

# Elk Street Commerce Park LLC

October 28, 2019

New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, New York 12233-7020

Attn: **Chief, Site Control Section**

Re: **ExxonMobil Oil Former Buffalo Terminal OU2-East  
Site #C915201B**

Subj: **Brownfield Cleanup Agreement - Change of Use**

Ladies and Gentlemen:

On May 28, 2019 we submitted Change of Use notifications pursuant to a transfer of property from Elk Street Commerce Park, LLC (ESCP) to Buckeye Terminals, LLC (Buckeye), and a transfer of property from Buckeye to ESCP. Note that both transfers were within the BCA boundary of the referenced Site and that the overall boundaries remain unchanged. The Change of Use forms were resubmitted on September 23, 2019.

Since that time, we have been notified by the City of Buffalo that new street addresses have been assigned along with new tax parcel identification numbers (i.e. SBL numbers). The following summarizes the new addresses and SBL numbers:

Previous Parcel Breakdown				Amended Parcel Breakdown			
Parcel	Address	SBL	Acreage	Parcel	Address	SBL	Acreage
1	503 Elk St.	123.13-1-2.111	22.66	1	503 Elk St.	123.13-1-2.111	22.66
				2A	623 Elk St.	123.13-1-25	1.43
2	625 Elk St.	123.13-1-2.112	4.13	2	625 Elk St.	123.13-1-2.112	2.70
3	635 Elk St.	123.13-1-2.113	6.65	3	635 Elk St.	123.13-1-26	4.55
				3A	677 Elk St.	123.13-1-27	2.10
Total Acreage OU2-East			33.44	Total Acreage OU2-East			33.44

Enclosed please find revised Change of Use Notifications and a Brownfield Cleanup Program Application to Amend Brownfield Cleanup Agreement and Amendment documenting the changes noted above.

Should you have any questions or need additional information, please contact us.

Thank you for your cooperation in this matter.

Very truly yours,  
Elk Street Commerce Park, LLC



Paul R. Neureuter  
Co-manager

cc w/ encl.

Marc Romanowski, Esq.  
Jennifer Dougherty, Esq.

Eugene Melnyk, P.E.  
Arnie Cubins



Department of Environmental Conservation

# BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

## PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

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applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site?  Yes  No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

**Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

The purpose of this Application is to reflect the change in property ownership of portions of the site at original addresses 625 Elk Street and 635 Elk Street. Change of Use forms are being submitted concurrent with this Application. See attached surveys showing land transferred between 625 Buckeye Terminals, LLC and Elk Street Commerce Park, LLC.

In addition to the land transfers and in conjunction therewith, the City of Buffalo has assigned new street addresses and tax parcel identification numbers as follows: 503 Elk Street (123.13-1-2.11), 623 Elk Street (123.13-1-25 new address and SBL), 625 Elk Street (123.13-1-2.112), 635 Elk Street (123.13-1-26 new SBL) and 677 Elk Street (123.13-1-27 new address and SBL).

**\*Please refer to the attached instructions for guidance on filling out this application\***



**Section I. Existing Agreement Information**

BCP SITE NAME: ExxonMobil Oil Former Buffalo Terminal  BCP SITE NUMBER: 915201B

NAME OF CURRENT APPLICANT(S): Elk Street Commerce Park, LLC

INDEX NUMBER OF EXISTING AGREEMENT: C915201B-01 DATE OF EXISTING AGREEMENT: 10/2/201

**Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)**

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Is the requestor authorized to conduct business in New York State (NYS)?  Yes  No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

NAME OF NEW REQUESTOR'S REPRESENTATIVE

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached?  Yes  No

Describe Requestor's Relationship to Existing Applicant:

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**Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)**

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

**Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)**

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site?  Yes  No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?  Yes  No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site?  Yes  No  
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment.  Yes  No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information.  Yes  No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants?  Yes  No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?  Yes  No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?  Yes  No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that 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
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?  Yes  No
11. Are there any unregistered bulk storage tanks on-site which require registration?  Yes  No



THE NEW REQUESTOR 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

A requestor who either 1) was the owner of the site at the time of the disposal of contamination 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 contamination.

VOLUNTEER

A requestor other than a participant, including a requestor 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, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site 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; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

**If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.**

Requestor's Relationship to Property (check one):

Prior Owner  Current Owner  Potential /Future Purchaser  Other \_\_\_\_\_

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site. Is this proof attached?  Yes  No

**Note: a purchase contract does not suffice as proof of access.**

**Section V. Property description and description of changes/additions/reductions (if applicable)**

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (TBL) (in existing agreement )

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
503 Elk Street	1	123.13	1	2.111	22.66
625 Elk Street	2	123.13	1	2.112	4.13
635 Elk Street	3	123.13	1	2.113	6.65

Check appropriate boxes below:

- Changes to metes and bounds description or TBL correction
- Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: 3.53

**ADDITIONAL PARCELS:**

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
623 Elk Street (new address and SBL) transferred from Buckeye to ESCP	2A	123.13	1	25	1.43
677 Elk Street (new address and SBL) transferred from ESCP to Buckeye	3A	123.13	1	27	2.10

- Reduction of property
- Approximate acreage removed: (3.53)

**PARCELS REMOVED:**

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
625 Elk Street (transferred from Buckeye to ESCP)	2	123.13	1	2.112	(1.43)
635 Elk Street (transferred from ESCP to Buckeye)	3	123.13	1	26	(2.10)

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

Note that the City of Buffalo has changed the SBL number for 635 Elk Street to 123.13-1-26.

Note that the overall BCA boundary and acreage for Site C915201B Operable Unit 2-East remains unchanged.



**Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.**

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please answer questions below and provide documentation necessary to support answers.</b>	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see <a href="#">DEC's website</a> for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>From ECL 27-1405(31):</b></p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From 6 NYCRR 375- 3.2(a) as of August 12, 2016:</p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.</p>	

**PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT**

<b>Existing Agreement Information</b>
BCP SITE NAME: ExxonMobil Oil Former Buffalo Terminal OU2- <sub>4</sub> BCP SITE NUMBER: C915201B
NAME OF CURRENT APPLICANT(S): Elk Street Commerce Park, LLC
INDEX NUMBER OF EXISTING AGREEMENT: C915201B-08-17
EFFECTIVE DATE OF EXISTING AGREEMENT: 10-2-17

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

<b>Statement of Certification and Signatures: New Requestor(s) (if applicable)</b>
(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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.  Date: _____ Signature: _____  Print Name: _____
(Entity)  I hereby affirm that I am (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. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.  Date: _____ Signature: _____  Print Name: _____



**Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)**

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am Co-manager (title) of Elk Street Commerce Park, LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Paul Neureuter's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 10/28/2019 Signature: 

Print Name: Paul R. Neureuter

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

<input type="checkbox"/> <b>PARTICIPANT</b> A requestor who either 1) was the owner of the site at the time of the disposal of contamination 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 contamination.	<input checked="" type="checkbox"/> <b>VOLUNTEER</b> A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 10/2/17

Signature by the Department:

DATED: 11/25/19

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:   
\_\_\_\_\_  
Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

**SUBMITTAL INFORMATION:**

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) 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

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**FOR DEPARTMENT USE ONLY**

**BCP SITE T&A CODE:** \_\_\_\_\_ **LEAD OFFICE:** \_\_\_\_\_

**PROJECT MANAGER:** \_\_\_\_\_



Parcel 3  
635 Elk St  
SBL 123.13-1-2.112  
Area: 6.6  
ESCP owner

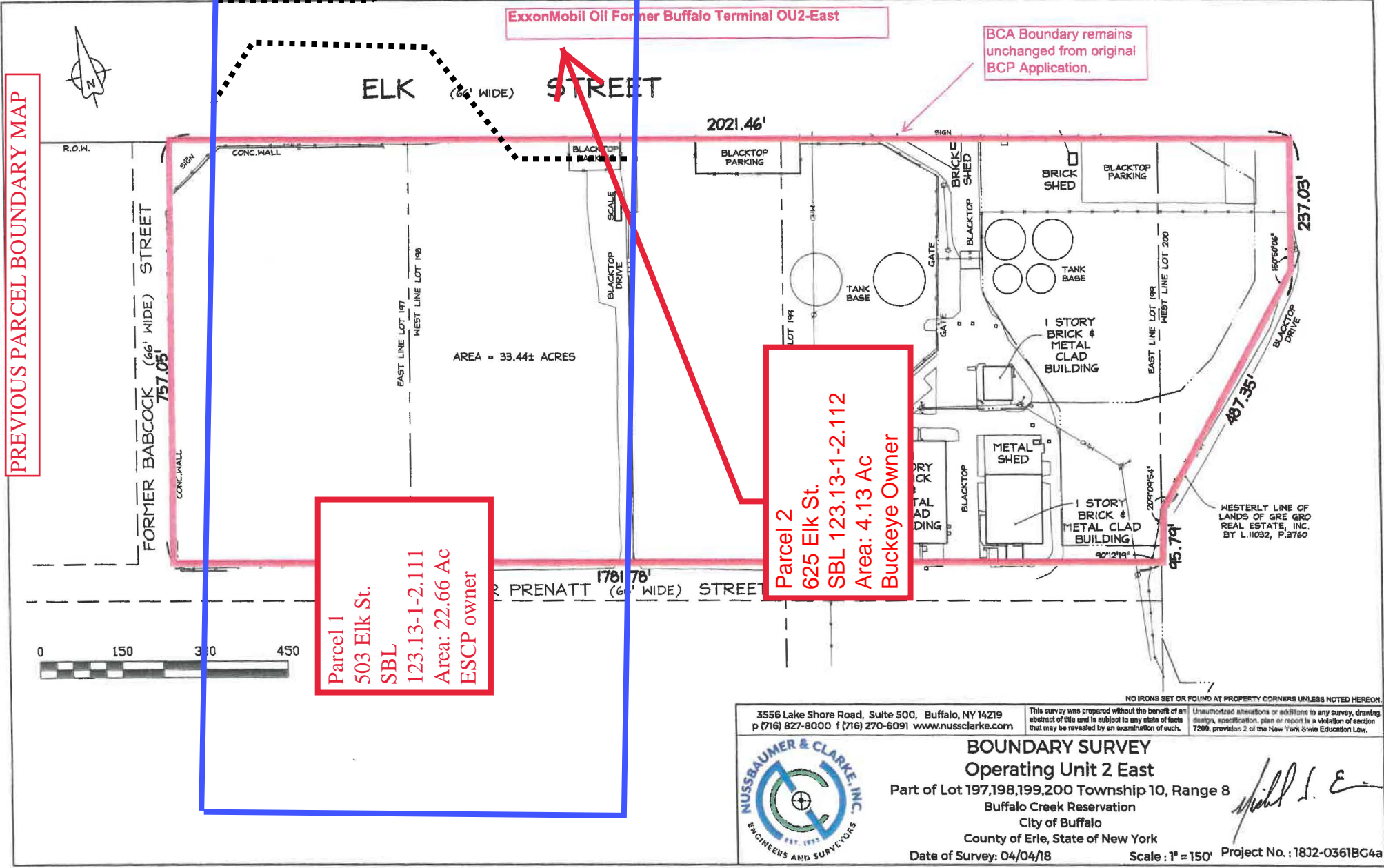
Parcel 1  
503 Elk St.  
SBL  
123.13-1-2.111  
Area: 22.66 Ac  
ESCP owner

Parcel 2  
625 Elk St.  
SBL 123.13-1-2.112  
Area: 4.13 Ac  
Buckeye Owner

ExxonMobil Oil Former Buffalo Terminal OU2-East

BCA Boundary remains unchanged from original BCP Application.

PREVIOUS PARCEL BOUNDARY MAP

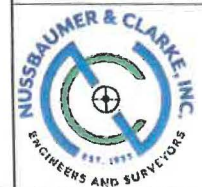


NO IRONS SET OR FOUND AT PROPERTY CORNERS UNLESS NOTED HEREON.

3556 Lake Shore Road, Suite 500, Buffalo, NY 14219  
p (716) 827-8000 f (716) 270-6091 www.nussclarke.com

This survey was prepared without the benefit of an abstract of title and is subject to any state of facts that may be revealed by an examination of such.

Unauthorized alterations or additions to any survey, drawing, design, specification, plan or report is a violation of section 7200, paragraph 2 of the New York State Education Law.



**BOUNDARY SURVEY**  
**Operating Unit 2 East**  
Part of Lot 197,198,199,200 Township 10, Range 8  
Buffalo Creek Reservation  
City of Buffalo  
County of Erie, State of New York  
Date of Survey: 04/04/18 Scale: 1" = 150'

*Michael I. E.*

Project No.: 1832-0361BC4a

UPDATED PARCEL BOUNDARY MAP

LAND SWAP BETWEEN ELK ST. COMMERCE PARK AND BUCKEYE DISTRICT

Parcel 3 area reduction and site parcel number change  
635 Elk St  
Prev SBL: 123.13-1-2.113  
Prev Area: 6.65 Ac  
New SBL: 123.13-1-26  
New Area: 4.55 Ac  
ESCP remains as Owner

Parcel 1 - no changes  
503 Elk St.  
SBL: 123.13-1-2.111  
Area: 22.66 Ac  
ESCP remains as owner

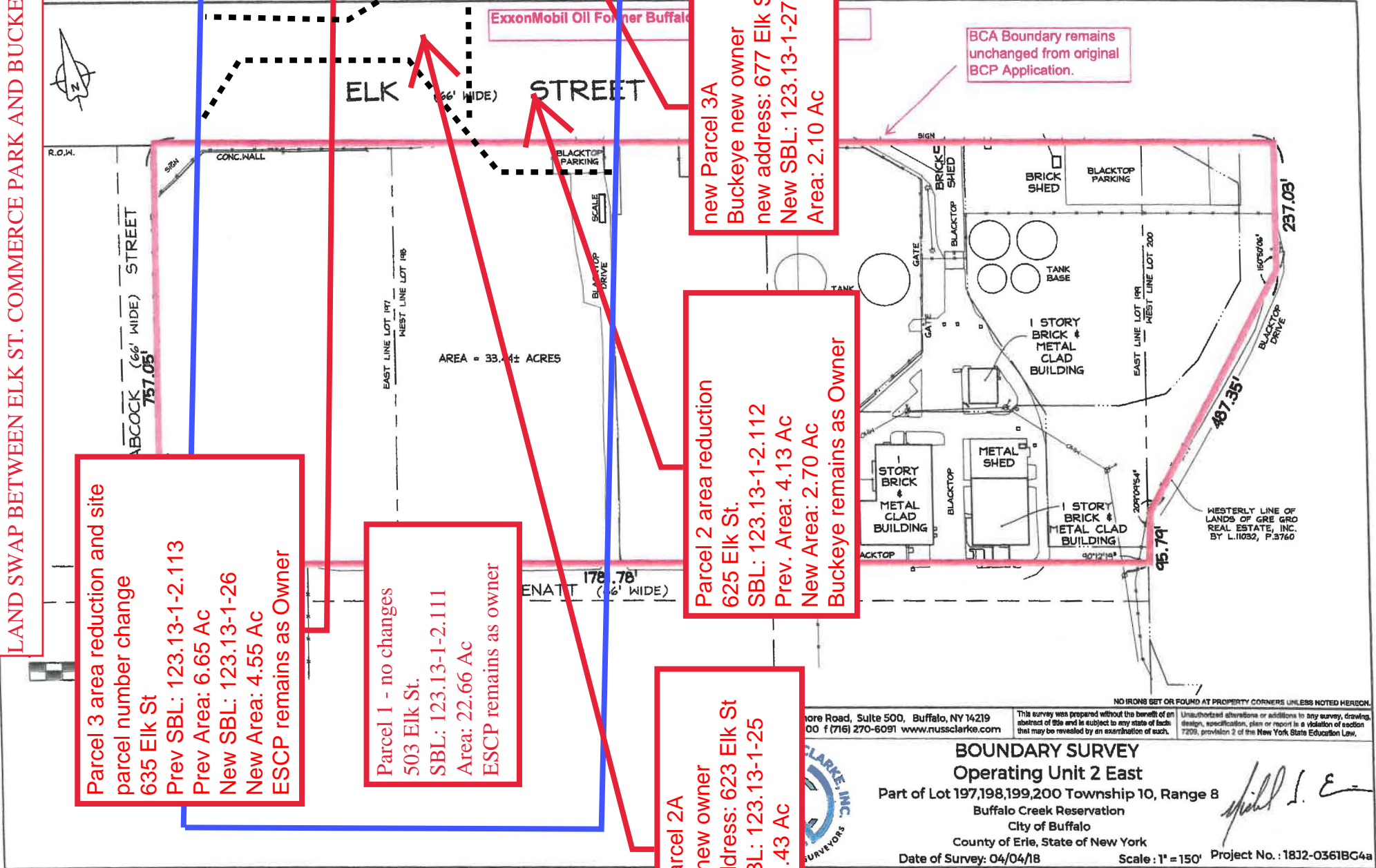
new Parcel 2A  
ESCP new owner  
new address: 623 Elk St  
new SBL: 123.13-1-25  
Area: 1.43 Ac

Parcel 2 area reduction  
625 Elk St.  
SBL: 123.13-1-2.112  
Prev. Area: 4.13 Ac  
New Area: 2.70 Ac  
Buckeye remains as Owner

new Parcel 3A  
Buckeye new owner  
new address: 677 Elk St  
New SBL: 123.13-1-27  
Area: 2.10 Ac

BCA Boundary remains unchanged from original BCP Application.

ExxonMobil Oil Former Buffalo



NO IRONS SET OR FOUND AT PROPERTY CORNERS UNLESS NOTED HEREON.  
more Road, Suite 500, Buffalo, NY 14219  
00 f (716) 270-6091 www.russclarke.com  
This survey was prepared without the benefit of an abstract of title and is subject to any state of facts that may be revealed by an examination of such.  
Unauthorized alterations or additions to any survey, drawing, design, specification, plan or report is a violation of section 7209, provision 2 of the New York State Education Law.

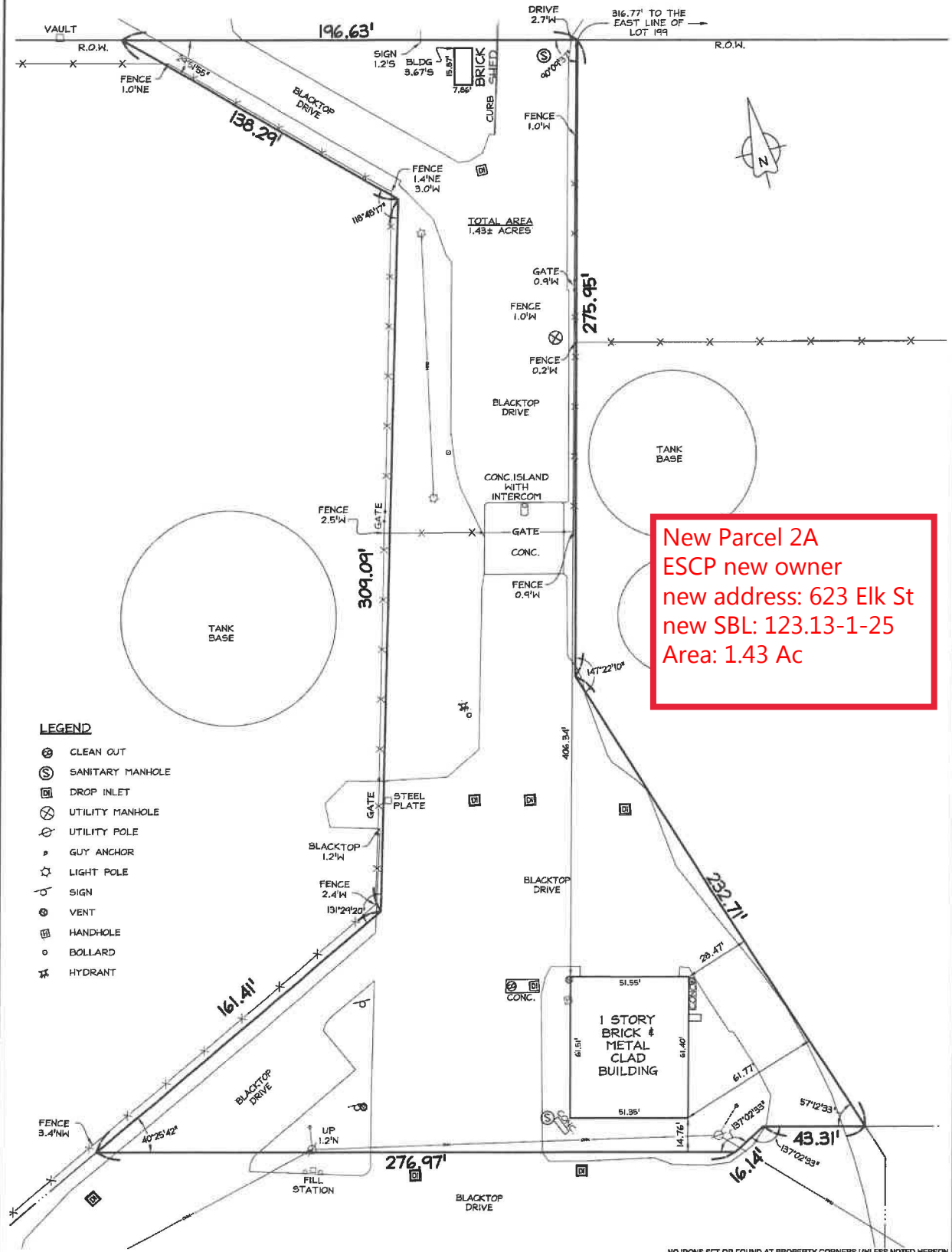
**CLARKE, INC.**  
SURVEYORS

**BOUNDARY SURVEY**  
Operating Unit 2 East  
Part of Lot 197,198,199,200 Township 10, Range 8  
Buffalo Creek Reservation  
City of Buffalo  
County of Erie, State of New York  
Date of Survey: 04/04/18 Scale: 1" = 150' Project No.: 18J2-0361BC4a

*Spill I. E.*



# ELK (66' WIDE) STREET



New Parcel 2A  
 ESCP new owner  
 new address: 623 Elk St  
 new SBL: 123.13-1-25  
 Area: 1.43 Ac

**LEGEND**

- ⊙ CLEAN OUT
- ⊕ SANITARY MANHOLE
- ⊖ DROP INLET
- ⊗ UTILITY MANHOLE
- ⊘ UTILITY POLE
- ⋄ GUY ANCHOR
- ☆ LIGHT POLE
- ⚡ SIGN
- ⊙ VENT
- ⊕ HANDHOLE
- BOLLARD
- ⚡ HYDRANT

NO IRONS SET OR FOUND AT PROPERTY CORNERS UNLESS NOTED HEREON.

3556 Lake Shore Road, Suite 500, Buffalo, NY 14219  
 p (716) 827-8000 f (716) 270-6091 www.nussclarke.com

This survey was prepared without the benefit of an abstract of title and is subject to any state of facts that may be revealed by an examination of such.

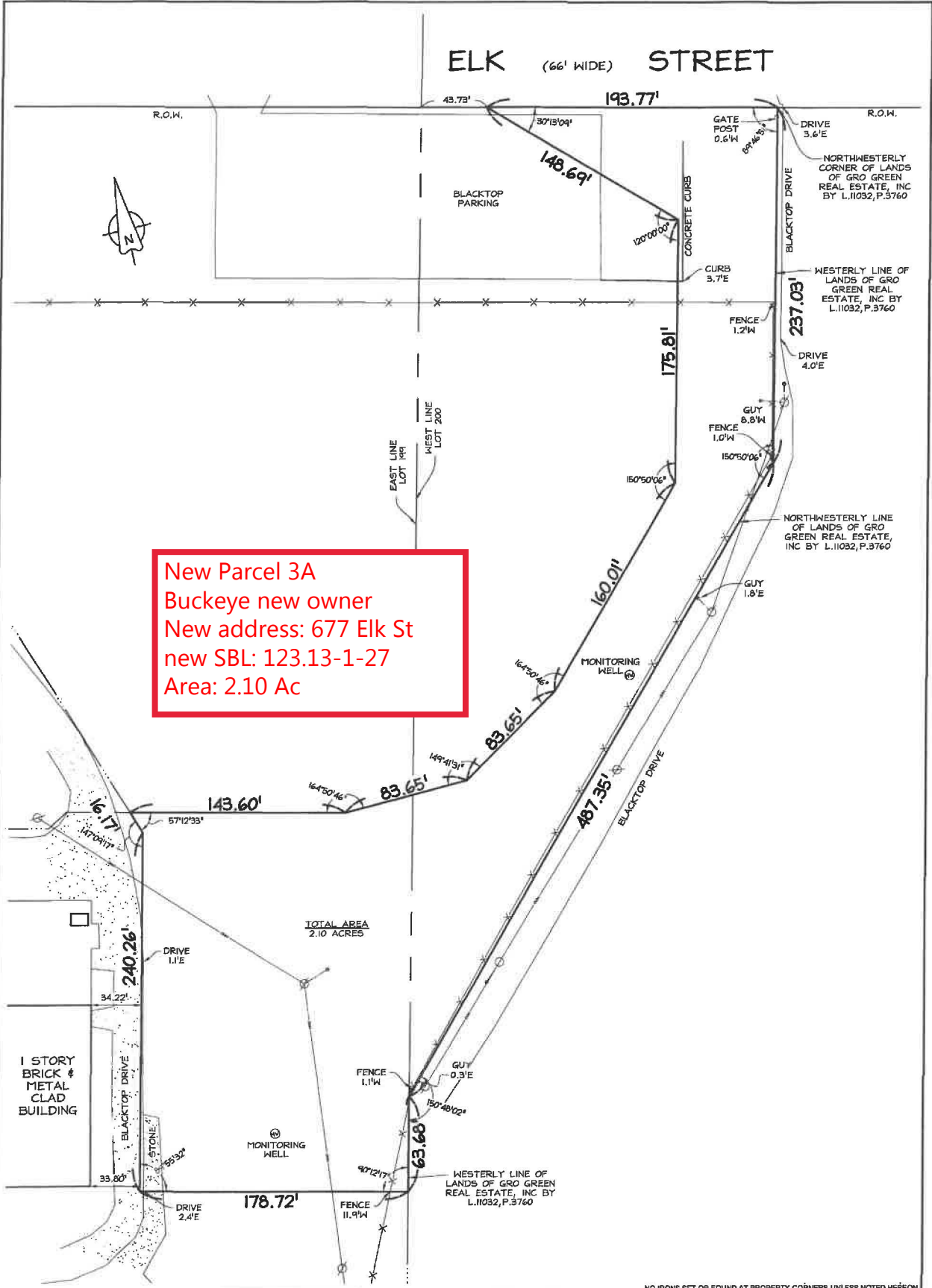
Unauthorized alterations or additions to any survey, drawing, design, specification, plan or report is a violation of section 7209, provision 2 of the New York State Education Law.



**BOUNDARY SURVEY**  
 Portion of 623 Elk Street  
 Part of Lot 199, Township 10, Range 8  
 Buffalo Creek Reservation  
 City of Buffalo  
 County of Erie, State of New York  
 Date of Survey: 3/12/18

*Michael J. E.*

Scale: 1" = 40' Project No.: 18J2-0262 BC1a



New Parcel 3A  
 Buckeye new owner  
 New address: 677 Elk St  
 new SBL: 123.13-1-27  
 Area: 2.10 Ac

NO IRONS SET OR FOUND AT PROPERTY CORNERS UNLESS NOTED HEREOF.

3556 Lake Shore Road, Suite 500, Buffalo, NY 14219  
 p (716) 827-8000 f (716) 270-6091 www.nussclarke.com

This survey was prepared without the benefit of an abstract of title and is subject to any state of facts that may be revealed by an examination of such.

Unauthorized alterations or additions to any survey, drawing, design, specification, plan or report is a violation of section 7208, provision 2 of the New York State Education Law.



**BOUNDARY SURVEY**  
**Portion of 677 Elk Street**  
 Part of Lots 199 & 200, Township 10, Range 8  
 Buffalo Creek Reservation  
 City of Buffalo  
 County of Erie, State of New York  
 Date of Survey: 3/12/18

Scale: 1" = 60' Project No.: 1832-0262BG1b





**60-Day Advance Notification of Site Change of Use, Transfer of Certificate of Completion, and/or Ownership**

Required by 6NYCRR Part 375-1.11(d) and 375-1.9(f)

To be submitted at least 60 days prior to change of use to:

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

Transfer of ownership from  
 Buckeye Terminals, LLC to Elk  
 Street Commerce Park, LLC

**I. Site Name:** ExxonMobil Former Buffalo Terminal OU-2 East **DEC Site ID No.** C915201B

**II. Contact Information of Person Submitting Notification:**

Name: Paul R. Neureuter  
 Address1: 4 Centre Drive  
 Address2: Orchard Park, New York 14127  
 Phone: 716-667-1234 E-mail: pneureuter@kroggrp.com

**III. Type of Change and Date:** Indicate the Type of Change(s) (check all that apply):

- Change in Ownership or Change in Remedial Party(ies)
- Transfer of Certificate of Completion (CoC)
- Other (e.g., any physical alteration or other change of use)

Proposed Date of Change (mm/dd/yyyy): Jun 7, 2019

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**IV. Description:** Describe proposed change(s) indicated above and attach maps, drawings, and/or parcel information.

Elk Street Commerce Park, LLC (ESCP) and Buckeye Terminals, LLC (Buckeye) each own portions of ~~Operable Unit 2 East. In order to maintain ongoing operations of the Buckeye facility and fully remediate~~ the property, ESCP has agreed to transfer approximately 2.10 acres to Buckeye and, in turn, Buckeye has agreed to transfer approximately 1.43 acres to ESCP. There are no changes to the BCA boundaries. Surveys of the BCA boundary and land transfer within the boundary are attached.

If "Other," the description must explain and advise the Department how such change may or may not affect the site's proposed, ongoing, or completed remedial program (attach additional sheets if needed).

In conjunction with the previously described property transfer, the City of Buffalo has assigned new street addresses and SBL numbers. These changes are reflected in a BCA Amendment Application submitted concurrent with this Change of Use submission.

V. **Certification Statement:** Where the change of use results in a change in ownership or in responsibility for the proposed, ongoing, or completed remedial program for the site, the following certification must be completed (by owner or designated representative; see §375-1.11(d)(3)(i)):

I hereby certify that the prospective purchaser and/or remedial party has been provided a copy of any order, agreement, Site Management Plan, or State Assistance Contract regarding the Site's remedial program as well as a copy of all approved remedial work plans and reports.

Name:  

Oct 28, 2019
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(Signature) (Date)

Paul R. Neureuter  
(Print Name)

Address1: 4 Centre Drive  
Address2: Orchard Park, New York 14127  
Phone: 716-667-1234 E-mail: pneureuter@kroggrp.com

VI. **Contact Information for New Owner, Remedial Party, or CoC Holder:** If the site will be sold or there will be a new remedial party, identify the prospective owner(s) or party(ies) along with contact information. If the site is subject to an Environmental Easement, Deed Restriction, or Site Management Plan requiring periodic certification of institutional controls/engineering controls (IC/ECs), indicate who will be the certifying party (attach additional sheets if needed).

Prospective Owner  Prospective Remedial Party  Prospective Owner Representative

Name: Elk Street Commerce Park, LLC  
Address1: 4 Centre Drive  
Address2: Orchard Park, New York 14127  
Phone: 716-667-1234 E-mail: pneureuter@kroggrp.com

Certifying Party Name: Paul R. Neureuter  
Address1: 4 Centre Drive  
Address2: Orchard Park, New York 14127  
Phone: 716-667-1234 E-mail: pneureuter@kroggrp.com

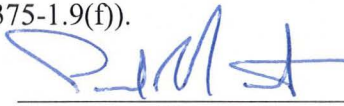


**VII. Agreement to Notify DEC after Transfer:** If Section VI applies, and all or part of the site will be sold, a letter to notify the DEC of the completion of the transfer must be provided. If the current owner is also the holder of the CoC for the site, the CoC should be transferred to the new owner using DEC's form found at <http://www.dec.ny.gov/chemical/54736.html>. This form has its own filing requirements (see 6NYCRR Part 375-1.9(f)).

Signing below indicates that these notices will be provided to the DEC within the specified time frames. If the sale of the site also includes the transfer of a CoC, the DEC agrees to accept the notice given in VII.3 below in satisfaction of the notice required by VII.1 below (which normally must be submitted within 15 days of the sale of the site).

Within 30 days of the sale of the site, I agree to submit to the DEC:

1. the name and contact information for the new owner(s) (see §375-1.11(d)(3)(ii));
2. the name and contact information for any owner representative; and
3. a notice of transfer using the DEC's form found at <http://www.dec.ny.gov/chemical/54736.html> (see §375-1.9(f)).

Name:   
(Signature)

Oct 28, 2019  
(Date)

Paul R. Neureuter  
(Print Name)

Address1: 4 Centre Drive

Address2: Orchard Park, New York 14127

Phone: 716-667-1234 E-mail: pneureuter@kroggrp.com

Parcel 3  
635 Elk St  
SBL 123.13-1-2.112  
Area: 6.6  
ESCP owner

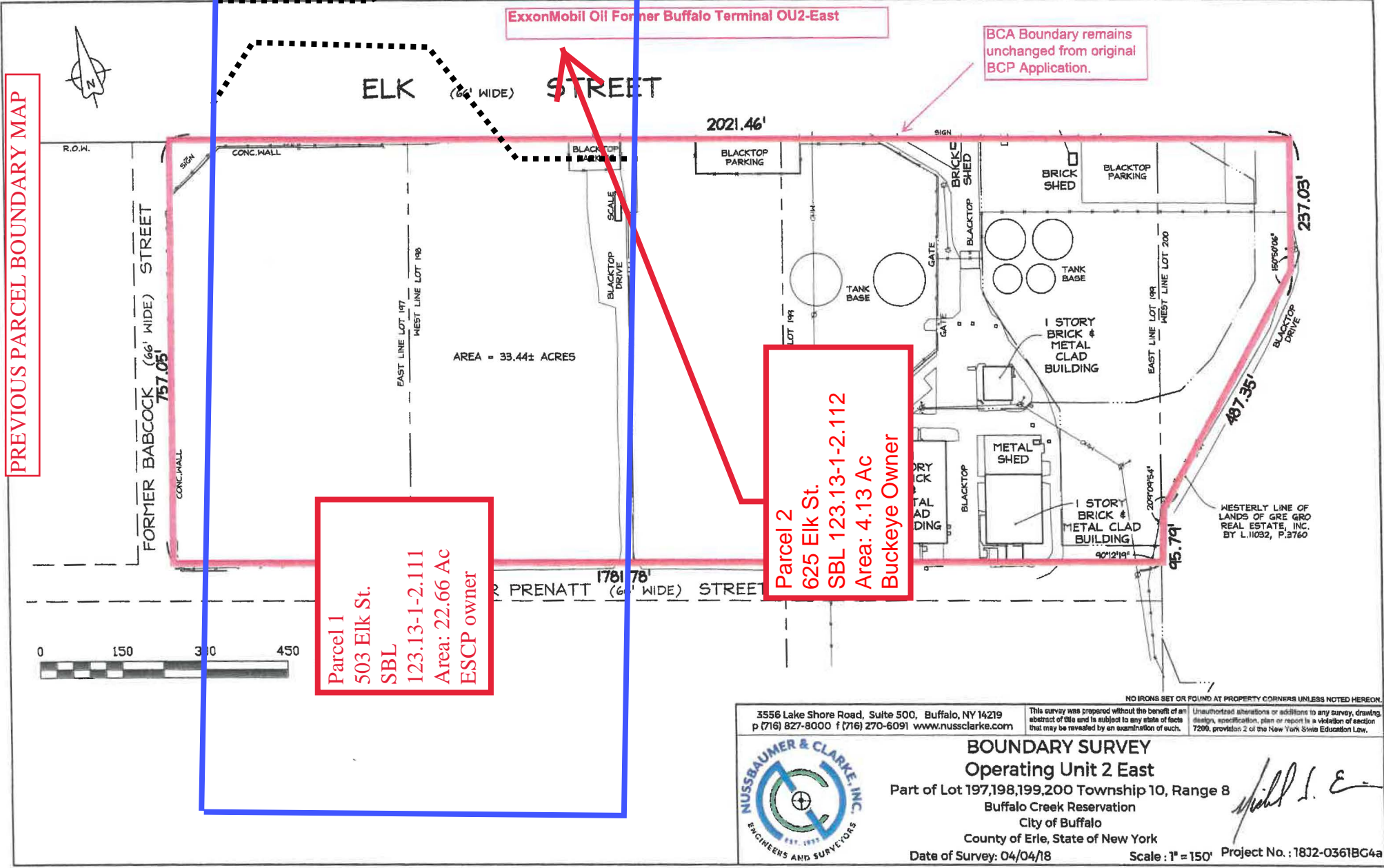
Parcel 1  
503 Elk St.  
SBL  
123.13-1-2.111  
Area: 22.66 Ac  
ESCP owner

Parcel 2  
625 Elk St.  
SBL 123.13-1-2.112  
Area: 4.13 Ac  
Buckeye Owner

ExxonMobil Oil Former Buffalo Terminal OU2-East

BCA Boundary remains unchanged from original BCP Application.

PREVIOUS PARCEL BOUNDARY MAP



NO IRONS SET OR FOUND AT PROPERTY CORNERS UNLESS NOTED HEREON.

3556 Lake Shore Road, Suite 500, Buffalo, NY 14219  
p (716) 827-8000 f (716) 270-6091 www.nussclarke.com

This survey was prepared without the benefit of an abstract of title and is subject to any state of facts that may be revealed by an examination of such.

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**BOUNDARY SURVEY**  
**Operating Unit 2 East**  
Part of Lot 197,198,199,200 Township 10, Range 8  
Buffalo Creek Reservation  
City of Buffalo  
County of Erie, State of New York  
Date of Survey: 04/04/18 Scale: 1" = 150'

*Michael I. E.*

Project No. : 1832-0361BC4a



UPDATED PARCEL BOUNDARY MAP

LAND SWAP BETWEEN ELK ST. COMMERCE PARK AND BUCKEYE DISTRICT

Parcel 3 area reduction and site parcel number change  
635 Elk St  
Prev SBL: 123.13-1-2.113  
Prev Area: 6.65 Ac  
New SBL: 123.13-1-26  
New Area: 4.55 Ac  
ESCP remains as Owner

Parcel 1 - no changes  
503 Elk St.  
SBL: 123.13-1-2.111  
Area: 22.66 Ac  
ESCP remains as owner

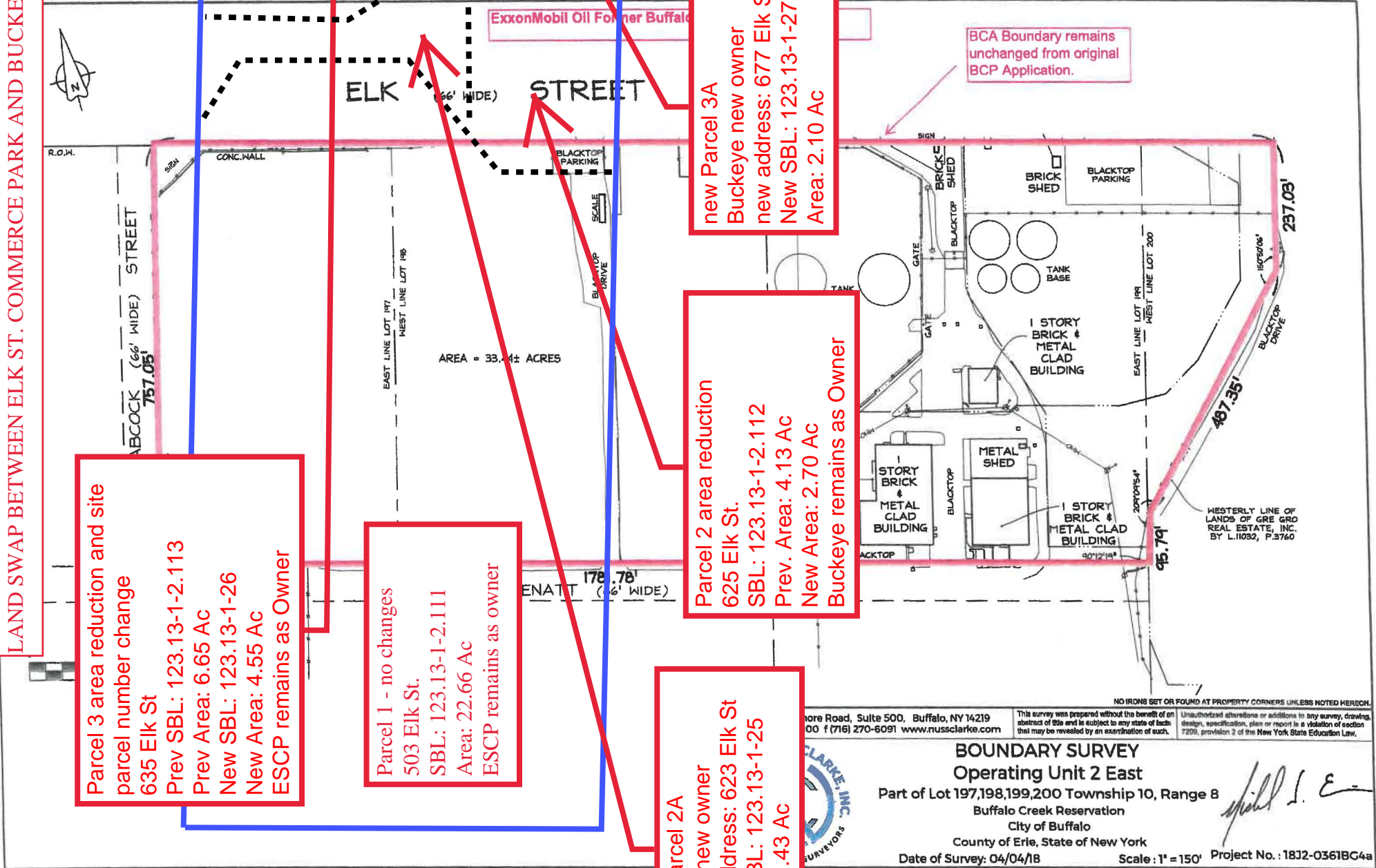
new Parcel 2A  
ESCP new owner  
new address: 623 Elk St  
new SBL: 123.13-1-25  
Area: 1.43 Ac

Parcel 2 area reduction  
625 Elk St.  
SBL: 123.13-1-2.112  
Prev. Area: 4.13 Ac  
New Area: 2.70 Ac  
Buckeye remains as Owner

new Parcel 3A  
Buckeye new owner  
new address: 677 Elk St  
New SBL: 123.13-1-27  
Area: 2.10 Ac

BCA Boundary remains unchanged from original BCP Application.

ExxonMobil Oil Former Buffalo



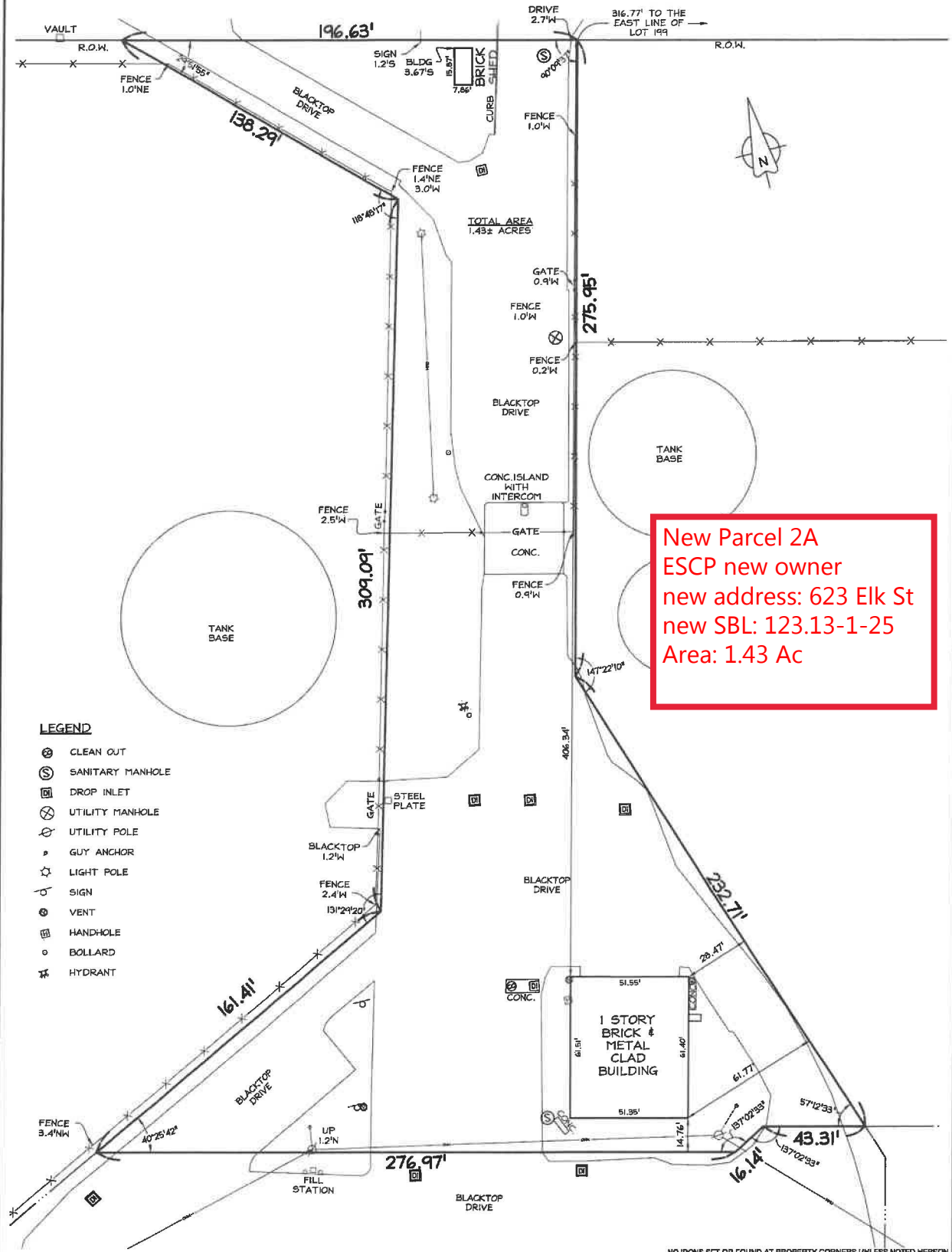
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**CLARKE, INC.**  
SURVEYORS

**BOUNDARY SURVEY**  
Operating Unit 2 East  
Part of Lot 197,198,199,200 Township 10, Range 8  
Buffalo Creek Reservation  
City of Buffalo  
County of Erie, State of New York  
Date of Survey: 04/04/18 Scale: 1" = 150' Project No.: 18J2-0361BC4a

*Spill I. E.*

# ELK (66' WIDE) STREET



**LEGEND**

- ⊕ CLEAN OUT
- ⊙ SANITARY MANHOLE
- ⊖ DROP INLET
- ⊗ UTILITY MANHOLE
- ⊘ UTILITY POLE
- ⋄ GUY ANCHOR
- ☆ LIGHT POLE
- ⚡ SIGN
- ⊙ VENT
- ⊖ HANDHOLE
- BOLLARD
- ⚡ HYDRANT

New Parcel 2A  
 ESCP new owner  
 new address: 623 Elk St  
 new SBL: 123.13-1-25  
 Area: 1.43 Ac

NO IRONS SET OR FOUND AT PROPERTY CORNERS UNLESS NOTED HEREON.

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**BOUNDARY SURVEY**  
 Portion of 623 Elk Street  
 Part of Lot 199, Township 10, Range 8  
 Buffalo Creek Reservation  
 City of Buffalo  
 County of Erie, State of New York  
 Date of Survey: 3/12/18

*Handwritten signature*

Scale: 1" = 40' Project No.: 18J2-0262 BC1a



**60-Day Advance Notification of Site Change of Use, Transfer of Certificate of Completion, and/or Ownership**

Required by 6NYCRR Part 375-1.11(d) and 375-1.9(f)

To be submitted at least 60 days prior to change of use to:

Transfer of ownership from Elk Street Commerce Park, LLC to Buckeye Terminals, LLC (2.10 acres)

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

**I. Site Name:** ExxonMobil Oil Former Buffalo Terminal OU2-East **DEC Site ID No.** C915201B

**II. Contact Information of Person Submitting Notification:**

Name: Paul R. Neureuter  
Address1: 4 Centre Drive  
Address2: Orchard Park, New York 14127  
Phone: 716-667-1234 E-mail: pneureuter@kroggrp.com

**III. Type of Change and Date:** Indicate the Type of Change(s) (check all that apply):

- Change in Ownership or Change in Remedial Party(ies)
- Transfer of Certificate of Completion (CoC)
- Other (e.g., any physical alteration or other change of use)

Proposed Date of Change (mm/dd/yyyy): Jun 12, 2019

RECEIVED  
NOV 01 2019  
BUR. OF TECH. SUPPORT

**IV. Description:** Describe proposed change(s) indicated above and attach maps, drawings, and/or parcel information.

~~Elk Street Commerce Park, LLC (ESCP) and Buckeye Terminals, LLC (Buckeye) each own portions of Operable Unit 2 East. In order to maintain operations of the Buckeye facility and fully remediate the property, ESCP has agreed to transfer approximately 2.10 acres to buckeye and, in turn, Buckeye has agreed to transfer 1.43 acres to ESCP. There are no changes to the BCA boundaries. Surveys of the BCA boundary and land transfers within the boundary are attached.~~


If "Other," the description must explain and advise the Department how such change may or may not affect the site's proposed, ongoing, or completed remedial program (attach additional sheets if needed).

~~In conjunction with the previously described property transfer, the City of Buffalo has assigned new street addresses and SBL numbers. These changes are reflected in a BCA Amendment Application submitted concurrent with this Change of Use submission.~~



V. **Certification Statement:** Where the change of use results in a change in ownership or in responsibility for the proposed, ongoing, or completed remedial program for the site, the following certification must be completed (by owner or designated representative; see §375-1.11(d)(3)(i)):

I hereby certify that the prospective purchaser and/or remedial party has been provided a copy of any order, agreement, Site Management Plan, or State Assistance Contract regarding the Site's remedial program as well as a copy of all approved remedial work plans and reports.

Name:    
(Signature) (Date)

Paul R. Neureuter  
(Print Name)

Address1: 4 Centre Drive  
Address2: Orchard Park, New York 14127  
Phone: 716-667-1234 E-mail: pneureuter@kroggrp.com

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Prospective Owner  Prospective Remedial Party  Prospective Owner Representative

Name: Buckeye Terminals, LLC  
Address1: P.O. Box 56169  
Address2: Houston, Texas 77256  
Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_


Certifying Party Name: Buckeye Terminals, LLC  
Address1: P.O. Box 56169  
Address2: Houston, Texas 77256  
Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

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(Signature)

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(Date)

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(Print Name)

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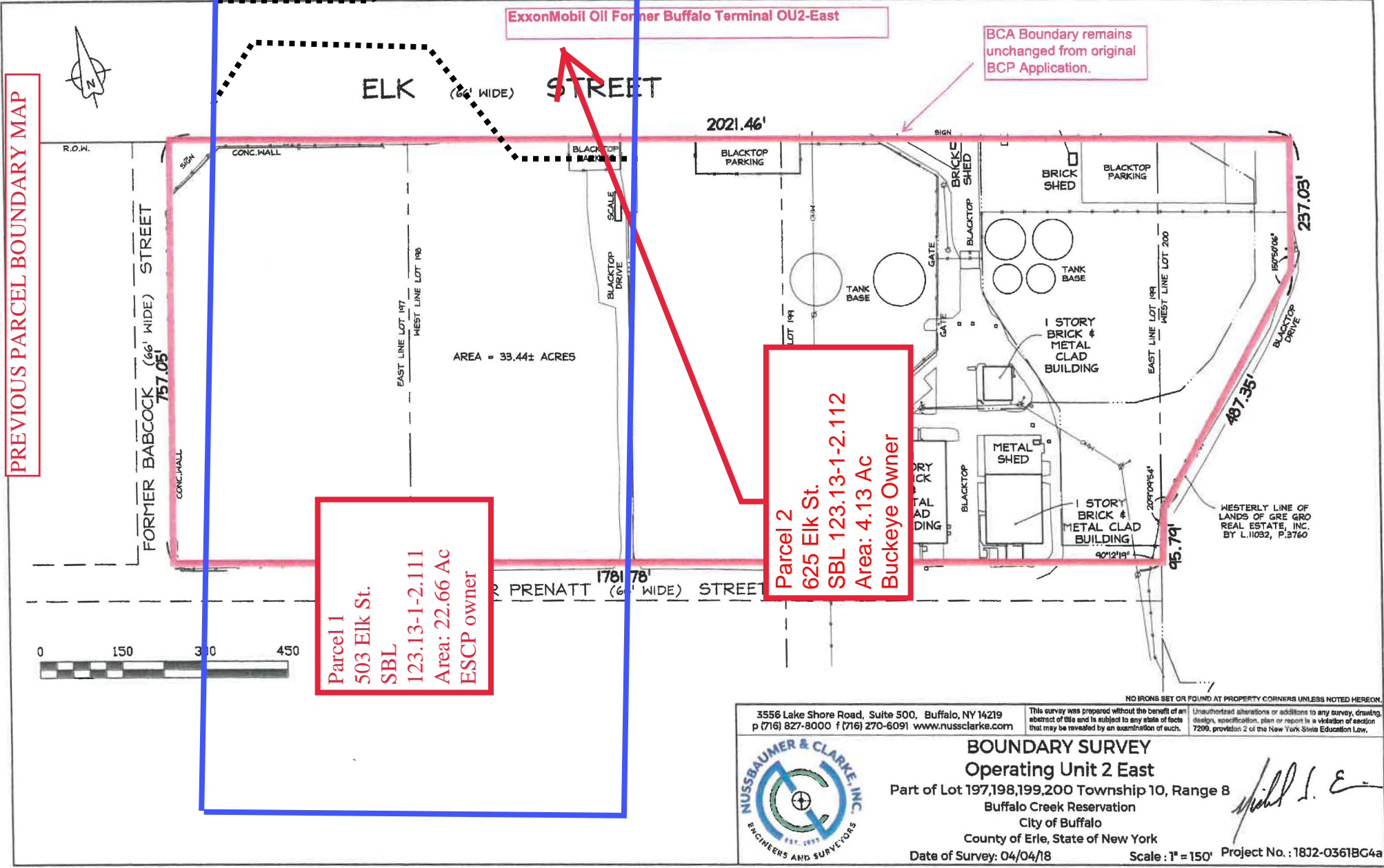
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ExxonMobil Oil Former Buffalo Terminal OU2-East

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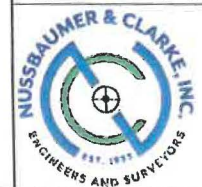
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 Date of Survey: 04/04/18 Scale: 1" = 150' Project No.: 1832-0361BC4a

*Michael I. E.*





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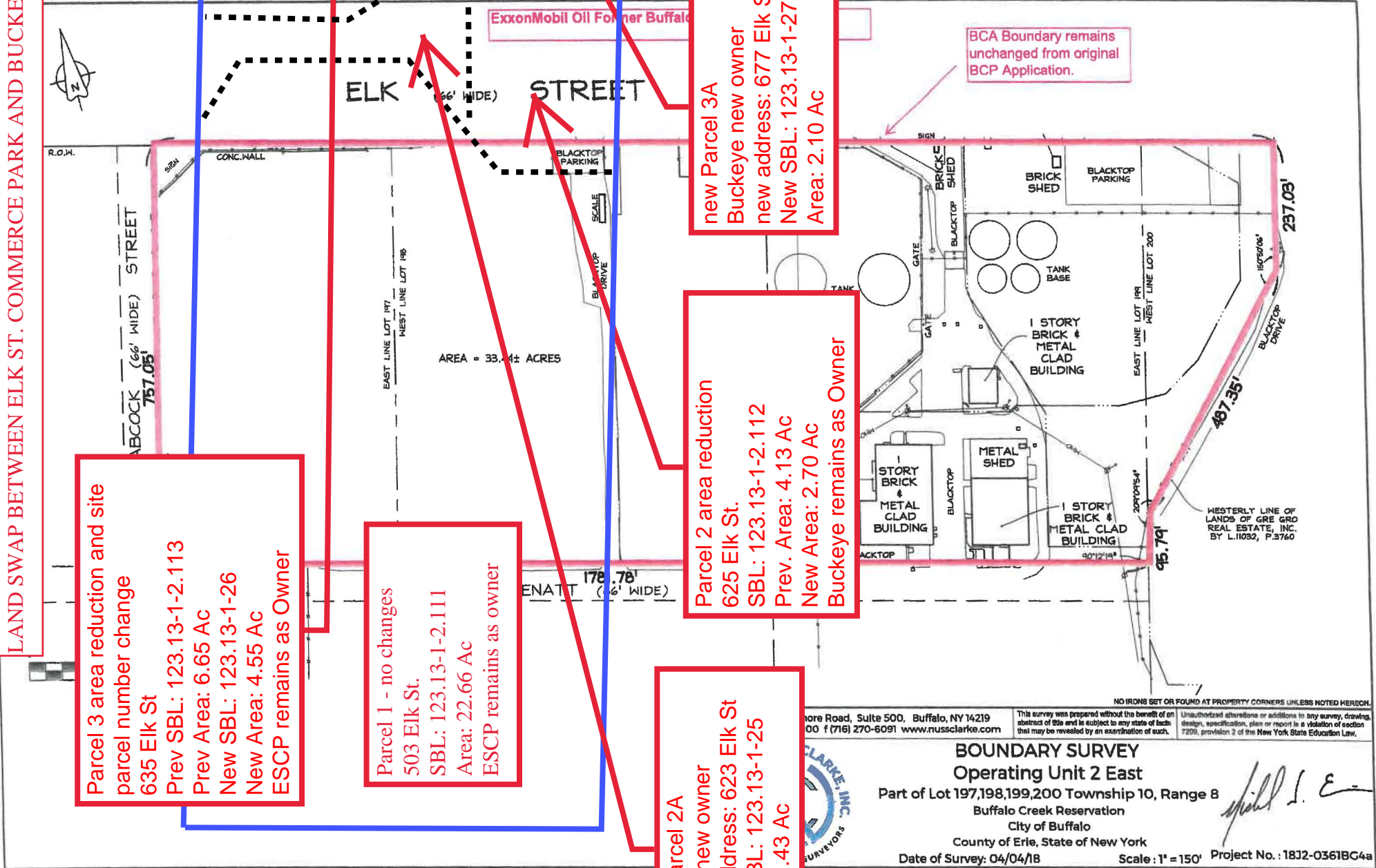
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ExxonMobil Oil Former Buffalo



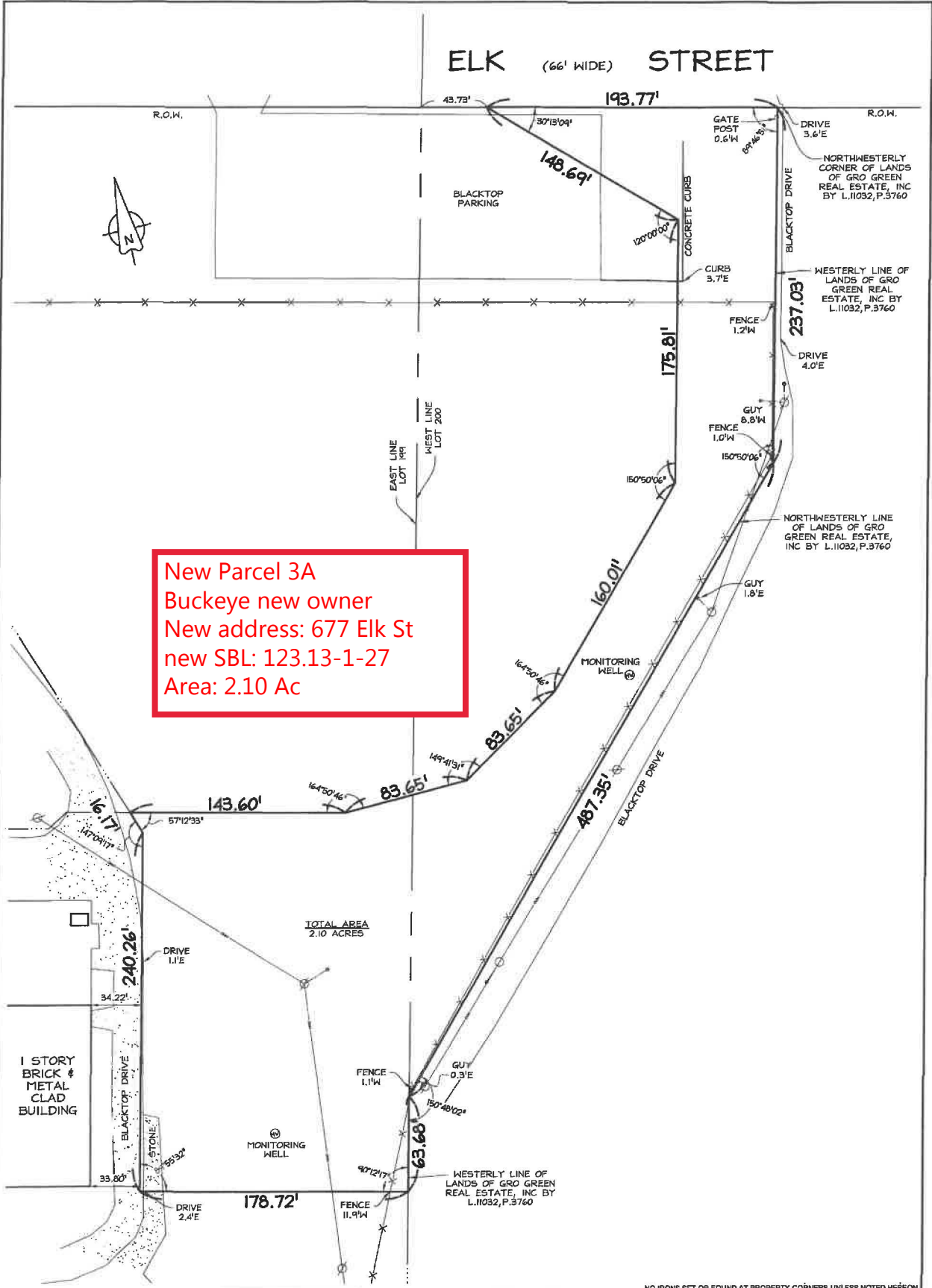
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 City of Buffalo  
 County of Erie, State of New York  
 Date of Survey: 04/04/18 Scale: 1" = 150' Project No.: 18J2-0361BC4a

*Spill I. E.*



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 Buckeye new owner  
 New address: 677 Elk St  
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 Area: 2.10 Ac

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**BOUNDARY SURVEY**  
**Portion of 677 Elk Street**  
 Part of Lots 199 & 200, Township 10, Range 8  
 Buffalo Creek Reservation  
 City of Buffalo  
 County of Erie, State of New York  
 Date of Survey: 3/12/18

Scale: 1" = 60' Project No.: 1832-0262BG1b