

2010 037930

STATE OF INDIANA
LAKE COUNTY
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MICHELLE R. FAJMAN
RECORDER

Easement # 39504

PIPE LINE AND ELECTRIC CABLE EASEMENT

THIS AGREEMENT, made by and between NORTHERN INDIANA PUBLIC SERVICE COMPANY, an Indiana corporation, hereinafter referred to as "Grantor", and WOOD RIVER PIPE LINES LLC, a Delaware limited liability company, County of LAKE, State of Indiana, hereinafter referred to as "Grantee", this 28th day of May, 2010.

WITNESSETH:

WHEREAS, Grantor has a real property interest in that certain property located in Lake County, Indiana, (the "Premises") which is generally used by Grantor for engineering, construction and maintenance of gas and electric facilities. Various rights for sewers, drains, pipelines, telecommunications lines and other facilities owned by various companies for the transportation of sewage, storm water, petroleum and petroleum products may have already been granted by Grantor; and

WHEREAS, Grantee is desirous of constructing and installing in a portion of the Premises two (2) 8-inch high pressure liquid petroleum pipe lines; and two (2) electric cables installed in Schedule 80 PVC pipe and encased in a 6-inch envelope of red 2,000 psi concrete (referred to herein as the "Lines") which will connect two (2) pipe lines and associated remote operated motorized control valves from Grantee's block valve lying east of the Premises to Grantee's tank terminal lying west of the Premises.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements of the parties hereinafter expressed, it is hereby agreed as follows:

1. GRANT AND USE OF EASEMENT. Grantor hereby gives, grants, bargains, sells and conveys unto Grantee, its successors and assigns, without any warranty or representation of any kind or nature and only to the extent Grantor's title permits and subject to the terms hereinafter set forth, a non-exclusive easement, right and authority, from time to time, in, upon, along and over that portion of the Premises described as follows "Easement Premises":

See Plat of Survey by Will Design and Engineering, Inc. dated 3/9/10, titled NIPSCO Property East of Buckeye Hammond Terminal and identified as Exhibit "A" attached hereto for legal description and Survey of easement area. Grantee shall also have the right to utilize additional temporary work space of not more than forty-five (45) feet in width adjacent to and along the north side of the Right-of-Way and easement area during initial construction of the Lines. Said right to use workspace will expire upon installation and cleanup.

Deed Reference: Record 386 Pg 418 10-23-26

to install, construct, maintain, operate, repair, alter, replace, renew and remove (sometimes collectively referred to herein as the "work") the Lines, together with all the rights and privileges necessary or convenient for the full enjoyment or use thereof, for the purposes herein described. For purposes of this Agreement, non-exclusive shall mean that Grantor and others "Third Parties" to whom Grantor has granted certain rights and privileges to use the Easement Premises, or may grant to Third Parties certain rights and privileges to use the Easement Premises, provided such use or uses by Grantor and any Third Parties shall not materially adversely interfere with the maintenance or use of the Lines by Grantee.

2. INSTALLATION OF THE LINES. Prior to installing the Lines, Grantee shall submit to Grantor for Grantor's approval its plans and land specifications for the installation thereof, and shall furnish any additional information concerning the installation of the Lines from time to time as may be required by Grantor. Grantee agrees that all work on the Lines shall be in accordance with good engineering practice and only on the Easement Premises. Grantee understands and agrees that Grantor's approval of Grantee's plans and specifications shall in no way make Grantor liable for any loss, cost, damage or expense incurred in connection with the work on the Lines, all of which liability shall exclusively be Grantee's. Grantee shall at its own expense, secure any permits or other consents required by law or ordinance of any municipality or other public body having jurisdiction over the work and use of the Lines and shall at all time comply with all laws and regulations, both local and general, which affect the maintenance, operation and use of the Lines. If of the initial installation of the Lines and, except in the case of emergency repairs, notice shall be given in writing by Grantee to Grantor at least seventy-two (72) hours in advance provided in Section 13 below.

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LAKE COUNTY AUDITOR

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3. NO INTERFERENCE. In exercising the rights herein granted, Grantee shall not interfere with the road, towers, electrical transmission lines, gas mains, equipment and/or facilities of Grantor or of Third Parties constructed or to be constructed in, over, upon or under the Easement Premises or the Premises. It is also understood and agreed that Grantor may grant other rights and privileges in the future to Third Parties, and Grantee hereby agrees to execute upon demand by Grantor such consents as may be deemed necessary by Grantor for the use of the Easement Premises or the Premises by other persons or corporations, provided such use shall not materially adversely interfere with the work or use of the Line by Grantee.

4. NO OTHER IMPROVEMENTS. Except as expressly provided for herein, no structures or other improvements shall be constructed or otherwise placed on the Easement Premises by, through or under Grantee. Grantee shall permit no holes, obstructions or any other condition, including without limitation the release of any hazardous materials or hazardous substances, on the Easement Premises which could create a hazard of any kind. Grantee shall not allow the parking of vehicles on the Easement Premises. Grantee shall keep and maintain the Easement Premises in a clean and orderly condition at all times, and shall maintain the Easement Premises in a good and safe condition and shall not interfere with the physical integrity of the existing land surface in any way.

5. SAFEGUARDS. Grantee shall provide and maintain to the satisfaction of Grantor adequate barriers and safeguards for and in respect to all poles, towers, gas mains and any structures of Grantor or any other Third Parties located near enough to the Lines to be endangered by the installation of the Lines. Grantee shall promptly reimburse Grantor for any reasonable costs or expenses incurred by Grantor in the protection, alteration, or relocation of its utility facilities located on or near the Easement Premises or the Premises which must, in the judgment of Grantor, be relocated altered or protected because of the work and use of the Lines by Grantee.

6. TEMPORARY RIGHTS. Grantor reserves the right to make claim for damages for acts or omissions of Grantee occurring within or outside of the temporary Easement Premises.

7. GRANTOR REPRESENTATIVE. Grantor may have a representative present at any or all times when Grantee is performing work on the Lines for the sole purpose of assuring that any such work will not interfere with Grantor's operation of its facilities. It is mutually agreed that the presence of a representative shall not relieve Grantee from any liability, claim, or obligation hereunder. Grantee shall reimburse Grantor for the expense of protecting its facilities occasioned by the work on the Lines upon receipt of billing therefore from Grantor.

8. TAXES. Grantee shall pay or reimburse Grantor for any and all real estate or property taxes or special assessments which may result from the use of a portion of the Premises by Grantee under the terms of this Agreement.

9. WAIVER. Grantee as a part of the consideration for this Agreement (i) releases and waives any and all right to recover any and all losses, claims, expenses or damages for personal injuries, property damages, loss of life or property from Grantor for or on account of any loss of any kind or nature suffered by Grantee arising out of the use, maintenance, repair or presence of the Lines as permitted by this Agreement and (ii) assumes all risks of injuries or damage to its officials, employees, contractors, servants, agents, tenants and invites and their property while on the Easement Premises or the Premises and hereby releases and discharges Grantor from any and all liability therefore.

10. INDEMNITY AND INSURANCE. Grantee agrees to indemnify, defend and save Grantor harmless from any and all liabilities, losses, claims, expenses or damages for personal injuries, property damages, loss of life or property of any kind or character which may be brought against Grantor by any person or party directly or indirectly resulting from or arising out of, wholly or in part, the work on or use of the Lines as permitted by this Agreement except to the extent that such Losses arise out of the negligence, gross negligence, or willful misconduct of an Indemnified Party. The Grantee at its own expense shall obtain and keep in force during the term of this Agreement, a general liability insurance (with contractual liability) in an amount not less than Two Million Dollars (\$2,000,000.00) (to be increased from time to time as reasonably determined by Grantor) with a company and in a form satisfactory to Grantor fully covering Grantor with respect to all matters arising through or under this Agreement; and Grantee shall deliver and maintain with Grantor at all times a current certificate of insurance evidencing said coverage and also, upon request of Grantor, deliver the original policy. Grantor shall be named as an additional named insured in said insurance policy. In the event of failure of Grantee to obtain or keep in force such insurance policy, Grantor may either (i) terminate this Agreement at which time Grantee shall have sixty (60) days to remove the Line or be deemed without further act or instrument by either party to have sold the Line to Grantor or (ii) obtain the same and Grantee shall pay the premium therefore and also reimburse Grantor for any expenditure for obtaining such insurance upon Grantor's rendering a bill therefore. It is understood

and agreed by Grantee that at all times during the term of this Agreement, including during any work on the Lines, that the electric lines of Grantor are energized and thereby create a danger to people working in the vicinity of said electric lines should they come in contact with such electric lines. Grantee specifically agrees to indemnify, defend and save Grantor harmless from any claims of Grantee arising from Grantee, its agents, servants, employees, invites or contractors coming in contact with the electric lines of Grantor during the term of this Agreement, including any work on or use of the Lines. It is further understood and agreed by Grantee that Grantor shall under no circumstances be liable or responsible for any injuries or damages sustained in relation to the Lines of Grantee which may result directly or indirectly from the operation, use or maintenance of Grantor's facilities, except to the extent that such Losses arise out of the negligence, gross negligence, or willful misconduct of an Indemnified Party.

11. **RESERVED RIGHTS.** The use of the Easement Premises by Grantee under this Agreement is subject and subordinate to possession and use of the Easement Premises and the Premises by Grantor for the construction, maintenance, operation and repair of electrical and gas transmission or distribution lines, generating facilities, telecommunications, road and other utility facilities now or hereafter placed upon, over or under the Easement Premises and the Premises. Grantor reserves full possession for its uses and purposes and the right to enter upon the Easement Premises and the Premises at any and all times to repair, renew erect or complete the erection of any existing or future electric and gas transmission or distribution lines generating facilities, telecommunications, road or other facilities over, under and across said Easement Premises and the Premises as Grantor desires. Grantor reserves the right to make replacements, inspections, alterations, extensions, or repairs to its poles, towers, foundations, lines, telecommunications lines, wires or authorized others to perform such work with as little injury as possible to the Lines and without any liability therefore.

12. **NO LIENS.** Grantee further covenants and agrees that no mechanic's or other lien shall be permitted to accrue or be filed against the Easement Premises or the Premises for or on account of any action, matter or thing required or permitted to be done by Grantee under this Agreement and in the event that any such mechanic's lien does accrue or is filed against the Easement Premises or the Premises, Grantor may take such steps and make such payments as are necessary to extinguish said mechanic's or other liens and Grantee shall pay Grantor, upon being billed therefore, the amount that Grantor was required to pay and expend in order to extinguish said lien.

13. **NOTICES.** All notices or demands hereunder may be served on Grantor by certified mail addressed to Northern Indiana Public Service Company, Attention: NIPSCO Survey & Land, 801 East 86th Avenue, Merrillville, Indiana 46410, and such notices and demands hereunder may be served on Grantee by certified mail addressed to Wood River Pipe Lines LLC, c/q Manager, Right-of-Way, Permits and One Call, 9999 Hamilton Boulevard, 5TEK Park, Breinigsville, PA. 18031. The mailing of such notices or demands by certified mail shall be sufficient service thereof.

14. **SUCCESSORS AND ASSIGNS.** The easement rights and responsibilities set forth in this Agreement shall be perpetual and shall run with the land. This Agreement and its privileges shall further be binding upon and inure to the benefit of the parties hereto, and to their respective successors and assigns.

15. **ABANDONMENT.** The parties hereto agree that should the Lines be abandoned or not installed within five (5) years from the date hereof, the easement shall automatically cease and terminate, and Grantee shall, if requested by Grantor, release the same of public record, and Grantee shall, if requested by Grantor, remove the Line.

16. **GOVERNING LAW; COMPLETE AGREEMENT.** This Agreement shall be construed and governed in all respects under the laws of the State of Indiana. This instrument sets forth the entire Agreement of the parties with respect to the subject matter hereof.

17. **AMENDMENT.** This Agreement may be amended only by written agreement of Grantor and Grantee.

IN WITNESS WHEREOF, the parties hereto have executed this agreement this 28th day of May, 2010.

NORTHERN INDIANA PUBLIC SERVICE COMPANY

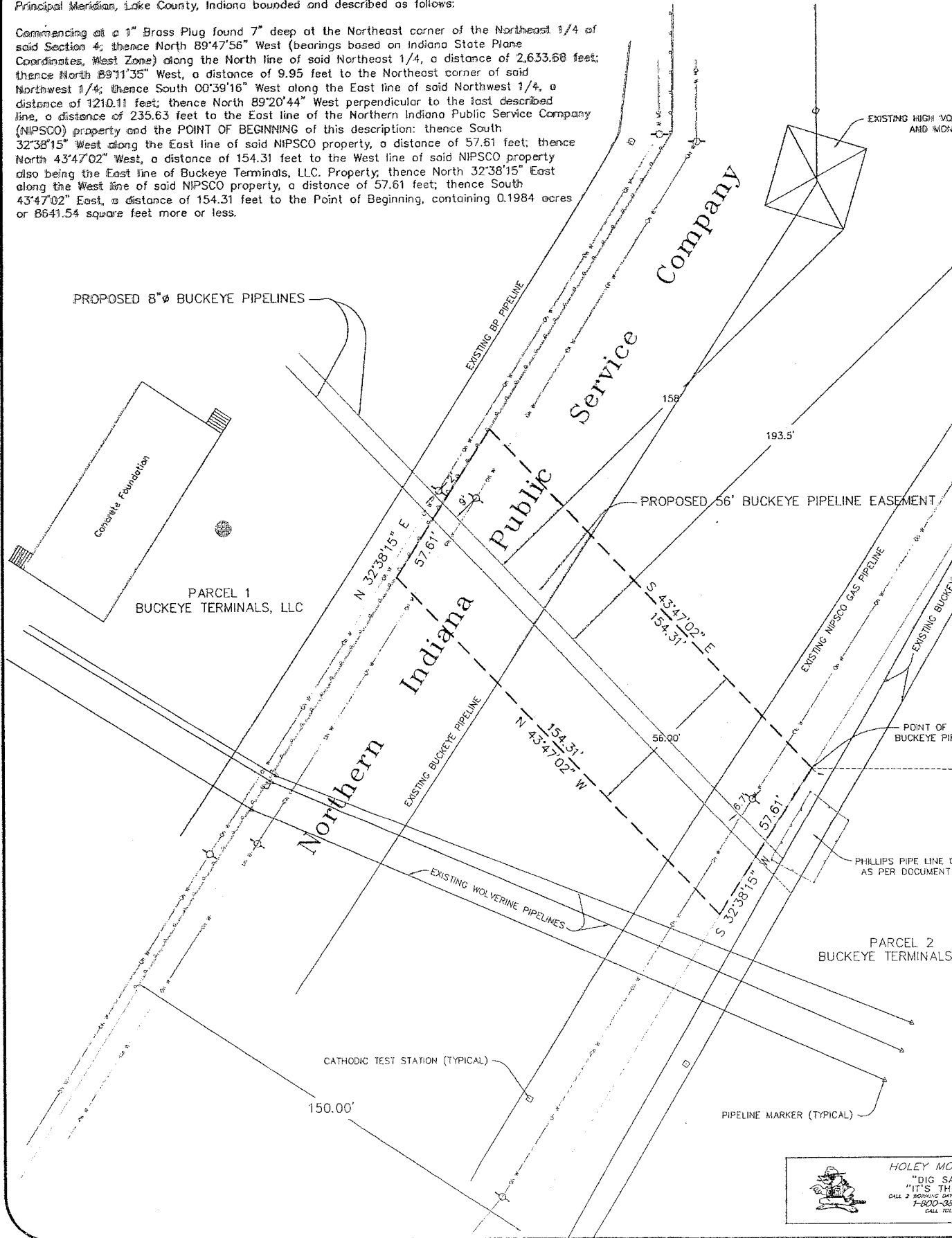
By: Timothy A. Dehring
TIMOTHY A. DEHRING

Michigan Avenue

PROPOSED EASEMENT DESCRIPTION

A parcel of land for a 56 foot wide (measured at right angles) Buckeye Pipeline Easement located within that part of the Northwest 1/4 of Section 4, Township 36 North, Range 9 West of the 2nd Principal Meridian, Lake County, Indiana bounded and described as follows:

Commencing at a 1" Brass Plug found 7" deep at the Northeast corner of the Northeast 1/4 of said Section 4; thence North 89°47'56" West (bearings based on Indiana State Plane Coordinates, West Zone) along the North line of said Northeast 1/4, a distance of 2,633.68 feet; thence North 89°11'35" West, a distance of 9.95 feet to the Northeast corner of said Northwest 1/4; thence South 00°39'16" West along the East line of said Northwest 1/4, a distance of 1210.11 feet; thence North 89°20'44" West perpendicular to the last described line, a distance of 235.63 feet to the East line of the Northern Indiana Public Service Company (NIPSCO) property and the POINT OF BEGINNING of this description; thence South 32°38'15" West along the East line of said NIPSCO property, a distance of 57.61 feet; thence North 43°47'02" West, a distance of 154.31 feet to the West line of said NIPSCO property also being the East line of Buckeye Terminals, LLC. Property; thence North 32°38'15" East along the West line of said NIPSCO property, a distance of 57.61 feet; thence South 43°47'02" East, a distance of 154.31 feet to the Point of Beginning, containing 0.1984 acres or 8641.54 square feet more or less.



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