terminate. The easement as herein granted

in Section FIRST and all other provisions of this Agreement shall be applicable to such changed location of said equipment in the same manner as though said equipment had remained as originally located.

TENTH: APL shall pay before delinquency all general and special taxes and special assessments that may be levied, charged or assessed upon said equipment. In the event, however, that said equipment shall be considered or assessed as a part of the property of the Railway, APL shall pay to the Railway the amount which the Railway has been obligated to pay due to the presence of said equipment upon the property of the Railway. If APL shall fail to pay such taxes and assessments when due, the Railway shall have the right but shall not be obligated to pay such taxes and assessment. The amount so paid by the Railway shall be repaid to the Railway by APL immediately.

ELEVENTH: It is mutually understood and agreed that if, at any time after the installation of said equipment APL shall fail for a period of twelve (12) consecutive months to use the same, such failure shall be conclusive evidence of the intention of APL to abandon all of its rights under this Agreement and, without prior notice or proceeding of any nature on the part of the Railway, this Agreement, the easement herein granted and all rights of APL hereunder immediately shall cease and terminate. After such failure the APL immediately upon receipt of a written request from the Railway so to do shall remove all said equipment from the right-of-way and property of the Railway and restore the same to a condition satis-

factory to the Chief Engineer of the Railway and such removal and restoration shall be made without cost or expense to the Railway. If APL shall fail so to remove all said equipment and to make the aforesaid restoration, the Railway shall have the right so to do and the title to all of said equipment shall vest in the Railway and may be used or disposed of by the Railway in any manner which the Railway may desire. All of the costs and expenses incurred by the Railway in and by the performance of the work aforesaid shall be paid by APL to the Railway. APL agrees to give the Railway notice of its failure to cause said equipment to be used for the purpose hereinabove provided in this Agreement.

The termination of this Agreement and of the easement in any way shall not release APL from any liability to the Railway which has accrued or which may accrue thereafter by reason of the violation by APL of any of the agreements or covenants contained in this Agreement.

TWELFTH: It is understood and agreed that any notice in this Agreement provided shall be deemed to have been given properly if and when placed in the United States Mail, registered and addressed to the party to be notified at its last known business address.

THIRTEENTH: It is understood and agreed that any failure by the Railway at any time, or from time to time, to enforce or require the strict keeping and performance by APL of any of the terms or conditions of this Agreement shall not constitute a waiver by the Railway of such terms or conditions and shall not affect or impair

such terms or conditions in any way, or the right of the Railway at any time to avail itself of such remedies as it may have for any breach or breaches of such terms or conditions.


FOURTEENTH: It is understood and agreed that the certain agreement in writing dated the 1st day of April, 1958 by and between the Railway and Sinclair Pipe Line Company, the name thereof having been changed to ARCO Pipe Line Company by proper legal action effective the 23rd day of June, 1969, be and the same is hereby terminated.

FIFTEENTH: It is covenanted and agreed by and between the parties hereto that this Agreement shall inure to the benefit of and shall be and remain binding upon their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have manually executed this Agreement in duplicate originals this 7th day of December, 1983, effective, however, as of the day and year first above written.

ATTEST:

ELGIN, JOLIET AND EASTERN
RAILWAY COMPANY

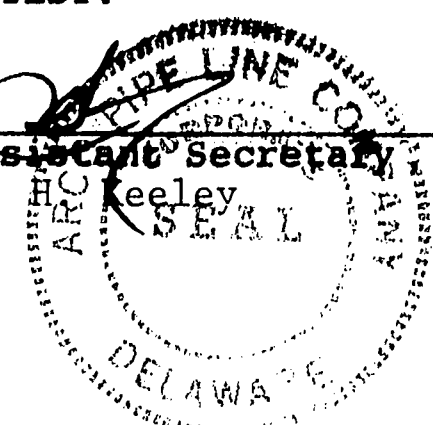

R. J. Driscoll
R. J. Driscoll,
Assistant Secretary

By F. A. Fitzpatrick
F. A. Fitzpatrick
Vice President-Operations

RECEIVED
FEBRUARY 1984
STOUT

ATTEST:

ARCO PIPE LINE COMPANY


J. H. Keeley
Assistant Secretary
J. H. Keeley

By Gail M. Stout
Gail M. Stout
Senior Vice President,
Gail M. Stout

WWF:dlf
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1 + 6

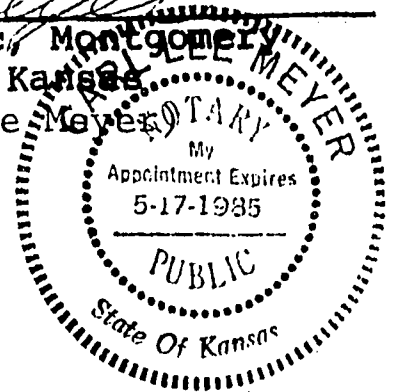
STATE OF KANSAS)
) SS.
COUNTY OF MONTGOMERY)

Before me, Carl Lee Meyer, this 7th day of December, 1983 personally appeared ARCO Pipe Line Company by Gail M. Stout and J. H. Keeley, its Senior Vice President and Assistant Secretary respectively, and acknowledged the execution of the foregoing instrument.

In testimony whereof, I have hereunto subscribed my name, and affixed my official seal at Independence, KS, this 7th day of December, 1983.

Carl Lee Meyer

Notary Public, Montgomery
County, Kansas
(Carl Lee Meyer)



My Commission Expires:
May 17, 1985.

STATE OF ILLINOIS)
) SS.
COUNTY OF WILL)

Before me, Cheryl K. Kucer, this 23rd day of December, 1983, personally appeared Elgin, Joliet and Eastern Railway Company, by F. A. Fitzpatrick and R. J. Driscoll, its Vice President-Operations and Assistant Secretary respectively, and acknowledged the execution of the foregoing instrument.

In testimony whereof, I have hereunto subscribed my name, and affixed my official seal at Joliet, Illinois, this 23rd day of December, 1983.

Cheryl K. Kucer
Notary Public, Will
County, Illinois

My Commission Expires:
5/28/1986

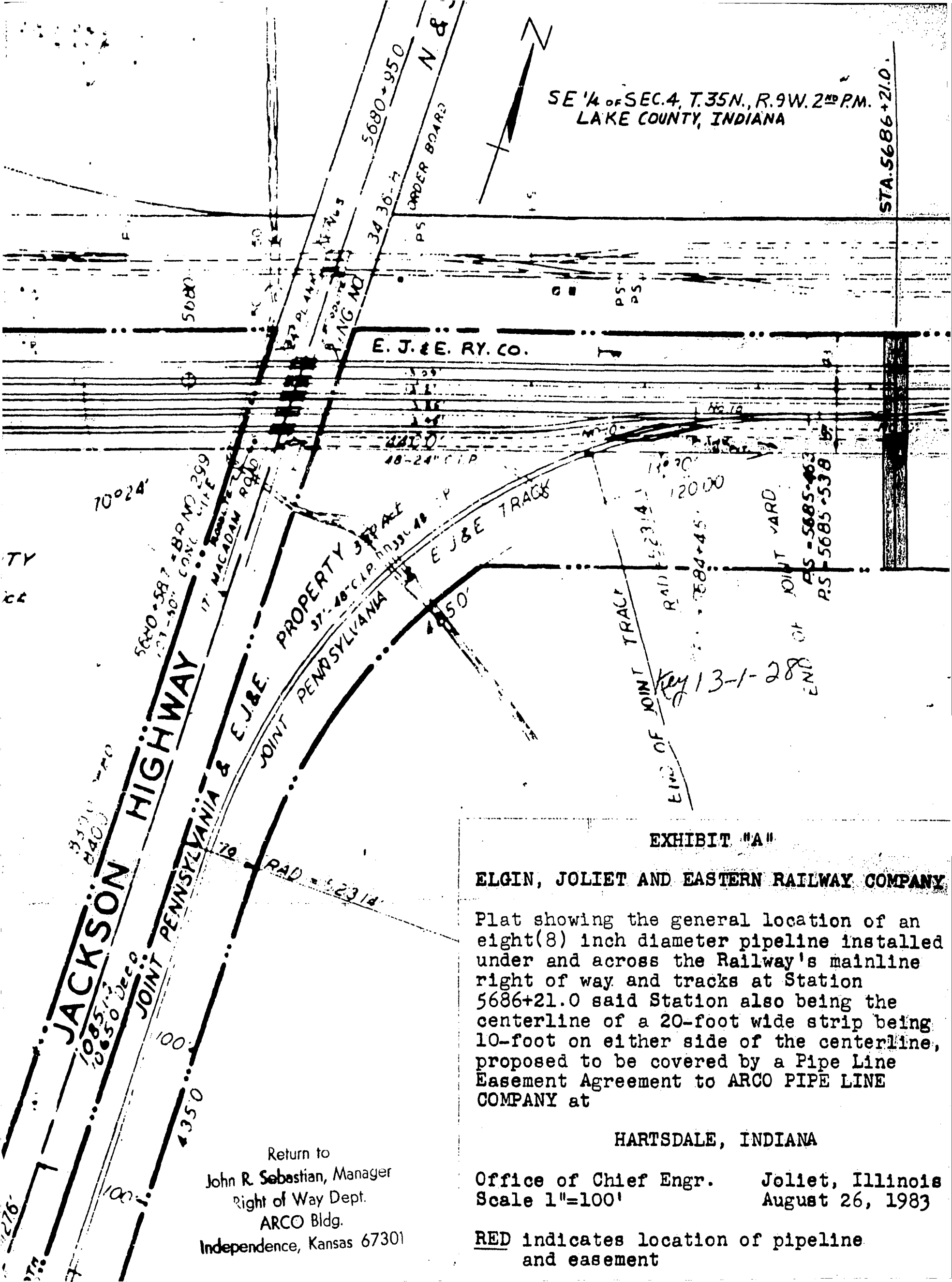


EXHIBIT "A"

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY

Plat showing the general location of an eight(8) inch diameter pipeline installed under and across the Railway's mainline right of way and tracks at Station 5686+21.0 said Station also being the centerline of a 20-foot wide strip being 10-foot on either side of the centerline, proposed to be covered by a Pipe Line Easement Agreement to ARCO PIPE LINE COMPANY at

HARTSDALE, INDIANA

Office of Chief Engr. Joliet, Illinois
 Scale 1"=100' August 26, 1983

RED indicates location of pipeline and easement

Return to
 John R. Sebastian, Manager
 Right of Way Dept.
 ARCO Bldg.
 Independence, Kansas 67301