NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION

ECL ARTICLE 27, TITLE 14 C915189 9/3/04

Applicant Information

NAME ISKALO DEVELOPMENT CORPORATION		
ADDRESS Harbinger Square, 5166 Main Street		
CITY/TOWN Williamsville, New York	ZIP CODE 14221	
PHONE 716-633-2096	FAX 716-633-5776	E-MAIL pbiskalo@iskalo.com
NAME OF APPLICANT'S REPRESENTATIVE Paul B. Iskalo		
ADDRESS Harbinger Square, 5166 Main Street		
CITY/TOWN Williamsville, New York	ZIP CODE 14221	
PHONE 716-633-2096	FAX 716-633-5776	E-MAIL pbiskalo@iskalo,com

THE APPLICANT MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL § 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

☐ PARTICIPANT

An applicant who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

☑ VOLUNTEER

An applicant other than a participant, including an applicant whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, the applicant certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

Applicant Relationship to Property (check one):

☐ Previous Owner ☐ Current Owner ☐ Potential /Future Purchaser ☑ Other Manager of Owner

Current Owner/Operator Information

OWNER'S NAME (if different from applicant) Iskalo Electric Tower LLC		
ADDRESS c/o Iskalo Development Corporation, Harbinger Square, 5166 Main Street		
CITY/TOWN Williamsville, New York	ZIP CODE 14221	
PHONE 716-633-2096	FAX 716-633-5776	E-MAIL pbiskalo@iskalo.com
OPERATOR'S NAME (if different from applicant) Same as Applicant		
ADDRESS		
CITY/TOWN	ZIP CODE	
PHONE	FAX	E-MAIL

RECEIVED

2004

BUREAU OF

Site Information

SITE NAME Electric Tower

SITE ADDRESS 535 Washington Street CITY/TOWN Buffalo, New York ZIP CODE 14203

COUNTY Erie | SITE SIZE (ACRES) 1.0+/- Acres

LATITUDE (degrees/minutes/seconds) 42 ° 54 ' 10.2" | LONGITUDE (degrees/minutes/seconds) 78 ° 52 ' 18.8"

PLEASE ATTACH A COUNTY TAX MAP WITH IDENTIFIER NUMBERS, ALONG WITH ANY FIGURES NEEDED TO SHOW THE LOCATION AND BOUNDARIES OF THE SITE. ALSO INCLUDE A USGS 7.5 MINUTE QUAD MAP IN WHICH THE SITE IS LOCATED.

1. DO THE SITE BOUNDARIES CORRESPOND TO TAX MAP METES AND BOUNDS? ☑ YES ☐ NO
   IF NO, PLEASE ATTACH A METES AND BOUNDS DESCRIPTION OF THE SITE.
2. IS THE SITE PART OF A DESIGNATED BROWNFIELD OPPORTUNITY AREA PURSUANT TO GML970-R? IF YES, IDENTIFY AREA (NAME) _____ ☐ YES ☑ NO
3. IS THE SITE PART OF A DESIGNATED EN-Zone PURSUANT TO TL § 21(b)(6)? FOR MORE INFORMATION GO TO: http://www.nylovesbiz.com/Productivity_Energy_and_Environment/BrownField_Redevelopment/default.asp ☑ YES ☐ NO

   IF YES, IDENTIFY AREA (NAME) _____

Applicant Eligibility Information (Please refer to ECL § 27-1407)

1. ARE ANY ENFORCEMENT ACTIONS PENDING AGAINST THE APPLICANT REGARDING THIS SITE?	☐ YES	☑ NO
2. IS THE APPLICANT SUBJECT TO AN OUTSTANDING CLAIM BY THE SPILL FUND FOR THIS SITE?	☐ YES	☑ NO
3. HAS THE APPLICANT VIOLATED ANY PROVISION OF ECL ARTICLE 27?	☐ YES	☑ NO
4. HAS THE APPLICANT BEEN PREVIOUSLY DENIED ENTRY TO THE BCP?	☐ YES	☑ NO
5. HAS THE APPLICANT COMMITTED A NEGLIGENT OR INTENTIONALLY TORTIOUS ACT REGARDING HAZARDOUS WASTE OR PETROLEUM?	☐ YES	☑ NO
6. HAS THE APPLICANT BEEN CONVICTED OF A CRIMINAL OFFENSE THAT INVOLVES A VIOLENT FELONY, FRAUD, BRIBERY, PERJURY, THEFT, OR OFFENSE AGAINST PUBLIC ADMINISTRATION?	☐ YES	☑ NO
7. HAS THE APPLICANT KNOWINGLY FALSIFIED STATEMENTS OR CONCEALED MATERIAL FACTS IN A MATTER RELATED TO THE DEPARTMENT?	☐ YES	☑ NO
8. HAS THE APPLICANT, BASED ON THE PROVISIONS OF ECL ARTICLE 27-1407 (OR A SIMILAR PROVISION OF FEDERAL OR STATE LAW), COMMITTED AN ACT OR FAILED TO ACT, AND SUCH ACT OR FAILURE TO ACT COULD BE THE BASIS FOR DENIAL OF A BCP APPLICATION?	☐ YES	☑ NO

Site Eligibility Information (Please refer to ECL § 27-1405)

1. DOES THE SITE MEET THE DEFINITION OF A BROWNFIELD SITE (REAL PROPERTY, THE REDEVELOPMENT OR REUSE OF WHICH MAY BE COMPLICATED BY THE PRESENCE OR POTENTIAL PRESENCE OF A HAZARDOUS WASTE, PETROLEUM, POLLUTANT, OR CONTAMINANT)?	☑ YES	☐ NO
2. IS THE SITE LISTED ON THE NATIONAL PRIORITIES LIST?	☐ YES	☑ NO
3. IS THE SITE LISTED ON THE NYS REGISTRY OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES? IF YES, PLEASE PROVIDE: SITE #_____ CLASS # _____	☐ YES	☑ NO
4. IS THE SITE SUBJECT TO A PERMIT UNDER ECL ARTICLE 27, TITLE 9, OTHER THAN AN INTERIM STATUS FACILITY?	☐ YES	☑ NO
5. IS THE SITE SUBJECT TO A CLEANUP ORDER UNDER NAVIGATION LAW ARTICLE 12 OR ECL ARTICLE 17 TITLE 10?	☐ YES	☑ NO
6. IS THE SITE SUBJECT TO A STATE OR FEDERAL ENFORCEMENT ACTION RELATED TO HAZARDOUS WASTE OR PETROLEUM?	☐ YES	☑ NO

Project Description

PLEASE ATTACH A DESCRIPTION OF THE PROJECT WHICH INCLUDES THE FOLLOWING COMPONENTS:

- PURPOSE AND SCOPE OF THE PROJECT
- ESTIMATED PROJECT SCHEDULE

Site's Environmental History

TO THE EXTENT THAT EXISTING INFORMATION/STUDIES/REPORTS ARE AVAILABLE TO THE APPLICANT, PLEASE ATTACH THE FOLLOWING:

1. **ENVIRONMENTAL DATA**
   A PHASE I ENVIRONMENTAL SITE ASSESSMENT REPORT PREPARED IN ACCORDANCE WITH ASTM E 1527 (American Society for Testing and Materials: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process), AND ALL ENVIRONMENTAL REPORTS RELATED TO CONTAMINANTS ON OR EMANATING FROM THE SITE.
   IF A FINAL INVESTIGATION REPORT IS INCLUDED, INDICATE WHETHER IT MEETS THE REQUIREMENTS OF ECL ARTICLE 27-1415(2):
   ☑YES ☐NO
2. **OWNERS**
   A LIST OF PREVIOUS OWNERS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS (DESCRIBE APPLICANT'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OWNER LISTED. IF NO RELATIONSHIP, PUT "NONE").
3. **OPERATORS**
   A LIST OF PREVIOUS OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBER (DESCRIBE APPLICANT'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OPERATOR LISTED. IF NO RELATIONSHIP, PUT "NONE").

Contact List Information

PLEASE ATTACH, AT A MINIMUM, THE NAMES AND ADDRESSES OF THE FOLLOWING:

1. THE CHIEF EXECUTIVE OFFICER AND ZONING BOARD CHAIRPERSON OF EACH COUNTY, CITY, TOWN AND VILLAGE IN WHICH THE SITE IS LOCATED.
2. RESIDENTS, OWNERS, AND OCCUPANTS OF THE SITE AND PROPERTIES ADJACENT TO THE SITE.
3. LOCAL NEWS MEDIA FROM WHICH THE COMMUNITY TYPICALLY OBTAINS INFORMATION.
4. THE PUBLIC WATER SUPPLIER WHICH SERVICES THE AREA IN WHICH THE SITE IS LOCATED.
5. ANY PERSON WHO HAS REQUESTED TO BE PLACED ON THE SITE CONTACT LIST.
6. THE ADMINISTRATOR OF ANY SCHOOL OR DAY CARE FACILITY LOCATED ON OR NEAR THE SITE.
7. THE LOCATION OF A DOCUMENT REPOSITORY FOR THE PROJECT (E.G., LOCAL LIBRARY)

Contaminant Information

INDICATE KNOWN OR SUSPECTED CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN OR SUSPECTED TO HAVE BEEN AFFECTED:

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum	✔	✔			
Chlorinated Solvents					
Other VOCs					
SVOCs					
Metals					
Pesticides					
PCBs					
Other*					

*Please describe: _____

Land Use Factors (Please refer to ECL § 27-1415(3))

Current Use: ☐ Residential ☑ Commercial ☐ Industrial ☐ Other_____

Future Use: ☐ Residential ☑ Commercial ☐ Industrial ☐ Other_____

Please check the appropriate boxes and provide an explanation as an attachment if appropriate.	Yes	No	Unknown
1.Do current historical and/or recent development patterns support the proposed use?	☑	☐	☐
2. Is the proposed use consistent with applicable zoning laws/maps?	☑	☐	☐

3. Is the proposed use consistent with applicable brownfield opportunity area designations? (See GML 970-r)	☑	☐	☐
4. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, other adopted land use plans?	☑	☐	☐
5. Are there any Environmental Justice Concerns? (See §27-1415(3)(p)).	☐	☑	☐
6. Are there any federal or State land use designations relating to this site?	☐	☑	☐
7. Do the population growth patterns and projections support the proposed use?	☑	☐	☐
8. Is the site accessible to existing infrastructure?	☑	☐	☐
9. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites proximate to the site?	☑	☐	☐
10. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species proximate to the site?	☐	☑	☐
11. Are there floodplains proximate to the site?	☐	☑	☐
12. Are there any institutional controls currently applicable to the site?	☐	☑	☐
13. Describe on attachment the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas.			
14. Describe on attachment the potential vulnerability of groundwater to contamination that might migrate from the site, including proximity to wellhead protection and groundwater recharge areas.			
15. Describe on attachment the geography and geology of the site.			
(Note: the 16th criteria relates to comments from the public, which would not be received at the time of application)			

Statement of Certification

(By applicant who is an individual)
I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.
Date: _____ Signature: _____ Print Name: _____

(By an applicant other than an individual) Iskalo Development Corp.
I certify that I am President (title) of _____ (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 11-5-04 Signature: _____ Print Name: Paul B. Iskalo

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD or diskette, must be sent to:

  Chief, Site Control Section
  New York State Department of Environmental Conservation
  Division of Environmental Remediation
  625 Broadway
  Albany, NY 12233-7020

- **One (1)** hard copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our website for the address of our regional offices: http://www.dec.state.ny.us/website/der/index.html

FOR DEPARTMENT USE ONLY

BCP SITE NO:_____ **BCP SITE T&A CODE:**_____ **PROJECT MANAGER:**_____

Electric Tower
535 Washington Street
Buffalo, New York

Project Purpose, Scope and Schedule

The purpose of this project is to remediate sub-surface contamination as further described in the enclosed documents and, thereafter, to complete the redevelopment project involving the renovation of an important historic downtown landmark into a Class "A" multi-tenant office building in Buffalo's central business district. In addition to the remediation and complete building renovation, the project scope also includes construction of an adjacent attached parking garage, installation of new energy efficient building mechanical systems, fire sprinkler systems and computerized building control systems.

The project requires removal of sub-surface contamination that exceeds background, historic, and DEC cleanup levels. The remediation will result in the removal of contamination to a to meet Track 1 criteria.

For redevelopment purposes, the remediation is necessary for the construction of the parking garage; to remediate the petroleum spill (located immediately adjacent to the existing building) and any contamination emanating from it to areas underneath the existing building (or in the groundwater beneath the building); and to obtain tenants and appropriate bank financing. Until the remediation is completed, the building could not be financed and tenants would be reluctant to lease due to the perception of urban and/or environmental contamination.

The building is presently vacant and requires renovation and building and facility upgrades to be commercially viable. The applicant believes that the renovation and reuse of this building could revitalize the "second row" behind the east side of Main Street (that is, fronting on Washington Street) by bringing in high quality tenants in a fully occupied building. At present, the immediate area is in economic stress with low residencies, high commercial and retail vacancies, and depressed property values. The area south of Huron Street along Main Street is exceptionally economically depressed and is an area that has shown almost no new business activity for decades. The area immediately adjacent to the Electric Tower along Washington Street is even worse.

As a result, environmental remediation and building and facility renovations and upgrades will be required to enable the Electric Tower to become a commercially viable building. This investment will result in converting the mostly vacant single-user corporate building into a fresh, multi-tenant building that is projected to house in excess of 300 employees. These renovations and building updates will occur over a construction period projected to last approximately eighteen (18) months, commencing in January 2005. During this construction period the project will create approximately eighty (80) construction jobs.

SITE'S ENVIRONMENTAL HISTORY

1. Environmental Data:	See attached documentation, including LCS, Inc., Phase I Environmental Site Assessment Report (Niagara Mohawk office building and parking lot), dated November 21, 2003 and LCS, Inc. Limited and Focused Subsurface Soil and Groundwater Investigation (Niagara Mohawk office building), dated January 12, 2004.
2. List of Previous Owners/Operators:	1800s – residential and offices, hotel 1911-6/2004 – Buffalo General Electric and Niagara Mohawk 6/2004-present – Iskalo Electric Tower, LLC

Iskalo has no relationship to any former owners/operators.

CONTACT LIST INFORMATION

1. Chief Executive Officer:
   Joel A. Giambra
   Edward A. Rath County Office Bldg.
   95 Franklin Street
   Buffalo, New York 14202

2. Zoning Board Chairperson:
   Frank Manuele, Chair
   City of Buffalo Planning Board
   901 City Hall
   65 Niagara Square
   Buffalo, New York 14202

3. Residents, owners of the Site and adjacent properties is attached.

4. Local News Media:
   The Buffalo News
   Administrative Office
   One News Plaza
   Buffalo, New York 14240

5. Public Water Supplier:
   Victoria Saxon, Chair
   Buffalo Water Board
   2 Porter Avenue
   Buffalo, New York 14201

6. Any person who has requested to be placed on the list: None.

7. Administrator of School/Day Care:
   Gary Stillman, Director
   Enterprise Charter School
   275 Oak Street
   Buffalo, New York 14203

8. Location of Document Repository for the Project:
   Erie County Public Library
   One Lafayette Square
   Buffalo, New York 14203

Iskalo Electric Tower LLC
5166 Main Street
Williamsville, N.Y. 14221

Manufacturers & Traders Trust Co.
One M & T Plaza
Buffalo, N.Y. 14203

Thomas Albarella
54 Kent Avenue
Blasdell, N.Y. 14219

Platnumdome
4198 Main Street
Amherst, N.Y. 14221

Triangle Development LLC
107 Delaware Avenue
Buffalo, N.Y. 14202

Buffalo Urban League, Inc.
11 Genesee Street
Buffalo, N.Y. 14203

Joseph Giangreco
5 East Huron Street
Buffalo, N.Y. 14203

Catholic Charities of Buffalo
525 Washington Street
Buffalo, N.Y. 14203

Chief Executive officer - Erie County
Joel Giambra
Edward A. Rath County Office Bldg
95 Franklin Street
Buffalo, N.Y. 14202

Frank Manuele, Chairperson
Buffalo Planning Board
901 City Hall
Buffalo, N.Y. 14202

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Buffalo, N.Y. 14203

ISKALO DEVELOPMENT CORPORATION
BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION

Land Use Factors

Question 13:

The Electric Tower ("Tower" or the "Site") is an office building located at 535 Washington Street, Buffalo, New York 14203 and is surrounded by real property used for urban, commercial uses. To the north of the Tower is the M&T Bank and parking lot; to the south is the Canine Clubhouse, Burns Building and Catholic Charities; to the east is a vacant commercial building and to the west M&T Bank and Howard's Shoes. The Tower is in close proximity to the Fountain Plaza where recreational ice-skating takes place in the winter season. The Tower is not in close proximity to residential properties per se, but is in the general area of downtown Buffalo where residential apartments and lofts are now being developed in buildings formerly used for commercial purposes. The Tower is not in close proximity to agricultural areas.

Question 14:

As referenced in the Limited and Focused Subsurface Soil and Groundwater Investigation, by LCS, dated January 12, 2004, submitted with this application, petroleum impacts in groundwater in excess of DEC Groundwater Standards have been noted and do exist on Site in close proximity to the historic 10,000 gallon UST on site located adjacent to the Tower. During and after implementation of the proposed Remedial Work Plan, groundwater impacts on- and off-site and under the Tower may have to be further investigated and/or addressed. We are unaware of any wellhead protection or groundwater recharge areas proximate to the subject property.

Question 15:

The Tower is located in downtown Buffalo and is included on the Buffalo on the Buffalo Northeast Quadrangle Topographic Map dated 1965 attached to the BCP Application.

Bedrock mapping indicates that the subject property is underlain by bedrock of the Onondaga and Bois Blanc Limestone. The Onondaga has Seneca, Morehouse (cherty) and Clarence Limestone Members and Edgecliff cherty Limestone Member, having local coral biotherms. The Bois Blanc limestone is thin, sandy and discontinuous. This formation has a thickness ranging from 60 to 150 meters.

Mapping indicates the surficial geology of the area to consist primarily of lacustrine silt and clay. Lacustrine silt and clay was deposited in pro-glacial lakes and is generally laminated and calcareous. It has the potential for land instability. The thickness varies up to 100 meters. Lacustrine silt and clay typically is not conducive to contamination migration.

C915189

LCS INC.
Environmental and Real Estate Consultants

CORPORATE OFFICE
P.O. Box 406
Buffalo, New York 14205
716-845-6145
1-800-474-6802
FAX 716-845-6164
mail@lenderconsulting.com

BCP REMEDIAL WORK PLAN AND ALTERNATIVES ANALYSIS

Electric Tower
535 Washington Street
Buffalo, New York

FOIL
Releasable ✓
Non-Releasable

1.0 INTRODUCTION AND PURPOSE

This Remedial Work Plan (RWP) and Alternatives Analysis (AA) (together referred to as the RWP/AA) has been prepared on behalf of Iskalo Development Inc. (Iskalo) and is submitted pursuant to the provisions of the Brownfields Cleanup Act (BCA), Environmental Conservation Law (ECL) Article 27, Title 14 and in support of Iskalo's Brownfields Cleanup Program Application (BCP Application) for its property referred to as Electric Tower, formerly the office building for Niagara Mohawk, located at 535 Washington Street, Buffalo, New York. Figure 1 depicts the subject property location. The RWP is submitted in compliance with ECL §27-1411(2); the AA is submitted in compliance with ECL §27-1413; and both are submitted in furtherance of Iskalo's BCP Application.

Contemporaneously, a Phase I Environmental Site Assessment and Phase II Site Assessment (ESAs) have also been submitted which fully characterize the nature and extent of contamination at the site. Based upon this information, the Department has determined that remediation is required in order the meet the remedial requirements of the ECL. The ESAs are submitted in compliance with ECL §27-1411(1) the provisions of which require the submittal of a remedial investigation work plan and report.

Iskalo proposes to proceed with a unified public notice and Department review and approval process for the ESAs as the Remedial Investigation Report and for the Alternatives Analysis and Remedial Work Plan.

The Phase II ESA stated that remediation would be required to meet the remedial requirements of the New York State Department of Environmental Conservation, (NYSDEC) and ECL §27-1411(1)(b). DEC has reviewed the ESAs and requested that soil removal activities be conducted. For these purposes, it is LCS' understanding that a remedial action work plan for the subject property was previously presented to the NYSDEC by Geomatrix Consultants, Inc. (Geomatrix) and that NYSDEC approved that plan.

The purpose of this RWP is to describe the remedial program that will be implemented to address the contamination found within the boundaries of the brownfield site in accordance with the BCA. The purpose of the AA is to develop and evaluate potential remedial alternatives for site contamination.

This RWP/AA is submitted in support of Iskalo's BCP Application and proposes the excavation and proper off-site Part 360 landfill disposal of all petroleum-impacted soils (source removal) at the site that exceed TAGM #4046-94 (Revised August 2001) cleanup guidance levels and that is necessary to achieve the numerical soil cleanup objectives set out in the proposed Generic Tables under the BCA and conform to [redacted]s under ECL 27-1415(4). Alternatively, depending on in-field site conditions encountered during remediation, Tracks 1, 2, or 3 may be considered after discussions with DEC.

This RWP/AA is divided into the following sections:

- Section 2.0: Summary of Site Contamination
- Section 3.0: Remedial Action Objectives
- Section 4.0: Alternatives Analysis
- Section 5.0: Remedial Activities
- Section 6.0: Institutional/Engineering Controls and Annual Certifications
- Section 7.0: Schedule
- Section 8.0: Health and Safety Plans
- Section 9.0: Quality Assurance/Quality Control
- Section 10.0: Remediation Report
- Section 11.0: Project Organization

2.0 SUMMARY OF SITE CONTAMINATION

Petroleum contamination associated with former underground storage tanks (USTs) has been identified, characterized, and delineated at the site as reported in the ESAs.

As a result of the information presented in the ESAs, NYSDEC requested remediation of all petroleum-impacted soils on site (and, potentially, any impacted groundwater) at eight locations near the Huron Street entrance of the Electric Tower in a letter dated May 20, 2004. Soil removal at select locations (B-1, B-2, B-3 and B-11) corresponding to the former locations of the USTs and the presence of petroleum residual impact associated with a historic closed spill (NYSDEC Spill No. 9311418) was requested. It should be noted that based on the results of the ESAs, as required by law, NYSDEC was notified and Spill No. 0311417 was assigned. It is LCS' understanding that this spill is still listed as "active" with the NYSDEC. LCS would suggest that this proposed scope of work be sufficient to address the "active" release as well.

It is LCS' understanding that pursuant to a June 18, 2004 conversation between Brian Stearns, P.E. (Niagara Mohawk) and Michael Franks (NYSDEC), groundwater remediation will not be necessary since no petroleum compounds, sheens or petroleum-type odors were detected or observed in groundwater samples collected from monitoring wells MW-1, MW-2, and MW-3.

These site conditions are specifically identified, characterized, and delineated in the ESAs with the petroleum contamination noted on site that will be addressed in this RWP/AA.

3.0 REMEDIAL ACTION OBJECTIVES

The remedial action objective for this RWP/AA is to remove all petroleum-impacted soils (source removal) at the site that exceed TAGM #4046-94 (Revised August 2001) cleanup guidance levels and that is necessary to achieve the numerical soil cleanup objectives set out in the proposed Generic Tables under the BCA and conform to Track 1 standards under ECL 27-1415(4). Alternatively, depending on in-field site conditions encountered during remediation, Tracks 1, 2, or 3 may be considered after discussions with DEC.

The lack of significantly elevated petroleum constituents in groundwater samples collected at locations across the Site suggests that groundwater has not been significantly impacted by the former USTs. Therefore, the remedial objectives have been designed to focus primarily on volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOCs) in soil only.

Residual petroleum constituents were detected in soil at concentrations above TAGM #4046-94 (Revised August 2001) recommended soil clean-up objectives near the former USTs. As discussed above, the remedial objective is to remove soil exhibiting petroleum impacts in the immediate vicinity of the former UST at the locations requested by the NYSDEC.

4.0 ALTERNATIVES ANALYSIS

Since this RWP/AA proposes the source removal of all petroleum-impacted soils (source removal) at the site that exceed TAGM #4046-94 (Revised August 2001) cleanup guidance levels and all such soils necessary to achieve the numerical soil cleanup objectives set out in the proposed Generic Tables under the BCA and conform to Track 1 standards under ECL 27-1415(4) for unrestricted development, no further alternatives have been considered.

5.0 REMEDIAL ACTIVITIES

In general, the remedial activities will involve soil excavation followed by off-site disposal of the impacted soil at a licensed Part 360 solid waste disposal facility, confirmatory soil sampling, placement of excavation backfill, and covering of the excavation with asphalt. The remedial activities will be implemented after significant coordination with the building security personnel and will necessitate the closure of a portion of the on-site parking lot. This site is highly active and is utilized for parking by a large number of workers at the subject property, therefore, alternative worker parking and building entry arrangements will be necessary for the duration of Site remediation.

5.1 SITE PREPARATION ACTIVITIES

5.1.1 Permits, Certificates, and Licenses

LCS will obtain all construction-related permits, licenses, and/or certificates required by local, state and federal agencies. Copies will be made available to NYSDEC upon request and all required permits, licenses, and certificates will be obtained prior to initiation of work requiring permits.

5.1.2 Utility Verification

Prior to excavation, LCS will coordinate with local utilities to mark all utilities (underground, surface, and above-ground) in accordance with local, state, and federal regulations. LCS will also request utility clearances from local utility companies, as needed. Care will be taken to protect all utilities during operations.

5.1.3 Delineation of Work Zones

LCS will clearly mark the Exclusion Zones, Contamination Reduction Zones, and Support Zone with appropriate signage. The Exclusion Zone will encompass soil removal areas as well as the entire soil staging area.

5.1.4 Erosion and Sediment Control

Best Management Practices shall be implemented to control erosion and sedimentation for the Project, as needed.

5.1.5 Traffic Control

All excavated material will be transported via surface streets directly to a permitted landfill. Proposed traffic routes will be determined by LCS based on sequencing removal methods. LCS will control vehicular traffic to make sure activities are performed safely and efficiently. Speed limits will be enforced to minimize dust generation. All trucks hauling excavated soil will be securely tarped.

5.1.6 Decontamination

Decontamination procedures will be specified by LCS in its HASP that will be submitted as an addendum to this RAWP. Specific levels of personal protection equipment to be utilized will be described with proposed dust monitoring procedures. Most work is anticipated to be completed in Level D PPE that includes hardhat, long pants or coveralls, and boots. Appropriate gloves will also be utilized.

5.1.7 Air Monitoring Equipment and Dust Control

Real-time aerosol monitors (mini-Rams or similar) will be used to monitor particulates at appropriate locations based on wind direction and type of activity being performed. Measurements will be made every 15 minutes at each location during excavation and loading activities until soil handling is completed. Water will be utilized to control dust. Protocol set out in NYSDEC's TAGM #4031 on Fugitive Dust Suppression shall be followed. When dust monitors exceed the action level of 150 ug/m^3 total suspended particulates, more aggressive dust suppression will be performed until dust levels drop below the action level.

5.2 EXCAVATION AND OFF-SITE DISPOSAL

Prior to excavation activities and consistent with the requirements set out in Section 5.1 above, all necessary permits and authorizations shall be obtained; utility clearance and mark-offs will be completed; the work zones will be delineated; and specific traffic control measures and patterns will be established.

All work and decontamination activities will be conducted in accordance with the HASP. Air monitoring (dust and volatile vapor monitoring) will also be conducted as described in Section 5.1.6 during all soil excavation activities.

Once site preparation activities are complete, soil removal and backfill activities on-site will be conducted using conventional excavation equipment (e.g. backhoe, excavator, etc.). It is important to note that the soil excavation limits will be subject to change dependent on the presence of underground utilities. Excavation activities are described below.

- Excavations will be focused in two areas surrounding the former UST locations. The proposed excavation limits are shown on Figure 2. Minimum excavation depths at the various former test areas will be as follows: BH3/TPMW1 – 8 feet below grade; B-3 – 6 feet below grade; B-4 – 8 feet below grade; B-1 – 8 feet below grade; B-2 – 8 feet below grade; B-11 – 7 feet below grade; BH6/TPMW4 – 10 feet below grade; and BH11 – 10 feet below grade.

- At each location, the asphalt will be removed surrounding the areas outlined in Figure 2. The asphalt will be disposed of along with the impacted soil.

- Excavation depths surrounding each former UST location will extend approximately 1 foot below the depth of visually impacted soil (as estimated above) at former UST locations. A photoionization detector (PID) will be used to screen soil for volatile organic vapors as it is removed from the excavation. Excavated soil that do not exhibiting elevated PID readings, is not visually stained, and does not contain petroleum-type odors will be stockpiled for use as backfill material. (A composite soil sample will be collected from the suspected "clean" soil and analyzed for STARS List VOCs and semi-volatile organic compounds, SVOCs, by USEPA SW-846 Test Methods 8260 and 8270, respectively, to establish whether or not the soil can be used as backfill.)

- Petroleum impacted soil and soil suspected to be impacted will be excavated and loaded directly into haul vehicles (dump trucks or containers) for transport to a licensed off-site solid waste disposal facility. Confirmatory soil samples will be collected in accordance with procedures described in Section 5.3.5.

- Appropriate controls will be implemented to minimize dust generation during excavation, loading, and unloading activities. The haul vehicles will be covered with tarps to prevent dust generation prior to and during transport.

- All open excavations will be marked and barriers (e.g. snow fence) will be installed around all open excavations at the end of each workday.

- Following receipt of acceptable confirmation sampling laboratory analytical data, the excavations will be backfilled with clean stockpiled soil and crusher-run stone, and mechanically tamped in one-foot lifts to maximize compaction density of the backfill.

- The surface of the excavation will be paved with an equivalent thickness of binder and asphalt blacktop to match the existing parking lot surface.

5.3 CONFIRMATION SAMPLING

Confirmation sampling will be conducted in accordance with the NYSDEC-approved Site Sampling Plan (SSP) utilized for the Phase II Environmental Site Assessment activities and as discussed below.

Post-excavation soil samples will be collected for laboratory analysis following completion of the excavation. Since petroleum stained soil and petroleum-type odors are recognizable in the vicinity of the former UST areas, the soil removal and sampling activities will be focused in the areas where petroleum impacts are known and obvious. Five soil samples will be collected from each excavation. Samples will be collected from the midpoint of each sidewall and the bottom of each excavation. The soil sample will be collected from the excavator bucket.

As a quality control measure, a blind duplicate sample will be collected. The soil samples will be submitted to a New York State Department of Health (NYSDOH) ELAP certified laboratory employing ASP protocols. The soil samples will be analyzed for STARS list VOCs plus 10 tentatively identified compounds (TICs) and STARS list SVOCs plus 20 TICs by USEPA Test Methods 8260 and 8270, respectively. A 72-hour laboratory turnaround will be requested. Remedial objectives will be considered met when laboratory results indicate VOC and SVOC concentrations are at or below recommended soil clean-up objectives as listed within the TAGM 4046-94, revised August 2001, or it is no longer deemed safe and/or practical to complete further excavation (i.e., utilities or site structures limit excavation).

6.0 INSTITUTIONAL/ENGINEERING CONTROLS AND ANNUAL CERTIFICATIONS.

The remediation proposed does not call for the imposition of institutional or engineering controls or annual certifications. A Track 1, unrestricted, cleanup is proposed. Further consideration of this item may occur if site conditions compel a cleanup other than that conforming to Track 1.

7.0 SCHEDULE

The remediation should be complete within 30 days of RAWP approval. A Remediation Report would be filed no later than 30 days thereafter.

8.0 HEALTH AND SAFETY PLANS

All field tasks will be performed using industry standard health and safety procedures. A site-specific Health and Safety Plan has been prepared for use by the field team during all field activities. This plan will detail all known and potential hazards of the site and field tasks as well as air monitoring and emergency procedures.

9.0 QUALITY ASSURANCE/QUALITY CONTROL

9.1 ANALYTICAL METHODS

All samples collected will be analyzed using USEPA-approved analytical methods that follow the most recent edition of the EPA's "Test Methods for Evaluating Solid Waste" (SW-846), Methods for Chernical Analysis of Water and Wastes" (EPA 600/4-79-020), and Standard Methods for Examination of Water and Wastewater (as necessary).

9.2 LABORATORY

The laboratory selected will be certified by the New York State Department of Health to perform Contract Laboratory Program (CLP) analysis on all media to be sampled during this investigation. The laboratory will perform the sample analysis in accordance with the most recent (year 2000) NYSDEC Analytical Services Protocol (ASP).

9.3 DATA SUBMITTAL

Analytical data will be delivered as a complete ASP Category B data package. Procedures for chain of custody, laboratory instrumentation calibration, laboratory analyses, reporting of data, internal quality control, and corrective actions shall be followed as per SW-846 and as per the laboratory's Quality Assurance Plan. Where appropriate, trip blanks, field blanks, field duplicates, and matrix spike, matrix spike duplicate shall be performed at a rate of 5% and will be used to assess the quality of the data. The laboratory's in-house QA/QC limits will be utilized whenever they are more stringent than those suggested by the EPA methods.

9.4 DATA USABILITY SUMMARY REPORTS

The data package will be sent to a qualified, independent, data validation specialist for evaluation of the accuracy and precision of the analytical results. A Data Usability Summary Report (DUSR) will be prepared to describe the compliance of the analyses with the analytical method protocols detailed in the NYSDEC ASP. The DUSR will provide a determination of whether the data meets the project specific criteria for data quality and data use. The validation effort will be completed in accordance with the NYSDEC Division of Environmental Remediation DUSR guidelines and in accordance with the BCA.

10.0 REMEDIATION REPORT

Following the receipt of the validated analytical results, LCS will prepare a Remediation Report describing the remedial activities undertaken at the Site. The report will summarize the work performed and the data collected and will include a summary of laboratory testing results, comparison to TAGM recommended soil clean-up criteria, figures presenting the soil/fill removal locations at the Site, bills of lading/certificates of disposal, and the laboratory analytical data reports.

11.0 PROJECT ORGANIZATION

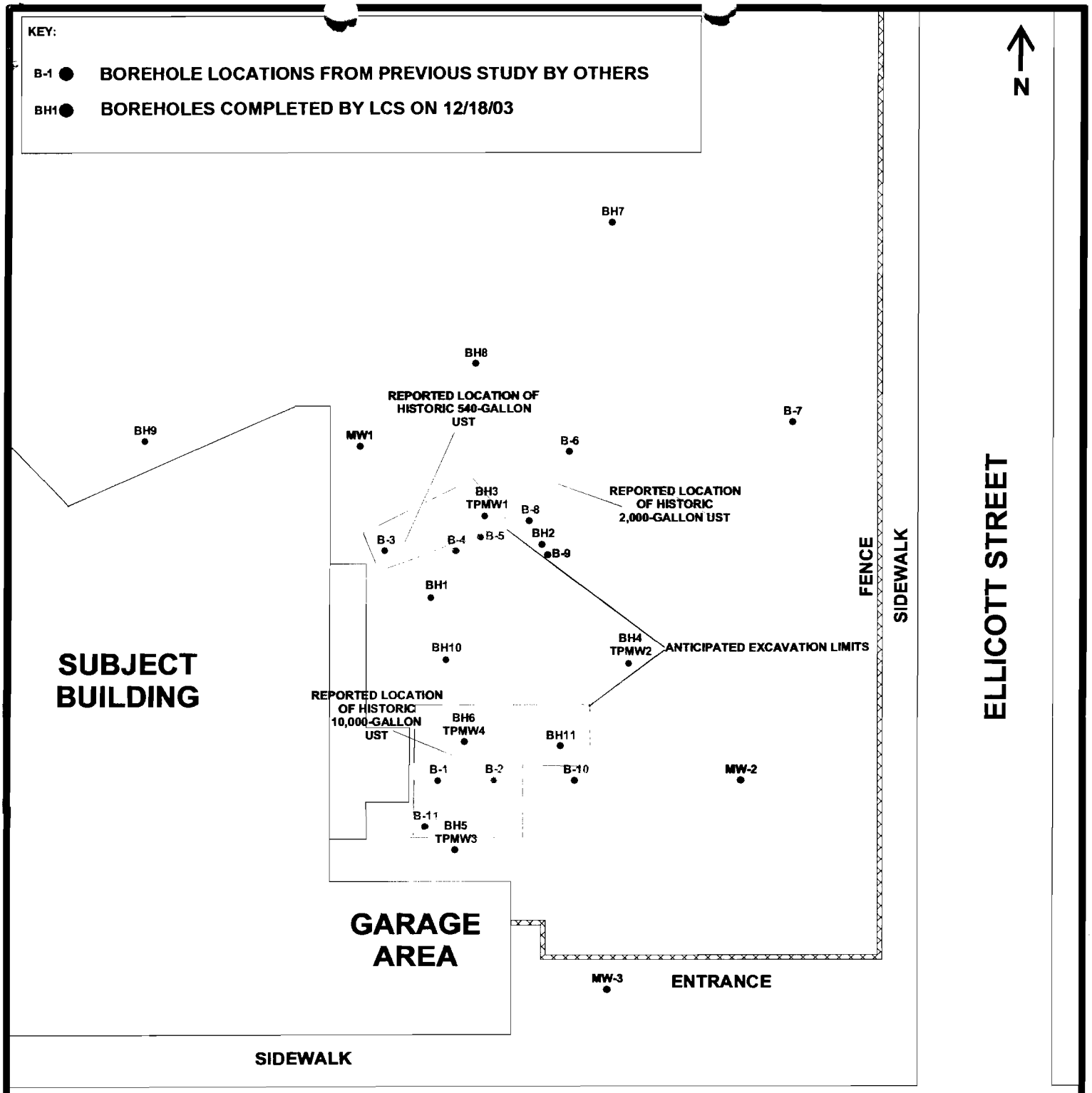
The project officer and leader will be Douglas Reid of LCS.

FIGURE 1 – SITE LOCATION MAP

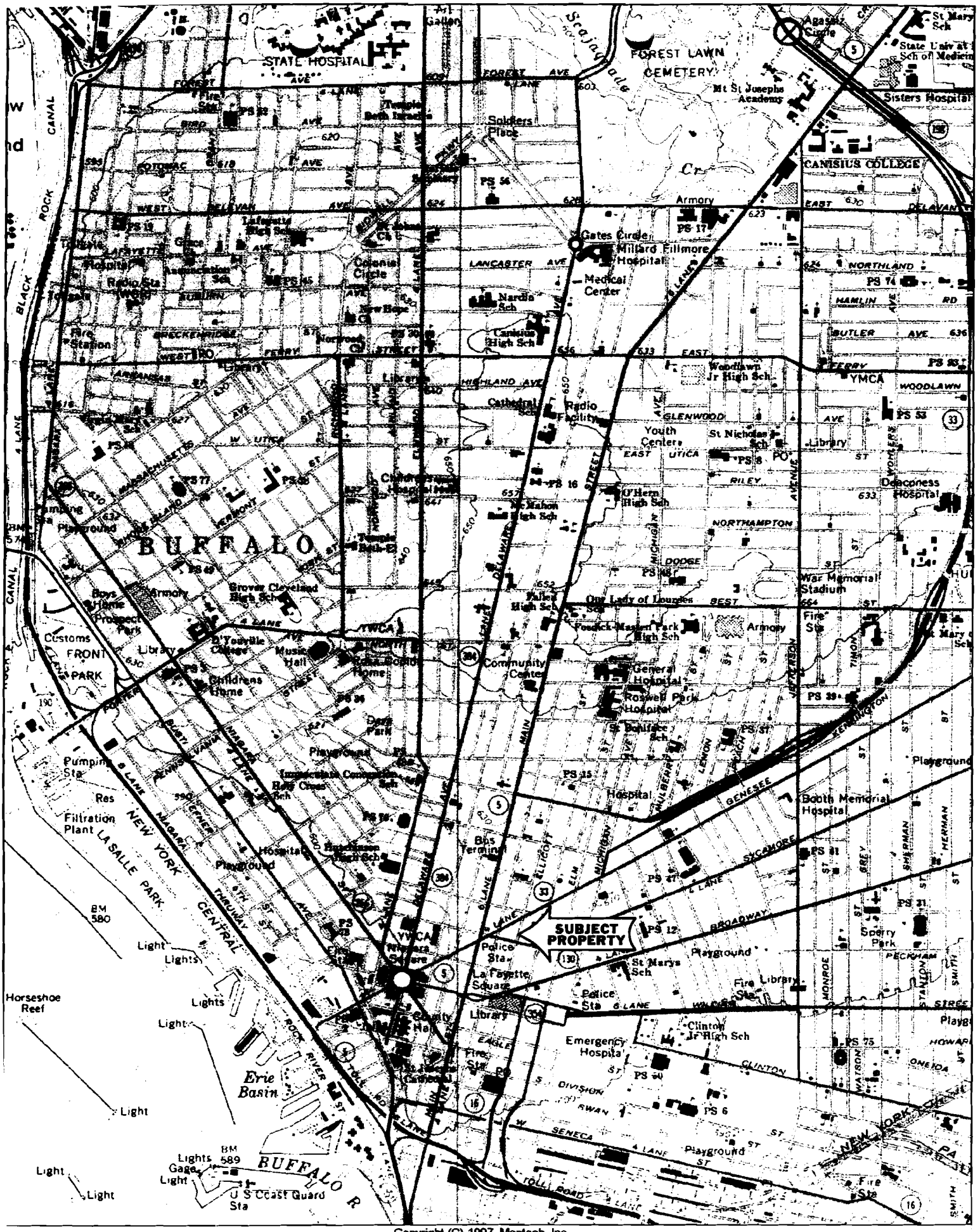
Name: BUFFALO NE
Date: 11/5/2004
Scale: 1 inch equals 2000 feet

Location: 042° 53.1842' N 078° 52.3766' W
Caption: Figure 1: Site Location Map

FIGURE 2 – SITE PLAN



LCS INC.	FIGURE 2 - SITE PLAN 535 WASHINGTON STREET BUFFALO, NEW YORK	*Drawn by:JMR* *Checked by:DBR* *Scale: Approx. 1 inch = 20 ft.* *LCS Project #03B1887.22*



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