

9

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2009 066335

2009 SEP 30 PM 3:02

MICHAEL A. BROWN
RECORDER

This instrument prepared
by and after recording mailed to:

William H. Schmidt, Jr., Esq.
Buckeye Pipe Line Co., L.P.
940 Buckeye Road
Lima, OH 45804

FILED
SEP 30 2009
PEGGY HOLINGA KATONA
LAKE COUNTY AUDITOR

(Reserved for Recorder's Office Use Only)

UTILITY EASEMENT AGREEMENT

Document is NOT OFFICIAL!
This Document is the property of the Lake County Recorder!

THIS UTILITY EASEMENT AGREEMENT ("Agreement"), made and entered into as of the 31st day of August, 2009, by and among 4407 RAILROAD HOLDINGS LLC, a Delaware limited liability company, duly authorized to transact business in the State of Indiana, hereinafter called "Grantor", BUCKEYE PIPE LINE COMPANY, L.P., a Delaware limited partnership, duly authorized to transact business in the State of Indiana ("Buckeye"), and NORTHERN INDIANA PUBLIC SERVICE COMPANY, an Indiana corporation ("NIPSCO"). Buckeye and NIPSCO are sometimes individually referred to herein as a "Grantee" and collectively as "Grantees"

WITNESSETH:

WHEREAS, the City of East Chicago, Indiana is preparing to implement plans known as "Railroad Avenue Grade Separation over CSX Railroad" adjacent to lands of Grantor in the northeast quadrant of the intersection of Railroad Avenue and CSX Railroad corridor, City of East Chicago, Lake County, Indiana. Grantees must accommodate said City's plans by relocating their respective existing utilities (specifically, Buckeye's single 10-inch diameter pipeline and appurtenances (including communication equipment) for petroleum products (the

27-
LP
CS

013239

“Buckeye Facilities”) and NIPSCO’s power pole lines, wires, cables, and additional poles and appurtenances and equipment (including communication equipment) for the transmission, distribution and delivery of electricity, (the “NIPSCO Facilities” and, together with the Buckeye Facilities, the “Utility Facilities”) from either Railroad Avenue right of way or elsewhere, to lands of Grantor in order to provide for the City's new Railroad Avenue bridge (grade separation); and

WHEREAS, Grantees propose to relocate their respective Facilities onto a strip of Grantor's land, hereinafter called the "Easement Premises", of approximate size Forty-feet (40') wide by Six Hundred Eighty Feet (680') long lying north of the CSX Railroad corridor and parallel with and adjacent to the easterly Railroad Avenue right of way limit; and,

WHEREAS, Grantor claims fee ownership of the Easement Premises by virtue of Special Warranty Deed dated June 29, 2007, and recorded as Instrument No. 2007 057530, Lake County, Indiana records, with respect to certain real property located in the NE ¼ and the SE ¼ of Section 29, T37N, R9W, City of East Chicago, Lake County, Indiana (hereinafter called the "Premises"); and,

WHEREAS, Grantor and Grantees are agreeable to the relocation of the Utility Facilities to the Easement Premises located on and across the Premises as shown and described on Exhibit ‘A’ attached hereto and made a part hereof, subject to the terms and conditions as hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration more specifically outlined in an Agreement and Receipt dated the date hereof, the receipt and sufficiency of which is hereby acknowledged:

- (a) Grantor hereby grants to Buckeye, and to its successors and assigns, a non-exclusive perpetual easement to construct, erect, maintain, operate, repair, inspect, replace, renew and remove the Buckeye Facilities from time to time; and
- (b) Grantor hereby grants to NIPSCO, and to its successors and assigns, a non-exclusive perpetual easement to construct, erect, maintain,

operate, repair, inspect, replace, renew and remove the NIPSCO Facilities; and power poles, and to string, install, construct, erect, maintain, operate, repair, inspect, replace, renew and remove wires, cables, and other necessary equipment, the Facilities, upon and between such poles, and additional poles, wires, cables and other necessary equipment from time to time, and to operate by means thereof from time to time one or more line or lines for the transmission, distribution and delivery of electrical energy;

together with the right of free and unobstructed ingress and egress to and from the Easement Premises over and across the Premises, subject to the following terms and conditions:

1. Any damages to property, fences, lights, signs, parking lots or buildings of the Grantor on said Easement Premises or on lands of Grantor adjoining the Easement Premises caused by a Grantee in the exercise of its rights herein granted shall be promptly resolved and/or paid for by the Grantee causing the same.

2. The Grantor, its successors and assigns, reserves the right to use the Easement Premises for parking of any vehicles and construct driveways over the Easement Premises to Railroad Avenue. Grantor also may cross the Easement Premises with any underground pipes or lines, utility lines, cable television lines, or other lines provided such lines meet the crossing criteria of the Grantees. Grantor also may landscape the Easement Premises with any legal vegetation, other than trees; provided, however, that each Grantee reserves the right to trim or clear any such vegetation that such Grantee deems in its sole discretion would interfere with such Grantee's Utility Facilities.

3. Grantor also shall be allowed to construct any type of sign, billboard, fence or other structure which, in the reasonable opinion of the Grantees, does not interfere with Grantees' respective abilities to safely and effectively enjoy their rights granted herein; provided, however, that Grantor agrees that no buildings shall be located over any pipelines or other underground Utility Facilities.

4. Each Grantee, severally but not jointly, agrees to indemnify and save Grantor harmless from and against any and all damage, injuries, losses, claims, demands or costs proximately caused by the fault, culpability or negligence of such Grantee, or its agents, in the installation, construction, erection, maintenance, operation, repair, replacement or removal of the Buckeye Facilities (in the case of Buckeye's indemnity obligation hereunder) or the NIPSCO Facilities (in the case of NIPSCO's indemnity obligations hereunder) across the Easement Premises.

5. Grantor hereby represents, warrants and covenants to be the owner in fee simple of said Premises, is lawfully seized thereof, has good rights to grant and convey the easement herein granted, guarantees the quiet possession thereof, and that the Grantor shall warrant and defend its title to the Easement Premises against all claims.

6. This Agreement shall be binding on Grantor and the successors and assigns of the Grantor, and upon each Grantee, and the respective successors, and assigns of Grantee. Each Grantee may assign its rights and obligations hereunder in whole or in part without the prior consent of or notice to Grantor or the other Grantee.

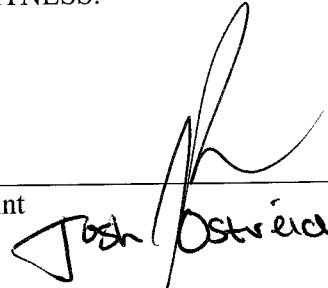
7. Notwithstanding anything herein to the contrary, NIPSCO will not be allowed to construct more than six (6) poles, and Buckeye will not be allowed to construct more than one (1) ten-inch diameter petroleum products pipeline in the Easement Premises.

8. Each Grantee agrees, severally but not jointly, that upon such Grantee's completion of any work on the Easement Premises it will restore the Easement Premises and any other adjacent property used in such construction, to, as nearly as practicable, the condition of the same as it existed immediately prior to such work being commenced.

9. Notwithstanding anything to the contrary herein, Grantor acknowledges and agrees that the obligations and agreements of each Grantee under this Agreement are several and not joint, and in no event shall one Grantee or its successors or assigns be liable for any acts, omissions, or obligations of the other Grantee, or its successors or assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers as of the respective date set forth below such party's signature, but effective as of the date and year first above written.

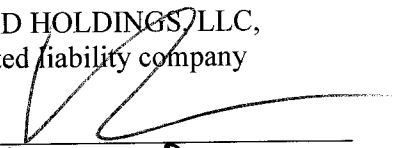
WITNESS:



Print
Josh Ostrreicher

GRANTOR

4407 RAILROAD HOLDINGS LLC,
a Delaware limited liability company

By: 

Print: Robert Wolf
Its: manager
Date: 8/31/09

GRANTEE

Document is

NOT OFFICIAL


This Document is the property of
the Lake County Recorder

BUCKEYE PIPE LINE COMPANY, L.P.,
a Delaware limited partnership

By: MainLine L.P.
Its General Partner
By: MainLine GP, Inc.
Its General Partner




Print
Robin L. Clark

By: 


Print: William H. Schmidt, Jr.
Its: Vice Pres., General Counsel and Secretary
Date: 8-5-09

GRANTEE

NORTHERN INDIANA PUBLIC
SERVICE COMPANY,
an Indiana Corporation



Print
John R. Henry

By: 

Print: TIMOTHY A. DEHAINE
Its: Sr VP ENERGY DEVELOPMENT
Date: 8-17-09

STATE OF NY)
)
COUNTY OF Kings) SS:

Before me a Notary Public in and for said State and County, personally appeared Robert Wolf as Manager, of 4407 Railroad Holdings LLC, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____ and acknowledged the execution of the same on the date aforesaid to be his free and voluntary act and the free act and voluntary act of said limited liability company for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this 31 day of Aug 2009.

Signature [Handwritten Signature]

Print Josh Ostreicher

JOSHUA OSTREICHER
NOTARY PUBLIC-STATE OF NEW YORK
No. 01OS6147196
Qualified in Kings County
My Commission Expires May 30, 2010

My Commission Expires: _____
I am a resident of Kings County

STATE OF Pennsylvania)
)
COUNTY OF Lehigh) SS:

On the 5th day of August, 2009, the above-named William H. Schmidt, Jr., acting in his capacity as Vice President, General Counsel, and Secretary of MainLine GP, Inc., a Delaware corporation, personally appeared before me and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of Mainline GP, Inc. acting as the sole general partner of MainLine L.P., a Delaware limited partnership, with MainLine L.P., acting as the sole general partner of Buckeye Pipe Line Company, L.P. a Delaware limited partnership.

Signature Joy M. Lehman

Print Joy M. Lehman

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Joy M. Lehman, Notary Public
Emmaus Boro, Lehigh County
My Commission Expires Sept. 13, 2009
Member, Pennsylvania Association of Notaries

My Commission Expires: Sept. 13, 2009
I am a resident of Lehigh County

STATE OF INDIANA

COUNTY OF LAKE

) SS_
)
,

Before me, a Notary Public in and for said State and County, personally appeared Timothy A. Dehringas Sr. Vice Pres. of Northern Indiana Public Service Company, an Indiana corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Sr. V. P. and acknowledged the execution of the same on the date aforesaid to be his free and voluntary act and the free and voluntary act of said corporation for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this 18th day of August 2009.

John R. Henry
Signature

John R. Henry
Print

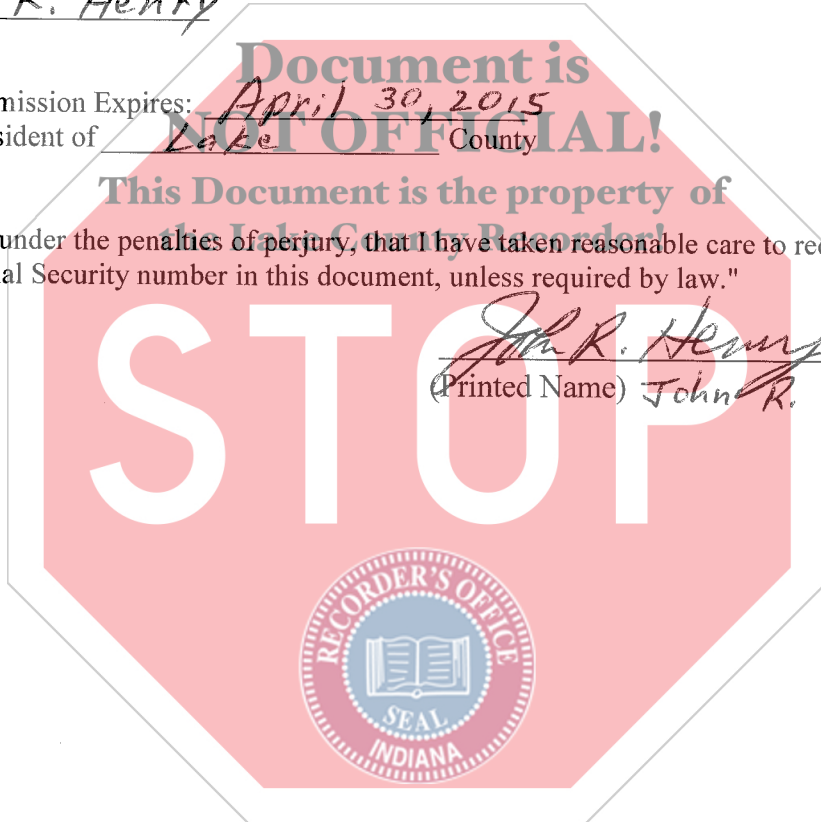
My Commission Expires: April 30, 2015

I am a resident of Lake County

This Document is the property of

"I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law."

John R. Henry
(Printed Name) John R. Henry



PARCEL 18 - PERMANENT EASEMENT

PART OF LOTS 3, 2 AND 4 IN THE PLAT OF EAST CHICAGO ENTERPRISE CENTER AS SHOWN IN PLAT BOOK 73, PAGE 79, RE-RECORDED IN PLAT BOOK 74, PAGE 35 AS DOCUMENT NUMBER 93034923, BEING A PART OF THE EAST HALF (E½) OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPLE MERIDIAN, IN THE COUNTY OF LAKE, STATE OF INDIANA, DESCRIBED AS FOLLOWS:

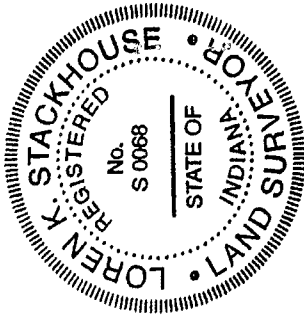
BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTH 00 DEGREES 03 MINUTES 07 SECONDS WEST ALONG THE EAST 40' RIGHT-OF-WAY LINE OF RAILROAD STREET AND THE WEST LINE OF SAID LOT 3 A DISTANCE OF 382.20 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE CONTINUING NORTH 00 DEGREES 03 MINUTES 07 SECONDS WEST ALONG THE EAST 40' RIGHT-OF-WAY LINE OF SAID STREET AND THE WEST LINE OF SAID LOT 2 A DISTANCE OF 271.94 FEET TO A NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89 DEGREES 56 MINUTES 53 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 2 A DISTANCE OF 21.50 FEET TO A NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 00 DEGREES 03 MINUTES 07 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 2 A DISTANCE OF 25.95 FEET TO THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTH 00 DEGREES 03 MINUTES 07 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 4 A DISTANCE OF 20.07 FEET TO A POINT; THENCE SOUTH 45 DEGREES 03 MINUTES 07 SECONDS EAST A DISTANCE OF 26.15 FEET TO A POINT; THENCE SOUTH 00 DEGREES 03 MINUTES 07 SECONDS EAST A DISTANCE OF 1.58 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 2; THENCE SOUTH 00 DEGREES 03 MINUTES 07 SECONDS EAST A DISTANCE OF 298.55 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 3; THENCE SOUTH 00 DEGREES 03 MINUTES 07 SECONDS EAST A DISTANCE OF 380.85 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 3; THENCE SOUTH 88 DEGREES 57 MINUTES 12 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 3 A DISTANCE OF 40 FEET TO THE PLACE OF BEGINNING OF THIS DESCRIPTION.

PREPARED BY MARBACH, BRADY & WEAVER, INC.

CONTAINING 0.616 OF AN ACRE OF LAND.

RE: DR 2007-057530

EXHIBIT "A"



Loren K. Stackhouse
Loren K. Stackhouse, PLS #S0068

Reference Recorded Drawing: DR 2009-006918

Easement Plot Illustration
of Parcel 18 for
Buckeye Pipe Line Company, L.P. &
Northern Indiana Public Service Company
Pt. East Chicago Enterprise Center &
Pt. E 1/2 Sec. 29, T37N, R9W
North Twp. Lake Co. East Chicago, Indiana



Document is NOT OFFICIAL!
This document is the property of the Recorder!

3220 Southview Drive -- Elkhart, Indiana 46514 -- (574) 266-1010 -- Fax: (574) 262-3040 -- www.marbachpls.com -- info@marbachpls.com

AUTOCAD FILE 0204-2008.dwg	JOB NUMBER 0204-2008	SCALE: 1"=100'	DRAWN BY LKS/STP	©2009 Marbach, Brady & Weaver, Inc.	SHEET 2 OF 2	DRAWING NO. L-30145
-------------------------------	-------------------------	-------------------	---------------------	-------------------------------------	--------------	------------------------

DATE OF DRAWING: 2/11/09