



310915

ENTERED
Office of Chief Counsel
February 25, 2026
Part of
Public Record

Justin J. Marks
T (202) 772-0916
F +12027720919
Email:jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

February 25, 2026

VIA E-FILING

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: Lampwrights LLC
– Construction and Operation of a Line of Railroad –
in Elk and Jefferson County, PA
Surface Transportation Board Finance Docket 36833

Dear Ms. Brown:

Enclosed for e-filing on behalf of Lampwrights LLC is a response to the Reply of First Apostles' Doctrine Church and a response to the Reply of Horton Township.

Also enclosed is a letter to the Board from the County of Elk Commissioners that copied Noble Environmental, Inc. However, it is unclear whether parties of record have been served with this letter or if this letter has been received by the Board to include in the docket.

Please let me know if there are any questions regarding this filing.

Sincerely,

A handwritten signature in blue ink that reads 'Justin J. Marks'.

Justin J. Marks
Counsel for Lampwrights LLC

Enclosure

cc: Parties of Record
Certificates of Service are attached to the separate responses.

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36833

LAMPWRIGHTS LLC
– CONSTRUCTION AND OPERATION OF A LINE OF RAILROAD –
IN ELK AND JEFFERSON COUNTIES, PA

RESPONSE TO THE REPLY OF FIRST APOSTLES' DOCTRINE CHURCH

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Counsel for
Lampwrights LLC

Dated: February 25, 2026

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36833

LAMPWRIGHTS LLC
– CONSTRUCTION AND OPERATION OF A LINE OF RAILROAD –
IN ELK AND JEFFERSON COUNTIES, PA

RESPONSE TO THE REPLY OF FIRST APOSTLES’ DOCTRINE CHURCH

Lampwrights LLC (“Lampwrights”) respectfully submits this Response to the reply submitted by the First Apostles’ Doctrine Church (“FADC”) asking the Board to reject the Lampwrights Petition for Exemption or alternatively to require a full application. On February 6, 2026, and on February 9, 2026, A Noble Cause and Brockway Area Sewage Authority filed letters in support to “adopt and support” the FADC Reply.¹

The FADC arguments are without merit because FADC: 1) argues irrelevant Pennsylvania state property law; 2) inappropriately relies on Board class exemption regulations and precedent; 3) argues unsubstantiated environmental impacts that the Proposed Line is inconsistent with 49 U.S.C. § 10101(8) before the Office of Environmental Analysis (“OEA”) has released a draft environmental analysis of the project; and 4) argues that the Lampwrights Petition has failed to satisfy the Rail Transportation Policies of 49 U.S.C. § 10101 with mere vague and unsupported assertions.

Lampwrights filed its Petition for Exemption (“Lampwrights Petition”) to construct and operate the Proposed Line on September 29, 2025. On December 22, 2025, the Board ordered that replies to the Lampwrights’ Petition were due by January 22, 2026. Subsequently, FADC and the

¹ Although A Noble Cause and Brockway Area Sewage Authority have “adopted” the FADC Reply as their own, for simplicity, this response will refer to the reply as the “FADC Reply.”

Township of Horton sought extensions with FADC arguing that “a complete factual record and responses to Lampwrights’ assertions are essential for the Board to make a fully informed decision.”² The Board then extended the deadline to February 5, 2026. The Board did not establish a due date for Lampwrights to respond to any replies in opposition to the Lampwrights Petition.

Under 49 C.F.R. § 1104.13(a), “a party may file a reply or motion addressed to any pleading within 20 days after the pleading is filed with the Board.” However, under the Board’s regulations at 49 C.F.R. § 1104.13(c), a reply to a reply is not permitted. The Board will permit a reply to a reply in the interest of developing a more complete record unless the reply merely repeats prior arguments.³ Although, the Board’s December 22, 2025 decision did not build-in a deadline for a Lampwrights rebuttal, Lampwrights respectfully requests that the Board accept this response in the interest of developing a more complete record.⁴

I. Background

The FADC Reply is the fourteenth comment that it has filed on the record, plus a January 15, 2026, filing that was served on parties of record, but does not appear in the docket of this proceeding.⁵ This most recent FADC Reply repeats many of the concerns that FADC has already expressed about the Lampwrights Proposed Line. This reply, however, includes new arguments based on Pennsylvania state law and inapplicable Board regulations and precedent.

In numerous filings, FADC and Bishop Jack Wisor have raised their concerns with the potential environmental impacts of the Lampwrights Proposed Line. On November 20, 2025,

² FADC Motion to Extend the Procedural Schedule at 1.

³ *Hartwell First United Methodist Church – Adverse Abandonment and Discontinuance – The Great Walton Railroad Company, Inc. in Hart County, GA*. STB Docket No. AB 1242, slip op. at 3 n.5 (served Jan. 31, 2018).

⁴ Under the Board’s modified procedure regulations at 49 C.F.R. § 1112.2, rebuttal is permitted and only replies to rebuttal are prohibited.

⁵ See *Lampwrights January 16, 2026, Reply to the First Apostles’s Doctrine Church*, Exhibit A.

Bishop Jack Wisor submitted an opposition comment accusing local state representatives - Brian Smith and Mike Armanini - of violating the U.S. Constitution and the Constitution of the Commonwealth of Pennsylvania for supporting the Lampwrights Petition. Further, Bishop Jack Wisor asserted that the Lampwrights Petition “may be in violation” of the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc, *et seq.* First Apostles’ Doctrine Church, Statement of Opposition, Filed Nov. 20, 2025.

On January 15, 2026, Bishop Jack Wisor served parties of record with a document (not presently appearing in this docket) accusing OEA of participating in a “monopolistic scheme” with Lampwrights, its parent company, Noble Environmental, Inc., Lampwrights’ contractor, Keystone Acquisition Services Corporation, and Pennsylvania State Representatives Brian Smith and Mike Armanini. Bishop Jack Wisor then concludes that “[s]hould the Surface Transportation Board decide to ‘grant’ Lampwrights LLC’s petition we are prepared to pursue any and all possible remedies...including but not limited to...Remedies afforded by Title 5, Chapter XVI, Subchapter B, Part 2635— Standards of Ethical Conduct for Employees of the Executive Branch.”⁶ In addition to threatening the Board, Bishop Jack Wisor asserted that he would pursue appellate remedies and remedies under the Religious Land Use and Institutionalized Persons Act.

In this most recent reply, FADC asks the Board to “deny Lampwrights’ petition for exemption and require the submission of a full application, ensuring proper consideration of property-law constraints, public health and safety concerns, and the full suite of RTP facts.”⁷ Like the previous FADC filings, this latest reply repeats FADC’s environmental impact harms and continues the FADC effort to assert inapplicable laws and regulations to this proceeding.

⁶ See *Lampwrights January 16, 2026, Reply to the First Apostles’s Doctrine Church*, Exhibit A at 6, 30.

⁷ FADC Reply at 18.

A. Lampwrights Owns a Significant Portion of the Right-of-Way Where it Seeks to Construct the Proposed Line.

The majority of the FADC Reply argues that the Board should deny the Lampwrights' Petition because Lampwrights does not yet own the entirety of the right-of-way that underlies the Proposed Line.⁸ FADC states that it has no intention of selling its property to Lampwrights.⁹

FADC argues that Lampwrights, therefore, “plans” to acquire the necessary land pursuant to condemnation authority”¹⁰ and interprets a statement in the Lampwrights Petition as “strongly” suggesting that Lampwrights would use Pennsylvania condemnation law if the Board were to grant Lampwrights operating and construction authority.¹¹

As explained in Section II.B, the FADC argument is wrong because ownership of a proposed right-of-way is not a requirement for consideration or approval of construction petitions. Further, FADC's assertion that Lampwrights “plans” to acquire the necessary land pursuant to condemnation authority is unsupported by the record. It is Lampwrights preference to acquire the property through voluntary purchase and sale, just as it has acquired other segments of the railroad grade right-of-way underlying the Proposed Line. Lampwrights currently holds a fee interest in approximately 14,091 feet of the 20,427 feet or sixty-nine percent of the Proposed Line.¹² A portion of Lampwrights fee interest is apparently burdened by an easement by the Brockway Area Sewage Authority.¹³ Resolution of any potential issues with the Brockway Area Sewage Authority is clearly a state law property issue that does not need to be resolved by the Board.

⁸ *Id.* at 1, 4, 8-14.

⁹ *Id.* at 5.

¹⁰ *Id.* at 1.

¹¹ *Id.* at 10.

¹² See Exhibit A.

¹³ Brockway Area Sewage Authority letter filed January 14, 2026. (Filing 310730).

FADC claims that the remaining 31% or 6,336 feet of the Proposed Line is owned by FADC and other landowners. FADC asserts that its right to occupy this property was conferred by the Pennsylvania Court of Common Pleas for the 59th Judicial District Court in a 1990 decision. This 1990 Pennsylvania state court case has been referred to repeatedly by FADC as evidence that Lampwrights does not own the underlying right of way for the Proposed Line. “Court records reflect that after the Spur was adjudged abandoned pursuant to a court order in 1990, property constituting the former right-of-way reverted to adjacent property owners, including the Church’s predecessors in interest.”¹⁴

Court records do not reflect that the Proposed Line “was adjudged abandoned”. Abandonment of a rail line is a question of federal law. The owner of the right-of-way, George Brosky acquired it from the Erie Lackawanna trustees and was ejected from this property by the Pennsylvania state court based on an analysis of the deeds without citing any federal statute indicating that the rail line was in fact abandoned. The decision in the 1990 Pennsylvania state court case, states that Mr. Brosky argued that the “matter would have to go to trial on the issue of abandonment.”¹⁵ However, Mr. Brosky was denied the opportunity to argue that it was not abandoned.¹⁶ In filings before the state court, Mr. Brosky asserted that the line was not abandoned.¹⁷

¹⁴ FADC Reply at 3, *citing Cherubini v. Brosky*, No. 89-163, slip op. at 4 (Ct. C.P. 59th Jud. Dist. May 7, 1990), *aff’d*, 590 A.2d 370 (Pa. Super. Ct. 1991).

¹⁵ *Cherubini v. Brosky*, No. 89-163, slip op. at 2 (Ct. C.P. 59th Jud. Dist. May 7, 1990), *aff’d*, 590 A.2d 370 (Pa. Super. Ct. 1991).

¹⁶ *Id.*

¹⁷ Exhibit B, George Brosky, Answer to New Matter at para. 83. Lampwrights has acquired from the Estate of George Brosky his interest in the Toby Branch in the event that – at some future date – it is determined that the line was never formally abandoned.

This Pennsylvania Court of Common Pleas case repeatedly cited by the FADC Reply and in previous FADC filings led Lampwrights to research the history of the Toby Branch. Through this research, Lampwrights has come to learn that its previous understanding that Conrail was the last known operator of the Toby Branch is incorrect.¹⁸ The Proposed Line was designated as Line Code 1269 extending from Crenshaw (Milepost 2.7) to Hydes (Milepost 6.2) under the Final System Plan and was not assigned to be transferred to Conrail.¹⁹

The FSP analyzed the systems of each bankrupt railroad and determined how the rail lines of these railroads would be disposed of. Rail lines that were not designated for one of the enumerated purposes were permitted – without formal Interstate Commerce Commission (“ICC”)²⁰ approval - to be discontinued and abandoned. However, notice was required to effectuate an abandonment and the notice was to be “sent by certified mail to the governor and state transportation agencies of each state and the government of each political subdivision of each state in which such rail properties are located; and to each shipper who has used such rail service during the previous 12 months.”²¹ Congress amended this notice requirement to include a notice to the ICC in 1976.²²

¹⁸ Lampwrights Petition at 3, Exhibit B at 4.

¹⁹ Exhibit C. Congress enacted the (“3R Act”), Pub. L. No. 93-236, 87 Stat. 985 (codified at 45 U.S.C. §§ 701-719) in response to the 1970 bankruptcies of northeastern railroads including the Erie and Lackawanna Railway Company. The 3R Act created the United States Railway Association to examine the lines of the bankrupt railroads and to determine what portions of those bankrupt railroads would form the new Consolidated Rail Corporation (“Conrail”) through the development of the Final System Plan (“FSP”).

²⁰ The ICC is the Board’s predecessor agency.

²¹ Section 304 of the 3R Act.

²² Railroad Revitalization and Regulatory Reform Act of 1976 (“4R Act”), Public Law 94-210, 90 Stat. 133 (Feb. 5, 1976).

A notice of discontinuance of rail service for Line Code 1269 was published in the New Castle News, December 10, 1975.²³ However, to date, Lampwrights has been unable to determine if the Erie & Lackawanna trustees ever formally issued notice to abandon Line Code 1269.²⁴

II. Argument

A. The Legal Standard for Construction Proceedings is Permissive

The Board has stated that the legal standard for rail construction licensing authority under the ICCTA is a permissive standard that directs the Board to grant construction authority “unless [the Board finds] the proposal inconsistent with the public convenience and necessity [“PC&N”].”²⁵ The Board has said, “Congress made a presumption that rail construction projects are in the public interest unless shown otherwise.”²⁶ This standard – as explained by the Board – represents a Congressional policy shift that, prior to 1980, required the ICC to “scrutinize rail construction proposals closely to prevent excess rail capacity.”²⁷ Under the pre-1980 standard, the ICC “was to issue a [construction] license only if it found that the PC&N ‘required’ the construction.” Congress eased this standard under the Staggers Act, directing the ICC to issue a

²³ Exhibit D. This notice also included the segment from Brockway-Crenshaw where the Proposed Line will connect. But that segment of rail line is not discontinued or abandoned and is currently operated by Buffalo & Pittsburgh Railroad, Inc

²⁴ Lampwrights researched the Pennsylvania State Archives for evidence of a notice of abandonment sent to the Pennsylvania governor and/or the Pennsylvania Department of Transportation and found no letter from the trustees informing the governor of the abandonment. Lampwrights has engaged a professional archivist to search historic ICC records at the National Archives to determine if the Erie Lackawanna trustees ever provided a letter to the ICC informing the agency of its abandonment of the Proposed Line. Lampwrights may – at a future date – file a petition for declaratory order asking the Board to consider whether the right-of-way remains under federal jurisdiction and whether the Pennsylvania Court of Common Pleas for the 59th Judicial District Court improperly ejected Mr. Brosky from the right-of-way.

²⁵ *Alaska R.R. Corp - Construction and Operation Exemption – Rail Line between North Pole and Delta Junction, AK*, STB Finance Docket No. 34658, slip op. at 5 (served Jan. 6, 2010).

²⁶ *Id.*

²⁷ *Id.*, slip op. at 5, n. 4 (internal citations omitted).

construction license if it found that the PC&N would “permit” the proposed construction project.²⁸ Under ICCTA, Congress completed its policy shift to the current standard that a rail construction project license shall be issued unless otherwise shown inconsistent with the PC&N.”²⁹

B. The FADC Argument that the Lampwrights Petition Should be Rejected because Lampwrights is Improperly Attempting to use the Board’s Processes to obtain Property Rights is Unsupported in Fact and in Law.

FADC dedicates the majority of its Reply to its argument that “Lampwrights appears to be leveraging the Board’s grant of an exemption to qualify for condemnation authority.”³⁰ It continues, the “Board should not permit its procedures to be used in such a manner, and should instead follow its precedent of permitting state law processes – *i.e.*, a condemnation action – to play out before issuing authority” that FADC claims “is unlikely to be exercised.”³¹ This FADC argument is unsupported by the record and unsupported by Board precedent in construction proceedings.

State property law is not relevant in the Board’s consideration of whether it should grant authority to a petitioner seeking to construct and operate a rail line. As the Board has clearly stated, “[i]n rail construction cases, the Board determines whether the proposed line is consistent with the [public convenience & necessity].”³² The Board continued, the “applicant is responsible for acquiring the land necessary to build the line.”³³ Further, the Board has acknowledged that it “may grant authority to construct a line even if all outstanding issues related to the proposed construction

²⁸ *Id.*

²⁹ *Id.*

³⁰ FADC Reply at 7.

³¹ *Id.*

³² *Tongue River R.R. Co., Inc. – Constr. & Operation – W. Alignment*, STB Finance Docket No. 30186 (Sub-No. 3), slip op. at 16 n. 50 (served Oct. 9, 2007).

³³ *Id.*

have not yet been resolved or if factors beyond the Board’s control...might ultimately prevent consummation of the proposed construction.”³⁴

As recently as February 19, 2026, the Board has restated this position and specifically rejected an argument similar to the argument that FADC is making now. The Board held, “[r]egarding GRTA’s claims that MRY has improperly sought to use eminent domain powers as a rail carrier to acquire private property, generally, the Board’s jurisdiction does not preempt a rail carrier’s efforts to condemn property to construct or rebuild track.”³⁵ The Board continued, “[e]minent domain proceedings are governed by state law,” and rail carriers are generally responsible for acquiring the land necessary to support their operations, including to the extent permitted by condemnation.”³⁶

FADC’s entire state property rights eminent domain argument is premised on its position that Lampwrights is attempting to use Board authority to acquire property through eminent domain. But this argument is not supported by the record and is unsupported by Board precedent. Of course, the FADC Reply understands that Board authority is permissive³⁷ and it understands that “the Board’s authority to construct and operate a rail line is distinct from state property law”³⁸ FADC nevertheless proceeds to assert this flawed tactic despite clearly understanding the weaknesses in its own argument.

³⁴ *Cal. High-Speed Rail Auth. – in Fresno, Kings, Tulare, & Kern Cntys., Cal.*, FD 35724 (Sub-No. 1) (STB served Aug. 12, 2014).

³⁵ *Great Redwood Trail Agency – Adverse Abandonment – Mendocino Railway in Mendocino County, Cal.*, Docket No. AB 1305 (Sub-No. 1), slip op. At 14 (served Feb. 19, 2026)(citing *Great Walton R.R. –Pet. for Declaratory Ord.*, AB 1242 (Sub-No. 1), slip op. at 7 (STB served June 23, 2020).

³⁶ *Id.* (citing *ex. Tongue River R.R.—Construction & Operation—W. Alignment*, FD 30186 (Sub-No. 3) et al., slip op. at 16 n.50 (STB served Oct. 9, 2007).

³⁷ FADC Reply at 13.

³⁸ *Id.* at 8.

1. The Board's authority is permissive and therefore it may grant Lampwrights construction and operating authority even if Lampwrights does not hold all of the state property rights to access the entirety of the Proposed Line.

In an attempt to support its failed argument that a petitioner requires state law property rights for the Board to grant construction and operating authority, FADC seeks to apply the Board's class exemption regulations to the Lampwrights Petition for Exemption. FADC states, "[w]hile this proceeding concerns a petition for exemption rather than a notice of exemption, the Board's class exemption requirements, including the requirement to provide information regarding acquisition of property rights, 49 C.F.R. § 1150.43(c), are equally relevant to the Board's determination regarding an exemption under 49 U.S.C. § 10502 and indicate that the petition is insufficient on its face."³⁹ FADC's position is wrong as related to construction authority proceedings, and wrong as related to acquisitions under 49 C.F.R. § 1150.43(c).

First, no class exemption exists for rail construction projects. The Board considered but decided against creating a class exemption for construction proceedings.⁴⁰

Second, in its attempt to apply the Board's regulations at 49 C.F.R. § 1150.43(c) to this proceeding, the FADC argument fails for multiple reasons: first, Lampwrights filed this petition as a non-carrier, therefore FADC should be attempting to apply this analogy to 49 C.F.R. § 1150.33(c) for transactions that involve the creation of Class III carriers and not under §

³⁹ *Id.* at 9 n.2.

⁴⁰ *Class Exemption for the Constr. of Connecting Track Under 49 Class Exemption for Rail Constr. Under 49 U.S.C. 10901*, STB Docket Ex Parte No. 392 (Sub-No. 3), 1 S.T.B. 75, 1996 WL 316448 (served June 13, 1996) ("Based on our experience in considering rail construction proposals and in deciding rail construction cases, we find that the broad class exemption for rail construction proposed in Ex Parte No. 392 (Sub-No. 3) would neither speed up nor streamline the process. The existing process of handling individual petitions for exemption is working well, allowing the agency both to reduce regulatory burdens and to apply the laws we administer in conjunction with the environmental laws efficiently on a case-by-case basis.").

1150.43(c).⁴¹ Second, the FADC argument fails because those regulations do not support its argument that an applicant seeking Board authority through a class exemption is required to include “information regarding acquisition of property rights.” On the contrary, as related to class exemptions under 49 C.F.R. Subpart E, the Board has specifically stated, issues of state property and state contract law are issues to be resolved by state courts and “[i]t is well settled that the Board’s issuance of a notice of exemption authorizing the acquisition of a line gives the petitioner permission to acquire the line, but does not mandate the acquisition.”⁴²

Further, Lampwrights does in fact own significant portions of the railroad grade right-of-way in which it seeks to construct and operate the Proposed Line - it holds a fee interest in approximately 14,091 feet of the 20,427 feet or sixty-nine percent of the Proposed Line.⁴³

Under FADC’s view of the Board’s regulations, rail construction – already a challenging endeavor – would be nearly impossible if petitioners were required to own or control 100% of a property of a proposed rail line and before filing for construction authority and would raise the barrier to entry into the rail industry contrary to the RTP, 49 U.S.C. § 10101(7) (“to reduce regulatory barriers to entry into and exit from the industry”).

2. FADC’s argument relying on Pennsylvania eminent domain law is irrelevant to this proceeding.

⁴¹ See ex., *Lampwrights LLC – Operation Exemption – Line in Jefferson County, PA*, STB Finance Docket No. FD 36911 (Notice of Exemption filed February 25, 2026). Lampwrights is simultaneously filing for authority to operate a line of railroad to conduct common carrier transloading operations.

⁴² *General Railway Corp, D/B/A Iowa Northwestern Railroad – Exemption for Acquisition of Railroad Line – in Osceola and Dickinson Counties, IA*, STB Finance Docket No. 34867, Slip op. at 4 (served June 15, 2007).

⁴³ See Exhibit A. In addition, Lampwrights has also acquired from the Estate of George Brosky his interest in the Toby Branch in the event that – at some future date – it is determined that the line was never formally abandoned.

FADC argues that Lampwrights would be unable to obtain property under the Commonwealth of Pennsylvania eminent domain laws citing Pennsylvania code and the Pennsylvania Supreme Court’s decision in *Wolf v. Reading Blue Mountain & N. R.R. Co.*, 320 A.3d 1164 (Pa. 2024)(“*Wolf v. RMBN*”).⁴⁴ FADC argues that the Board should reject Lampwrights Petition because Lampwrights does not own the entirety of the Proposed Line and it would not be able to exercise eminent domain laws even if the Board were to grant Lampwrights authority because it is not a “public utility railroad” under Pennsylvania law.⁴⁵ FADC continues that to be considered a “public utility railroad” in Pennsylvania, requires an entity to apply to the “Pennsylvania Public Utilities Commission (“PUC”) for approval as a public utility and for a certificate of public convenience.” FADC continues, once these are granted, a carrier can assert eminent domain.⁴⁶ FADC next argues that the Lampwrights Proposed Line would not be eligible to use eminent domain because – following the *Wolf v. RMBN* reasoning – the Lampwrights Proposed Line is “intended to benefit a single private business rather than the public.”⁴⁷

As discussed above, an applicant is not required to own all of the property needed to construct its line in order to obtain construction authority, and the question of whether state eminent domain law may be available to an applicant is irrelevant in Board construction and operating authority proceedings. As stated, “[e]minent domain proceedings are governed by state law,” and rail carriers are generally responsible for acquiring the land necessary to support their operations, including to the extent permitted by condemnation.”⁴⁸

⁴⁴ FADC Reply at 10-12.

⁴⁵ *Id.*

⁴⁶ *Id.* at 11.

⁴⁷ *Id.* at 12.

⁴⁸ *Supra* note 36.

The FADC argument also fails because it presents to the Board a hypothetical legal argument under Pennsylvania law, then draws its own conclusion, and then uses that conclusion as its reasoning for why the Board should reject the Lampwrights Petition.

Further, FADC's conclusion, relies on significant assumptions: it assumes that Lampwrights will need to acquire property through Pennsylvania's eminent domain law; it assumes that a state court would find that the facts and legal standard of *Wolf v. RMBN* are applicable to the facts and legal argument that Lampwrights would present. Further, FADC assumes a state court would conclude that Lampwrights is only serving itself instead of holding out to shippers of waste in the entirety of the northeast (including Pennsylvania) as a common carrier. The legal conclusion that FADC has developed further assumes that the *Wolf v. RMBN* Decision and its progeny would withstand a federal court challenge under ICCTA.⁴⁹

The Board should not accept FADC's assumptions or legal conclusions since the Board's authority is permissive and questions of property acquisition are governed by state law. Lampwrights understands that at some point it may need to seek authority from the courts to acquire property for the Proposed Line; however, that is irrelevant to the Board's consideration of its petition for construction and operating authority.

C. The Lampwrights Petition Satisfies the Exemption Standards under 49 U.S.C. §10502 and the FADC Scattershot Arguments do not Demonstrate Otherwise.

Lampwrights submitted its Petition under 49 U.S.C. § 10502. The statute requires that the Board "must exempt a transaction from regulation when it finds that: (1) is not necessary to carry out the transportation policy of section 10101 of this title; and (2) either – the transaction or service

⁴⁹ See *Dakota, Minn. & E. R.R. Corp. v. S. Dakota*, 236 F. Supp. 2d 989, 1032 (D.S.D. 2002), aff'd in part, vacated in part, remanded sub nom. *Dakota, Minnesota & E. R.R. Corp. v. S. Dakota*, 362 F.3d 512 (8th Cir. 2004)(finding portions of South Dakota eminent domain law are preempted by federal law).

is of limited scope; or the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.⁵⁰ FADC takes aim at the Lampwrights Petition and misses. First, its scattershot arguments misapply Board class exemption regulations. Second, FADC is apparently asking the Board to ignore the analysis of the Office of Environmental Analysis (“OEA”) and reject the Lampwrights Petition without the benefit of OEA’s Environmental Assessment. Third, FADC attempts to rebut Lampwrights Petition with either no or misapplied precedent.

1. The FADC argument that the Lampwrights proceeding in this docket is too controversial for the Board’s class exemption procedures is illogical because this proceeding is not a class exemption proceeding.

In the FADC Reply, it argues that the Lampwrights Petition “fails under the Rail Transportation Policy (“RTP”), which requires the Board to consider whether further regulatory oversight is necessary to advance the statutory objectives the as set forth in 49 U.S.C. § § 10101 and 10501 (*sic*).”⁵¹ However, it argues that further regulation is required because class exemption proceedings are not intended to be used for controversial cases. FADC directly quotes the Board, “[t]here are some situations in which approval would be so routine and uncontroversial that there is an expedited ‘class exemption’ procedure allowing the parties to obtain Board authorization subject only to an after-the-fact Board Review if objections are received.”⁵² FADC continues this line of argument by further quoting the Board stating, “[i]n contrast, ‘the class exemption process is not appropriate for controversial cases in which a more detailed record is required than what is

⁵⁰ Lampwrights Petition at 5 citing *Port of Moses Lake – Construction Exemption – Moses Lake, Washington*, STB Finance Docket No. 34936, slip op. at 4 (served Aug. 27, 2009).

⁵¹ FADC Reply at 14.

⁵² *Id.* at 14 citing *James Riffin d/b/a/ the N. Centr. R.R. – Acquis. & Operation Exemption – in York Cnty., PA*, STB Finance Docket No. 34501, slip op. at 6 (served Feb 23, 2005).

produced through a notice invoking a class exemption.”⁵³ FADC then continues that because of this Board precedent, the comments in this proceeding indicate that this proceeding is “controversial” and “requires closer scrutiny by the Board.”⁵⁴

First, this argument is illogical. FADC is arguing that the Lampwrights Petition is too controversial for a class exemption proceeding.⁵⁵ No class exemption exists for construction and operating proceedings.⁵⁶ This argument is simply wrong because under circumstances whereby the Board finds that a class exemption proceeding is too controversial, it generally allows the applicant to file a petition for exemption under § 10502 which is exactly what Lampwrights has done here.

Second, rail construction proceedings – even proceedings that generate opposition – may still be and are routinely considered under 49 U.S.C. § 10502. In instances where the Board has required petitioners seeking an exemption for construction authority to instead file a full application, the Board has done so due to the magnitude of the project, concerns about project costs, funding sources, and substantial-public interest.⁵⁷ However, simply because a proposed line

⁵³ *Id.*

⁵⁴ *Id.* at 15.

⁵⁵ Even in class exemption proceedings, the fact that a party or parties may object does not automatically trigger a denial of the notice of exemption and require a submission of a petition for the transaction to move forward. *See Central Oregon & Pacific Railroad, Inc. – Lease and Operation Exemption Including Interchange Commitment – Union Pacific Railroad Company*, STB Docket No. 36818, (served Apr. 8, 2025)(multiple commentors and labor unions objecting to the lease transaction).

⁵⁶ *Supra* note 40.

⁵⁷ *Texas Central Railroad and Infrastructure, Inc. & Texas Central Railroad, LLC – Petition for Exemption – Passenger Rail Line Between Dallas and Houston, Tex.* Docket No. FD 36025, slip op at 15 (served July 16, 2020)(240-mile high-speed passenger rail line); *Ozark Mountain Railroad – Construction Exemption*, I.C.C. Finance Docket No. 32204, 1994 WL 698676 (served Dec. 15, 1994)(75-mile passenger excursion train).

has generated public comment does not necessitate a full application in place of a petition for exemption.⁵⁸

2. FADC’s argument that the Board should decline the Lampwrights Petition due to health and safety issues is unsupported with any Board precedent and would circumvent the Board’s environmental review process.

FADC argues that concerns that have been raised in this proceeding as related to the impact of the Lampwrights Proposed Line “reflect that the Board must decline the Lampwrights Petition in order to ensure that federal policy concerning public health and safety are properly upheld.”⁵⁹ Additionally, FADC states, “[w]hile the Board often considers public health and safety issues in the NEPA process, NEPA review cannot substitute for the Board’s discrete statutory obligation to consider relevant RTP factors in deciding whether to grant an exemption.”⁶⁰

This argument is unsupported by any Board precedent and would be entirely novel in Board construction proceedings. Rail line construction projects are deemed to be a major federal action, as such, the licensing of rail line construction by the Board is subject to NEPA.⁶¹ The Board fulfills its NEPA responsibilities through OEA. Under NEPA, the Board must take a “hard look” at the potential environmental impacts of an action before a decision is made to approve a construction petition for exemption.⁶²

OEA is reviewing the potential environmental impacts of the Proposed Line. Concerns over public safety of rail crossings, emergency response, floodplains, and other impacts on the

⁵⁸ See *Seven County Infrastructure Coalition – Rail Construction & Operation Exemption – in Utah, Carbon, Duchesne, and Uintah Counties, Utah*, STB Finance Docket No. 36284 (served Dec. 15, 2021) (The Board granted a petition for exemption although the proposed line involved an 85-mile rail line primarily shipping crude oil and fracking sand, and the Board’s docket showed 1,731 environmental comments).

⁵⁹ FADC Reply at 15.

⁶⁰ *Id.* at 16.

⁶¹ See 49 CFR 1105.6(a).

⁶² See generally, *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989).

community will all be analyzed in OEA’s environmental analysis. Lampwrights is working with OEA to comply with the Board’s NEPA requirements under 49 CFR Part 1105. Lampwrights retained the third-party contractor VHB to work under the direction and supervision of OEA to develop OEA’s Environmental Analysis (“EA”). Following the release of a draft EA, OEA will allow time for public comment. OEA will consider those comments before issuing a Final EA. The Board will then consider the EA within the context of the RTP before issuing its decision on the Lampwrights Petition.

FADC’s statement that “NEPA review cannot substitute for the Board’s discrete statutory obligation to consider relevant RTP factors in deciding whether to grant an exemption” in this context is inconsistent with the Board’s construction procedures. NEPA does not provide a substitute for the Board’s consideration of RTP 49 U.S.C. § 10101(8) (health and safety), it informs the Board’s consideration of this element of the rail transportation policy.⁶³ Additionally, FADC’s reliance on the *Eagle County v. STB* appellate decision is inapposite. That decision specifically states – on the page cited by FADC – “the Board did not adequately consider the incredibly significant environmental effects identified in the EIS.”⁶⁴ Here, OEA has not even completed the draft EA yet. But FADC is arguing that the Board should “decline the Lampwrights Petition” before that review is complete.

3. The Lampwrights Petition adequately explains its intended market for truck-to-rail conversions.

⁶³ See *Ken Tenn Regional Rail Partners, Inc – Construction and Operation Exemption – in Fulton County, KY. And Obion County, Tenn.*, STB Finance Docket No. 36328 (served July 23, 2021) Board Member Oberman Dissent.

⁶⁴ *Eagle County v. STB*, 82 F.4th 1152, 1194 (D.C. Cir. 2023), rev’d, *Seven County Infrastructure Coalition v. Eagle County*, 605 U.S. 168 (2025).

FADC also argues that Lampwrights should have provided a more in depth analysis of motor-vehicle diversions to rail under RTP 49 U.S.C. § 10101(8) .⁶⁵ And FADC asserts that the Proposed Line will not enhance competition under RTP 49 U.S.C. §§ 10101(4) and (5).⁶⁶ It states, “[n]othing in the Petition demonstrates that waste now moved by truck could realistically shift to rail, nor that rail service would be cost competitive.”⁶⁷ First, FADC provides no support for what type of evidence Lampwrights should have presented in its petition. Second, the Lampwrights Petition clearly explains the market that Lampwrights believes will switch to rail and how this market would result in diversions from truck to rail.⁶⁸

4. The market for waste-by-rail includes waste-to-energy facilities that are at the end of their useful life.

FADC criticizes the Lampwrights argument that the Proposed Line would encourage and promote energy conservation by potentially moving waste transportation from truck to rail. FADC asserts, “Lampwrights’ own description of the waste stream-which it represents previously going Waste-to-Energy facilities...undercuts its claims that the line will promote energy conservation.”⁶⁹

This argument fails because, as explained in the Petition and Verified Statement, the reason for the waste-by-rail demand in the marketplace is because many Waste-to-Energy (“WTE”) facilities are at the end of their useful lives and are closing. Further, many WTE facilities are facing public pressure to close due to the environmental harms caused by these facilities.⁷⁰ Considering that WTE facilities are closing anyway, FADC’s argument is simply incorrect.

5. The FADC hazmat argument fails because a rail carrier must provide transportation upon reasonable request. The fact that the Greentree Landfill is not

⁶⁵ FADC Reply at 15.

⁶⁶ *Id.* at 17.

⁶⁷ *Id.*

⁶⁸ Lampwrights Petition at 2, Exhibit B, Verified Statement of Alexandr Sulkowski at 1-4.

⁶⁹ FADC Comment at 17.

⁷⁰ Lampwrights Petition at 2, Exhibit B, Verified Statement of Alexandr Sulkowski at 1-4.

permitted to receive hazardous material would make a request to transport hazardous materials to the landfill unreasonable.

FADC argues that Lampwrights Proposed Line – as a common carrier rail line – would be required to transport hazardous materials upon request. FADC argues, “to the extent the project may involve hazardous materials, the line would be required to transport such materials upon request, regardless of Lampwrights’ present representation that the Greentree Landfill ‘is not permitted to accept any hazardous waste types.’”⁷¹

This argument misrepresents the common carrier obligation. Under 49 U.S.C. § 11101(a), a “rail carrier providing transportation or service subject to the jurisdiction of the Board...shall provide the transportation or service on reasonable request.” not any request.⁷²

The Lampwrights Petition proposes building out the Proposed Line to the Greentree Landfill. The landfill is a Subtitle D landfill, meaning that hazardous materials are not permitted.⁷³ Lampwrights is proposing to construct the Proposed Line to hold itself out to shippers seeking to transport municipal solid waste and construction and demolition debris. Lampwrights understands that as a common carrier, it must provide transportation on reasonable request. However, it would not be reasonable for a shipper to request hazardous materials service to a destination that cannot legally accept hazardous materials.

⁷¹ FADC Reply at 16.

⁷² A reasonable request is one that is specific as to the volume, commodity, and time of shipment. *See generally, CSX Transp., Inc. – Abandonment- Between Bloomingdale and Montezuma, in Parke County, IN*, ICC Docket No. AB-55 (Sub-No. 486) *et al.*, 2002 WL 31045472 *5 (served Sept. 13, 2002).

⁷³ Exhibit E, Permit for Solid Waste Disposal and/or Processing Facility, Section E – Waste Acceptance; *See UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, BASIC INFORMATION ABOUT LANDFILLS*, available at <https://www.epa.gov/landfills/basic-information-about-landfills> (last visited Feb. 23, 2026).

However, if an industry were to locate on the Proposed Line and that industry were to require hazardous materials, Lampwrights understands that it would potentially be required to serve that industry if it made a reasonable request. This possibility appears to be remote considering that the hypothetical industry would have limited real estate along the Proposed Line to develop a facility that could receive hazardous material to be shipped by rail.

6. The FADC assertion that Lampwrights Petition is required to show “financial stability” is vague and unsupported.

FADC argues that Lampwrights fails to show evidence of its financial stability.⁷⁴ In petition for exemption proceedings for construction authority, the availability of funds is not relevant to the Board’s authorization of construction because authorization is permissive, not mandatory.⁷⁵ “The Board has repeatedly recognized that the ultimate decision to go forward with an approved project is in the hands of the applicant and the financial marketplace, not the agency.”⁷⁶ In the limited instances where the Board has rejected a petition and instead required an application, the Board has done so where multiple commenters raise “significant questions surrounding the financial feasibility” of a proposed project.⁷⁷ In those instances, the Board has justified an application as appropriate “due to the magnitude of [a] project, the questions about increased costs and funding sources, the substantial public interest, and the potential impact on

⁷⁴ FADC Reply at 17.

⁷⁵ *Seven County Infrastructure Coalition – Rail Construction & Operation Exemption – In Utah, Carbon, Duchesne, and Uintah Counties, Utah*, STB Finance Docket 36284, slip op. at 6 (served Jan. 5, 2021) citing *Mid States Coal. For Progress*, 345 F.3d 520, 552 (8th Cir. 2003); *Cal. High-Speed Rail Auth. – in Fresno, Kings, Tulare, & Kern Cntys., Cal.*, FD 35724 (Sub-No. 1) (STB served Aug. 12, 2014).

⁷⁶ See *Ken Tenn Regional Rail Partners, Inc. – Construction & Operation Exemption – in Fulton County, KY. And Obion County, Tenn.* STB Finance Docket No. 36328, slip op. at 7-8.

⁷⁷ *Texas Central Railroad and Infrastructure, Inc. & Texas Central Railroad, LLC – Petition for Exemption – Passenger Rail Line Between Dallas and Houston, Tex.*, STB Finance Docket 36025, slip op. at 14 (served July 16, 2020).

numerous local landowners.”⁷⁸ However, the Board has rejected calls for an application where the concerns over finances are vague and unsupported.⁷⁹ Here, the FADC argument is vague and unsupported. Further the Lampwrights proposed Line of 20,427 feet is far shorter in length than those in cases where the Board required an application in lieu of a petition.

7. The Lampwrights Petition satisfies RTP 49 U.S.C. §§ 10101 (2) and (7).

FADC asserts that “Lampwrights’ reliance in its Petition for Exemption on RTP 49 U.S.C. §§ 10101(2) and (7) is not sufficient by itself to support granting an exemption.”⁸⁰ First, Lampwrights is not relying on these two policies of the RTP “by itself.” Second, the case that FADC relies on does not support its argument because, the sentence FADC quotes is followed by the Board stating “[b]ut to us, the provisions reflect the overriding intent of the exemption statute: unless there is a good reason for full regulation, we should be looking toward exemption or relaxation of unneeded regulatory burdens.”⁸¹ Here, the Board should grant the Petition to lower the barrier to entry for a new rail carrier to enter the market providing direct rail access to the Greentree Landfill.

8. Compliance with the law can nevertheless provide public benefit.

FADC argues that “Lampwrights’ public-interest showing is tenuous at best.”⁸² FADC states that Lampwrights public interest argument “relies largely on “host payments” to local jurisdictions...but compliance with local tax obligations is evidence of obeying the law, not

⁷⁸ *Id.*, slip op at 14-15.

⁷⁹ *Townline Rail Terminal, LLC-Constr. & Operation Exemption-in Suffolk Cnty., N.Y.*, STB Finance Docket 36575, slip op. at 8 (Nov. 15, 2023).

⁸⁰ FADC Reply at 17.

⁸¹ *California High-Speed Rail Authority-Construction Exemption-in Merced, Madera and Fresno Counties, Cal.*, STB Finance Docket No. 35724, slip op. at 23 (served June 13, 2013).

⁸² FADC Reply at 17.

affirmatively promoting the public interest, and these increases may be offset by reductions in property tax values of the parcels affected by the proposed Spur.”⁸³

First, Noble Environmental (the owner of the Greentree Landfill) does more than merely comply with the law. Under the law, a landfill is required to pay a fee to the “host municipality” of \$1 per ton.⁸⁴ But the fee is negotiable under the law. As shown in the Petition, Fox Township (the host municipality) and Noble Environmental have negotiated alternative terms that in some instances pays Fox Township more than the statutory requirement. Further, Noble Environmental also pays a per ton fee to Elk County, even though it is not required to do so.

FADC provides no support that increased revenue, even for simply “obeying the law” does not promote the public interest. Elk County’s property tax burden as of 2022 places Elk County 52 out of 66 of the Pennsylvania counties analyzed.⁸⁵ Revenue that Elk County receives from the Greentree Landfill is used to fund government operations. In fact, in 2025, Elk County Commissioners specifically stated the importance of fees received from Greentree Landfill at a budget meeting that considered the fiscal challenges facing the county, “pretty much all of our expenses throughout the county have risen, including labor... A reduction in host fees from the landfill which the county traditionally counted on (added to the problem).”⁸⁶ If the Proposed Line is constructed, host fees from the landfill to Elk County will only increase.

⁸³ *Id.* at 17-18.

⁸⁴ 53 Pa. Stat. Ann. § 4000.1301.

⁸⁵ PENNSYLVANIA INDEPENDENT FISCAL OFFICE, 2022 PROPERTY TAX BURDEN BY COUNTY, RESEARCH BRIEF. (August 2024). https://www.ifo.state.pa.us/download.cfm?file=Resources/Documents/RB_2024_08_Property_Tax_Burden_by_County.pdf (The Independent Fiscal Office provides revenue projections along with objective analysis of fiscal, economic and budgetary issues to assist Commonwealth residents and the General Assembly in their evaluation of policy decisions.).

⁸⁶ Marilyn Secco, *Elk County Commissioners approve 2025 budget with no tax increase*, COURIER EXPRESS, (Jan 9, 2025) [Elk County Commissioners approve 2025 budget with no tax increase | Local | thecourierexpress.com](https://www.thecourierexpress.com/news/local/elk-county-commissioners-approve-2025-budget-with-no-tax-increase/).

In addition, the Lampwrights Proposed Line is in the public-interest for more than just the local revenue it generates. The Proposed Line would likely divert truck traffic to rail (helping to keep heavy long-haul trucks off the roads) and this will benefit Elk and Jefferson Counties, but also other Pennsylvania roadways as well as roadways in the northeast United States where shippers will be choosing rail over trucks.

CONCLUSION

Lampwrights respectfully requests that the Board reject the FADC Reply. FADC has previously provided at least 14 comments in this docket. FADC has provided its view – now multiple times – of the environmental impact of the project (without waiting for OEA to complete its environmental review). FADC has also claimed that local state representatives violated state and federal constitutions because of their support for this project. In a document served on the parties of record, FADC has even threatened the Board that it would file an ethics complaint against the Board if it authorizes the petition. Now, FADC submits this reply that asks the Board to reject the Lampwrights Petition based on irrelevant state law and irrelevant Board regulations. Further, where FADC attempts to find support for its arguments from federal courts and Board precedent, it still fails to do so.

In totality, the FADC Reply fails to present a coherent argument to warrant a denial of the Petition and the Board should reject FADC's arguments.

Respectfully submitted,



Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

*Counsel for
Lampwrights LLC*

Dated: February 25, 2026

VERIFICATION

I, Alex Sulkowski, President, of Lampwrights LLC verify under penalty of perjury that I reviewed the foregoing Lampwrights Response and that the factual statements therein are true and correct. Further, I certify that I am qualified and authorized to sponsor this testimony.

Executed on February 25, 2026.



Alex Sulkowski

CERTIFICATE OF SERVICE

I certify that on this 25th day of February, 2026, I caused a copy of the foregoing document to be served electronically on all parties of record in STB Docket No. FD 36833.



Justin J. Marks

Dated: February 25, 2026

Exhibit A

FIDUCIARY DEED

MADE this 7th day of **OCTOBER, 2025**, by and between **SHEREE MCCALL**,
Administratrix of the **DARRELL G. SPENCER ESTATE**, with mailing address of P.O. Box I,
Grampian, Pennsylvania 16838; hereinafter "GRANTOR",

A

N

D

LAMPWRIGHTS LLC, a Delaware limited liability company, with mailing address of
6000 Town Center Boulevard, Suite 145 West, Canonsburg, PA 15317; hereinafter "GRANTEE".

BACKGROUND:

WHEREAS, the said Darrell G. Spencer, deceased, was seized of the real estate hereinafter described, and departed this life on March 12, 2014. Letters of Administration were granted to Sheree McCall in his estate at Clearfield County Estate No. 1714-0191; and,

WHEREAS, the Administratrix filed an Exemplified copy of her Letters of Administration with the Elk County Register of Wills which appear at Elk County Estate Number 24-24-0203; and,

WHEREAS, Darrell G. Spencer, during his life, did business with his brothers Robert G. Spencer and Ray L. Spencer, a/k/a Ray Buck Spencer as partners under the name Spencer Land Company, which was registered in the office of the Clearfield County Prothonotary on August 3, 1971 and subsequently with the Pennsylvania Department of State; and,

WHEREAS, Darrell G. Spencer, Robert G. Spencer and Ray L. Spencer, a/k/a Ray Buck Spencer executed a Partnership Cross Purchase Agreement, dated July 12, 1988, pursuant to which the decedent Darrell G. Spencer acquired the interests of Ray L. Spencer, a/k/a Ray Buck Spencer and Robert G. Spencer in Spencer Land Company upon their deaths, which resulted in the sole ownership of Spencer Land Company and its assets, by the decedent Darrell G. Spencer as more particularly stated in the docket of this estate and on his Pennsylvania Inheritance Tax Return.

NOW WITNESS THIS INDENTURE, that the Grantor in consideration of Four Hundred Thousand and 00/100 (\$400,000.00) Dollars, receipt whereof is hereby acknowledged, and pursuant to the authority vested in her by the Pennsylvania Probate, Estates and Fiduciaries Code, hereby grants, conveys, bargains, sells, alienates, releases and confirms by these presents to the Grantee, its successors and assigns:

All that certain piece or parcel of land, Tax Parcel 05-19-018-2493, being property now or formerly of Spencer Land Company, recorded in Document #1981-010224 in the Elk County Recorder of Deeds Office, situate in Township of Horton and Township of Fox, County of Elk, Commonwealth of Pennsylvania, more particularly bounded and described as follows:

BEGINNING AT A POINT at the northeast corner of property now or formerly of Eddy J. Inzana, et ux. as recorded in in Document #2022-2445, said point being on the northwesterly line of property now or formerly of Charles E. Marchiori, as recorded in Document #2019-719 and the southeasterly line of property herein described;

thence along the northerly line of said Inzana property, North 11°24'05" West, passing through a 5/8-inch capped "DEM SURVEYING" rebar found at 17.38 feet, a total distance of 74.40 feet to a point;

thence continuing along the westerly line of said Inzana property, South 30°49'23" West, 63.98 feet to a 5/8-inch capped "DEM SURVEYING" rebar found at the northeast corner of property now or formerly of Timothy C. Shank, as recorded in Document #2013-2111;

thence along the northerly line of said Shank property, South 81°44'42" West, 38.65 feet to a point at the southeast corner of property now or formerly of Danny P. Peters, et ux., as recorded in Document #2020-1623;

thence along the easterly line of said Peters property, North 30°49'23" East, 158.40 feet to a point;

thence continuing along the southeasterly line of said Peters property, the southeasterly line of property now or formerly of Joshua C. Yanek, as recorded in Document #2017-3491 and the southerly line of property now or formerly of McCloskey Revocable Trust, et al., as recorded in Document #2021-280, by an arc curving to the right with a radius of 984.93 feet, an arc distance of 530.03 feet, a chord bearing of North 46°14'23" East, and a chord distance of 523.66 feet to a point;

thence continuing along the southerly line of McCloskey Revocable Trust property and the southerly line of property now or formerly of Brittany L. Veltri, as recorded in Document #2016-1323, North 61°39'23" East, 1,470.00 feet to a point;

thence continuing along the southerly line of said Veltri property, the following three (3) courses and distances:

1. by an arc curving to the right with a radius of 3,849.72 feet, an arc distance of 124.97 feet, a chord bearing of North 62°35'11" East, and a chord distance of 124.97 feet to a point;
2. by an arc curving to the right with a radius of 2,894.78 feet, an arc distance of 99.04 feet,

a chord bearing of North 64°29'48" East, and a chord distance of 99.04 feet to a point;

3. North 44°58'16" West, 33.28 feet to a point;

thence continuing along the southerly line of said Veltri property, the southerly line of property now or formerly of Michael J. Decker, et al., as recorded in Document #2003-5266, and the southerly line of property now or formerly of Guido Sicheri, et al., as recorded in Document #1981-5222, by an arc curving to the right with a radius of 2,914.78 feet, an arc distance of 289.30 feet, a chord bearing of North 70°59'38" East, and a chord distance of 289.18 feet to a point;

thence continuing along the southerly line of said Sicheri property, the following two (2) courses and distances:

1. North 73°50'14" East, 1,100.00 feet to a point;

2. by an arc curving to the left with a radius of 1,095.92 feet, an arc distance of 307.90 feet, a chord bearing of North 65°47'19" East, and a chord distance of 306.89 feet to a point on the southwesterly line of Lot #7 of The Busy Bee "North Star Subdivision Plan", as recorded in Map File A, being property now or formerly of Thomas A. Ceriani, Jr., et ux., as recorded in Document #2021-3737;

thence along the southwesterly line of said Lot #7, South 44°58'16" East, passing through a rebar found at 19.47 feet, a total distance of 20.49 feet to a point at the south corner of said Lot #7;

thence continuing along the southeasterly line of said Lot #7, Lot #8 and Lot #9 of said The Busy Bee "North Star Subdivision Plan", being property now or formerly of Thomas A. Ceriani, Jr., et ux., as recorded in Document #1999-757, and the southeasterly line of property now or formerly of Black Earth, L.P., as recorded in Document #2012-4112, by an arc curving to the left with a radius of 1,115.92 feet, an arc distance of 885.62 feet, a chord bearing of North 34°46'22" East, and a chord distance of 862.56 feet to a point;

thence continuing along the southeasterly line of said Black Earth property, the following two (2) courses and distances:

1. North 12°02'14" East, 420.00 feet to a point;

2. by an arc curving to the right with a radius of 1,175.92 feet, an arc distance of 760.40 feet, a chord bearing of North 30°33'44" East, and a chord distance of 747.22 feet to a point;

thence continuing along the southeasterly line of said Black Earth property, through Parolari Road, a 50-foot right of way, and the southeasterly line of said Black Earth property, North 49°05'14" East, 1,474.54 feet to a point;

thence continuing along the southeasterly line of said Black Earth property, through State Route 153, a variable width right of way, and the southeasterly line of property now or formerly of Carl A. Gamarino, as recorded in Document #2013-1973, by an arc curving to the right with a radius of 2,894.79 feet, an arc distance of 837.08 feet, a chord bearing of North 57°22'17" East, and a chord distance of 834.17 feet to a point;

thence continuing along the southeasterly line of said Gamarino property, the southerly line of property now or formerly of MRB Realty, LLC, as recorded in Document #2024-990, the southeasterly line of property now or formerly of Amanda Copelli, et. al., as recorded in Document #2020-144, the southeasterly line of property now or formerly of Juanita A. Becker, 1/2 int., the southeasterly line of property now or formerly of Timothy J. Prechtl, as recorded in Document #2023-058, and the southeasterly line of property now or formerly of Jennifer J. Martino, as recorded in Document #2007-713, North 65°39'19" East, 2,336.43 feet to a point;

thence continuing along the southeasterly line of said Martino property, by an arc curving to the left with a radius of 1,879.86 feet, an arc distance of 633.30 feet, a chord bearing of North 56°00'15" East, and a chord distance of 630.31 feet to a point;

thence continuing along the southeasterly line of said Martino property, the southeasterly line of property now or formerly of Jerry W. Tillia, et al., as recorded in Document #2011-3426, the southeasterly line of other property now or formerly of Jennifer J. Martino, as recorded said in Document #2007-713, the southeasterly line of other property now or formerly of Timothy J. Prechtl, as recorded in said Document #2023-058, and the southeasterly line of property now or formerly of Mark L. Facchine, et ux., as recorded in Document #2018-798, North 46°21'11" East, 2,331.89 feet to a point at the northeast corner of said Facchine property;

thence along the northeasterly line of said Facchine property, North 43°38'49" West, 20.00 feet to a point at the south corner of property now or formerly of David A. Starr, et ux., as recorded in Document #2006R-4590;

thence along the southeasterly line of said Starr property and the southeasterly line of property now or formerly of Rudy Pollino, as recorded in Document #2011-2515, North 46°21'11" East, 3,482.32 feet to a point on the southeasterly line of said Pollino property;

thence South 63°16'28" East, 21.26 feet to a point along the said line of Rudy Pollino;

thence by an arc curving to the left with a radius of 11,429.16 feet, an arc distance of 771.95 feet, a chord bearing of North 44°19'38" East, and a chord distance of 771.80 feet to a point along other land of Rudy Pollino, et ux., recorded in Document #2022-002062;

thence North 42°23'32" East, 1,273.81 feet to a point along a line of property of said Commonwealth of Pennsylvania, recorded in Document #2008-003369;

thence by an arc curving to the right with a radius of 5,759.58 feet, an arc distance of 310.10 feet, a chord bearing of North 43°56'05" East, and a chord distance of 310.06 feet to a point along a line of said Commonwealth of Pennsylvania;

thence North 58°05'27" West, passing through an angle iron found at 4.31 feet, a total distance of 20.57 feet to a point along a line of property now or formerly Veolia Es Greentree Landfill, LLC, recorded in Document #2007-001779;

thence by an arc curving to the right with a radius of 5,779.58 feet, an arc distance of 278.71 feet, a chord bearing of North 46°48'39" East, and a chord distance of 278.68 feet to a point along the southeasterly line of property now or formerly of Rudy S. Pollino, et ux., recorded in Document #2005-004707;

thence North 48°11'32" East, 2,008.95 feet to a point along a line of property of said David B. Starr, et ux., recorded in Document #2020-003518;

thence by an arc curving to the left with a radius of 2,814.79 feet, an arc distance of 587.07 feet, a chord bearing of North 42°13'02" East, and a chord distance of 586.01 feet to a point along said David B. Starr, et ux.;

thence North 36°14'32" East, 950.00 feet to a point along a line of said David B. Starr, et ux.;

thence by an arc curving to the right with a radius of 4,633.66 feet, an arc distance of 1,632.28 feet, a chord bearing of North 46°20'02" East, and a chord distance of 1,623.85 feet to a point along a line of said Veolia Es Greentree Landfill, LLC, recorded in Document #2000-04324;

thence North 56°25'32" East, 1,236.61 feet to a point along a line of property of said Toby Valley Farm, recorded in Document #2007-000693;

thence by an arc curving to the left with a radius of 2,814.79 feet, an arc distance of 493.73 feet, a chord bearing of North 51°24'02" East, and a chord distance of 493.10 feet to a point said Veolia Es Greentree Landfill, LLC;

thence North 46°22'32" East, 1,840.14 feet to a point on the dividing line of property now or formerly of Kimberly A. Swackhammer, recorded in Document #2013-002733, and property now or formerly of Brianna E. Cooney, et vir., recorded in Document #2022-003554;

thence South 31°09'38" East, 20.48 feet to a point on the southerly line of said Brianna E. Cooney, et vir.;

thence North 46°22'32" East, 27.66 feet to a point on the easterly line of said property now or formerly Brianna E. Cooney, et vir.;

thence North 00°28'02" East, 27.85 feet to a point on the dividing line of said Brianna E. Cooney, et vir., and property now or formerly of Wayne E. Caylor, et ux., recorded in Document #1973-006394;

thence North 46°22'32" East, passing through multiple iron rods found at 2,215.05 feet, 2,342.65 feet, 2,476.24 feet, 2,643.41 feet, passing through a 1" iron pipe found at 3,291.17 feet, passing by a rebar capped "PLS 37822-E" found at 3,692.42 feet, a total distance of 4,315.39 feet to a point on the southeasterly line of property now or formerly of Jerome J. Vollmer, et ux., recorded in Document #1965-000252;

thence South 00°19'31" West, 27.78 feet to a point on the easterly line of said Jerome J. Vollmer, et ux.;

thence North 46°22'32" East, 520.23 feet to a point on the southeasterly line of property now or formerly of Allan R. Kline, et ux., recorded in Document #2002-001517;

thence by an arc curving to the left with a radius of 5,699.58 feet, an arc distance of 846.09 feet, a chord bearing of North 42°07'22" East, and a chord distance of 845.31 feet to a point along the southeasterly line of property now or formerly of Dale May, II, et ux., recorded in Document #2013-002259;

thence South 89°40'29" East, 24.90 feet to a point on the southeasterly line of said property now or formerly Dale May, II, et ux.;

thence North 37°27'32" East, passing by an iron rod found at 606.73 feet, passing by a rebar capped "D Thorp" at 739.71 feet, a total distance of 750.97 feet to a point on the southerly right of way line of said Coal Hollow Road, State Route 2005, a 33-foot wide right of way;

thence along said southerly right of way line of Coal Hollow Road, the following two (2) courses and distances:

1. North 64°12'25" East, 60.14 feet to a point;
2. by an arc curving to the left with a radius of 746.50 feet, an arc distance of 246.58 feet, a chord bearing of North 54°44'38" East, and a chord distance of 245.46 feet to a point;

thence South 37°27'32" West, 963.33 feet to a point on a common line of property now or formerly of Henry M. Snyder, as recorded in Document #2015-003475 and property now or formerly of Thomas J. Mosier, as recorded in Document #2018-003546;

thence North 89°40'29" West, 25.09 feet to a point on the westerly line of said Mosier;

thence by an arc curving to the right with a radius of 5,759.58 feet, an arc distance of 900.97 feet, a chord bearing of South 41°53'39" West, and a chord distance of 900.05 feet to a point on the westerly line of property now or formerly of Stephen A. Tamburlin, as recorded in Document #1974-004761;

thence South 46°22'32" West, 578.07 feet to a point on or near the dividing line of said Tamburlin and property now or formerly of Paul E. Swanson, et al., as recorded in Document #2019-001579;

thence South 00°19'31" West, 215.29 feet to a point on or near the aforesaid dividing line of said Tamburlin and Swanson;

thence South 46°22'32" West, 614.00 feet to a point on or near the westerly line of said Swanson;

thence North 89°40'29" West, 194.52 feet to a point on the westerly line of said Swanson;

thence South 46°22'32" West, 5,217.56 feet to a point on the northwesterly line of property now or formerly of Wayne E. Caylor, et ux., as recorded in Document #1975-006395;

thence by an arc curving to the right with a radius of 2,914.79 feet, an arc distance of 511.27 feet, a chord bearing of South 51°24'02" West, and a chord distance of 510.62 feet to a point along a line of property now or formerly of Toby Valley Farm, recorded in Document #2007-000693;

thence South 56°25'32" West, 1,236.61 feet to a point along a line of property now or formerly Veolia Es Greentree Landfill, LLC, recorded in Document #2000-04324;

thence by an arc curving to the left with a radius of 4,533.66 feet, an arc distance of 1,597.05 feet, a chord bearing of South 46°20'02" West, and a chord distance of 1,588.81 feet to a point along a line of property now or formerly of David B. Starr, et ux., recorded in Document #2020-003518;

thence South 36°14'32" West, 950.00 feet to a point along a line of said David B. Starr, et ux.;

thence by an arc curving to the right with a radius of 2,914.79 feet, an arc distance of 607.93 feet, a chord bearing of South 42°13'02" West, and a chord distance of 606.83 feet to a point along a line of said David B. Starr, et ux.;

thence South 48°11'32" West, 2008.95 feet to a point along a line of said David B. Starr, et ux.;

thence by an arc curving to the left with a radius of 5,679.58 feet, an arc distance of 249.83 feet, a chord bearing of South 46°55'55" West, and a chord distance of 249.81 feet to a point along a line of property now or formerly of Commonwealth of Pennsylvania – Pennsylvania Game Commission, recorded in Document #2008-003369;

thence North 58°05'27" West, 20.59 feet to a point along a line of said Commonwealth of Pennsylvania;

thence by an arc curving to the left with a radius of 5,699.58 feet, an arc distance of 321.36 feet, a chord bearing of South 44°00'27" West, and a chord distance of 321.31 feet to a point along a line of said Commonwealth of Pennsylvania;

thence South 42°23'32" West, 1,273.81 feet to a point along the northwesterly line of property now or formerly of Colten J. Gearhart and Samantha L. Zimmerman, recorded in Document #2022-000705;

thence by an arc curving to the right with a radius of 11,489.16 feet, an arc distance of 754.72 feet, a chord bearing of South 44°16'27" West, and a chord distance of 754.58 feet to a point along the northwesterly line of property now or formerly of Francis T. Baker and Donna C. Capecci, recorded in Document #2022-000593;

thence South 63°16'28" East, 21.27 feet to a point along the said northwesterly line Francis T. Baker and Donna C. Capecci;

thence along the northwesterly line of said Baker property and the northwesterly line of other property now or formerly of David A. Starr, et ux., as recorded in said Document #2006R-4590, South 46°21'11" West, passing through a 5/8" rebar capped "CEC, INC." at 35.66 feet, a total distance of 3,517.99 feet to a point;

thence continuing along the northwesterly line of other Starr property, North 43°38'49" West, 20.00 feet to a point;

thence continuing along the northwesterly line of other Starr property and the northwesterly line of other property now or formerly of Jennifer J. Martino, as recorded said in Document #2007-713, South 46°21'11" West, 2,331.89 feet to a point;

thence continuing along the northwesterly line of other Martino property, by an arc curving to the right with a radius of 1,939.86 feet, an arc distance of 653.51 feet, a chord bearing of South 56°00'15" West, and a chord distance of 650.43 feet to a point;

thence continuing along the northwesterly line of other Martino property and the northwesterly line of other property now or formerly of Juanita A. Becker, 1/2 int., South 65°39'19" West, 2,269.34 feet to a point at a northeast corner of said other Becker property;

thence along a westerly line of said other Becker property, South 55°55'04" East, 23.47 feet to a point on a northwesterly line of said other Becker property;

thence along the northwesterly line of said other Becker property, South 65°39'19" West, 79.37 feet to a point;

thence continuing along the northwesterly line of said Becker property, the northwesterly line of other property now or formerly of Black Earth, L.P., as recorded in said Document #2012-4112, through said State Route 153, and the northwesterly line of said Black Earth, L.P. property, by an arc curving to the left with a radius of 2,814.79 feet, an arc distance of 813.96 feet, a chord bearing of South 57°22'16" West, and a chord distance of 811.12 feet to a point;

thence continuing along the northwesterly line of said Black Earth, L.P. property, through said Parolari Road, , South 49°05'14" West, 1,474.53 feet to a point;

thence continuing along the northwesterly line of said Black Earth, L.P. property, the following three (3) courses and distances:

1. by an arc curving to the left with a radius of 1,095.92 feet, an arc distance of 708.67 feet, a chord bearing of South 30°33'44" West, and a chord distance of 696.39 feet to a point;
2. South 12°02'14" West, 420.00 feet to a point;
3. by an arc curving to the right with a radius of 1,195.92 feet, an arc distance of 931.43 feet, a chord bearing of South 34°20'58" West, and a chord distance of 908.07 feet to a point on the

northeasterly line of other property now or formerly of Guido Sicheri, et al., as recorded in said Document #1981-5222;

thence along the northerly line of said Sicheri property, the following five (5) courses and distances:

1. North 44°58'16" West, 20.43 feet to a point;
2. by an arc curving to the right with a radius of 1,175.92 feet, an arc distance of 348.39 feet, a chord bearing of South 65°20'59" West, and a chord distance of 347.12 feet to a point;
3. South 73°50'14" West, 1,100.00 feet to a point;
4. by an arc curving to the left with a radius of 2,834.78 feet, an arc distance of 247.11 feet, a chord bearing of South 71°20'24" West, and a chord distance of 247.03 feet to a point;
5. South 44°58'16" East, 31.62 feet to a point on the northeasterly line of said Marchiori property;

thence along the northwesterly line of said Marchiori property, the following five (5) courses and distances:

1. by an arc curving to the left with a radius of 2,814.78 feet, an arc distance of 126.19 feet, a chord bearing of South 64°48'03" West, and a chord distance of 126.18 feet to a point;
2. by an arc curving to the left with a radius of 3,769.72 feet, an arc distance of 122.38 feet, a chord bearing of South 62°35'11" West, and a chord distance of 122.37 feet to a point;
3. South 61°39'23" West, 1,470.00 feet to a point;
4. by an arc curving to the left with a radius of 904.93 feet, an arc distance of 486.98 feet, a chord bearing of South 46°14'23" West, and a chord distance of 481.13 feet to a point;
5. South 30°49'23" West, 125.16 feet to the **POINT OF BEGINNING**.

Bearings based upon Pennsylvania State Plane NAD83-2011, North Zone, as determined by Civil & Environmental Consultants, Inc., using survey grade GPS measurements and OPUS post-processing.

Containing 3,083,633 Sq. Ft. or 70.790 Acres

BEING known as Vacant Land.

TOGETHER WITH all the tenements, appurtenances and hereditaments thereunto belonging or in any way appertaining to the Property.

TOGETHER WITH all improvements presently located upon the Property, if any.

BEING designated as Tax Parcel No.: 05-19-018-2493.

BEING the same premises which Thomas F. Patton and Ralph S. Tyler, Jr., Trustees of the property of the Erie Lackawanna Railway Company, by Quitclaim Deed dated October 23, 1980 and recorded in the Office of the Recorder of Deeds of Elk County, Pennsylvania on February 4, 1981 in Deed Book Volume 228, page 10, granted and conveyed unto

Spencer Land Company, in fee.

TO HAVE AND TO HOLD the said Property unto the Grantee, its successors and assigns, forever.

UNDER AND SUBJECT to exceptions, reservations, easements, and rights of way as recorded in prior instruments of record.

ALSO TOGETHER WITH any and all of Grantor's right of surface, lateral, or subsurface support with respect to the Property. All such rights, if any, are expressly transferred and conveyed to Grantee. Grantor agrees that it has no right to use such surface or subsurface support or permit others to use such surface or subsurface support for any purpose whatsoever without the written permission of Grantee. Any and all rights of Grantor to permit or consent to the use of such surface or subsurface support for any purpose whatsoever are hereby assigned to Grantee.

EXCEPTING AND RESERVING to the Grantor, its beneficiaries and their respective heirs, successors and assigns, on a strict non-surface use and non-surface occupancy basis, all of its all right, title and interest in and to all oil, gas and other hydrocarbons (and all byproducts thereof) in or underlying the Property (collectively, the "Oil & Gas"). Grantor for itself, its beneficiaries and their respective heirs, successors and assigns, further covenants and agrees that Grantor shall not exercise, or hereafter grant any right to any third party to exercise, any right to use the surface of the Property in connection with any activity related to the exploration, development, production, storage, transmission or transportation of the Oil & Gas. As to the future exploration, development and/or production of Oil & Gas from the subsurface estate of the Property, no provision contained in this deed is intended to restrict or prohibit horizontal drilling originating from a surface entry made from another tract or parcel of land (but in no event originating from the herein described Property) which causes the wellbore to pass through or terminate below the surface of the Property described hereinabove.

EXCEPTING AND RESERVING, to the Grantor, its beneficiaries and their respective heirs, successors and assigns, a perpetual right of way and easement on, in, over and through the branch line that extends from the subject parcel commencing where it crosses Township Route 24009 and proceeding in a northern direction to other lands owned by the Seller and identified by Elk County Tax Map Number 03-19012-2387. This right of way and easement shall be for all forms of (i) vehicular and pedestrian, access, and (ii) utilities, both, commercial and private in all cases for purposes of access and utilities to the parcel identified as Elk County Map Number 03-19012-2387 and for no other use or purpose. The precise location of said perpetual right of way and easement shall be within the boundaries of the lands outlined in red on the parcel map attached hereto as Exhibit A.

And the Grantor for itself, its beneficiaries and their respective heirs, successors and assigns, do hereby covenant, promises and agrees, to and with the Grantee, , its successors and assigns, by these present, it has not knowingly done or committed any act, matter or thing whatsoever whereby the premises hereby granted, or any part thereof, is, are, shall or may be impeached, charged or encumbered, in title, charge, estate or otherwise howsoever.

This document may not sell, convey, transfer, include or insure the title to the coal and right of support underneath the surface land described or referred to herein, the owner or owners of such coal may have the complete legal right to remove all of such coal, and, in that connection, damage may result to the surface of the land, and any house, building or other structure on or in such land. The inclusion of this notice does not enlarge, restrict or modify any legal rights or estates otherwise created, transferred, excepted or reserved by this instrument.

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in fourteen-point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Grantee;

Lampwrights LLC

By:

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

IN WITNESS WHEREOF, the Grantor has caused these presents to be properly executed in the capacities therein stated the day and year first written above.

Witness: Darrell G. Spencer Estate

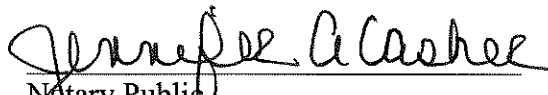
By: 
Sheree McCall, Administratrix

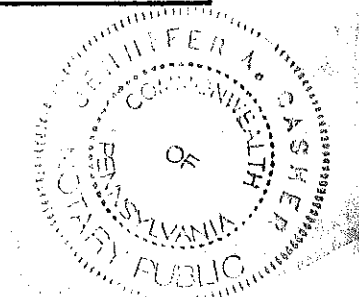
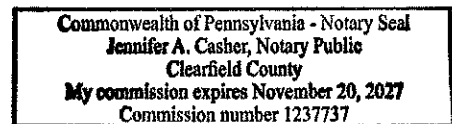
ACKNOWLEDGMENT

STATE OF PENNSYLVANIA :
COUNTY OF CLEARFIELD :SS

This 7th day of October, 2025, before me, the undersigned officer, personally appeared **SHEREE MCCALL** who acknowledged to me that she is the Administratrix of the Darrell G. Spencer Estate, and further, that she executed the within instrument for the purposes contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.


Notary Public



CERTIFICATE OF ADDRESS

I do hereby certify that the correct address of the Grantee is as follows:

6000 Town Center Blvd. Suite 145 West
Canonsburg, PA 15317

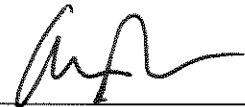

Alexander Sulkowski, President
For Grantee

EXHIBIT A



Exhibit B

IN THE COURT OF COMMON PLEAS
OF THE 59TH JUDICIAL DISTRICT
OF PENNSYLVANIA
ELK COUNTY BRANCH

CIVIL DIVISION
NO. 89-163

ROBERT M. CHERUBINI, ET AL.,

Plaintiffs

vs.

GEORGE BROSKY, ET AL.,

Defendants

ANSWER TO NEW MATTER

PONTZER & ROOF

ATTORNEYS AT LAW

MASONIC BUILDING, P. O. BOX 396

RIDGWAY, PENNSYLVANIA 15853

FILED

AUG 22 1989

David A. Frey

IN THE COURT OF COMMON PLEAS
OF THE 59th JUDICIAL DISTRICT OF PENNSYLVANIA

ROBERT M. CHERUBINI, PEGGY A.	:	ELK COUNTY BRANCH
CHERUBINI, ROY B. WISOR,	:	CIVIL DIVISION
DOROTHY J. WISOR, GRETTA S.	:	
WAITE, GARY CRISTINI, ANN K.	:	No. 89 - 163
CRISTINI, BROCKPORT ARMY AND	:	
NAVY CLUB, BROCKPORT AREA	:	Type of pleading:
WATER ASSOCIATION, THE	:	
TOWNSHIP OF HORTON, FAIRVIEW	:	ANSWER & NEW MATTER
COAL COMPANY, INC., LEROY I.	:	
GRANT, LETITIA A. GRANT,	:	Filed on behalf of:
FREDERICO RICCADONNA, ANGELINA	:	
RICCADONNA, LOUIS SOTTOVIA,	:	DEFENDANTS
ALBERTINA SOTTOVIA, LOUIS P.	:	
GALLUZZI, ROBERTA L. GALLUZZI,	:	Counsel of record for these
WILLIAM E. HIMES, CATHERINE J.	:	parties:
HIMES, ROBERT BARNAUSKAS,	:	
RUDOLPH FACCHINE, HELEN	:	Robert M. Hanak
FACCHINE, ANGELINE FACCHINE,	:	Supreme Court No. 05911
THEODORE R. CARR, NELLIE A.	:	311 Main Street
CARR, HAZEL E. CASKEY COURSON,	:	P. O. Box 250
JOHN HALKO, IRENE HALKO, LIONEL	:	Reynoldsville, PA 15851
MOLINE, ALBERTA MOLINE, LOUIS	:	
P. VALYKEO, BETTY E. VALYKEO,	:	814-653-8252
RICHARD BUFFINGTON, GEORGE	:	
TAMBURLIN, LEO TAMBURLIN,	:	
LINDO CRISTINI, and PRISCILLA	:	
J. CRISTINI,	:	
	:	
Plaintiffs	:	
	:	
vs.	:	
	:	
GEORGE BROSKY, CYNTHIA L. BROSKY	:	
ZAWACKI and WILLIAM T. BROSKY,	:	
Defendants	:	

You are hereby notified to plead to the within
pleading within twenty (20) days hereof or a
default judgment may be entered against you.



Attorney for Defendants

ANSWER

AND NOW, comes the Defendants, and by their Attorney, Robert M. Hanak, answers the Amended Complaint filed herein as follows:

1. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

2. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

3. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

4. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

5. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

6. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

7. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

8. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

9. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

10. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

11. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

12. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

13. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

14. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

15. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

16. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

17. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

18. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

19. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

20. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

21. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

22. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

23. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

24. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

25. Admitted as to the identity of Plaintiffs. Defendants are without knowledge, after investigation, as to Plaintiffs' ownership of real estate, therefore, deny and demand strict proof thereof at trial.

26. Admitted.

27. Admitted.

28. Admitted.

29. Admitted.

30. Admitted.

31. Admitted.

32. Admitted.

33. Admitted.

34. Admitted in part and denied in part. It is admitted that the real estate is a strip of land that was used for railroad purposes. Should Plaintiff be using the term "right-of-way" as a legal conclusion as to the nature of Defendant's grant, then this is denied. Defendants aver that the described real estate has been deeded to Defendants and Defendant's predecessors in title as a fee simple property.

35. Defendants deny this allegation in that Defendants have not researched each and every deed of Plaintiffs, therefore, Defendants cannot verify, after reasonable investigation, as to the title, description and location of the respective Plaintiffs' properties in relation to Exhibits A and B, therefore, deny and demand strict proof thereof at trial.

36. Denied. For reasons as stated in Paragraph No. 35, Defendants deny the allegation of abutting ownership. Defendants further deny that the said deeds constitute a right-of-way. To the contrary, said deeds constitute a fee simple title to Defendants and Defendant's predecessors in title. Defendants admit the copy of Exhibit D as attached.

37. Denied. For reasons as stated in Paragraph No. 35, Defendants deny the allegation of abutting ownership. Defendants further deny that the said deeds constitute a right-of-way. To the contrary, said deeds constitute a fee simple title to

Defendants and Defendant's predecessors in title. Defendants admit the copy of Exhibit E as attached.

38. Denied. Defendants deny that Plaintiffs acquired ownership by virtue of the said Pennbank deeds. To the contrary, deeds from the Pennbank as Executor under the Last Will and Testament of Harry R. Hyde, did not make any conveyance of a real estate interest to the named Plaintiffs in Subparagraphs (a) through (g).

39. Admitted in part and denied in part. It is admitted that George Brosky claims ownership by virtue of the stated deed of the strips of land described therein. It is denied that said deed constitutes a right-of-way for railroad purposes. To the contrary, it is averred that such deed constituted a fee simple title to the Grantee, and, therefore, to Defendants.

40. Admitted.

41. Admitted, however, Defendants aver that such map may be inaccurate because of the inaccuracy and inconsistency of scale. Furthermore, Defendants aver that the descriptions of their deeds are conclusive and should speak for themselves should there be any disparity between the descriptions and the proposed map.

42. Defendants believe that the allegations of Paragraph No. 42 constitute a conclusion of law, therefore, not requiring a responsive answer. Should it be determined otherwise, Defendants deny this averment and aver that there has been no abandonment in that Defendants have a fee simple title as did Defendant's predecessors in title, and that such fee simple is not capable of abandonment.

43. It is admitted in part and denied in part. It is denied that the recited deed contains the quoted language. By way of further answer, it is averred that the remaining wording of the deed is consistent with the wording of a fee simple

conveyance, therefore, it is denied that a right-of-way was granted. To the contrary, it is averred that the said deed conveyed to Defendant's predecessors in title a fee simple.

44. It is admitted in part and denied in part. It is denied that the recited deed contains the quoted language. By way of further answer, it is averred that the remaining wording of the deed is consistent with the wording of a fee simple conveyance, therefore, it is denied that a right-of-way was granted. To the contrary, it is averred that the said deed conveyed to Defendant's predecessors in title a fee simple.

45. Defendants deny Plaintiffs' claim of ownership and deny any allegation of abandonment. To the contrary, Defendants aver that Defendants possess a fee simple title in the subject real estate which vests in Defendants title superior to any claim of Plaintiffs.

46. It is averred that the claim of abandonment is a legal conclusion and a responsive answer is not necessary. If held otherwise, such abandonment is denied in that Defendants and their predecessors in title maintained a fee simple title which is not capable of abandonment.

47. The averment of the conflict in ownership is admitted by virtue of the interpretation of the instruments of conveyance. The allegation that the conveyances to Defendants' predecessors constitute rights-of-ways is denied, and it is averred that such conveyances constituted grants of fee simple interest.

48. It is admitted that Defendants are in possession of the real estate and that Defendants are excluding Plaintiffs. It is denied that Plaintiffs have a rightful, legal or proper claim or use of title.

49. Admitted in part and denied in part. It is denied that the conveyances to the said railroad constituted rights-of-ways. To the contrary, it is averred that such conveyances constituted a grant of a fee simple interest.

50. Defendants deny that the aforesaid deeds constituted rights-of-ways. To the contrary, said deeds constituted fee simple interests. Defendants further agree that the matter in controversy is subject to a declaratory judgment action, and the Defendants aver their claim of title based on their fee simple interest.

COUNT I

51. Defendants are without knowledge as to the exact ownership of Plaintiffs' claimed real estate, its deeds source or its location in respect to Defendants' land, therefore, denies and demands strict proof thereof at trial. Defendants deny that Defendants' deed is a right-of-way based on the grants to their predecessor in title, to the contrary, Defendants aver that they maintain a fee simple title to the subject real estate.

52. Defendants incorporate their responses to Paragraphs Nos. 1 through 50.

53. It is denied that Plaintiffs' claim of ownership rests on the interpretation given the right-of-way deed in that such deed constitutes a fee simple title not a right-of-way.

54. Admitted.

WHEREFORE, Defendants demand judgment in their favor and request your Honorable Court to affirm deed titles to the Defendants constitute a fee simple ownership.

COUNT II

55. Defendants are without knowledge as to the exact ownership of Plaintiffs' claimed real estate, its deeds source or its location in respect to Defendants' land, therefore, denies and demands strict proof thereof at trial. Defendants deny that Defendants' deed is a right-of-way based on the grants to their

predecessor in title, to the contrary, Defendants aver that they maintain a fee simple title to the subject real estate.

56. Defendants incorporate their responses to Paragraphs Nos. 1 through 54.

57. It is denied that Plaintiffs' claim of ownership rests on the interpretation given the right-of-way deed in that such deed constitutes a fee simple title not a right-of-way.

58. Admitted.

WHEREFORE, Defendants demand judgment in their favor and request your Honorable Court to affirm deed titles to the Defendants constitute a fee simple ownership.

COUNT III

59. Defendants are without knowledge as to the exact ownership of Plaintiffs' claimed real estate, its deeds source or its location in respect to Defendants' land, therefore, denies and demands strict proof thereof at trial. Defendants deny that Defendants' deed is a right-of-way based on the grants to their predecessor in title, to the contrary, Defendants aver that they maintain a fee simple title to the subeject real estate.

60. Admitted.

61. Defendants incorporate their responses to Paragraphs Nos. 1 through 58 of the Complaint.

62. Defendants deny Plaintiffs' claim of title as to abandonment and avers that Defendants possess a fee simple title to the subject real estate, which title is not capable of abandonment, and further Defendants deny that Plaintiffs received any title by virtue of the conveyance from Pennbank for reasons as stated in prior answers.

63. It is denied that Plaintiffs have any claim of title to the subject real estate. It is admitted that Defendant is occupying such strip of land, but it is denied that Defendant claims said land without right or claim or legal or equitable title. To the contrary, Defendant avers that he possesses a fee simple title to the aforesaid strip of land.

64. It is admitted that the Defendant, George Brosky, claimed occupation, possession and title to the strip of land. It is denied that his occupation and claim is without legal authority. To the contrary, Defendant avers that he has fee simple title to the subject strip of land.

65. It is denied that the Defendant is unlawfully encroaching upon real estate of the Plaintiffs without legal authority. To the contrary, Defendant possesses fee simple title to the subject strip of land.

66. Admitted.

67. Admitted.

68. It is denied that Plaintiffs' claims commenced by virtue of the fact that Defendant's predecessor was given a conveyance of a right-of-way. To the contrary, Defendant's predecessors were given fee simple titles in said conveyances. It is further averred that the Pennbank deed to Plaintiffs is a nullity because of the prior conveyance of the fee simple.

WHEREFORE, Defendants demand judgment in their favor and request your Honorable Court to affirm deed titles to the Defendants constitute a fee simple ownership.

COUNT IV

69. Defendants are without knowledge as to the exact ownership of Plaintiffs' claimed real estate, its deeds source or its location in respect to Defendants' land, therefore, denies and demands strict proof thereof at trial. Defendants deny that Defendants' deed is a right-of-way based on the grants to their

predecessor in title, to the contrary, Defendants aver that they maintain a fee simple title to the subject real estate.

70. Admitted.

71. Defendants incorporate their responses to Paragraph Nos. 1 through 68.

72. Plaintiffs' claim of ownership is denied and abandonment is specifically denied. It is averred that Defendants possess a fee simple title to the subject strip of land, therefore, such property is not capable of abandonment.

73. Defendants deny Plaintiffs' claim of possession and title. It is admitted that Defendants are occupying such land, however, it is denied that Defendants claim such property without legal title or right. To the contrary, Defendants aver that they own fee simple title to the subject premises.

74. It is admitted Defendants claim occupation, possession and title, however, it is denied that such claim is without legal authority. To the contrary, Defendants aver that they have legal authority by virtue of their fee simple conveyance of such strip of land.

75. It is denied that Defendants are unlawfully encroaching on the real estate of the Plaintiffs without legal authority. To the contrary, Defendants own such property by virtue of their fee simple conveyance.

76. Admitted.

77. It is admitted that Defendants' claim commences with the cited deed, however, it is denied that such conveyance is for a right-of-way. To the contrary, it is averred that such conveyance is for a fee simple deed.

78. It is denied that Plaintiffs have any claim of ownership to the subject premises, and it is further denied that the deed to Defendants constitute a right-of-way. To the contrary, such deed constitutes a fee simple conveyance. It is

further averred that the deed from Pennbank is a nullity as Defendant possesses a fee simple title not capable of abandonment.

WHEREFORE, Defendants demand judgment in their favor and request your Honorable Court to affirm deed titles to the Defendants constitute a fee simple ownership.

NEW MATTER

COUNT I

79. Defendants aver that the deeds upon which Defendants' titles vest are deeds which granted to Defendants' predecessors in title a fee simple interest in the described real estate, and not a right-of-way. Defendants' predecessors' deeds grant and convey the subject real estate to Defendants, and the deeds contain a habendum clause indicating fee simple ownership.

80. Such deeds upon which Defendants' titles rest were deeds to the Grantee, their heirs and assigns, indicating a fee simple status of the grant.

81. Wording of the deeds in which reference to a "right-of-way" is made, were references only for purposes of usage by the grantee, and were not references to the estate conveyed. Such an express of use does not debase the fee simple.

82. Generally, the interpretation of the deeds upon which Defendants rights vest are deeds which are consistent, in all respects, with a fee simple title.

NEW MATTER

COUNT II

83. Defendants alternately plead and aver that abandonment has not occurred at any time from the original deeds to Defendants' predecessors in title to the present. At all times, the railroad has been used for railroad purposes, specifically the transmission of trains and maintenance of trackage, and through the present time as storage ground for railroad ties.

NEW MATTER

COUNT III

84. Plaintiffs are guilty of estoppel. Plaintiffs or certain members of the Plaintiff class have accepted deeds of areas of the land in dispute from the Defendants, therefore, recognizing Defendants' title and thereby being estopped from asserting any claim inconsistent with Defendants' title as to remaining lands.

85. Furthermore, actions of Plaintiffs have recognized the boundaries of Defendants' lands and have acknowledged Defendants' titles to such lands, thereby such Plaintiffs are estopped from asserting any claim inconsistent with Defendants' title.

NEW MATTER

COUNT IV

86. Should Plaintiffs claim that deeds from the Executor of the Hyde Estate - Pennbank be proven as valid deeds, then Plaintiffs have acknowledged to the Court in this case that the said Hyde Estate or other grantors of the subject real estate are rightly the owner of title as to lands not deeded to Plaintiffs by Pennbank. In such case, Plaintiffs' pleading acknowledge that Plaintiffs do not have title to lands other than those lands deeded by Pennbank. Defendants aver that there may be an indispensable third party who has an interest in this lawsuit.

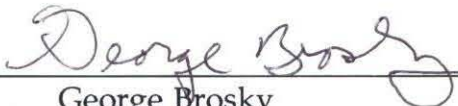
WHEREFORE, because of the averments of New Matter, Defendants demand judgment in their favor.

A handwritten signature in blue ink, appearing to read "Robert M. Hanak", is written over a horizontal line.

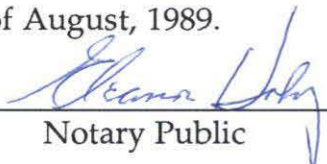
Robert M. Hanak
Attorney for Defendants

STATE OF PENNSYLVANIA :
COUNTY OF JEFFERSON : SS

GEORGE BROSKY, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Answer and New Matter are true and correct to the best of his knowledge, information and belief.


George Brosky

Sworn to and subscribed
before me this 14th day
of August, 1989.


Notary Public

Notarial Seal
Eleanor Haky, Notary Public
Reynoldsville Boro, Jefferson County
My Commission Expires March 24, 1992
Member, Pennsylvania Association of Notaries

Exhibit C

2. The Following Out of Service and Intermittently Served Lines Are Not Designated for Transfer to Consolidated Rail Corp.—Continued

<i>Line No.</i>	<i>Termini</i>	<i>Date Last Used</i>	<i>Reason Out of Service and Comments</i>
PENNSYLVANIA—Continued			
1030.....	Silverbrook Junction (Milepost 0.0) to Audenried (Milepost 7.7).	Mar. 31, 1972.....	Lack of demand for service. Part of former Lehigh & Susquehanna RR that was taken over by the LV on Mar. 31, 1972.
1031.....	E. & W. Junction (Milepost 0.0) to Lehigh Valley RR connection (Milepost 4.36).	Mar. 31, 1972.....	Lack of demand for service. Part of former Lehigh & Susquehanna RR that was taken over by the LV on Mar. 31, 1972.
1032.....	Central Scrap (Milepost 2.4) to Wanamie (Milepost 14.7).	Mar. 31, 1972.....	Lack of demand for service. Part of former Lehigh & Susquehanna RR that was taken over by the LV on Mar. 31, 1972.
1033.....	Lee Mine Junction (Milepost 0.0) to Nanticoke (Milepost 1.5).	Mar. 31, 1972.....	Lack of demand for service. Part of former Lehigh & Susquehanna RR that was taken over by the LV on Mar. 31, 1972.
1034.....	Franklin (Milepost 0.0) to Buttonwood (Milepost 2.2).	Mar. 31, 1972.....	Lack of demand for service. Part of former Lehigh & Susquehanna RR that was taken over by the LV on Mar. 31, 1972.
1035.....	Laurel Run (Milepost 161.2) to Hudson Yard at Wilkes-Barre (Milepost 176.0).	Mar. 31, 1972.....	Lack of demand for service.
1036.....	Ashley (Milepost 10.1) to Terminus (Milepost 14.27).	December 1974.....	Lack of demand for service. Part of the former Lehigh & Susquehanna RR which was taken over by the LV. The line was leased to Blue Coal Co. but has been out of service since Blue Coal ceased operations at this location.
1223.....	Plains Junction (Milepost 0.0) to Pittston (Thompson St.) (Milepost 1.8).	December 1969.....	Lack of demand for service.
1245.....	Lawrenceville (Milepost 19.8) to Blossburg (Milepost 46.7).	June 22, 1972.....	Flood damage caused by "Agnes." PC has also discontinued service on this line (USRA Line No. 239). The Pennsylvania Office of State Planning and Development reports that 10 potential rail users project 2,250 carloads if the line were restored to service. A proposed U.S. Army Corps of Engineers Dam Project would require relocation of part of the line. Considerable coal reserves were reported by Pennsylvania OSPD. Recommended for consideration for inclusion in fossil-fuel land bank.
1269.....	Crenshaw (Milepost 2.7) to Hydes (Milepost 6.2).	December 1970.....	Lack of demand for service. This line is also out of service for the PC from Brockway (Milepost 0.0) to Hydes (Milepost 6.2), USRA Line No. 705. Coal operations on this line have ceased due to the depletion of economically recoverable reserves.
1270.....	Loomis Breaker (Milepost 156.5) to Hanover (Milepost 160.1).	June 22, 1972.....	Flood damage caused by "Agnes". This line, along with Lines 1271 and 1272 comprise the Hanover-Newport Branch which is in place, but badly damaged by "Agnes." The last service consisted of carloads of cinders. No coal has been loaded on the line in approximately 10 years.
1271.....	Warrior Run Branch at Hanover (Milepost 159.1 to Milepost 159.8).	December 1967.....	Lack of demand for service and flood damage.
1272.....	Avondale (Milepost 154.9) to Loomis (Milepost 156.5).	June 22, 1972.....	Flood damage caused by "Agnes." The last service consisted of carloads of cinders. No coal has been loaded on the line in approximately 10 years.
RHODE ISLAND			
38.....	Howard (Milepost 3.2) to Pontiac (Milepost 4.9).	October 1971.....	Poor track conditions.
WEST VIRGINIA			
510.....	Quinwood (Milepost 9.6) to Mar France (Milepost 10.40) (owned by C&O).	June 30, 1969.....	Depletion of economically recoverable coal reserves.
511.....	Beelick Knob (Milepost 0.83) to Terminus (Milepost 2.03) (owned by C&O).	June 30, 1966.....	Depletion of economically recoverable coal reserves.

Exhibit D

PUBLIC NOTICE

PUBLIC NOTICE

NOTICE OF DISCONTINUANCE OF RAIL SERVICE

Thomas F. Patton and Ralph S. Tyler, Jr., Trustees of the property of Erie Lackawanna Railway Company, Debtor, in accordance with Section 304(a) of the Regional Rail Reorganization Act. of 1973, as amended (the Act), hereby give notice of their intent to discontinue rail service on those lines of railroad identified in Appendix "A" hereto, on February 27, 1976. In the event of the enactment of certain proposed Federal legislation amending Section 304(a) of the Act, such discontinuance shall take place on February 27, 1976, or the date upon which properties of Debtor are conveyed pursuant to Court Order under the Act, whichever date is the later.

If any shipper, a State, the United States, a local or regional transportation authority, or any responsible person is interested in offering a rail service continuation subsidy for the operation of any of the lines in question by Consolidated Rail Corporation (ConRail) or any responsible person, inquiries concerning the lines in question should be addressed to:

Thomas F. Patton and Ralph S. Tyler, Jr., Trustees
Erie Lackawanna Railway Company, Debtor
1336 Midland Building
Cleveland, Ohio 44115

Dated: December 9, 1975

APPENDIX "A"

STATE OF PENNSYLVANIA: EL LINES:

COUNTY	BRANCH	TERMINAL POINTS	APPROXI- MATE MILE POSTS	USRA LINE NO., OR PORTION (P) THEREOF
Mercer,				
Lawrence	New Castle*	Wheatland-New Castle	4.4- 19.3	1256
Warren	Main Line	"CM" Jct.-Niobe Jct. (N.Y.)	56.3- 47.0	1255
Susquehanna	D&H Connec- tion *	Lanesboro-Jefferson Jct.	1.7- 3.5	1254
McKean, Elk	Bradford*	Mt. Jewett-Johnsonburg	31.8- 53.2	1252 (P)
Jefferson	Bradford*	Brockway-WI Tower	0.0- 0.9	1252 (P)
Jefferson	Bradford*	Brockway-Crenshaw	0.0- 2.7	1252 (P)
Pike, Wayne	Honesdale	Lackawaxen-Honesdale	109.3-135.0	1238
Susquehanna,				
Wyoming	Old Line	Nicholson-Foster	152.1-157.8	1229
Luzerne	Bloomsburg**	Plymouth-Hicks Ferry	153.9-171.0	1228 (P)
Luzerne,				
Columbia	Bloomsburg**	Hicks Ferry-Berwick	171.0-177.0	1228 (P)
Lackawanna	Jessup	M.P. 2.7-Jessup	2.7- 6.7	1225 (P)
Northampton	Bangor & Portland	Bath Jct.-Bath	109.0-110.5	1222
Luzerne	Wyoming	Plains Jct.-Pittston	0.0- 1.8	1223
Tioga	Tioga Br.	Lawrenceville-Blossburg	19.8- 46.7	1245
McKean	Bradford	Limestown, (N.Y.)-Bradford	6.2- 9.6	1253
Jefferson	Bradford	Crenshaw-Hydes	2.7- 6.2	1269
Luzerne	Hanover & Newport	Loomis Breaker-Hanover	156.5-160.1	1270
York	Warrior Run	Hanover-Hanover	159.1-159.8	1271
Luzerne	Hanover & Newport	Avondale-Loomis	154.9-156.5	1272

STATE OF PENNSYLVANIA: EL TRACKAGE RIGHTS:

Exhibit E

December 5, 2018

Mr. Don Henrichs
Advanced Disposal Services Greentree Landfill, LLC
635 Toby Road
Kersey, PA 15848

Re: Solid Waste Permit Renewal
Advanced Disposal Services Greentree Landfill
ID #: 101397
APS: 956457, Auth.: 1208935
Fox Township, Elk County
Received: December 1, 2017, July 6, 2018 & November 29, 2018

Dear Mr. Henrichs:

Enclosed is a permit renewal to Solid Waste Permit No. 100403 for the operation of Greentree Landfill, LLC issued in accordance with Article V of the Solid Waste Management Act, 35 P.S. Sections 6018.101, et seq. This permit is being renewed for an additional ten(10) years. This term was calculated based on the unused disposal capacity remaining under the currently approved landfill design and the volume of waste being received as described in the 2017 Annual Operations Report.

Compliance with the terms and conditions set forth in the permit is mandatory. You have the right to file an appeal as to the terms and conditions of this permit.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. §7514, and the Administrative Agency Law, 2 Pa.C.S.A. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717.787.3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800.654.5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717.787.3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD 717.787.3483 FOR MORE INFORMATION.

If you have any questions about the enclosed permit or requirements of the Solid Waste Management Act, please contact Joel Fair at 814.332.6848.

Sincerely,

A handwritten signature in cursive script, reading "Christina S. Wilhelm".

Christina S. Wilhelm
Regional Manager
Waste Management

Enclosure

cc: NRO (w/enclosure)
Permit File (w/ enclosure)
County File (w/ enclosure)
Pat Wozinski, P.E. (w/ enclosure)
Elk County Commissioners(w/ enclosure)
Fox Township (w/ enclosure)
Mark Cresswell (w/ enclosure)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENTPermit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028

Under the provisions of the Pennsylvania Solid Waste Management Act of July 7, 1980, Act 97, a permit for a solid waste disposal and/or processing at (municipality)

Fox Township in the County of Elk

is granted to (applicant) Advanced Disposal Services Greentree Landfill, LLC

(address) 635 Toby Road
Kersey, PA 15848

This permit is applicable to the facility named as ADS Greentree Landfill

and described as:

Latitude: 41° 17' 39"

Longitude: 78° 38' 58"

This permit is subject to modification, amendment and supplement by the Department of Environmental Protection and is further subject to revocation or suspension by the Department of Environmental Protection for any violation of the applicable laws or the rules and regulations adopted thereunder, for failure to comply in whole or in part with the conditions of this permit and the provisions set forth in the application no. 101397 which is made a part hereof, or for causing any condition inimical to the public health, safety or welfare.

See attachment for waste limitations and/or special conditions



FOR THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Section A – Site/Application Information

1. This permit is issued as a renewal of an existing permit for the construction and operation of the Municipal Waste Landfill identified as the "ADS Greentree Landfill" pursuant to the following information:
 - A. Application for permit renewal dated December 1, 2017, with supplemental information dated July 6, 2018. The renewal application consisted of the following information:
 - a. Form A, B, B1, D, E, F, G(A), G(B), GIF, H, HW-C, I, J, K, L, P, Q-1 – Q-25, R, X, 1, 2, 3, 6, 7, 8, 11, 12, 14, 18, 24, 25, 28, 45, 46, and 54.
 - b. Phase I drawings 1A through 8 under cover received July 6, 2018.
 - c. Phase II drawings 9A through 17 under cover received July 6, 2018 and November 29, 2018.
 - B. Original permit dated June 8, 1990, its subsequent renewals, the November 15, 1998 Area 1 expansion major permit modification, and the December 8, 2008 Area 2 expansion major permit modification.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Additional Permit Modification:



This page intentionally left blank

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Additional Permit Modification:



This page intentionally left blank

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Where there is a conflict between an earlier and a later dated submittal, the later dated submittal shall take precedence.

This permit is based on the assumption that the information submitted in the application as identified above is accurate and that the facility will be constructed and/or operated as specified in the application. Any inaccuracies found in this information may be grounds for revocation or modification of this permit and potential enforcement action. The permittee must inform the Department of any deviation from a change in the information in the application which would affect the Permittee's ability to comply with the applicable regulations or permit conditions.

2. All amendments or modifications to this permit shall be issued by the Department in writing. Such amendments shall be attached hereto and shall become effective on the date specified thereupon.
3. This permit is issued for the facility as delineated on Sheet No. 2 of 17, Drawing No. ONYX-102F002 of the Design Plans, as prepared by Blazosky Associates, Inc., dated April 4, 2006 and submitted on July 6, 2018.
4. The permitted days and hours of operation are: The landfill is permitted to perform construction activities that do not utilize heavy equipment such as trucks, graders or compactors, and to operate environmental systems, such as leachate treatment, gas flaring and leachate pumping twenty-four hours a day, seven days a week. Heavy equipment will not be operated between the hours of 11:00 p.m. and 6:00 a.m. without prior Fox Township approval.

The landfill is open to accept waste for disposal at the following times:
Sunday - Saturday 4:00 a.m. to 8:00 p.m.

The landfill is permitted to accept waste beginning at 1:00 a.m. on days following holidays.

Pursuant to Section 304(b)(2) of the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. Section 4000.304(b)(2), the host municipality may adopt reasonable ordinances concerning the hours and days during which vehicles may deliver waste to the facility and the

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

routing of traffic on public roads to the facility. For the purposes of calculating the average or maximum daily volumes, each full and partial operating day in which waste is approved to be accepted shall be counted as one (1) day.

5. No more than 5,500 tons of solid waste may be received at this facility for disposal, on an average daily volume basis over the standard calendar year quarter. This figure represents the average daily volume of the facility, pursuant to Section 1112 of the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. Section 4000.1112, and has been set after consideration of weather, seasonal variations, community clean-up days, and other factors. Section 1112 provides that a mandatory civil penalty of \$100 per ton applies to any excess waste received for disposal at this facility for any reason. Any penalty shall be calculated by the Department after determining the total tonnage of solid waste received for disposal at this facility during the calendar year quarter, divided by the number of permitted operating days that the facility is permitted to accept waste for disposal during that quarter.
6. No more than 6,000 tons of solid waste may be received at this facility for disposal on any single operating day. This figure represents the maximum daily volume of the facility, pursuant to Section 1112 of Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. Section 4000.1112, which section also provides that A mandatory civil penalty of \$100 per ton applies to any excess volume received for disposal at this facility for any reason.
7. The permittee may use off-site scales to weigh Veolia ES hauling vehicles destined for the landfill. The location of the scales are as follows:
 - a. Scale located at Advanced Disposal-Dubois's facility located in Washington Township, Jefferson County, Pennsylvania.
 - b. Scale located at Advanced Disposal Warren County Transfer Station, located in Pittsfield Township, Warren County, Pennsylvania.
 - c. Scale located at Advanced Disposal Clarion County Transfer Station located in Paint Township, Clarion County, Pennsylvania.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Section B – General Conditions

1. If there is a conflict between the application, its support documents and/or amendments on one hand, the Rules and Regulations and/or Act 97 on the other hand, the Rules and Regulations and the Act shall apply unless a specific condition of this permit authorizes a specific variance to a requirement contained therein.
2. Under this permit, the permittee is responsible for the processing and/or disposal operations and the conditions at the site to the extent required by the Pennsylvania Solid Waste Management Act, the Clean Streams Law, the Rules and Regulations promulgated there under, as well as any decisional law interpreting the aforesaid statute and regulations.
3. All construction, operation, and procedures shall be in accordance with the application, submittals and supporting documentation, and such application, submittals and supporting documentation are hereby made a part of this permit.
4. This permit does not authorize, nor shall be construed to be an approval to discharge industrial waste, including without limitation, any leachate discharge from the permitted area to waters of the Commonwealth, absent a permit from the Bureau of Water Quality Management pursuant to the Clean Streams Law.
5. The operator may not cause or allow a point or non-point source discharge of pollution from or on the facility to surface waters of this Commonwealth.
6. Nothing in this permit shall be construed to supersede, amend, or authorize violation of, the provisions of any valid and applicable local law, ordinance, or regulation, provided that said local law, ordinance, or regulation is not preempted by the Pennsylvania Solid Waste Management Act, the Act of July 7, 1980, P.L. 380, No. 97, 35 P.S. Section 6018.101 et seq.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

7. As a condition of this permit and of the permittee's authority to conduct the activities authorized by this permit, the permittee hereby authorizes and consents to allow authorized representatives of the department, without advance notice or search warrant, upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas or adjacent areas to which solid waste management activities are being or will be conducted. This authorization and consent shall include consent to collect samples of solid waste, water or gases, to take photographs, to take measurements, to perform surveys and other tests, to inspect the method of operation, and to inspect and/or copy documents, books and papers required to be maintained by the Department. This permit condition is referenced in accordance with Sections 608 and 610.7 of the Solid Waste Management Act (Act 97).
8. Approval of any plans or facilities herein refers to functional design, but does not guarantee stability or operational efficiency. Failure of the measures and facilities herein approved to perform as intended, or as designed, or in compliance with the applicable Rules and Regulations of the Department, for any reason, shall be grounds for the revocation or suspension of this permit. Failure of the permittee to comply with the terms of the permit or conditions, of failure of the permittee to construct or operate the proposed facilities in conformity with the approved plans shall be grounds for the revocation or suspension of this permit.
9. Any final operation, design or other plan developed subsequent to permit issuance which exhibits changes in the structures, locations, specifications, or other changes of substance shall be submitted to the Department for subsequent permit action. Any deviation of plans herein approved shall not be implemented before first obtaining a permit amendment or written approval from the Department.
10. In the event that there are extractable or mineable mineral deposits beneath this site, it shall be the permittee's responsibility to obtain and provide adequate surface support prior to the extraction or removal of said mineral deposits. This support must be sufficient to maintain the integrity of the disposal site and its associated facilities.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

11. The operator shall submit a certification by a registered Professional Engineer, registered in Pennsylvania, on Form 37 "Certification of Facility Construction Activity" upon completion of each major phase or sequence of construction at the facility in accordance with the approved plans and also in compliance with 25 PA Code 273.203.
- a. Construction of the groundwater monitoring system
 - b. Construction of the sedimentation ponds
 - c. Construction of the subbase
 - d. Construction of the secondary liner
 - e. Construction of the leachate detection zone
 - f. Construction of the protective cover and the collection system within the protective cover
 - g. Construction of the primary liner
 - h. Construction of the leachate treatment and conveyance facility
 - i. Construction of the gas management system
 - j. Closure
 - k. Final Closure
- Prior to waste disposal in a newly constructed cell, the applicable certifications shall be approved by the Department in writing.
12. The Department shall be notified at least five (5) business days prior to the commencement of each stage of construction and the acceptance of wastes at the facility.
13. The sump areas of all landfill cells shall be hydrostatically tested to determine the integrity of those areas prior to waste disposal.
14. The horizontal grid control system shall be controlled and tied to a minimum of two (2) mutually visible permanent physical markers or objects located on-site. The vertical control shall be tied to an elevation established for the permanent marker. The permanent marker shall be established prior to construction.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

15. The permit area shall be staked out with a minimum of three (3) foot high markers prior to the construction of each stage. This permit area shall remain identified throughout the life of the site. Staking should occur in each stage before earthwork or ditch installation commences on that stage.
16. The operator shall manage surface water and control erosion and sedimentation to meet the applicable requirements of Chapter 102 (erosion Control).
- All erosion and sedimentation control structures shall be constructed, implemented, and maintained as set forth in the plans and specifications submitted with the application, and in full compliance with Chapter 102 of the Regulations.
17. The operator must control run-off from the working face by use of berms and/or sloped staging areas, which will prevent run-off from the daily cover application area from entering into the stormwater channels and ultimately collecting in the sedimentation basins.
18. The operator shall maintain the leachate storage impoundments with at least 2-feet of freeboard to prevent overtopping unless otherwise approved by the Department in writing.
19. Within ninety (90) days after closure of the disposal site, the owner of the property on which a disposal facility is located shall record a notation on the Deed to the facility property--or on some other instrument which is normally examined during the title search that will in perpetuity notify a potential purchaser of the property that the land has been used to dispose of solid waste.
- Additionally, the permittee shall submit to the Department and to the municipality in which the facility is located a survey plat indicating the location and dimension of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. The plat filed with the municipality shall contain a note prominently displayed which states the owner's obligation to restrict disturbance of the site so that post-closure use does not disturb the integrity of or interfere with the proper functioning of any component of the containment or monitoring system.
20. At a frequency of no less than 6 months, the transducers, sensors, controllers, and other equipment used to determine the leachate level on the primary liner shall be inspected for proper functionality. Prompt investigation and repairs shall be made when necessary.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Section C – Operating Conditions

1. A copy of the Preparedness, Prevention, and Contingency Plan (PPC Plan) shall be readily available on-site and shall include detailed drawings of the permitted and surrounding areas
2. A daily operational record must be maintained describing the types and amounts of materials processed at the site meeting the requirements of Section 273.311 of the Rules and Regulations
3. Soils to be utilized as daily and intermediate cover material must fall within the USDA textural classes as indicated in Sections 273.232 and 273.233 of the Rules and Regulations.
4. Soils to be utilized for final cover material must fall within the USDA textural classes as indicated in Section 273.234 of the Rules and Regulations.
5. An Annual Operations Report shall be submitted to this Department on or before June 30 of each year meeting the requirements of Section 273.313 of the Rules and Regulations.
6. A current certificate of insurance, as specified in §271.374(a) evidencing continuous coverage for public liability insurance as required by §271.371, shall be submitted in conjunction with the annual report form.
7. A written update of the total bond liability under Section 271.331 of the Rules and Regulations must be submitted in conjunction with the annual report form. If additional bond is determined to be necessary, it shall be submitted to the Department within ninety (90) days after the annual report is due.
8. Leachate shall be monitored and analyzed pursuant to Section 273.276 of the Rules and Regulations and Form 50. The volume and flow rate is to be measured on a daily basis.
9. The landfill shall maintain its background meteorological instruments in accordance with the procedures outlined in its Meteorological Monitoring Plan.
10. The operator shall continue to implement the Dust Monitoring Plan for the location at the Fox Township Reservoir.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

11. This facility may not operate to receive waste unless the operator has established at least one drop-off center for the collection and sale of at least three recyclable materials chosen from the following: clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper and plastics. The drop-off center must be located at the facility or at a location that is easily accessible to substantial numbers of persons generating municipal waste that is processed or disposed of at the facility. The drop-off center shall be operated in compliance with Section 1502(b) of the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. Section 4000.1502(b).
12. A topographic survey of the site must be performed each year and a topographic map of the area utilized the previous year shall be submitted to the Department with the annual operations report form. This map must bear the seal of a Registered Professional Engineer or Surveyor. In addition to the map, the permittee shall provide statistics of the waste volumes received and the remaining waste capacity.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Section D – Groundwater Monitoring

1. Groundwater monitoring reports must be submitted to the Department for monitoring points:

Closed Landfill Area

MP-1
MP-2
MP-3R
MP-4R
MP-5
MP-6

Expansion Area

MW-101R
MW-102
MW-103
MW-104R
MW-105
MW-106

Proposed Additional Area 2

MW-108R1
MW-108R2
MW-110R
MW-113R
MW-115R
MW-116

Closed Landfill Area

MP-7
MP-8R
MP-9
MP-10
MP-11
MP-12
MP-13
Spring No. 1
Spring No. 2

Expansion Area

MW-1070
MW-108
MW-109
MW-110
MW-111
MW-112
MW-113
MW-LSI-1
MW-LSI-2

Proposed Additional Area 2

MW-117
MW-118
MW-119
MW-120
MW-121
MW-122

The locations of the monitoring points are identified on Drawing Nos. Onyx-102F002 and Onyx-102F017 R1.

Prior to sampling, monitoring wells shall be purged, with the report noted to indicate same.

All monitoring reports are to be submitted to the Waste Management Program, Department of Environmental Protection, 230 Chestnut Street, Meadville, Pennsylvania 16335.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

2. Within 24 hours after the permittee affects the quality or quantity of any water supply, it shall replace the supply with a temporary source of water of at least equal quality and quantity. If the temporary supply is purchased from a drinking water purveyor, the purveyor shall be licensed by and be in good standing with the Commonwealth of Pennsylvania. The permittee shall continue to provide the temporary supply until the quantity and quality of the original supply is restored or a permanent alternate water supply is provided.

Within 15 days after the permittee affects the quality or quantity of any water supply, the permittee shall submit a remedial plan to the Department for its approval. The plan shall set forth the means by which the permittee will either provide a permanent alternate water source of at least equal quality, quantity, and convenience of use, or restore the original source and shall include a schedule of implementation. The plan for restoration or permanent alternate supply shall be completely implemented within 60 days after the permittee receives Departmental approval.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Section E – Waste Acceptance

1. The permittee shall not accept, receive, dump, discharge, process, or dispose of hazardous waste as defined in 25 PA Code Chapter 261 and 40 CFR Part 261.
2. No lead acid batteries shall be placed into mixed waste at this facility, discarded, or otherwise disposed of at this facility.
3. The permittee shall not violate, or cause violation of, any provision of the Municipal Waste Planning Recycling and Waste Reduction Act, 53 P.S. §§4000.101 et seq., or the terms or conditions of any municipal waste management plan approved by the Department under that Act. Nothing in this paragraph shall be construed to restrict acceptance of source separated/recyclable materials at this facility for the purpose of recycling those materials.

The permittee shall not act in a manner contrary to any Municipal Waste Management Plan approved by the Department pursuant to the Municipal Waste Planning, Recycling, and Waste Reduction Act, nor shall the permittee fail to act in a manner that is consistent with any Municipal Waste Plan Approved by the Department pursuant to the Act.

The permittee shall not allow solid waste generated outside the host county of the permitted facility to be received, disposed, or otherwise managed at the facility if the transportation to, or management at the facility would violate applicable laws in effect in the county or state in which the waste was generated, or state or local solid waste management plan in effect where the waste was generated.

4. The permittee shall notify all municipalities using the facility, in writing, when the facility's remaining capacity has decreased to three years. The rate of filling at the time of notice cannot be increased. This notification should also state that all customers may need to seek an alternate disposal site.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

5. The Advanced Disposal Services Greentree Landfill is hereby authorized to accept municipal, generic residual and special handling waste. The following specific conditions shall apply to the generic residual and special handling waste:

- a. All wastes from new generators shall be consistent with the requirements stated in the Form R, Waste Analysis and Classification Plan. The permittee may accept generic residual wastes (Residual Waste Code 900) specifically stated in the Form R as long as the wastes are consistent with the Waste Analysis and Classification Plan. The following general waste categories may be accepted:

General

Category Code Waste Category

000	Combustion Residues
100	Metallurgical Process Residues
200	Sludges, Scales
300	Chemical Wastes
400	Generic Manufacturing or Processing
500	Special Handling Wastes
700	Industrial Equipment, Maintenance/Waste Scrap
800	Non-Coal Mining Wastes
900	Miscellaneous:
901	Automobile Shredder Residues
902	Non-hazardous Residue from treatment of Hazardous Waste
999	Industrial Laboratory Waste
999	Empty Raw Material Containers (Contaminated)
999	Municipal Sewage Sludge
999	Municipal Wastewater Treatment Plant Sludge Incinerator Ash
999	Infectious/Chemotherapeutic Hospital Waste/Incinerator Ash

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

- b. The permittee shall not accept any residual waste, residual special handling waste or municipal special handling waste whose chemical constituents are not included or are in excess of the maximum acceptance concentrations as delineated in the Waste Analysis and Classification Plan without written approval from the Department.
- c. The permittee shall submit a request to dispose residual waste and the source reduction strategy on the appropriate forms supplied by the Department for each generator of waste which is proposed for disposal. These documents must be, at a minimum, administratively complete. The forms shall be sent to the Department's Northwest Regional Office by certified mail with return signature card or hand delivered at least fifteen (15) business (working) days before accepting the waste. If the Department does not object during the fifteen (15) day period, the permittee may accept the waste as long as acceptance of the waste described in the request is consistent with the Waste Analysis and Classification Plan; the absence of disapproval by the Department during or after the waiting period does not constitute an approval or final action. If after the fifteen (15) day period the Department determines that the waste which is accepted is not consistent with the request or the Waste Analysis and Classification Plan, the permittee shall be subject to any or all applicable enforcement actions of the Solid Waste Management Act or the Department's Rules and Regulations promulgated thereunder. Municipal Waste Water Treatment Plant Sewage Sludge and Processed Infectious/Chemotherapeutic Waste disposal requests shall be submitted on the proper forms supplied by the Department. Written approval for each generator of municipal special handling wastes must be received from the Department prior to acceptance at the landfill.
- d. Alternatively, the eForm U process may be used.
- e. The permittee shall maintain on-site a completed form for each generator of residual waste which qualifies for waivers of chemical analysis listed in the application. A source reduction strategy shall be maintained on-site for each analysis waived residual waste as required by Section 271.612 of the Rules and Regulations. The permittee shall not accept any residual waste as analysis waived which was not listed in the original application, without written approval from the Department.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

- f. The permittee shall submit quarterly to the Department's Northwest Regional Office, an amended Appendix to the permit which lists all municipal special handling wastes, residual wastes, residual special handling wastes and analysis waived residual wastes currently approved for disposal at the facility. The amended Appendix shall provide the information by waste type, generator and quantity for a municipal special handling wastes, residual wastes, residual special handling wastes and municipal waste-like residual wastes including small quantity generators and small quantity waste types from large quantity generators.
- g. The permittee shall not accept residual waste from any generator, who is subject to Section 287.54 of the Rules and Regulations, that does not provide the permittee with the chemical analysis of the waste or certification that the physical and chemical properties of the waste and the process generating the waste has not changed, on or before the anniversary date of waste acceptance at the disposal facility and the permittee shall not accept residual waste from any generator who does not provide all information as required by the Waste Analysis and Classification Plan.
- h. For generators meeting the conditions of Section 271.601(a)(2 or 3) of the Rules and Regulations (Small Quantity Generators and Small Quantity waste Types), the acceptance of waste shall be as delineated in the Waste Analysis and Classification Plan for these generators; except the Permittee shall submit to the Department a complete application on the appropriate form (Form U) for all generators of industrial waste types that are generated in quantities of 2,200 pounds or less of that residual waste type per generating location in each month (Small Quantity Waste Type). The Department waives the detailed analysis of physical properties and chemical composition, the source reduction strategy (Form 25R) and the evaluation of leachability for these small quantity waste types; except as required under 25 Pa. Code Chapter 261, Subchapters A-D for a hazardous waste determination. Additionally, the Department waives the waiting period as referenced in paragraph C for these small quantity waste types. Before the Permittee accepts residual waste from a generator whose total combined residual waste is 2,200 pounds or less (Small Quantity Generator), the generator of the residual waste must submit a letter of certification to the Department and demonstrate the waste is not hazardous. The Permittee may submit to the Department the certification and demonstration received from the generator.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

6. Candidate waste may only be stored onsite for 60 days and must pass through the radiation monitors the day it arrives or during the next business day if it arrives after hours. All candidate waste must be disposed of within 5 days of Department Form U approval. Rejected loads must be removed from the site within 15 days of the Department or Greentree's determination of rejection.
7. Candidate waste will count towards the average and maximum daily tonnage volumes for the day the waste is actually disposed.
8. A container ID system must be in place for the candidate waste. The ID system must include the date the candidate waste was received, an ID number, and a note stating the candidate waste has not been approved for disposal.
9. All candidate and approved waste must be stored in water tight containers and stored within areas with constructed stormwater controls.
10. All approved waste requiring processing (e.g. solidification) must be processed and disposed within 5 days of receipt.
11. The facility will limit the monthly total scaled tonnage of municipal sewage sludge and similar approved flowable residual wastes to a maximum of 15%. The maximum total scaled tonnage on any given day will be limited to 20%.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Section F – Specific Variances – Design

1. Installation of the leachate detection zone may contain a geonet composite as specified in the Form Q(2) contained within the permit as opposed to the 12-inch thick granular layer specified in Section 273.255(b).
2. Installation of the leachate collection/protective cover may contain material with the maximum particle size of one inch as opposed to a maximum ½-inch particle size pursuant to Section 273.257(b)(1).
3. Tire chip material may be utilized as protective cover in conjunction with an aggregate base as outlined in the Form Q(23) contained in this permit.
4. Crushed or rounded aggregate with a maximum particle size of 1-1/2 inch may be utilized as protective cover material as outlined in the Form Q(17) contained in this permit. Use of the following specified protective cover underlain by two layers of 16-oz/sy nonwoven geotextile:

Sieve Size	% Finer
1 ½-inch	100%
1-inch	95-100%
No. 200	0-5%

5. The use of a 12-inch protective cover layer is permitted as specified in the Form Q(19) contained in this permit.
6. Limestone occurring at a thickness of five (5) feet or less beneath portions of the lined expansion area may remain in-place. Limestone that occurs at a thickness greater than five (5) feet shall be removed in its entirety.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

7. The operator is allowed to establish pre-settlement waste grades of approximately 14 percent of the waste mass thickness, or 20 ft, whichever is less, above the final waste elevations. The operator will be allowed a 2-year period for waste settlement once the pre-settlement waste grades are established. Upon completion of the 2-year period allowed for waste settlement, the operator shall install the final cover system in accordance with Section 273.234 of the Rules and Regulations.
- a. Any waste placed above the pre-settlement elevations, at any time, shall constitute overfilling and shall be subject to penalties pursuant to Section 271.411(c)(1) of the Rules and Regulations.
 - b. The permittee shall notify the Department, in the Annual Operation Report, that pre-settlement waste elevations have been established in a particular cell or phase of construction having an area allowed by the bonding calculations and, thereby, commencing the 2-year period for settlement.
 - c. At the end of the 2-year period allowed for waste settlement, any waste remaining above final waste elevations shall be subject to the penalties pursuant to Section 271.411(c)(1) of the Rules and Regulations.
 - d. The final waste elevations are established as 2-feet below final cover elevations.
 - e. The operator shall maintain adequate operational controls to determine when final and pre-settlement elevations have been reached and shall record this information in its daily operational log.
 - f. Final and pre-settlement elevations shall be included in drawings and surveys submitted as part of the Annual Operation Report.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Section G – Specific Variances – Daily Cover & Intermediate Cover

1. Any waste used as cover material must satisfy the requirements of the landfill's approved waste acceptance plan.
2. Rusmar AC-667-SE may be utilized as a daily cover in lieu of traditional soil cover material with the following conditions:
 - a. Rusmar AC-667-SE may remain as daily cover for periods up to, but not exceeding, 72 consecutive hours. After such time, waste disposal shall occur or soil cover must be applied.
 - b. The permittee shall apply the foam material in accordance with the manufacturer's recommendations.
 - c. The permittee shall apply the foam material at a thickness sufficient to assure coverage of all exposed surfaces on the working face.
 - d. Vehicular traffic shall not occur on the foam-covered area until waste disposal occurs.
 - e. If the foam material ceases to meet the performance standards for daily cover as specified in Section 273.232(b) at any time for any reason, the Permittee shall immediately apply cover meeting the performance standards for daily cover.
 - f. Treated effluent from the on-site leachate treatment plant may be used in the formation of the Rusmar AC-665 and AC-667-SE foam products. The product specific conditions are listed as part of the operating permit.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

3. Utilize a geosynthetic daily cover in lieu of traditional soil cover material with the following conditions:
- The following geosynthetic materials are approved for use as daily cover: Cormier WP144FR, Integra 12FR, and Fabrene (RTGCN9N9). Any other geosynthetic material must be approved by the Department prior to use.
 - If the geosynthetic material ceases to meet the performance standards for daily cover as specified in Section 273.232(b) at any time and for any reason, the operator shall immediately apply cover meeting the requirements.
 - The permittee shall deploy a geosynthetic material panel when that panel is capable of providing complete and unbroken coverage of the working face. Any panel that sustains damage shall be removed and not reused until the panel has been properly repaired.
 - Once deployed, all panels shall be adequately anchored to restrict movement of the cover by wind, reduce the likelihood of associated wind damage and prevent the lateral escape of odors or intrusion of vectors. The permittee shall place the panels with a minimum of 3-foot overlap onto the existing cover or adjacent panel.
4. The Department hereby grants permission to perform a demonstration program using processed construction/demolition material, with the following conditions:
- The Permittee shall comply with the information outlined in the Form Q-5, approved as part of the operating permit.
 - The demonstration shall not exceed ninety (90) days, which includes a minimum of thirty (30) days during the months of June, July and August.
 - Upon completion of the demonstration program, the permittee shall submit a report summarizing the program, including specific recommendations. Permanent approval of the material as alternative daily cover will be based on the results of the report.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

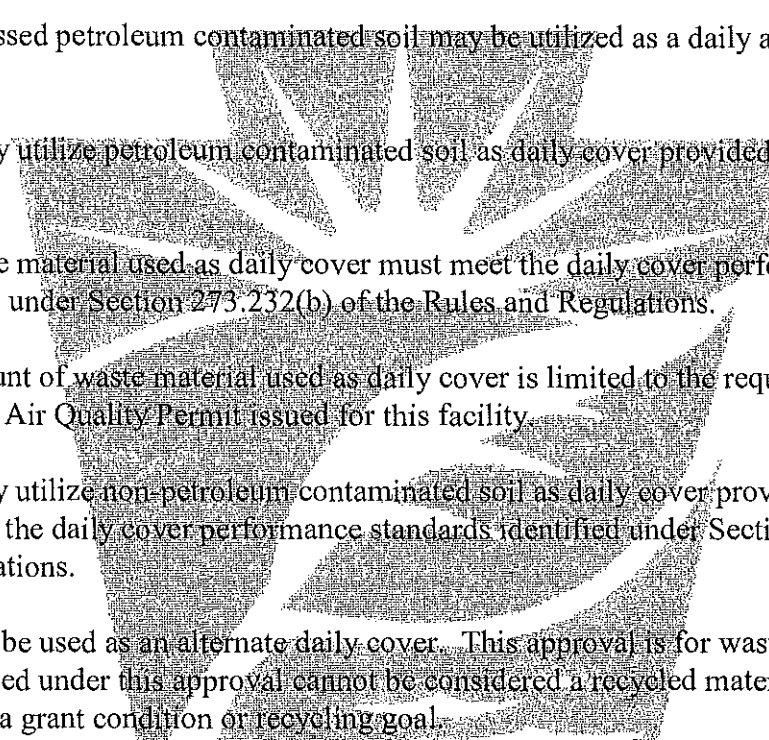
Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

5. Daily cover may consist of mine spoil material having a maximum particle size of 6 inches with a minimum of 25%, by weight, capable of passing through a No. 10 sieve.
6. Dredged material may be used as daily and intermediate cover. The dredged material shall consist of soil removed from channels, basins, reservoirs, and waterways during dredging and dewatering operations. Any source of this material proposed for cover must be approved for disposal at the facility, in accordance with the site-specific waste acceptance plan.
7. Conditioned flyash may be used as daily cover provided use is consistent with the information provided in the Form Q-10, approved as part of the operating permit.
8. The use of coal ash as daily cover provided the performance standards for daily cover identified under Section 273.232(b) of the Rules and Regulations are met.
9. Sludge-derived Synthetic Soil may be utilized as daily or intermediate cover provided use is consistent with the information provided in the Form Q-11, approved as part of the operating permit. Intermediate cover applications are limited to areas where run-off drains to the leachate collection zone and intermediate cover grades that have not reached final landfill configuration.
10. The Department hereby grants permission to use coal ash to solidify residual/semi-solid liquid wastes and then use the resultant material as daily cover on a limited demonstration basis. Upon completion of a 30-day demonstration project, the operator shall submit a report summarizing the process, including specific recommendations. Permanent approval of the waste material as daily cover will be based on the results of the report.
11. The operator may utilize non-hazardous municipal solid waste incinerator ash as daily cover provided the waste material satisfies the daily cover performance standards identified under Section 273.232(b) of the Rules and Regulations. The initial Form 36 submittal for a source of municipal solid waste incinerator ash shall contain sufficient historical analytical data to demonstrate that the ash source is non-hazardous based on statistical analysis, i.e. the upper 95% confidence limit is less than the hazardous waste action concentration for any characteristic hazardous waste parameter. The ash shall be analyzed, at a minimum, quarterly for continued use as daily cover or disposal.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

- 
12. Thermally processed petroleum contaminated soil may be utilized as a daily and intermediate cover.
13. The operator may utilize petroleum contaminated soil as daily cover provided the following are met:
- a. The waste material used as daily cover must meet the daily cover performance standards identified under Section 273.232(b) of the Rules and Regulations.
 - b. The amount of waste material used as daily cover is limited to the requirements of the approved Air Quality Permit issued for this facility.
14. The operator may utilize non-petroleum contaminated soil as daily cover provided the waste material satisfies the daily cover performance standards identified under Section 273.232 (b) of the Rules and Regulations.
15. Glass cullet may be used as an alternate daily cover. This approval is for waste glass only. Any material being used under this approval cannot be considered a recycled material or be counted as recycled to meet a grant condition or recycling goal.
16. Drilling residuals may be used as alternative daily cover or alternate intermediate cover in lieu of traditional daily cover /intermediate cover with the conditions below. Drilling residuals mixed with fly ash conditioned with lime (or other appropriate material like cement) may be used as alternative intermediate cover in lieu of intermediate cover with the conditions below:
- a. The waste material used as daily cover must meet the daily cover performance standards identified under Section 273.232(b) of the Rules and Regulations.
 - b. The waste material used as intermediate cover must meet the intermediate cover performance standards under Section 273.233(b) & (c) of the Rules and Regulations.
 - c. Intermediate and daily cover applications are limited to areas where run-off drains to the leachate collection zone.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

- d. Intermediate cover applications are limited to intermediate cover grades that have not reached final landfill configuration.
- e. Placement of Daily Cover will not occur during periods of excessive rain.
- f. Drilling residuals used as alternative intermediate cover will consist of a minimum of 6 inches of uniform material and be covered with 6 inches of soil or other approved alternative intermediate cover.

17. Spray on slurry materials, including Posi-Shell and ConCover 180 may be used as alternative daily cover provided use is consistent with the information provided in Form Q(23).

Section I – Environmental Assessment, Benefits and Mitigation

1. The permittee has proposed mitigation of harms and has identified benefits of the project to the public in the application submissions included as part of this permit modification. Based upon the Department's evaluation of the environmental assessment, of which the harms/benefits analysis is part, it has been determined that the benefits of the project clearly outweigh the known and potential harms as required by Chapter 271.127(c) of the Municipal Waste Regulations. Failure to complete all mitigation measures in the application submissions or failure to provide for all the benefits accepted by the Department based on its analysis may result in permit suspension, permit revocation, and/or other appropriate enforcement actions.
2. The Department's analysis and review of the Environmental Assessment for the Major Permit Modification involving the Area 2 expansion is attached to this permit as Exhibit EA1.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT

**Permit
For
Solid Waste Disposal and/or Processing Facility
FORM NO. 8**

Permit No.	101397
Date Issued	December 5, 2018
Date Expires	December 5, 2028
Date Revised	

Exhibit EA1
Environmental Assessment
Area 2 Expansion 2008

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36833

LAMPWRIGHTS LLC
– CONSTRUCTION AND OPERATION OF A LINE OF RAILROAD –
IN ELK AND JEFFERSON COUNTIES, PA

RESPONSE TO THE REPLY OF HORTON TOWNSHIP

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Counsel for
Lampwrights LLC

Dated: February 25, 2026

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36833

LAMPWRIGHTS LLC
– CONSTRUCTION AND OPERATION OF A LINE OF RAILROAD –
IN ELK AND JEFFERSON COUNTIES, PA

RESPONSE TO THE REPLY OF HORTON TOWNSHIP

Lampwrights LLC (“Lampwrights”) submits this Response to the reply submitted by Horton Township asking the Board to deny and dismiss the Lampwrights Petition for Exemption (“Lampwrights Petition”). Lampwrights respectfully requests that the Board reject the Horton Township request because Horton Township provides no basis for its request.

The Board should reject the Horton Township request because the Lampwrights Petition to construct and operate a line of common carrier railroad, and thereby become a rail carrier, is squarely within the Board’s jurisdiction under long-standing Board practice where a petitioner seeks to hold itself out to provide common carrier rail service. Further, the Board should deny the Horton Township request because the Lampwrights Proposed Line satisfies the Rail Transportation Policies of 49 U.S.C. § 10101 and is thus eligible for an exemption under 49 U.S.C. § 10502.

Lampwrights filed its Petition for Exemption to construct and operate the Proposed Line on September 29, 2025. On December 22, 2025, the Board ordered replies to the Lampwrights’ Petition to be due January 22, 2026. Subsequently, Horton Township and First Apostles’ Doctrine Church (“FADC”) sought extensions. The Board then extended the deadline to February 5, 2026. The Board did not establish a due date for Lampwrights to respond to any replies in opposition to the Lampwrights Petition.

Under 49 C.F.R. § 1104.13(a), “a party may file a reply or motion addressed to any pleading within 20 days after the pleading is filed with the Board.” However, under the Board’s regulations at 49 C.F.R. § 1104.13(c), a reply to a reply is not permitted. The Board will permit a reply to a reply in the interest of developing a more complete record unless the reply merely repeats prior arguments.¹ Although, the Board’s December 22, 2025 decision did not build-in a deadline for a Lampwrights rebuttal, Lampwrights respectfully requests that the Board accept this response in the interest of developing a more complete record.²

Lampwrights is simultaneously filing a reply to FADC. Lampwrights incorporates by reference the Background as set forth in Section I.A. of the Lampwrights reply to FADC in this response to Horton Township as if set forth fully herein.

I. Summary of the Horton Township Reply

A. Horton Township Argues that the Board lacks Jurisdiction over the Proposed Line.

In its request to the Board asking the Board to deny the Lampwrights Petition, Horton Township argues that the Board lacks jurisdiction over the Lampwrights Proposed Line.³ Horton Township implies that the statement in the Lampwrights Petition that Buffalo & Pittsburgh Railroad, Inc. (“BPRR”) will operate the line on Lampwrights behalf requires an agreement for review by the Board.⁴ Horton Township states that the Lampwrights Petition fails to show that

¹ *Hartwell First United Methodist Church – Adverse Abandonment and Discontinuance – The Great Walton Railroad Company, Inc. in Hart County, GA.* STB Docket No. AB 1242, slip op. at 3 n.5 (served Jan. 31, 2018).

² Under the Board’s modified procedure regulations at 49 C.F.R. § 1112.2, rebuttal is permitted and only replies to rebuttal are prohibited.

³ Horton Township Reply at 3.

⁴ *Id.* at 4.

Lampwrights will maintain a residual common carrier obligation. Further, Horton Township states that the Lampwrights Petition does not support “anything to do with railway service to the public.”⁵

B. Horton Township Argues that the Proposed Line does not Satisfy the Exemption Requirements at 49 U.S.C. § 10502.

Horton Township also argues that the Lampwrights Petition fails to provide the Board with sufficient evidence to demonstrate that the Proposed Line satisfies the exemption standards of 49 U.S.C. § 10502. It argues that Lampwrights should have provided evidence of property ownership, and it claims that Lampwrights seeks to acquire property through “federal condemnation proceedings.”⁶

Horton Township also argues that “there is no indication the Proposed Line will serve any other purpose than the private business interests of Noble.”⁷ It states that although Fox Township and Elk County receive fees from the Greentree Landfill, Horton Township does not.⁸

Horton Township argues that the Lampwrights Proposed Line requires federal regulation, stating, “one would expect the project to require strict regulatory controls since the underlying commodity is solid municipal waste originating from out of state and traversing residential areas, woodlands and wetlands.”⁹

Horton Township argues that the Proposed Line would not improve competition, stating that there “is no option for rail carriers to compete for services or benefit other than BPRR.”¹⁰ The township argues that “Lampwrights offers no evidence to support its claim that its Proposed Line

⁵ *Id.*

⁶ *Id.* at 5.

⁷ *Id.* at 6.

⁸ *Id.*

⁹ *Id.* at 8.

¹⁰ *Id.* at 9.

will have any impact on the current flow of solid waste transported from other states to the landfill by truck or vehicle.”¹¹

Horton Township asserts that the competition discussion in the Lampwrights Petition that the proposal is of limited scope is false because instead of creating a new rail served landfill, the Lampwrights Proposed Line, “will simply double the ungodly amount of solid waste the other states cannot dispose of within their own boundaries.”¹²

II. Argument

A. The Board has jurisdiction over the Lampwrights Proposed Line.

1. The Board has jurisdiction over the Proposed Line because Lampwrights will make the line available as a common carrier rail line to any shipper that might request service.

Horton Township argues that the Board does not have jurisdiction over the Lampwrights Proposed Line. This argument is wrong because the Board has jurisdiction over the Lampwrights Proposed Line since Lampwrights will hold out as a common carrier to any shipper requesting service. In its Petition, Lampwrights cites *Midwest Generation, LLC – Exemption from 49 U.S.C. 10901 – For Construction in Will County, IL*, STB Finance Docket No. 34060, (served Mar. 21, 2002) (“*Midwest*”) to explain why the Board has jurisdiction in this proceeding. In that case, the Board found that it had jurisdiction over a proposed 4007-foot rail line because the petitioner proposed to build a rail line and “provide common carriage to other shippers who could be served by the proposed project.”¹³

In *Midwest*, the Illinois Central argued that the Board did not have jurisdiction over the proposed line. The Board states that the “determinative factor” whether a proposed line of railroad

¹¹ *Id.*

¹² *Id.*

¹³ *Midwest*, STB Finance Docket No. 34060, slip op. at 6.

falls within its jurisdiction is whether the petitioner “would make the line available as a common carrier line to any shippers that might request service.”¹⁴ Here, as in *Midwest*, Lampwrights intends to make the Proposed Line available as a common carrier to any shippers that might request service. As stated in the Petition, Lampwrights will be constructing the Proposed Line to potentially serve customers seeking to use rail instead of trucks to transport waste to the Greentree Landfill.¹⁵ Further, Lampwrights states in its Petition that it “is willing to accept a common carrier obligation and to ‘hold out’ to provide rail service to the public at large.”¹⁶

Lampwrights’s proposal to hold itself out as a common carrier is consistent with Board precedent. In *Effingham RR Co.—Pet. For Declaratory Order*, 2 S.T.B. 606 (1997), the railroad, “Effingham,” sought to build and operate less than 10,000 feet of new track to serve present and future customers in a recently established industrial park at the junction of two Class I railroads.¹⁷ Although Effingham had argued that its proposal was exempt from the Board’s licensing jurisdiction as a “spur track”, the Board disagreed. The Board found that Effingham proposed “to construct and operate in territory it has not previously served.”¹⁸ Here, Lampwrights is proposing to construct a line and hold out as a common carrier in territory not currently served by any rail carrier. Its proposed operations, like those in Effingham fall within the jurisdiction of the Board.

¹⁴ *Id* at 4 n. 7.

¹⁵ Lampwrights Petition at 3-4, 6.

¹⁶ *Id.* at 6.

¹⁷ *Effingham RR Co.—Pet. For Declaratory Order*, 2 S.T.B. 606, 607 (1997).

¹⁸ *Id.*; Consistent with the Board’s decision in Effingham, other industrial entities have utilized the Board proceedings under 49 U.S.C. § 10901 to acquire authority to become common carriers subject to Board jurisdiction over industrial track rather than to be “private carriers” outside that jurisdiction. *See ex, Townline Rail Terminal, LLC-Constr. & Operation Exemption-in Suffolk Cnty., N.Y.*, STB Finance Docket 36575, (Aug. 14, 2024); *KS Railroad, A Division of Kinkisharyo International, L.L.C. – Operation Exemption Line in Piscataway, NJ*, STB Finance Docket No. 36618 (served Aug. 12, 2022).

2. Lampwrights can hold a residual common carrier obligation even if BPRR provides the rail service.

Horton Township criticizes the Lampwrights Petition for failing to include an agreement between Lampwrights and BPRR for BPRR's potential operation of the Proposed Line.¹⁹ The Township asks, "is it not of critical important to the Board to review any such agreement to determine the actual commitment and control Lampwrights intends to have in relation to the Proposed Line?" Horton Township then states that "Lampwrights fails to assert any fact or offer any proof that it will maintain a residual common carrier obligation and hold itself out to provide *public* rail service."²⁰

An owner of a rail line that falls under 49 U.S.C. § 10901 can "hold out" to the public in various ways - it can own and operate a rail line, it can own and lease a rail line to another common carrier, or it can own a rail line and grant operating rights to another carrier.²¹ Further, it could be a non-operating rail carrier that simply owns a line of railroad but retains the obligation to either provide service itself or to ensure an operator is available to provide service.²² The rail carrier's common carrier obligation is not extinguished until a rail carrier seeks authority from the Board under 49 U.S.C. § 10903. Here, Lampwrights' intention is to construct the line as a common carrier railroad line for compensation and to make the line available to shippers that require the use of the line to access the Greentree Landfill is sufficient for the Proposed Line to fall under the Board's jurisdiction.²³

¹⁹ *Id.* at 4.

²⁰ *Id.*

²¹ *See ex 49 C.F.R* §§ 1150.31(a) for exempt transactions under 49 U.S.C. § 10901 and 1150.41(a) for exempt transactions under 49 U.S.C. § 10902.

²² *The Blacklands Railroad – Discontinuance of Service Exemption in Hunt, Delta, Hopkins, Frankline and Titus Counties, Tex.*, STB Abandonment Docket No. 1108 (Sub-No. 1X), slip op. at 6 (served Feb. 14, 2020).

²³ *Townline Rail Terminal, LLC-Constr. & Operation Exemption-in Suffolk Cnty., N.Y.*, STB Finance Docket 36575, slip op. at 5 (Nov. 15, 2023).

3. A rail line construction project to connect a facility to the interstate rail network is holding out to the public and not merely serving the interests of a private business.

Horton Township also argues that “there is no indication the Proposed Line will serve any other purpose than the private business interests of Noble.”²⁴ This statement is false. First, it is well settled in Board precedent that a rail line, constructed for the purpose of connecting industrial facilities to existing common carrier rail lines are nevertheless common carrier rail lines under the Board’s jurisdiction.²⁵

Second, in this instance, connecting the Greentree Landfill to the interstate rail network creates a new option for shippers of waste that previously either relied on trucks or other rail served landfills. Thus, by creating a new option, the Proposed Line serves the interest of the shipping public and not merely the interests of a private business.

B. The Proposed Line satisfies the Exemption Standards under 49 U.S.C. §10502 and the Horton Township Reply raises no argument to demonstrate otherwise.

1. The Legal Standard for Construction Proceedings is Permissive and therefore, the Horton Township argument that Lampwrights failed to provide evidence of property ownership does not support the Horton Township request that the Board deny and dismiss the Lampwrights Petition.

Horton Township asserts that Lampwrights should have provided evidence of property ownership, and it claims that Lampwrights seeks to acquire property through “federal condemnation proceedings.”²⁶ Initially, it should be noted that there are no federal condemnation rights, and the Lampwrights Petition does not ask the Board to grant it the right, by condemnation or otherwise, to any property related to the Proposed Line.

²⁴ *Id.* at 6.

²⁵ See *Texas Railway Exchange LLC – Construction and Operation Exemption – Galveston County, Tex.*, STB Financed Docket 36186 (served Jan. 17, 2020); *Midwest Generation, LLC – Exemption from 49 U.S.C. 10901 – For Construction in Will County, IL*, STB Finance Docket No. 34060, slip op. at 1-2 (served Mar. 21, 2002).

²⁶ *Id.* at 5.

The Board has stated that the legal standard for rail construction licensing authority under the ICCTA is a permissive standard that directs the Board to grant construction authority “unless [the Board finds] the proposal inconsistent with the public convenience and necessity [“PC&N”].”²⁷ The Board has said, “Congress made a presumption that rail construction projects are in the public interest unless shown otherwise.”²⁸ This standard – as explained by the Board – represents a Congressional policy shift that, prior to 1980, required the ICC to “scrutinize rail construction proposals closely to prevent excess rail capacity.”²⁹ Under the pre-1980 standard, the ICC “was to issue a [construction] license only if it found that the PC&N “required” the construction. Congress eased this standard under the Staggers Act, directing the ICC to issue a construction license if it found that the PC&N would “permit” the proposed construction project.”³⁰ Under ICCTA, Congress completed its policy shift to the current standard that a rail construction project license shall be issued unless otherwise shown inconsistent with the PC&N.”³¹

State property law is not relevant in the Board’s consideration of whether it should grant authority to a petitioner seeking to construct and operate a rail line. As the Board has clearly stated, “[i]n rail construction cases, the Board determines whether the proposed line is consistent with the [public convenience & necessity].”³² The Board continued, the “applicant is responsible for acquiring the land necessary to build the line.”³³ Further, the Board has acknowledged that it “may grant authority to construct a line even if all outstanding issues related to the proposed construction

²⁷ *Alaska R.R. Corp - Construction and Operation Exemption – Rail Line between North Pole and Delta Junction, AK*, STB Finance Docket No. 34658, slip op. at 5 (served Jan. 6, 2010).

²⁸ *Id.*

²⁹ *Id.*, slip op. at 5, n. 4 (internal citations omitted).

³⁰ *Id.*

³¹ *Id.*

³² *Tongue River R.R. Co., Inc. – Constr. & Operation – W. Alignment*, STB Finance Docket No. 30186 (Sub-No. 3), slip op. at 16 n. 50 (served Oct. 9, 2007).

³³ *Id.*

have not yet been resolved or if factors beyond the Board’s control...might ultimately prevent consummation of the proposed construction.”³⁴

Finally, condemnation proceedings are a matter of state law, “[e]minent domain proceedings are governed by state law,” and rail carriers are generally responsible for acquiring the land necessary to support their operations, including to the extent permitted by condemnation.”³⁵

The Horton Township argument is wrong; no requirement exists that requires a petition in a construction and operating proceeding to show proof of ownership of the underlying right-of-way. Further, and as stated in the FADC Reply, “Lampwrights does in fact own significant portions of the railroad grade right-of-way in which it seeks to construct and operate the Proposed Line - it holds a fee interest in approximately 14,091 feet of the 20,427 feet or sixty-nine percent of the Proposed Line.”³⁶

2. The Proposed Line will enhance competition under RTP 49 U.S.C. §§ 10101(4) and (5).

Horton Township argues that the Proposed Line would not improve competition, stating that there “is no option for rail carriers to compete for services or benefit other than BPRR.”³⁷ Well, this is true. But that is not the only type of competition that is relevant. The Proposed Line would enhance rail competition because it creates a new destination for waste-by-rail. Therefore, carriers that price the transportation cost of waste-by-rail will have to consider that an additional

³⁴ *Cal. High-Speed Rail Auth. – in Fresno, Kings, Tulare, & Kern Cntys., Cal.*, FD 35724 (Sub-No. 1) (STB served Aug. 12, 2014).

³⁵ *Great Redwood Trail Agency – Adverse Abandonment – Mendocino Railway in Mendocino County, Cal.*, Docket No. AB 1305 (Sub-No. 1), slip op. At 14 (served Feb. 19, 2026)(citing *ex. Tongue River R.R.—Construction & Operation—W. Alignment*, FD 30186 (Sub-No. 3) et al., slip op. at 16 n.50 (STB served Oct. 9, 2007)).

³⁶ Lampwrights Reply to FADC at 11 and fn 43.

³⁷ *Id.* at 9.

destination is available which increases competition since shippers can potentially comparison shop transportation costs.

Horton Township also argues that “Lampwrights offers no evidence to support its claim that it Proposed Line will have any impact on the current flow of solid waste transported from other states to the landfill by truck or vehicle.”³⁸ The Lampwrights Petition has clearly stated – in the Verified Statement – Lampwrights’ target market, and the Proposed Line will clearly enhance competition with trucks that provide service to the Greentree Landfill. Board precedent does not require a petitioner to know the precise amount of volume it can expect for the competition analysis under the RTP.

3. The Lampwrights Petition satisfies RTP 49 U.S.C. §§ 10101 (2) and (7) because the Proposed Line does not require the Board to apply its full regulatory powers for rail construction project.

Horton Township argues that the Lampwrights Proposed Line requires federal regulation, stating, “one would expect the project to require strict regulatory controls since the underlying commodity is solid municipal waste originating from out of state and traversing residential areas, woodlands and wetlands.”³⁹ Lampwrights is seeking an exemption because the Proposed Line does not require the Board to exercise its full regulatory powers for rail construction projects. However, once constructed, the Proposed Line would be subject to the Board’s regulatory powers. Further, the Proposed Line would be subject to the safety regulations of the United States Department of Transportation including the Federal Railroad Administration.

³⁸ *Id.*

³⁹ *Id.* at 8.

4. The construction of a 20,427 feet rail line in a single county in Pennsylvania is of limited scope.

Horton Township asserts that Lampwrights statement in the Petition that the proposal is of limited scope is false because instead of creating a new rail served landfill, the Lampwrights Proposed Line, “will simply double the ungodly amount of solid waste the other states cannot dispose of within their own boundaries.”⁴⁰ Horton Township is clearly arguing based on its parochial perspective. However, within the context of the national rail system, the Proposed Line is located in a single county in Pennsylvania, extends only 20,427 feet and is of limited scope.

5. The Lampwrights Proposed Line is in the Public Interest even if Horton Township does not receive landfill host payments.

Horton Township complains that Fox Township – the Greentree Landfill’s host municipality – and Elk County receive landfill host payments, but Horton Township does not. Horton Township states, “nothing in this proposed project will benefit Township residents. Not a single penny is even allocated to our Township.”⁴¹ This is correct, Noble Environmental, the owner of Greentree Landfill pays Fox Township a negotiated fee according to Pennsylvania law.⁴² Noble Environmental also pays a per ton fee to Elk County, even though it is only required to pay Fox Township. But this does not mean that Township residents do not benefit. Horton Township is a political subdivision of Elk County. Horton Township residents therefore benefit from the host payments to Elk County even if indirectly. The Horton Township government may not directly benefit, but its citizens do.

Further, the Lampwrights Proposed Line has the potential to take heavy trucks off the roads locally, across Pennsylvania, and across the northeast region of the United States. Simply because

⁴⁰ *Id.*

⁴¹ *Id.* at 6.

⁴² 53 Pa. Stat. Ann. § 4000.1301.

Horton Township will not receive hosting fees does not mean that the Proposed Line fails to be in the public interest.

III. CONCLUSION

Lampwrights respectfully requests that the Board reject the Horton Township request to deny and dismiss the Lampwrights Petition because the arguments put forth by the Township do not support its request.

Respectfully submitted,



Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

*Counsel for
Lampwrights LLC*

Dated: February 25, 2026

CERTIFICATE OF SERVICE

I certify that on this 25th day of February, 2026, I caused a copy of the foregoing document to be served electronically on all parties of record in STB Docket No. FD 36833.



Justin J. Marks

Dated: February 25, 2026

COUNTY OF ELK

COMMISSIONERS

M. Fritz Lecker, Chair
Matthew G. Quesenberry
Gregory J. Gebauer

300 Center Street, P.O. Box 448
Ridgway, PA 15853-0448
Telephone: (814) 776-1161
Fax: (814) 776-5379
www.countyofelkpa.gov

Patrick E. Straub, Chief Clerk
MWB&K-Rick Brown, Solicitor

February 19, 2026

Surface Transportation Board
395 E Street, SW
Washington, DC 20423

RE: STB Docket No. FD 36833 Lampwrights, LLC

To Whom it May Concern:

This letter serves as an addendum to the January 16, 2025 correspondence submitted by the County of Elk Commissioners regarding the petition filed by Lampwrights, LLC (Lampwrights) seeking exemption from the prior approval requirements of 49 U.S.C. § 10901.

In that prior letter, the Commissioners expressed concern that the requested exemption could affect the environmental review process typically associated with projects under 49 U.S.C. § 10901. At the time, based on the information available, it appeared that Lampwrights was seeking exemption from the approval process required to construct and operate a new rail line in Elk and Jefferson Counties, Pennsylvania.

We have since received clarification that compliance with the National Environmental Policy Act (NEPA) proceeds independently of the exemption request. We understand that the environmental review process was initiated in January 2025 and will continue through its full and independent conclusion.

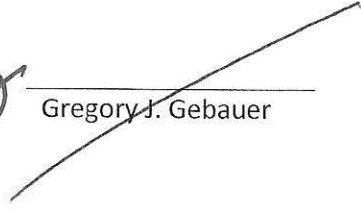
Accordingly, the County wishes to clarify that it is reassured that the environmental review will not be impacted by any decision of the Surface Transportation Board regarding the exemption request.

Thank you for your consideration.

Very Truly Yours


M. Fritz Lecker, Chair


Matthew G. Quesenberry


Gregory J. Gebauer

CC: Don Hendrichs