



Short Term Corrective Measures Work Plan

Location:

Petroleum Spill at Babcock Drain CSO Outfall (Spill No. 2003976)
Former Buffalo Terminal - Operable Unit No. 3 (Site No. C915201D)
503, 625 and 635 Elk Street, Buffalo, New York

Prepared for:

Elk Street Commerce Park, LLC
4 Centre Drive
Orchard Park, New York

LaBella Project No. 2200012

September 18, 2020

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1.0 INTRODUCTION

LaBella Associates, DPC has prepared this Short Term Corrective Measures Work Plan (CMWP) on behalf of Elk Street Commerce Park, LLC (ESCP) relative to the petroleum release into the Buffalo River (Spill No. 2003976) in the vicinity of Operable Unit No. 3 (OU-3) at the ExxonMobil Oil Former Buffalo Terminal Brownfield Cleanup Program (BCP) site (Site No. C915201D). This short term CMWP represents the initial response to the New York State Department of Environmental Conservation (NYSDEC) August 28, 2020 request for a phased CMWP addressing short, interim and long term corrective measures to be implemented to control and remedy the release to the Buffalo River.

2.0 BACKGROUND

A Buffalo Sewer Authority (BSA) combined sewer overflow (CSO) structure, commonly referred to as the “Babcock Drain”, discharges to the Buffalo River at the southern terminus of Babcock Street in the City of Buffalo. The outlet of the Babcock Drain is located within the property formerly occupied by a petroleum refinery and terminal, owned and operated by ExxonMobil and its predecessor companies, which was recently acquired and remediated by ESCP under the BCP.

On August 7, 2020, a petroleum spill was reported in the Buffalo River in the vicinity of the Babcock Drain outfall, which lead to a multi-agency response that included the NYSDEC, United States Coast Guard (USCG) and City of Buffalo Fire Department. The source of the spill could not be pinpointed, but historic petroleum contamination remaining in the subsurface in the vicinity of the Babcock Drain outfall structure was identified as a potential source.

ESCP voluntarily initiated spill response and containment measures following the discovery of the spill and has continued such operations to date. Said operations are being conducted in accordance with a Discharge Removal and Inspection Plan that was submitted to the USCG pursuant to an Administrative Order issued by the USCG on August 20, 2020. The ongoing containment and recovery measures, coupled with enhancements to the remedy previously constructed on OU-3, represent short term measures that have effectively mitigated impacts to the river associated with the ongoing petroleum release and form the basis for this CMWP.

3.0 SPILL CONTROL MEASURES

3.1 *Containment Booms*

A 16-inch tall fence-type containment boom has been in place and maintained at the outlet of the Babcock Drain since the late 1980s to address occasional petroleum product/sheen that has historically occurred in the river near this combined sewer outfall (CSO). Following the petroleum releases that were observed at this location on August 7 and 13, 2020, the existing boom was extended eastward along the sheet pile bulkhead and supplemented with additional 27-inch, curtain style containment booms. The containment booms are configured such that:

- an interior curtain boom encircles the small area immediately beyond the CSO outfall structure and is tethered to the concrete face of said structure;
- the fence boom encompasses the interior boom, extends both upstream and downstream in the river and is anchored to the river bank and outboard within the river channel; and
- an exterior curtain boom is anchored beyond the intermediate fence boom and is affixed to the shoreline at points upstream and downstream of the fence boom.

The containment booms are inspected and maintained as described in Section 5.0, and will remain in use until an interim and/or permanent remedy is constructed.

4.0 SPILL RECOVERY MEASURES

In concert with the containment measures described above, a number of methods are currently being utilized to recover sheen and product that enters the river from the CSO and adjacent area. The methods being utilized have been selected based upon the absence of the occurrence of a significant thickness of product within the containment area and include:

- Use of a manual skimming device powered by a pneumatic pump to remove sheen and floating product from the river.
- Deployment of adsorbent booms, and ribbon pads inside the containment area.
- Use of adsorbent pads affixed to a manual skimming pole.

Other product recovery technologies, such as a drum skimmer or belt skimmer, were evaluated and determined inappropriate for deployment at the site given the de minimis amount of recoverable liquid phase petroleum observed in the spill area. As of the date of this work plan, LaBella estimates that the approximate volume of petroleum product recovered via the skimming operation is less than five (5) gallons.

Fluids and spent adsorbent materials generated as a result of these recovery methods are managed as described in Sections 8.0 and 9.0, respectively.

These recovery measures will continue until an interim and/or permanent remedy is in place that prevents the discharge of petroleum to the river. The OM&M activities associated with these recovery efforts is described in the following section.

5.0 OPERATIONS, MONITORING AND MAINTENANCE

5.1 *Consultant/Contractor Roles and Responsibilities*

The consultant/contractor roles and responsibilities for the components of this short term CMWP are as follows:

- LaBella Associates: Prime Consultant for OM&M of OU-3, including groundwater extraction and treatment system. Responsible for coordination of spill response efforts, daily inspections and regulatory reporting;
- Environmental Service Group: Subcontractor performing land-based recovery measures including skimming, boom tending, change out of adsorbent materials, and on-site waste handling and management on a daily basis as directed by LaBella;
- Miller Environmental Group: Subcontractor performing marine-based activities including tending of the containment booms and spill response activities conducted within the River, as well as waste transport and off-site disposal;

5.2 *Daily Inspection and Monitoring of Spill Area*

Twice daily inspections and air monitoring within the spill area are conducted by LaBella seven days per week to assess site conditions and to identify actions required to maintain site controls and minimize impacts to the river. These inspections are conducted, documented and reported pursuant to an Administrative Order issued by the United States Coast Guard (USCG), on August 20, 2020 and the mandatory response submitted to the USCG by LaBella on August 21, 2020 (see Appendix 1).

Based upon the observations made during the daily inspections, required OM&M activities are identified by LaBella and carried out by the appropriate parties.

Pursuant to the Discharge Removal and Inspection Plan included in Appendix 1, air monitoring is conducted during the twice-daily inspections. The following parameters are measured within spill area from the riverbank using a properly calibrated multi-gas meter and recorded during each monitoring event:

- Percent Oxygen
- Hydrogen Sulfide
- Carbon Monoxide
- Percent of Lower Explosive Limit (LEL)

Additionally, the concentration of total organic vapors is also monitored and recorded during these events using a photoionization detector (PID).

It should be noted that no explosive, oxygen deficient or hazardous atmospheres have been detected as a result of the daily air monitoring since the monitoring was initiated.

For any new marine response activities, the parameters listed above will be monitored continuously in the breathing zone from the boat.

5.3 OM&M Activities

The following landside OM&M activities are carried out daily as necessary:

- Skimming
- Tending of adsorbent booms and pads
- Replacement of soiled adsorbent booms and pads

Activities requiring marine access, such as maintenance or adjustment of the containment booms, collection of debris from within the containment booms and/or product recovery are scheduled as necessary, but are subject to limitations relative to extreme weather conditions that prohibit marine operations. The Miller Environmental Group (MEG) has been subcontracted for marine emergency response at the site and will be required to respond within 2 hours. After the 2 hours threshold has been reached, MEG shall be ready to affect an immediate response when conditions warrant.

5.4 Reporting

Daily spill containment, response and OM&M activities are recorded on a daily log by LaBella. A copy of the daily log form utilized is included in Appendix 1. Daily air monitoring data is also recorded daily by LaBella using the form included in Appendix 1.

On Friday of each week, copies of the daily logs and air monitoring log for the preceding week shall be transmitted to the NYSDEC and USCG via e-mail to the following recipients:

- LT Jillian Hoffman (USCG)
- Eugene Melnyk (NYSDEC)
- Arnie Cubins (ESCP)

In addition to the weekly reporting described above, LaBella will contact the NYSDEC and USCG immediately upon the occurrence of any new or emerging spill issues in the river.

6.0 PERSONAL PROTECTIVE EQUIPMENT

As established in Appendix 1, Level C Personal Protective Equipment (PPE) will be utilized by landside personnel when handling product and spent adsorbent materials. This will include an Air Purifying Respirator (APR) equipped with organic vapor/acid gas cartridges, chemical resistant clothing, safety glasses, and chemical resistant gloves. Fall protection and personal flotation devices will also be worn during work conducted along the edge of the bulkhead.

Marine responders that may be in direct contact with product, containment booms that have been fouled with product and/or spent adsorbent materials will also utilize Level C PPE and personal flotation devices.

7.0 WEATHER MONITORING AND PROTOCOLS FOR CSO ACTIVATION

Daily monitoring of the National Oceanic and Atmospheric Administration (NOAA) weather forecast for the project area will be conducted by LaBella in an attempt to identify storm events forecasted to generate precipitation that could result in the activation of the CSO. BSA historical records indicate that precipitation events of 0.77 inches or greater result in CSO activation. Consequently, LaBella will monitor the NOAA forecast daily for storms of this magnitude. When such storms are forecasted, spill recovery measures will be coordinated to remove petroleum product/sheen in advance of the storm to the extent possible. Additionally, maintenance of the containment booms will be scheduled to occur following such storm events to make adjustments and/or repairs as needed.

8.0 MANAGEMENT OF RECOVERED PRODUCT/WATER MIXTURE

Water and product collected via the skimmer will be contained in sealed 55-gallon drums. The drums will be temporarily staged at the existing GWTF. The water and product mixture will be pumped into the GWTF oil water separator and treated by the system. Accumulated product will be stored in the existing GWTF 1,000-gallon product aboveground storage tank with secondary containment for periodic removal and recycling or disposal at a permitted facility. Treated effluent from the system is discharged to the Buffalo Sewer Authority (BSA) under an existing permit per authorization from BSA.

Drums of recovered water/product mixture are transported to and discharged into the existing GWTF on a daily basis and the volume of fluids discharged to the GWTF is recorded.

9.0 WASTE DISPOSAL

Spent adsorbent pads and booms will also be contained in sealed 55-gallon drums that will be temporarily staged at the GWTF prior to disposal. Disposal of these materials will occur within 90 days of the accumulation date at an appropriately permitted off-site disposal facility.

Drums accumulated to date are currently slated for disposal at Covanta facility in Oriskany, New York pending waste stream characterization and approval from this facility.

10.0 ONGOING GROUNDWATER EXTRACTION AND TREATMENT

The ongoing operations, monitoring and maintenance (OM&M) of the groundwater extraction and treatment system within the OU-3 containment system is one of the components of the site management program for this site. The extraction system has been in operation pursuant to the Site Management Plan (SMP), and the monitoring and maintenance prescribed in the SMP is ongoing. Additionally, efforts to optimize the groundwater extraction system through the use of additional pumping wells capable of variable pumping rates have also been implemented as described in previous submittals to the NYSDEC.



FIGURES



Operational Unit 3 (OU-3)
Boundary

Groundwater
Treatment Facility

Babcock St

Buffalo River

Buffalo River

Approx. Location of
Babcock Street CSO
Outfall

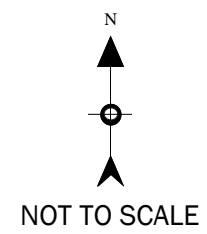


FIGURE 1 SITE MAP

Elk Street Commerce Park
Buffalo, New York





APPENDIX 1

August 21, 2020

R. R. Kistner, Commander
United States Coast Guard
Sector Buffalo
1 Fuhrman Boulevard
Buffalo, New York 14203

**RE: Former Exxonmobil Refinery Buffalo, NY, Elk Street Commerce Park Administrative Order:
Discharge Removal and Inspection Plan**

Dear Commander Kistner:

This plan has been prepared by LaBella Associates D.P.C on behalf of Elk Street Commerce Park, LLC to address the actions to be undertaken by Elk Street Commerce Park, LLC and/or their consultants and contractors to comply with paragraph numbers 1 through 4 of the Administrative Order (the “order”) issued on August 20, 2020 regarding the apparent discharge of liquid phase petroleum to the Buffalo River. The referenced discharge has occurred in the vicinity of the Buffalo Sewer Authority combined sewer overflow structure located at the southern terminus of Babcock Street in the City of Buffalo and referred to as the “Babcock Drain”. The outlet of the Babcock Drain is located within the property formerly occupied by a petroleum refinery and terminal, owned and operated by ExxonMobil and its predecessor companies, that was recently acquired and remediated by Elk Street Commerce Park, LLC under the New York State Brownfield Cleanup Program (BCP). Elk Street Commerce Park, LLC acknowledges the presence of liquid phase petroleum and sheen in the vicinity of the Babcock Drain, although the exact source of the discharge remains undetermined.

DAILY INSPECTION AND MONITORING

Inspection of the spill area and spill containment and removal equipment and materials will be conducted twice daily, seven days per week within the following time periods:

- Morning Inspection: 8:00-10:00 AM
- Afternoon Inspection: 3:00-5:00 PM

A daily inspection report will be completed during each inspection using the form provided as Attachment A.

During each inspection, air monitoring will be conducted within the spill area using a properly calibrated multi-gas meter. The following parameters will be measured and recorded on the form provided as Attachment B.

- Percent Oxygen
- Hydrogen Sulfide
- Carbon Monoxide
- Percent of Lower Explosive Limit

If this monitoring does not indicate air quality impacts over a seven consecutive day period, air monitoring will be suspended.



The daily observation reports and air monitoring log will be submitted to the United State Coast Guard (USCG) daily.

PERSONAL PROTECTIVE EQUIPMENT

Level C Personal Protective Equipment (PPE) will be utilized by all personnel when handling product and spent adsorbent materials. This will include an Air Purifying Respirator (APR) equipped with organic vapor/acid gas cartridges, chemical resistant clothing, safety glasses and chemical resistant gloves. It should be noted that the order indicates benzene, polychlorinated biphenyls, and metals were identified in the liquid phase petroleum sample; however, benzene was not detected. The contaminants detected in the sample are not considered to be volatile and are not likely to pose an inhalation risk. Fall protection and personal flotation devices will also be worn. All spill response and removal activities will be conducted in accordance with the Site Specific Health and Safety Plan for the Site.

PRODUCT CONTROL AND REMOVAL

The dual boom system that is currently in place will be maintained throughout the duration of the removal action in order to control the product. Product that accumulates within the boom will be periodically removed using the drum skimmer device initially utilized on August 20, 2020, which will be maintained in working order.

Adsorbent booms and pads will also be utilized to collect and remove product within the spill area. The adsorbent booms will be tended and flipped daily as needed and will be removed and replaced as necessary. Collected product and spent pads and booms will be temporarily stored and disposed of as described in the following section.

Additionally, prior to the conclusion of the removal efforts, residual product will be removed from stained bulkheads.

TEMPORARY STORAGE AND PRODUCT DISPOSAL

Water and product collected via the drum skimmer will be contained in sealed 55-gallon drums. The drums will be temporarily staged at the existing Groundwater Treatment Facility (GWTF) located on the site. The water and product mixture will be pumped into the GWTF oil water separator and treated by the system. Accumulated product will be stored in the existing GWTF 8,000-gallon product aboveground storage tank with secondary containment for periodic removal and recycling or disposal at a permitted facility. Treated effluent from the system is discharged to the Buffalo Sewer Authority under an existing permit.

Spent adsorbent pads and booms will also be contained in sealed 55-gallon drums that will be temporarily staged at the GWTF prior to disposal. Disposal of these materials will occur within 90 days of the accumulation date at an appropriately permitted off-site disposal facility.

HISTORICAL DATA

As the Elk Street Commerce Park property is in the BCP, extensive investigation, planning and remedial work have been performed and completed. The following information will be hand-delivered on electronic media to the USCG on August 21, 2020:

- Remedial Investigation/Alternative Assessment Report
- NYSDEC Decision Document
- Remedial Action Work Plan



- Final Engineering Report
- Site Management Plan
- Certificate of Completion

SHORT-TERM AND LONG-TERM CLEANUP SOLUTIONS

The aforementioned response outlines our plans for short-term cleanup. We are prepared to discuss long-term solutions that were previously implemented and new concepts to enhance these prior remedies beginning at the August 21, 2020 meeting. The property owner is committed to working with the USCG, NYSDEC and other agencies or parties (e.g. ExxonMobil, Buffalo Sewer Authority) to develop and implement a long-term solution.

If you have any questions or require additional information, please don't hesitate to contact me at (716) 551-6283.

Respectfully submitted,

LaBella Associates

Rob Napieralski
Regional Manager

FIGURE

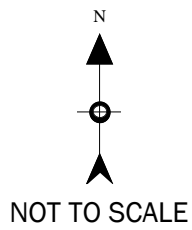
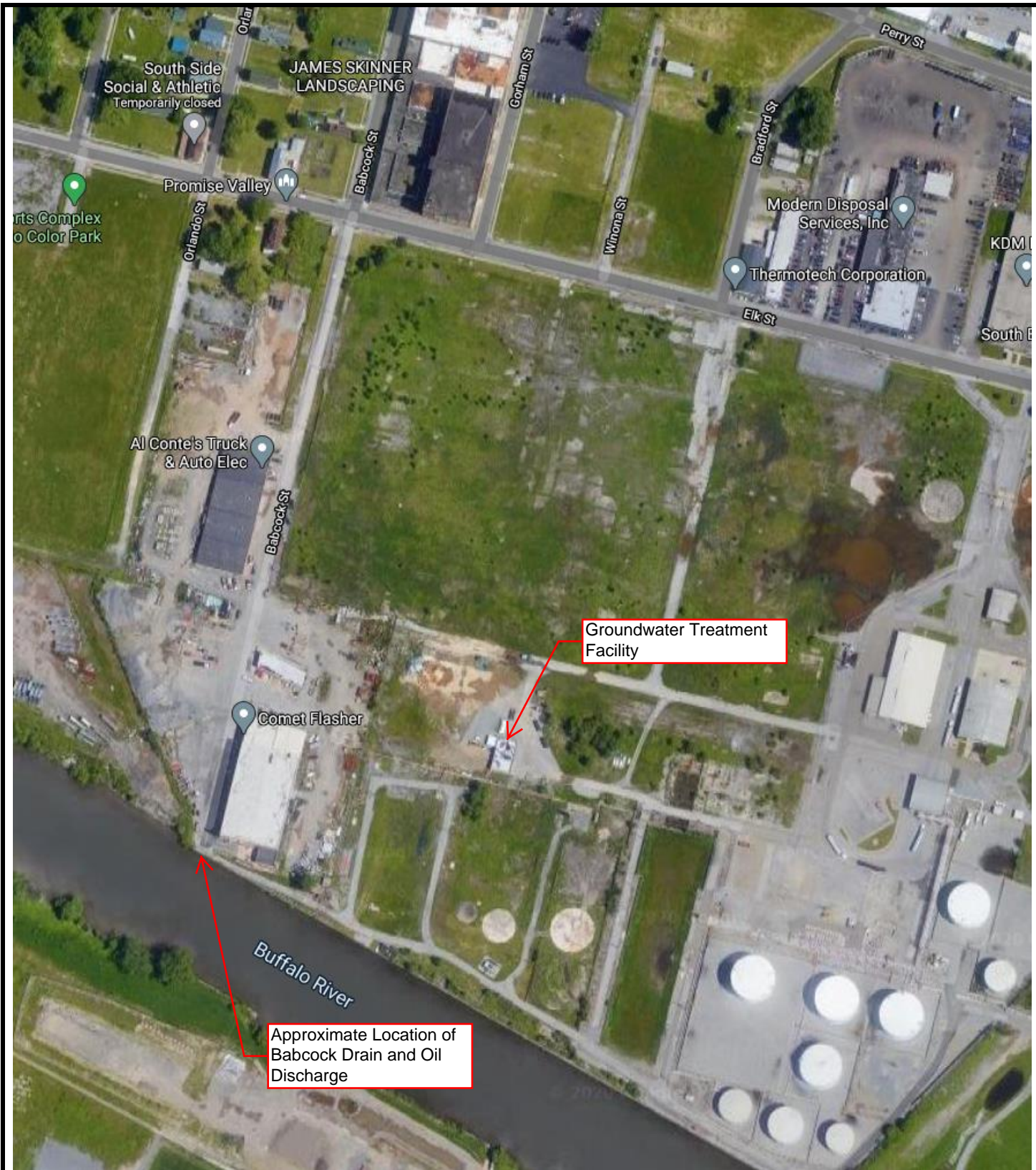


FIGURE 1 SITE MAP

Elk Street Commerce Park
Buffalo, New York



ATTACHMENT A

Daily Inspection Report

DAILY INSPECTION REPORT

JOB TITLE: _____	DATE: _____
LaBella JOB NO.: _____	Day of Week: S M T W T F S
CLIENT: Elk Street Commerce Park, LLC	I.R. No.: _____
CONTRACTOR: _____	Sheet No. _____ of _____
VISITORS: _____	Contractor Hours Worked:
_____	_____ AM _____ PM
_____	Inspector Hours Worked:
_____	_____ AM _____ PM
PHOTOS TAKEN: _____	Weather:
_____	_____ AM _____ PM
	Temperature:
	_____ AM _____ PM

DESCRIPTION OF WORK PERFORMED AND INSPECTED

Specify for each operation: Item No., Sub-Contractor (if any), Location and Nature of Work

ITEM NO.	INTERIM QUANT.	FINAL QUANT.	EST. NO.	DESCRIPTION OF WORK

The above described work was incorporated into this project and was inspected by:

_____ Reviewed by: _____

Inspector's Signature

REVERSE SIDE USED FOR ADDITIONAL REMARKS AND SKETCHES.

ATTACHMENT B

Air Monitoring Form

U.S. Department of
Homeland Security

United States
Coast Guard



Commanding Officer
United States Coast Guard
Sector Buffalo

1 Fuhrmann Blvd
Buffalo, NY 14203
Staff Symbol: (s)
Phone: (716)843-9520

16600
20 Aug 2020

Mr. Paul Neureuter
Krog Group
4 Centre Drive
Orchard Park, NY 14127

**SUBJ: FORMER EXXONMOBIL REFINERY BUFFALO, NY, ELK STREET
COMMERCE PARK (KROG GROUP) ADMINISTRATIVE ORDER**

Dear Sir or Madam:

On August 7, 2020, the United States Coast Guard was made aware of an oil discharge from property at Elk Street Commerce Park in Buffalo, NY. This discharge is from known contaminated soil resulting from the refinery operations of the site's previous owner, Exxon Mobil.

Pursuant to 33 U.S.C. § 1321(c), 33 U.S.C. § 1321(e)(1)(B), 33 C.F.R. § 1.01-80, 40 C.F.R. § 300.130(d) and 42 U.S.C. §§ 9601 *et. seq.*, I am authorized, as Coast Guard Federal On-Scene Coordinator (FOSC), to issue orders as may be necessary to protect the public health, welfare, and the environment. Consistent with the provisions under 33 USC 1321 (e)(1), I may exercise this authority whenever I have determined that there may be an imminent and substantial endangerment to the public health, welfare, and the environment because of an actual or threatened spill of oil from your facility.

I have determined that such an endangerment exists at the waterfront located at the former ExxonMobil Refinery, now Elk Street Commerce Park, as there is an apparent discharge of waste oil from the facility's grounds into the Buffalo River. As defined under the Clean Water Act (CWA) and 40 CFR 109.2, this oil is present in a "harmful quantity." Since oil is both a pollutant and a combustible substance, this discharge is an imminent and substantial endangerment to the public health and welfare of the United States and the environment as it impacts public and private property, marine and wildlife, environmentally sensitive areas, and other living and nonliving natural resources under the jurisdiction or control of the United States.

For these reasons, and under the above-referenced authority, you are hereby directed to undertake removal actions as ordered by this letter.

1. Contain and remove all oily waste exiting the above described property to prevent the pollution from reaching the Buffalo River. Where used, oily swipes and absorbent boom must be removed on a frequent basis. Oiled containment boom must be maintained in good condition. A weir or drum skimmer is required to be placed in spill area to help with removal of product and oil skimming equipment must be maintained in working order. Prior to the conclusion of removal efforts, any oil stained bulkheads must be

rendered clean. Submit discharge removal, temporary storage, and product disposal plans to Coast Guard no later than August 21, 2020. Due to components of product identified in sample results, Level C PPE to include splash-proof protective suit and APR mask with appropriate cartridge, must be worn when handling product. Spill area and equipment must be tended twice daily; provide those times directly to U.S. Coast Guard so that oversight can be maintained.

2. Conduct air monitoring at the discharge site and surrounding area and provide results to all interested and exposed parties, to include U.S. Coast Guard daily. Fumes are abundantly evident at the spill site, rendering responders, pollution contractors, and individuals working on the property potentially exposed to harmful chemicals. The sample specifically detected the presence of benzene, PCBs, lead, arsenic, barium, and chromium.
3. Provide historical data on the Elk Street Commerce Property and former Exxon Refinery at location to U.S. Coast Guard. Data regarding the contents of historical above ground storage tanks and data obtained from previous remediation efforts on the property is required. Provide this data directly to Chief of Incident Management, LT Jillian Hoffman, at Sector Buffalo, New York.
4. You are directed to appear at a meeting at 1400 on 21 August 2020 at U.S. Coast Guard Sector Buffalo (1 Fuhrmann Blvd, Buffalo, NY 14203). If you are unable to attend at the time noted, contact LT Jillian Hoffman at (716) 346-7561. Please be prepared to present both your short term cleanup solutions and an initial proposal for a long term plan to prevent continued pollution from the Elk Street Commerce Park property into the Buffalo River.

Responsible party or representative of shall conduct daily check-in meeting with U.S. Coast Guard Chief of Incident Management, LT Jillian Hoffman, at 0900. LT Hoffman can be reached at (716) 346-7561. Brief shall encompass current status of site, planned remediation operations for the day, and any other pertinent information related to the oil discharge. You were issued you a Notice of Federal Interest (NOFI) of an oil pollution incident on 19 August 2020. Per the NOFI, and under the Oil Pollution Act of 1990, please be advised that the responsible party is liable for, among other things, removal costs and damages resulting from this condition. The failure or refusal to comply with this Administrative Order will eliminate any defense or entitlement to limited liability, which might otherwise be available under the Act (33 U.S.C. §§ 2701-2762).

Be advised that the following may result from your failure to properly carry out the removal actions as ordered to protect the environment, public health, and welfare. For such failure, the Responsible Party, owners, operators, or persons in charge of the facility from which the substance is discharged are subject under the Federal Water Pollution Control Act, to a civil penalty of up to \$48,192 per day of violation or up to three (3) times the cost incurred by the Oil Spill Liability Trust Fund. Failure to comply with the requirements of this Administrative Order may result in the federal government assuming full or partial control of removal actions.

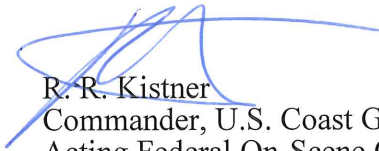
This administrative order is effective upon your receipt of this order. You may request, either orally or in writing, that I reconsider this order within ten days of its issuance. I may be reached

for this purpose at the address and phone number given above. If you wish to appeal my decision on reconsideration, you must direct the request for an appeal to the United States Coast Guard District 9 Commander. The act of requesting reconsideration or placing an appeal does not stay or invalidate this order, but reviewing offices have the authority to take such action if they believe circumstances warrant it.

If you have questions concerning this order, contact CDR William McKinstry at (716) 843-9520.

Issued at U.S. Coast Guard Sector Buffalo.

Sincerely,



R. R. Kistner
Commander, U.S. Coast Guard
Acting Federal On-Scene Coordinator

Received Administrative Order Number 01-20

Owner/Operator/Person in Charge or Owner's Representative
(Print and Signature)

Date

Time