

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director

625 Broadway, 12th Floor, Albany, New York 12233-7011

P: (518) 402-9706 | F: (518) 402-9020

[www.dec.ny.gov](http://www.dec.ny.gov)

DEC 30 2019

Elk Street Commerce Park, LLC

Attn: Paul Neureuter

4 Centre Drive

Orchard Park, NY 14217

[pneureuter@kroggrp.com](mailto:pneureuter@kroggrp.com)

Buckeye Terminals, LLC

Attn: Krista Manley

Five Tek Park

9999 Hamilton Blvd.

Breinigsville, PA 18031

[kmanley@buckeye.com](mailto:kmanley@buckeye.com)

Re: Certificate of Completion  
ExxonMobil Oil Former Buffalo Terminal OU-3  
Site # C915201D  
City of Buffalo, Erie County

Mr. Neureuter and Ms. Manley:

Congratulations on having satisfactorily completed the remedial program at the ExxonMobil Oil Former Buffalo Terminal OU-3 site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record a notice of the COC in the recording office for the county (or counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of the date that you acquire the site. A copy of the recorded notice should be provided to the Department's project manager. If you are a non-owner, you must work with the owner to assure the notice of COC is recorded within the time frame specified. A standard notice form is attached to this letter. Please return the proof of recording to:



Department of  
Environmental  
Conservation

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

- Provide the notice of the COC to the Document Repositories within 10 days of issuance of the COC. The Department will develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days;
- Implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to the Department in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications. The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in April 2021.

If you have any questions regarding any of these items, please contact David Locey at (716) 851-7220.

Sincerely,



Michael J. Ryan, P.E.  
Director  
Division of Environmental Remediation

ec w/ enclosure:

Christine Vooris, [Christine.Vooris@health.ny.gov](mailto:Christine.Vooris@health.ny.gov)  
Shaun Surani, [shaun.surani@health.ny.gov](mailto:shaun.surani@health.ny.gov)  
Matt Gokey, [matthew.gokey@tax.ny.gov](mailto:matthew.gokey@tax.ny.gov)  
Paul Takac, [paul.takac@tax.ny.gov](mailto:paul.takac@tax.ny.gov)

ec w/o enc.:

Eugene Melnyk, [eugene.melnyk@dec.ny.gov](mailto:eugene.melnyk@dec.ny.gov)  
Jeffrey Dyber, [jeffrey.dyber@dec.ny.gov](mailto:jeffrey.dyber@dec.ny.gov)  
Michael Cruden, [michael.cruden@dec.ny.gov](mailto:michael.cruden@dec.ny.gov)  
Chad Staniszewski, [chad.staniszewski@dec.ny.gov](mailto:chad.staniszewski@dec.ny.gov)  
Jennifer Dougherty, [jennifer.dougherty@dec.ny.gov](mailto:jennifer.dougherty@dec.ny.gov)

Kelly Lewandowski, [kelly.lewandowski@dec.ny.gov](mailto:kelly.lewandowski@dec.ny.gov)

Marc Romanowski, [romanowski@ruppbaase.com](mailto:romanowski@ruppbaase.com)

Richard Egan, [richard.egan@woodplc.com](mailto:richard.egan@woodplc.com)

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)  
*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

**Name**

Elk Street Commerce Park, LLC

**Address**

4 Centre Drive, Orchard Park, NY 14127

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 9/12/17    **Agreement Execution:** 10/2/17

**Agreement Index No.:** C915201D-08-17

**Application Approval Amendment:** 5/20/19

**Agreement Execution Amendment:** 5/20/19

**Application Approval Amendment:** 11/18/19

**Agreement Execution Amendment:** 11/18/19

**Application Approval Amendment:** 11/25/19

**Agreement Execution Amendment:** 11/25/19

**SITE INFORMATION:**

**Site No.:** C915201D    **Site Name:** ExxonMobil Oil Former Buffalo Terminal OU-3

**Site Owner:** Elk Street Commerce Park, LLC

Buckeye Terminals, LLC

**Street Address:** 503/625 Elk Street and 1 Babcock St.

**Municipality:** Buffalo    **County:** Erie    **DEC Region:** 9

**Site Size:** 33.120 Acres

**Tax Map Identification Number(s):** 123.13-1-2.111, 123.13-1-2.112, 123.13-1-21

**Percentage of site located in an EnZone:** 100 %

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

**CERTIFICATE ISSUANCE**

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

**Allowable Uses under the BCP:** Commercial and Industrial

**Cleanup Track:** Track 4: Restricted use with site-specific soil cleanup objectives

**Tax Credit Provisions:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 25 %.

Tangible Property Credit is 15%. Comprised of 10% Base, 5% EnZone.

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24 %.

The Remedial Program includes use restrictions or reliance on the long-term employment of institutional or engineering controls which are contained in the approved Site Management Plan and an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as BK/PG D 11353/9441 and BK/PG D 11353/9483.

#### **LIABILITY LIMITATION**

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

#### **CERTIFICATE TRANSFERABILITY**

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

#### **CERTIFICATE MODIFICATION/REVOCATION**

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing is not received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos  
Commissioner  
New York State Department of Environmental Conservation

By:  Date: 12/30/19

Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

**NOTICE OF CERTIFICATE OF COMPLETION**  
**Brownfield Cleanup Program**  
**6 NYCRR Part 375-1.9(d)**

ExxonMobil Oil Former Buffalo Terminal OU-3, Site ID No. C915201D  
625 Elk Street, Buffalo, NY, 14210  
City of Buffalo, Erie County Tax Map Identification Numbers 123.13-1-2.112

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to Elk Street Commerce Park, LLC for a parcel approximately 15.68 acres in size located at 625 Elk Street in the City of Buffalo, Erie County.

**PLEASE TAKE NOTICE**, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

**PLEASE TAKE NOTICE**, the remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- ☐ Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)ii
- ☐ Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- ☐ Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- ☒ Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- ☒ Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by the Department as not inconsistent with the remedy.

**PLEASE TAKE NOTICE**, since the remedial program relies upon use restrictions or the long-term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as BK/PG D 11353/9441.

**PLEASE TAKE NOTICE**, the Environmental Easement requires that the approved site management plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

**PLEASE TAKE NOTICE**, provided that the Environmental Easement, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

**ExxonMobil Oil Former Buffalo Terminal OU-3, C915201D**  
**625 Elk Street, Buffalo NY 14210**

**PLEASE TAKE NOTICE**, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

**PLEASE TAKE NOTICE**, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

**PLEASE TAKE NOTICE**, the Certificate may entitle the Certificate holder to tax credits in accordance with Tax Law Sections 21, 22 and 23.

**PLEASE TAKE NOTICE**, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

**PLEASE TAKE NOTICE**, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

**PLEASE TAKE NOTICE**, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

**WHEREFORE**, the undersigned has signed this Notice of Certificate.

Buckeye Terminals, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

STATE OF NEW YORK        ) SS:  
COUNTY OF                )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**Please record and return to:**  
Elk Street Commerce Park, LLC  
Attn: Paul Neureuter – Krog Development  
4 Centre Drive  
Orchard Park, NY 14127

**NOTICE OF CERTIFICATE OF COMPLETION**  
**Brownfield Cleanup Program**  
**6 NYCRR Part 375-1.9(d)**

ExxonMobil Oil Former Buffalo Terminal OU-3, Site ID No. C915201D  
503 Elk Street and 1 Babcock Street, Buffalo, NY, 14210  
City of Buffalo, Erie County Tax Map Identification Numbers:  
123.13-1-2.111 and 123.13-1-21

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to Elk Street Commerce Park, LLC for a site approximately 17.44 acres in size located at 503 Elk Street and 1 Babcock Street in the City of Buffalo, Erie County.

**PLEASE TAKE NOTICE**, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

**PLEASE TAKE NOTICE**, the remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- ☐ Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- ☐ Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- ☐ Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- ☒ Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- ☒ Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by the Department as not inconsistent with the remedy.

**PLEASE TAKE NOTICE**, since the remedial program relies upon use restrictions or the long-term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as BK/PG D 11353/9483.

**PLEASE TAKE NOTICE**, the Environmental Easement requires that the approved site management plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

**PLEASE TAKE NOTICE**, provided that the Environmental Easement, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability

**ExxonMobil Oil Former Buffalo Terminal OU-3, C915201D**  
**503 Elk Street and 1 Babcock Street, Buffalo NY 14210**

limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

**PLEASE TAKE NOTICE**, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

**PLEASE TAKE NOTICE**, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

**PLEASE TAKE NOTICE**, the Certificate may entitle the Certificate holder to tax credits in accordance with Tax Law Sections 21, 22 and 23.

**PLEASE TAKE NOTICE**, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

**PLEASE TAKE NOTICE**, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

**PLEASE TAKE NOTICE**, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

**WHEREFORE**, the undersigned has signed this Notice of Certificate

Elk Street Commerce Park, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

STATE OF NEW YORK        ) SS:  
COUNTY OF                )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**Please record and return to:**  
Elk Street Commerce Park, LLC  
Attn: Paul Neureuter – Krog Development  
4 Centre Drive  
Orchard Park, NY 14127

## **Exhibit A-1**

### **Site Description**

Property owned by  
Elk Street Commerce Park, LLC  
503 Elk Street and 1 Babcock Street

**SCHEDULE "A" PROPERTY DESCRIPTION**

**OU3 Description**

**Property Owned by Elk Street Commerce Park, LLC**

THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, and State of New York, Being part of Lots 196, 197, 198, 199 and 200, Township 10, Range 8 of the Buffalo Creek Reservation, bound and described as follows;

Commencing at a point in the south line of Elk Street at its intersection with the west line of former Babcock Street;

Thence S 14°04'02" W along the west line of former Babcock Street, to the north line of former Prenatt Street, a distance of 757.05 feet, being the point of BEGINNING;

THENCE S 75°58'26" E, along the north line of former Prenatt Street, a distance of 1254.01 feet;

THENCE S 13°52'57" W, a distance of 248.23 feet;

THENCE N 76°43'41" W, a distance of 75.91 feet;

THENCE N 75°46'54" W, a distance of 147.34 feet;

THENCE S 14°13'06" W, a distance of 4.51 feet;

THENCE N 75°52'22" W, a distance of 51.14 feet;

THENCE N 14°13'06" E, a distance of 4.59 feet;

THENCE N 75°46'54" W, a distance of 8.42 feet;

THENCE N 62°28'23" W, a distance of 45.18 feet;

THENCE N 70°59'33" W, a distance of 10.49 feet;

THENCE S 13°56'18" W, a distance of 123.33 feet;

THENCE N 76°03'42" W, a distance of 8.61 feet;

THENCE S 13°53'44" W, a distance of 398.93 feet;

THENCE N 60°26'26" W, a distance of 129.60 feet;

THENCE N 13°53'44" E, a distance of 44.10 feet;

THENCE N 56°16'16" W, a distance of 110.08 feet;

THENCE S 33°38'09" W, a distance of 38.12 feet;

THENCE N 56°30'40" W, a distance of 60.28 feet;

THENCE N 66°27'07" W, a distance of 17.01 feet;

THENCE N 75°32'46" W, a distance of 111.09 feet;

THENCE N 72°19'41" W, a distance of 46.30 feet;

THENCE N 68°43'57" W, a distance of 38.95 feet;

THENCE N 62°46'42" W, a distance of 73.96 feet;

THENCE S 14°01'34" W, a distance of 35.78 feet;

THENCE N 60°05'04" W, along a line being measured 4 feet perpendicular to the north line of the New Channel of the Buffalo River as adopted by Counsel Proceedings on October 17, 1917 P1958#54 a distance of 285.85 feet;

THENCE N 29°54'56" E, to the said north line of the New Channel of the Buffalo River, a distance of 4.00 feet;

THENCE N 60°04'54" W, along the said north line of the New Channel of the Buffalo River, to the east line of lands conveyed by deed recorded in the Erie County Clerk's Office in Liber 8145 of Deeds page 391, also being the west line of former Babcock Street, a distance of 55.70 feet;

THENCE N 14°04'02" E, along the east line of said lands of Liber 8145, page 391 and the west line of former Babcock Street, a distance of 73.60 feet;

THENCE S 81°30'54" W, a distance of 25.00 feet;

THENCE N 21°20'16" W, a distance of 479.80 feet;

THENCE N 13°42'27" E, to the south line of former Prenatt Street, a distance of 48.00 feet;

THENCE S 75°58'26" E, along the south line of former Prenatt Street, a distance of 301.36 feet;

THENCE N 14°04'02" E, a distance of 66.00 feet, to the point of BEGINNING, containing 17.44 acres, more or less.

## **Exhibit A-2**

### **Site Description**

Property owned by  
Buckeye Terminals, LLC  
625 Elk Street

**SCHEDULE "A" PROPERTY DESCRIPTION**

**OU3 Description**

**Property Owned by Buckeye Terminals, LLC**

THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, and State of New York, Being part of Lots 196, 197, 198, 199 and 200, Township 10, Range 8 of the Buffalo Creek Reservation, bound and described as follows;

Commencing at a point in the south line of Elk Street at its intersection with the west line of former Babcock Street;

THENCE S14°04'02" W, along the west line of former Babcock Street, to the north line of former Prenatt Street, a distance of 757.05 feet;

THENCE S75°58'26" E, along the north line of former Prenatt Street, a distance of 1847.78 feet to the point being the point of Beginning;

THENCE S 13°52'57" W, a distance of 248.23 feet;

THENCE N 76°43'41" W, a distance of 75.91 feet;

THENCE N 75°46'54" W, a distance of 147.34 feet;

THENCE S 14°13'06" W, a distance of 4.51 feet;

THENCE N 75°52'22" W, a distance of 51.14 feet;

THENCE N 14°13'06" E, a distance of 4.59 feet;

THENCE N 75°46'54" W, a distance of 8.42 feet;

THENCE N 62°28'23" W, a distance of 45.18 feet;

THENCE N 70°59'33" W, a distance of 10.49 feet;

THENCE S 13°56'18" W, a distance of 123.33 feet;

THENCE N 76°03'42" W, a distance of 8.61 feet;

THENCE S 13°53'44" W, a distance of 398.93 feet;

THENCE N 60°26'26" W, a distance of 129.60 feet;

THENCE N 13°53'44" E, a distance of 44.10 feet;

THENCE N 56°16'16" W, a distance of 110.08 feet;

THENCE S 33°38'09" W, a distance of 38.12 feet;

THENCE N 56°30'40" W, a distance of 60.28 feet;

THENCE N 66°27'07" W, a distance of 17.01 feet;

THENCE N 75°32'46" W, a distance of 111.09 feet;

THENCE N 72°19'41" W, a distance of 46.30 feet;

THENCE N 68°43'57" W, a distance of 38.95 feet;

THENCE N 62°46'42" W, a distance of 73.96 feet;

THENCE S 14°01'34" W, a distance of 35.78 feet;

THENCE S 60°05'04" E, along a line being measured 4 feet perpendicular to the north line of the New Channel of the Buffalo River as adopted by Counsel Proceedings on October 17, 1917 P1958#54, a distance of 1199.15 feet;

THENCE N 29°51'17" E, to the said north line of the New Channel of the Buffalo River, a distance of 4.00 feet;

THENCE N 60°05'04" W, along the said north line of the New Channel of the Buffalo River, a distance of 5.71 feet;

THENCE N 44°46'50" E, a distance of 902.41 feet;

THENCE N 75°58'26" W, a distance of 60.53 feet;

THENCE N 06°22'06" W, the west line of Lot 200, a distance of 84.81 feet;

THENCE N 14°13'54" E, along the west line of lot 200, to the north line of former Prenatt Street, a distance of 134.56 feet;

THENCE N 75°58'26" W, along the north line of said Prenatt Street, a distance of 593.77 feet to the point of beginning, containing 16.85 acres, more or less.

**Excluding the following areas:**

**Exception Area 'A'**

THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, and State of New York, Being part of Lots 198, and 199, Township 10, Range 8 of the Buffalo Creek Reservation, bound and described as follows:

Commencing at the point of beginning for the OU3 Buckeye Terminals, LLC. parcel;

THENCE S 75°58'26" E, along the north line of former Prenatt Street, a distance of 180.26 feet;

THENCE S 14°01'34" W, a distance of 374.82 feet to the point of beginning;

THENCE S 13°17'19" W, a distance of 23.31 feet;

THENCE S 27°04'32" E, a distance of 13.69 feet;  
THENCE S 14°15'03" W, a distance of 39.16 feet;  
THENCE N 76°48'55" W, a distance of 44.23 feet;  
THENCE N 13°35'48" E, a distance of 25.36 feet;  
THENCE N 76°07'28" W, a distance of 80.13 feet;  
THENCE S 14°14'35" W, a distance of 30.92 feet;  
THENCE N 76°14'57" W, a distance of 94.37 feet;  
THENCE N 10°31'36" E, a distance of 1.53 feet;  
THENCE N 77°46'01" W, a distance of 8.34 feet;  
THENCE S 69°32'12" W, a distance of 33.03 feet;  
THENCE N 76°12'35" W, a distance of 74.89 feet;  
THENCE S 14°20'39" W, a distance of 318.91 feet;  
THENCE S 73°49'47" E, a distance of 9.04 feet;  
THENCE S 12°33'22" W, a distance of 12.47 feet;  
THENCE S 76°33'42" E, a distance of 15.63 feet;  
THENCE N 58°29'44" E, a distance of 11.02 feet;  
THENCE S 76°35'31" E, a distance of 58.42 feet;  
THENCE S 13°53'00" W, a distance of 74.60 feet;  
THENCE S 60°05'27" E, a distance of 181.11 feet;  
THENCE S 78°19'01" E, a distance of 20.73 feet;  
THENCE N 11°30'15" E, a distance of 10.75 feet;  
THENCE N 78°25'51" W, a distance of 27.13 feet;  
THENCE N 60°00'15" W, a distance of 164.28 feet;  
THENCE N 13°59'31" E, a distance of 80.19 feet;  
THENCE N 76°11'39" W, a distance of 84.73 feet;

THENCE N 13°45'35" E, a distance of 288.42 feet;  
THENCE S 76°04'27" E, a distance of 503.65 feet;  
THENCE S 78°07'11" E, a distance of 8.59 feet;  
THENCE N 02°32'47" W, a distance of 19.45 feet;  
THENCE N 75°54'43" W, a distance of 49.42 feet;  
THENCE N 14°47'00" E, a distance of 24.63 feet;  
THENCE S 76°06'56" E, a distance of 47.08 feet;  
THENCE N 13°38'28" E, a distance of 30.60 feet;  
THENCE N 76°10'05" W, a distance of 19.16 feet;  
THENCE N 14°03'00" E, a distance of 4.98 feet;  
THENCE N 76°02'09" W, a distance of 26.71 feet;  
THENCE N 47°25'41" W, a distance of 11.26 feet;  
THENCE N 76°00'01" W, a distance of 22.70 feet;  
THENCE S 14°36'57" W, a distance of 37.64 feet;  
THENCE N 74°08'00" W, a distance of 51.40 feet;  
THENCE N 09°41'20" E, a distance of 2.55 feet;  
THENCE N 74°50'25" W, a distance of 6.30 feet;  
THENCE S 22°54'10" W, a distance of 3.46 feet;  
THENCE N 73°16'26" W, a distance of 10.13 feet;  
THENCE N 13°55'13" E, a distance of 48.56 feet;  
THENCE S 78°07'08" E, a distance of 1.71 feet;  
THENCE N 16°11'38" E, a distance of 7.40 feet;  
THENCE S 77°02'44" E, a distance of 19.29 feet;  
THENCE N 14°45'39" E, a distance of 11.66 feet;  
THENCE N 74°05'23" W, a distance of 46.09 feet;

THENCE N 59°02'40" W, a distance of 7.56 feet;

THENCE N 76°52'49" W, a distance of 17.53 feet to the point of beginning containing 0.84 acres, more or less.

**Exception Area 'B'**

THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, and State of New York, Being part of Lots 199, Township 10, Range 8 of the Buffalo Creek Reservation, bound and described as follows;

Commencing at the point of beginning for the OU3 Buckeye Terminals, LLC. parcel;

THENCE S75°58'26" E, along the north line of former Prenatt Street, a distance of 285.55 feet;

THENCE S 14°01'34" W, a distance of 67.71 feet to the point of beginning;

THENCE S 13°29'41" W, a distance of 87.58 feet;

THENCE S 76°25'16" E, a distance of 15.66 feet;

THENCE S 14°18'59" W, a distance of 17.27 feet;

THENCE S 75°44'07" E, a distance of 18.80 feet;

THENCE S 14°05'51" W, a distance of 17.57 feet;

THENCE N 77°13'06" W, a distance of 17.52 feet;

THENCE S 13°42'04" W, a distance of 79.25 feet;

THENCE N 77°30'43" W, a distance of 2.90 feet;

THENCE S 13°47'42" W, a distance of 41.45 feet;

THENCE N 73°13'45" W, a distance of 2.05 feet;

THENCE S 13°50'53" W, a distance of 81.42 feet;

THENCE S 76°01'11" E, a distance of 23.73 feet;

THENCE N 61°32'45" E, a distance of 7.96 feet;

THENCE N 13°55'08" E, a distance of 168.09 feet;

THENCE N 18°10'44" E, a distance of 113.97 feet;

THENCE S 75°45'03" E, a distance of 53.44 feet;

THENCE N 13°16'10" E, a distance of 14.93 feet;

THENCE N 59°55'47" W, a distance of 26.17 feet;

THENCE N 76°00'22" W, a distance of 62.51 feet;

THENCE N 64°06'49" W, a distance of 10.63 feet;

THENCE N 10°42'37" E, a distance of 13.36 feet;

THENCE N 73°24'45" W, a distance of 5.52 feet to the point of beginning containing 0.25 acres, more or less;

**Exception Area 'C'**

THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, and State of New York, Being part of Lots 199, Township 10, Range 8 of the Buffalo Creek Reservation, bound and described as follows;

Commencing at the point of beginning for the OU3 Buckeye Terminals, LLC. parcel;

THENCE S75°58'26" E, along the north line of former Prenatt Street, a distance of 433.68 feet;

THENCE S 14°01'34" W, a distance of 472.68 feet to the point of beginning;

THENCE N 76°35'43" W, a distance of 36.36 feet;

THENCE S 03°38'37" W, a distance of 11.42 feet;

THENCE on a curve to the left with an arc length of 34.32 feet and radius of 25.00 feet;

THENCE S 75°00'53" E, a distance of 85.96 feet;

THENCE N 44°46'50" E, a distance of 33.20 feet;

THENCE N 75°52'53" W, a distance of 92.81 feet;

THENCE N 14°07'56" E, a distance of 4.88 feet, to the point of beginning, containing 0.08 acres, more or less;

**Containing a total area of 15.68 acres, more or less.**

**Exhibit B-1**

**Site Survey**

Property owned by  
Elk Street Commerce Park, LLC  
503 Elk Street and 1 Babcock Street



**Exhibit B-2**

**Site Survey**

Property owned by  
Buckeye Terminals, LLC  
625 Elk Street







NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Site Management Form  
12/23/2019



**SITE DESCRIPTION**

**SITE NO.** C915201D

**SITE NAME** ExxonMobil Oil Former Buffalo Terminal OU-3

**SITE ADDRESS:** 503/625 Elk Street and 1 Babcock St. **ZIP CODE:** 14210

**CITY/TOWN:** Buffalo

**COUNTY:** Erie

**ALLOWABLE USE:** Commercial and Industrial

**SITE MANAGEMENT DESCRIPTION**

**SITE MANAGEMENT PLAN INCLUDES:** YES NO

IC/EC Certification Plan



Monitoring Plan



Operation and Maintenance (O&M) Plan



Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2021

**Description of Institutional Control**

**Buckeye Terminals, LLC**

Five Tek Park - 9999 Hamilton Blvd.

**625 Elk Street**

Environmental Easement

Block: 1

Lot: 2

Sublot: 112

Section: 123

Subsection: 13

S\_B\_L Image: 123.13-1-2.112

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

**Elk Street Commerce Park, LLC**

4 Centre Drive

**1 Babcock Street**

Environmental Easement

Block: 1

Lot: 21

Sublot:

Section: 123

Subsection: 13

S\_B\_L Image: 123.13-1-21

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

**503 Elk Street**

Environmental Easement

Block: 1

Lot: 2

Sublot: 111

Section: 123

Subsection: 13

S\_B\_L Image: 123.13-1-2.111

Building Use Restriction

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

## Description of Engineering Control

### **Buckeye Terminals, LLC**

Five Tek Park - 9999 Hamilton Blvd.

#### **625 Elk Street**

Environmental Easement

Block: 1

Lot: 2

Sublot: 112

Section: 123

Subsection: 13

S\_B\_L Image: 123.13-1-2.112

Cover System

Groundwater Containment

Groundwater Treatment System

Monitoring Wells

Subsurface Barriers

### **Elk Street Commerce Park, LLC**

4 Centre Drive

#### **1 Babcock Street**

Environmental Easement

Block: 1

Lot: 21

Sublot:

Section: 123

Subsection: 13

S\_B\_L Image: 123.13-1-21

Cover System

Groundwater Containment

Groundwater Treatment System

Monitoring Wells

Subsurface Barriers

#### **503 Elk Street**

Environmental Easement

Block: 1

Lot: 2

Sublot: 111

Section: 123

Subsection: 13

S\_B\_L Image: 123.13-1-2.111

Cover System

Groundwater Containment

Groundwater Treatment System

Monitoring Wells

Subsurface Barriers