

## AFFIDAVIT

STATE OF MINNESOTA )  
  ) ss  
COUNTY OF HENNEPIN )

Kathleen O'Brien, on behalf of the University of Minnesota, being first duly sworn on oath, deposes and states that the following is true and correct based on her information and belief:

1. I am the Vice President, University Services, of the University of Minnesota ("University"), with a business address of 317 Morrill Hall, 100 Church Street SE, Minneapolis, MN 55455. In such capacity, I have had responsibility for general oversight of the construction and operation of the TCF Bank Stadium and associated environmental response action activities. I have the authority to act on behalf of the University with respect to this Affidavit.

2. The University owns the property located on the East Bank of the University Campus in Minneapolis, Hennepin County, Minnesota depicted in Figure 1 to this Affidavit (hereinafter the "Subject Property"). The TCF Bank Stadium, parking and related infrastructure are located on the Subject Property.

3. On January 28, 2005, the University entered the Minnesota Pollution Control Agency ("MPCA") Voluntary Investigation and Cleanup ("VIC") Program. This Affidavit is submitted in support of the issuance by the VIC Program of a Retroactive No Association Determination letter to the University for the purchase of the Subject Property and its use for parking; construction of the TCF Bank Stadium and associated parking, landscaping and infrastructure; implementation of environmental studies and a Response Action Plan approved by the MPCA; and landscaping, operation and maintenance of the TCF Bank Stadium and associated parking, and infrastructure to date.

4. On October 17, 1990, the University purchased the Subject Property from Chicago and Northwestern Transportation Company (now Union Pacific Railroad Company) pursuant to a Supplement to Offer to Purchase dated October 8, 1990.

5. From approximately 1903 to 1913, prior to acquisition of the Subject Property by the University, a portion of the Subject Property was leased by a corporate predecessor of Union Pacific Railroad Company to Republic Creosoting for use as a creosote wood treating facility, which resulted in the release of creosote and related hazardous substances to the soil and groundwater at the Subject Property (the "Identified Release"). The Identified Release is set forth in Attachment A to this Affidavit.

6. From May 2005 to March 2009, the University completed environmental investigation activities and implemented a Response Action Plan at the Subject Property under

the oversight of the MPCA's VIC Program. This Response Action Plan was implemented pursuant to a Minnesota Decision Document dated February 8, 2007.

7. A Subsurface Investigation completed by the University concluded that, based on previous investigation work, soil impacted with creosote and other hazardous substances remained at the Republic Creosote Facility. The 2005 data demonstrated that the creosote groundwater plume had decreased in size and concentration. The MPCA required the University to complete a Focused Feasibility Study of response action alternatives and develop and implement a Response Action Plan to address the Identified Release as part of the construction of the TCF Bank Stadium and associated parking, landscaping and infrastructure.

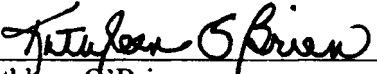
8. From its purchase of the Subject Property to the present time, the University has used the Subject Property first for parking and more recently for the TCF Bank Stadium and associated parking, landscaping and infrastructure.

9. Since it purchased the Subject Property, the University has not:

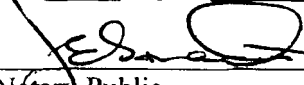
- A. engaged in the business of generating, transporting, storing, treating or disposing any hazardous substance at the Subject Property or disposing of waste at the Subject Property, or knowingly permitted others to engage in such a business at the Subject Property;
- B. used or knowingly permitted any person to use the Subject Property for disposal of hazardous substances;
- C. used or knowingly permitted any person to make regular use of the Subject Property for waste disposal; or
- D. taken any action which significantly contributed to the Identified Release after University of Minnesota knew or reasonably should have known that a hazardous substance was located in or on the Subject Property.

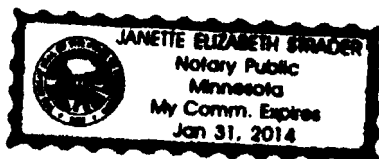
Based on the foregoing, I, on behalf of the University of Minnesota, request a Retroactive No Association Determination from the MPCA VIC Program.

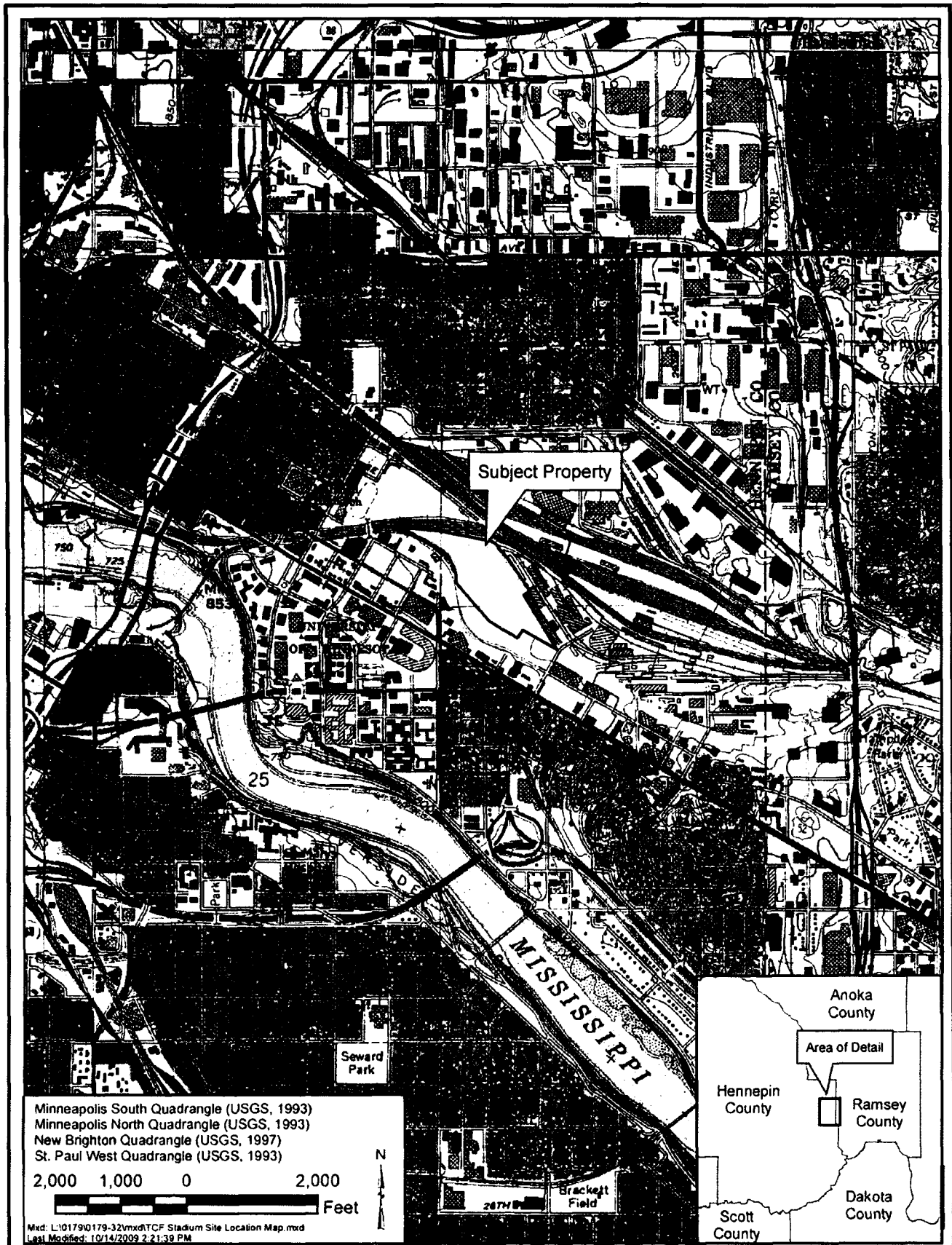
FURTHER YOUR AFFIANT SAYETH NOT.

  
Kathleen O'Brien  
Vice President, University Services  
University of Minnesota

Subscribed and sworn before me  
this 17<sup>th</sup> day of November, 2009.

  
Notary Public





Minneapolis South Quadrangle (USGS, 1993)  
 Minneapolis North Quadrangle (USGS, 1993)  
 New Brighton Quadrangle (USGS, 1997)  
 St. Paul West Quadrangle (USGS, 1993)

2,000 1,000 0 2,000  
 Feet

Mxd: L:\01790179-32\mxd\TCF Stadium Site Location Map.mxd  
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UNIVERSITY OF MINNESOTA  
 Site Location Map

WENCK  
 Wenck Associates, Inc. 1800 Pioneer Creek Center  
 Environmental Engineers Maple Plain, MN 55359-0429

OCT 2009  
 Figure 1

## Attachment A

### Identified Release in Soil:

Metals above naturally occurring concentrations, including:

- Arsenic
- Barium
- Lead
- Mercury

Polyaromatic hydrocarbons (PAHs), including:

- Anthracene
- Acenaphthene
- Acenaphthylene
- Benzo(a)anthracene
- Benzo(a)pyrene
- Benzo(b)fluoranthene
- Benzo(e)pyrene
- Benzo(g,h,i)perylene
- Benzo(k)fluoranthene
- Benzofluoranthenes (total)
- Carbazole
- Chrysene
- Dibenz(a,h)acridine
- Dibenz(a,h)anthracene
- Dibenz(a,j)acridine
- Dibenzo(a,e)pyrene
- Dibenzo(a,h)pyrene
- Dibenzo(a,i)pyrene
- Dibenzo(a,l)pyrene
- 7H-Dibenzo(c,g)carbazole
- Dibenzofuran
- 7,12-Dimethylbenz(a)anthracene
- 1,6-Dinitropyrene
- 1,8-Dinitropyrene
- Fluoranthene
- Fluorene
- Indeno(1,2,3-cd)pyrene
- 3-Methylcholanthrene
- 5-Methylchrysene
- Naphthalene
- 5-Nitroacenaphthene
- 6-Nitrochrysene
- 2-Nitrofluorene

1-Nitropyrene  
4-Nitropyrene  
Perylene  
Phenanthrene  
Pyrene  
1-Methylnaphthalene  
2-Methylnaphthalene

Volatile organic compounds (VOCs), including:

2-Butanone (methyl ethyl ketone)  
Methylene chloride  
Naphthalene  
n-Propylbenzene  
Tetrahydrofuran  
Toluene  
1,2,3-Trichlorobenzene  
1,2,4-Trimethylbenzene  
1,2,3-Trimethylbenzene  
1,3,5-Trimethylbenzene  
Xylenes (total)

#### **Identified Release in Groundwater**

Metals potentially attributable to the Site, including:

Arsenic, Dissolved  
Lead, Dissolved

Volatile organic compounds (VOCs) potentially attributable to the Site, including:

1,1-Dichloroethane  
1,2-Dichloroethane  
cis-1,2-Dichloroethene  
Ethylbenzene  
Naphthalene  
Trichloroethene  
Xylenes, Total

Semi-volatile organic compounds (SVOCs) potentially attributable to the Site, including:

Acenaphthene  
Acenaphthylene  
Anthracene  
Fluoranthene