



Minnesota Pollution Control Agency

July 1, 2005

Ms. Marie E. McCallum
2800 Hiawatha, LLC
50 S 10th Street, Suite 300
Minneapolis, MN 55403-2012

RE: Petroleum Storage Tank Release Site File Closure Confirmation
Site: Chicago-Milwaukee Corp./Rollins Oil Company, 2000 and 2020 East 28th Street,
Minneapolis
Site ID#: LEAK00001583

Dear Ms. McCallum:

The above-referenced site was the location of a petroleum storage tank release reported on August 29, 1989. The file pertaining to the petroleum storage tank release at the site was closed on October 10, 1997. As of the date of this letter, MPCA staff are not aware of any information which would change the site's closure status. As a result, pursuant to Minn. Stat. § 115C.03, subd. 9 (c) (2002), the Commissioner hereby confirms that a petroleum release has occurred at the site, and the MPCA has issued a file closure letter and closure status has not been revoked.

This confirmation extends to the successors and assigns of the entity to which it originally applies, if the successors and assigns are not otherwise responsible for the release.

If future development of the site or the surrounding area is planned, it should be assumed that petroleum contamination is present. Property with petroleum contamination to soil or ground water may cause on-site vapor risks to future occupants. The MPCA can assist you with environmental risk and development plan review. MPCA Petroleum Brownfields staff will review and approve plans for property development. If petroleum contamination is encountered during future development work, the MPCA staff should be notified immediately.

This letter represents the view of the MPCA, and is based upon information disclosed to the MPCA as of the date hereof. Depending on your circumstances, it may or may not be construed as releasing any person from liability under state or federal laws. If you have questions concerning your particular situation, the MPCA recommends that you discuss your concerns with your legal counsel.

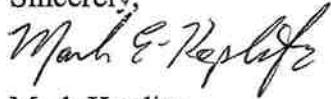
Ms. Marie E. McCallum

Page 2

July 1, 2005

If you would like to obtain information regarding petroleum contamination at this site, please call the Petroleum Remediation Program File Request Program at 651/297-8499. If you have any questions regarding this letter, please call me at 651/296-7999.

Sincerely,



Mark Koplitz

Project Leader

Petroleum Remediation Program

Petroleum and Closed Landfill Section

Remediation Division

MK:tf



Minnesota Pollution Control Agency

July 1, 2005

Ms. Marie E. McCallum
2800 Hiawatha, LLC
50 S 10th Street, Suite 300
Minneapolis, MN 55403-2012

RE: Petroleum Storage Tank Release Liability
Site: CMC Lite Yard Site/Hiawatha Business Center, 2000 and
2100 East 28th Street, Minneapolis
Site ID#: LEAK00001583 and LEAK00009035

Dear Ms. McCallum:

Under Minn. Stat. § 115C.021 (2002), the general rule is that a person is "responsible" for a release from a tank if that person owned or operated the tank during or after the time of the release. As the Minnesota Pollution Control Agency (MPCA) interprets this rule, if a person comes into possession of property after the tanks have been removed that person is not a "responsible person" and cannot be ordered to take corrective action under Minn. Stat. Ch. 115C (2002).

Liability is further limited for lenders. Minn. Stat. § 115C.021, subd. 4 (2002) provides that mortgagees that foreclose or receive a deed in lieu of foreclosure may not be responsible persons even if the tanks are present, provided they do not operate the tanks or aggravate a release. However, the definition of "owner" implies that a mortgagee that forecloses on property with tanks may be considered a responsible person if the mortgagee operates the tanks or fails to complete the cleanup as a "volunteer." See Minn. Stat. § 115C.02, subd. 8 (2002).

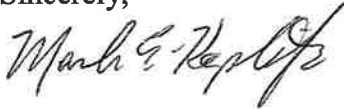
Chapter 115C created a fund that can be used by responsible persons and "volunteers" to help fund the cost of corrective action (the Petroleum Tank Release Cleanup Account or Petrofund). A volunteer is a person who has legal or equitable title to the contaminated property (tank release contaminated property) but who is not a responsible person [Minn. Stat. § 115C.09, subd. 3b (2002)]. A responsible person or a volunteer who takes corrective action can receive reimbursement for 90 percent of corrective action costs up to \$1,000,000. As a result, it is fair to say that, unless there are compliance or cooperation issues, the liability of a responsible person, volunteer, or a lender will usually be limited to 10 percent of the costs of cleanup. Some costs are ineligible, and certain cost control requirements must be complied with. See Minn. R. ch. 2890 (rules of the Petroleum Tank Release Compensation Board or Petro Board). The Petroleum Tank Release Cleanup Account is continually funded. See Minn. Stat. § 115C.08, subd. 2 (2002).

Ms. Marie E. McCallum
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July 1, 2005

This letter represents the views of the MPCA and is based upon information disclosed to the MPCA as of the date hereof. Depending on your circumstances, it may or may not be construed as releasing any person from liability under state or federal laws. If you have questions concerning your particular situation, the MPCA recommends that you discuss your concerns with your legal counsel.

If you have any questions pertaining to this letter please call me at 651/296-7999.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark Koplitz".

Mark Koplitz
Project Leader
Petroleum Remediation Program
Petroleum and Closed Landfill Section
Remediation Division

MEK:tf



Minnesota Pollution Control Agency

July 1, 2005

Ms. Marie E. McCallum
2800 Hiawatha, LLC
50 S 10th Street, Suite 300
Minneapolis, MN 55403-2012

RE: Petroleum Storage Tank Release Site File Closure Confirmation
Site: Vacant Property, 2016 and 2100 East 28th Street, Minneapolis
Site ID#: LEAK00009035

Dear Ms. McCallum:

The above-referenced site was the location of a petroleum storage tank release reported on December 13, 1995. The file pertaining to the petroleum storage tank release at the site was closed on January 9, 1996. As of the date of this letter, MPCA staff are not aware of any information which would change the site's closure status. As a result, pursuant to Minn. Stat. § 115C.03, subd. 9 (c) (2002), the Commissioner hereby confirms that a petroleum release has occurred at the site, and the MPCA has issued a file closure letter and closure status has not been revoked.

This confirmation extends to the successors and assigns of the entity to which it originally applies, if the successors and assigns are not otherwise responsible for the release.

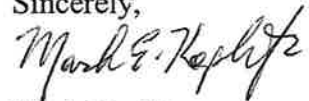
If future development of the site or the surrounding area is planned, it should be assumed that petroleum contamination is present. Property with petroleum contamination to soil or ground water may cause on-site vapor risks to future occupants. The MPCA can assist you with environmental risk and development plan review. MPCA Petroleum Brownfields staff will review and approve plans for property development. If petroleum contamination is encountered during future development work, the MPCA staff should be notified immediately.

This letter represents the view of the MPCA, and is based upon information disclosed to the MPCA as of the date hereof. Depending on your circumstances, it may or may not be construed as releasing any person from liability under state or federal laws. If you have questions concerning your particular situation, the MPCA recommends that you discuss your concerns with your legal counsel.

Ms. Marie E. McCallum
Page 2
July 1, 2005

If you would like to obtain information regarding petroleum contamination at this site, please call the Petroleum Remediation Program File Request Program at 651/297-8499. If you have any questions regarding this letter, please call me at 651/296-7999.

Sincerely,



Mark Koplitz
Project Leader
Petroleum Remediation Program
Petroleum and Closed Landfill Section
Remediation Division

MK:tf



RECEIVED

June 14, 2005

JUN 17 2005

MPCA, MAR Division
Superfund Section

VIA MESSENGER **RECEIVED**

JUN 17 2005

Patrice Jensen, VIC Program
MPCA/Majors and Remediation Section
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Mark Koplitz
Petroleum Brownfields Program
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

RE: Proposed Actions and Request for Liability Assurances
Proposed Hiawatha Business Center Project – Part of Former CMC Lite Yard Site
Formerly 2000-2100 East 28th Street
Minneapolis, Minnesota (the **Property**)
Leak ID #s 1583 and 9035; MDA Case File #95-0100E

Dear Patrice and Mark:

2800 Hiawatha, LLC and Ryan Companies US, Inc. (**Ryan**) make this request for issuance of a “No Association” determination letter for 2800 Hiawatha, LLC as a potential purchaser of the Property and for Ryan as the General Contractor for development of the Property. **Figure 1** attached shows the location of the Property, which is approximately 4.9 acres in size and is located at the northwest corner of the intersection of East 28th Street and State Highway 55 (also known as Hiawatha Avenue). The Property at one time included addresses of 2000 to 2100 East 28th Street. The Property is located in the southwest ¼ of Section 36, Township 29 North, Range 24 West, City of Minneapolis (the **City**), County of Hennepin, State of Minnesota.

To help you understand our request and the Project, I enclose copies of the following:

1. Minnesota Pollution Control Agency (**MPCA**) Voluntary Investigation and Cleanup (**VIC**) Application for the Property signed on behalf of 2800 Hiawatha, LLC, as the Applicant and naming Ryan as an Additional Interested Party, dated June 14, 2005;
2. MPCA Petroleum Brownfields Program Application/Request for Assistance Form for the Property signed on behalf of 2800 Hiawatha, LLC as the Applicant, dated June 14, 2005;



3. Documents listed on attached **Schedule 1** and referenced in the VIC and Petroleum Brownfields Applications, including the proposed Geotechnical Investigation Work Plan, dated June 14, 2005 for the proposed geotechnical investigation to be conducted by Ryan on behalf of 2800 Hiawatha, LLC (the **2005 Development Work Plan**), with attached Figures.

The 2005 Phase I ESA prepared on behalf of 2800 Hiawatha by Peer Engineering, Inc. (**Peer**) referenced on **Schedule 1**, provides a description of site historical information and a summary of previous environmental investigations completed at the Property. The Property is currently on the State of Minnesota Permanent List of Priorities (**PLP**) list due to extensive soil and ground water impacts from arsenic due to past operations of an agricultural chemical manufacturing business. This business operated on the south-central portion of the Property at 2100 East 28th Street. Reade Manufacturing was the initial operator of the agricultural chemical business. U.S. Borax, Inc. (**U.S. Borax**) operated the business from 1963 until 1968 at the Property. The Minnesota Department of Agriculture (**MDA**) is acting as the lead regulatory agency regarding the agricultural chemical release (MDA Case File #95-0100B).

Two former bulk storage facilities were also previously located on the south-central portion of the Property. One of the storage facilities was operated by Rollins Oil Company (2000 East 28th Street) from as early as 1933 through the mid-1980s. The Rollins facility operated up to 5 aboveground storage tanks (**ASTs**) and one underground storage tank (**UST**) containing petroleum products at the Property. The second storage facility (Reade Manufacturing, then U.S. Borax) was located immediately east of the Rollins facility and contained up to 14 ASTs at various times between 1912 and the early 1970s. This facility was apparently used by Reade Manufacturing from no later than 1940 until 1963. U.S. Borax used the facility between 1963 through 1968. Use of the storage tanks prior to Reade Manufacturing operations is not known. Petroleum releases were previously reported for both bulk facilities. The petroleum releases were investigated/remediated, and then received file closure through the MPCA Tanks and Spills Program and former VPIC Program (Leak ID Numbers 1583 and 9035).

The MDA is currently directing an extensive site cleanup of arsenic and lead contamination, which is being completed by the Responsible Parties (**RPs**) which are CMC Heartland Partners (**CMC**) and U.S. Borax (the **RP Cleanup Actions**). The RP Cleanup Actions are scheduled to be completed by end of June 2005. During the process of the RP Cleanup Actions, which began in October 2004, a soil berm located on the southeasterly edge of the Property along East 28th Street (the **Soil Berm**) was identified as containing arsenic and mercury contaminated soil and buried battery casings (a secondary source of lead) were found on the south-central portion of the Property. Identified arsenic, mercury and lead contaminated soil and materials are being remediated as part of the RP Cleanup Actions approved by the MDA.



2800 Hiawatha, LLC intends to purchase the Property and, with Ryan as its general contractor, to develop the Property with a single story, slab-on-grade building for use as a commercial office/warehouse with related improvements, including a storm water retention pond. Finished floor slab elevation is planned to be 844 feet National Geodetic Vertical Datum (NGVD). The building will be supported by standard spread footings, which extend to a depth of four feet below the floor slab. A bituminous paved, recessed loading dock area will be located on the west side of the building, which ranges in finished elevation from 840 feet to 843 feet. Bituminous paved parking and drive areas would surround the building and range in elevation from 841 feet to 843 feet. An unlined, on-site storm water retention pond is planned at the north end of the Property, with finished elevations ranging from 829 feet to 840 feet. Other unpaved areas of the Property would be landscaped. Access to the Property will be off 28th Street East, from the southwest corner of the Property.

Storm water lines and associated catch basins will be located beneath the loading dock and paved parking/drive areas and will discharge to the on-site storm water retention pond. Invert elevations for the storm water lines would range from approximately 833 feet to 837 feet. The sanitary sewer service would run from the east side of the building and connect to the sanitary main in East 28th Street. Elevations for the sanitary sewer line would range from approximately 835 feet to 836 feet. The building will have two water service connections, with a continuous loop water line that encircles the building and ties into the water main located in East 28th Street. The water line would be located a minimum of 7.5 feet below finished grade.

At this time 2800 Hiawatha, LLC and Ryan request that the MPCA issue a prospective No Association Determination pursuant to Minn. Stat. § 115B.78 for 2800 Hiawatha, LLC and Ryan stating that their proposed actions (described below) will not associate them with the Identified Release defined on **Attachment A (the Identified Release)** under Minn. Stat. § 115B.03, Subd. 3, clause (4). Please note that Arsenic has been included as part of the Identified Release, however the MDA is being requested to provide a separate No Association Determination for its presence. 2800 Hiawatha, LLC requests that the MPCA's No Association Determination be written expressly to benefit 2800 Hiawatha, LLC and its successors and assigns.

The proposed actions with respect to 2800 Hiawatha, LLC are the following:

1. Contracting for and conducting the investigation of the geotechnical and environmental conditions of the Property in accordance with the 2005 Development Work Plan.
2. Acquisition of title and ownership of the Property.



3. Leasing and managing of the building/Property to a tenant(s) for commercial office/warehouse use.
4. Mortgage financing of the Property.
5. Acting as the developer for development of the Property pursuant to the Site Plan including, without limitation, site preparation, excavation, grading, filling, storm water retention pond construction, utility installation, building and parking lot construction and landscaping activities for the Property.
6. Sale of the Property.

2800 Hiawatha, LLC also requests issuance of a Contractors Liability Protection Letter pursuant to Minn. Stat. §115B.03, Subd. 10 for Ryan for the general development activities at the Property which will include, without limitation, site planning, permit applications, site preparation, excavation, grading, filling, utility installation, storm water retention pond construction, building and parking lot construction and landscaping activities. Note: these activities will be conducted in accordance with the March 2005 Development RAP.

Finally, 2800 Hiawatha, LLC requests that the Petroleum Brownfields Program issue the following assurance letters for each of the two closed LUST listings for the Property (Leak ID #s 1583 and 9035).

- General Liability Letter
- Leak Site Tank Removal Verification Letter
- Leak Site File Closure Confirmation Letter

It is requested that MDA issue its letters containing the above-requested assurances to Marie McCallum with copies to be delivered directly to Steve Jansen with Peer at the following addresses:

2800 Hiawatha, LLC
c/o Marie E. McCallum
50 South Tenth Street, Suite 300
Minneapolis, MN 55403

Ryan Companies US, Inc.
c/o Marie E. McCallum
50 South Tenth Street, Suite 300
Minneapolis, MN 55403



cc: of all letters to:

Steve Jansen
Peer Engineering, Inc.
4801 West 81st Street, Suite 118
Bloomington, Minnesota 55437

2800 Hiawatha, LLC would like to commence activities as outlined in the 2005 Development Work Plan as soon as possible. An email confirming your concurrence with issuing the No Association Determination letter, the Contractors Liability Protection letter, the petroleum liability assurance letters, and an Approval letter for the 2005 Development Work Plan, with written letters to follow, would be greatly appreciated. The email response can be sent to me at marie.mccallum@ryancompanies.com and to Steve Jansen at sjansen@peerengineering.com.

2800 Hiawatha, LLC requests that Marie McCallum with Ryan and Steve Jansen with Peer, who is acting as the Environmental Consultant for 2800 Hiawatha, LLC and Ryan, be included on the cc list for any and all MPCA correspondence related to the Property.

If you have any questions, please contact me at 612-492-4331 or Steve Jansen at 952-831-3341.

Sincerely,

A handwritten signature in cursive script that reads "Marie McCallum". The signature is written in dark ink and includes a stylized flourish at the end. Below the signature, the initials "LJB" are written in a smaller, handwritten font.

Marie McCallum
Environmental Manager/Legal Support Administrator

Enclosures

cc: Cathy Villas-Horns, MDA
Steve Jansen, Peer Engineering, Inc.
Elizabeth Goodman
Mark Schoening
Gen McJilton

ATTACHMENT A

LIST OF IDENTIFIED RELEASE

CMC LITE YARD PROPERTY

(MPCA Leak ID #s 1583 and 9035; MDA Case File No. 95-0100E)

Metals

Arsenic (in soil and ground water; **being addressed by MDA**)

Lead (in soil and ground water)*

Mercury (in soil)

Volatile Organic Compounds (VOCs)

Benzene (in soil and ground water)

Ethyl Benzene (in soil and ground water)

Toluene (in soil and ground water)

Xylenes (in soil and ground water)

1,2,4-Trimethylbenzene (in soil only)

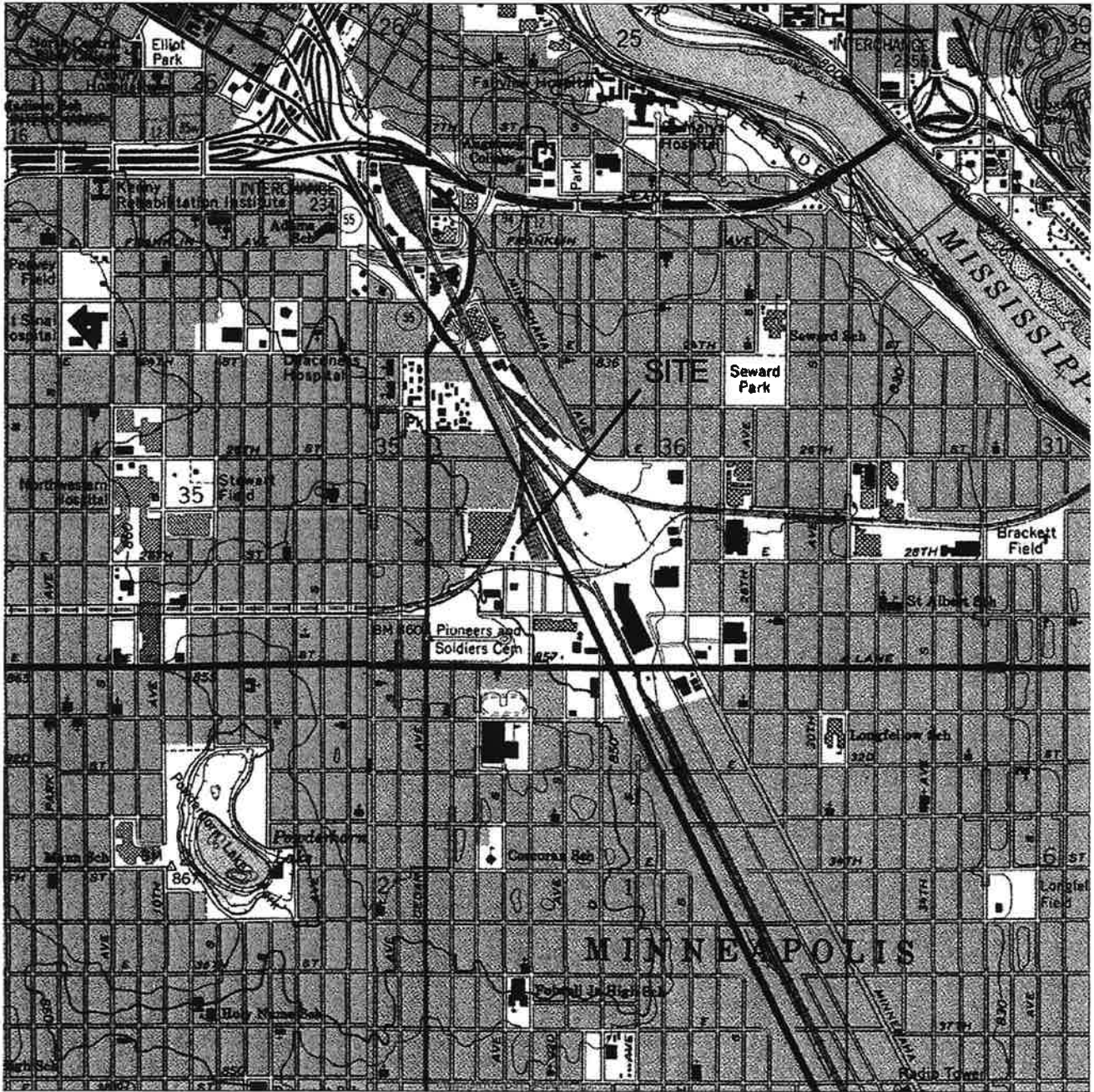
1,3,5-Trimethylbenzene (in soil only)

Note: *The MDA is also being requested to provide a No Association Determination for lead, because it is believed some identified lead impacts at the Property are related to the agricultural chemical release.

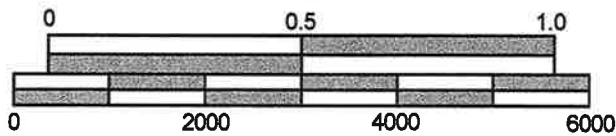
**SCHEDULE 1
SITE DOCUMENTS**

CMC LITE YARD PROPERTY

- Response Action Design and Implementation Plan prepared for CMC Heartland Partners (CMC) by prepared by Peer Engineering, Inc. (Peer), dated June 21, 2004 (the **2004 RAD/IP**).
- Letter to CMCHP and U.S. Borax, Inc. (Borax) from the MDA, Subject: Approval of the 2004 RAD/IP with comments and request for additional information, dated July 28, 2004 (the **2004 RAD/IP Approval Letter**).
- Letter to Teresa McDill with the MDA from Peer, dated August 27, 2004, Re: Response to the 2004 RAD/IP Conditional Approval Letter (the **2004 RAD/IP Addendum**).
- RAD/IP Addendum for Additional Soil Excavation prepared by Peer for the MDA, dated December 7, 2004 (the **RAD/IP Addendum #2**).
- Letter to CMC and U.S. Borax from the MDA, dated December 15, 2004, Subject: Approval of RAD/IP Addendum for Peer's December 7, 2004 Addendum to the June 21, 2004 RAD/IP (the **2004 RAD/IP Addendum Approval**).
- Response Action Plan (RAP) prepared for Ryan Companies US, Inc. (Ryan) by Peer for Hiawatha Business Center Development, dated March 31, 2005 (the **March 2005 Development RAP**).
- Letter to Ryan from MDA, dated April 26, 2005, Subject: Approval of RAP - Ryan Site Development, CMC Heartland Partners Lite Yard Site, Minneapolis, MDA Case File No. 95-0100E (the **March 2005 Development RAP Approval Letter**).
- Email to Peer and Marie McCallum from Robert Anderson with MDA, dated April 27, 2005, Subject: Edit to the March 2005 Development RAP Approval Letter (the **Amendment to the March 2005 Development RAP Approval Letter**).
- Phase I Environmental Site Assessment prepared for 2800 Hiawatha, LLC by Peer for the Proposed Hiawatha Business Center, Part of Former CMC Lite Yard Property, dated May 31, 2005 (the **2005 Phase I ESA**).
- Letter format Geotechnical Investigation Work Plan prepared for 2800 Hiawatha, LLC and Ryan by Peer, dated June 14, 2005 (the **2005 Development Work Plan**).



SCALE IN MILES



SCALE IN FEET



MAP LOCATION

TAKEN FROM:
 ST. PAUL WEST, MN &
 MINNEAPOLIS SOUTH, MN
 7.5 MINUTE SERIES
 TOPOGRAPHIC MAP
 1967 (REVISED 1993)
 UNITED STATES GEOLOGICAL SURVEY

16000/5200/5253 5315-05 ESA FIGS/5253.53 ESA Figure 1 SKF

	<p>PROPERTY LOCATION MAP</p>	<p>JUNE 2005</p>
	<p>PROPOSED HIAWATHA BUSINESS CENTER PART OF FORMER CMC LITE YARD PROPERTY 2000-2100 EAST 28TH STREET MINNEAPOLIS, MINNESOTA</p>	<p>FIGURE 1</p>
<p>PROJECT #: 5253.53</p>		

Peer Engineering, Inc.
4801 West 81st Street, Suite 118
Bloomington, Minnesota 55437
952 831-3341 Fax 952 831-4552

RECEIVED

JUN 30 2005



June 28, 2005

VIA EMAIL & MAIL

Patrice Jensen, VIC Program
MPCA/Majors and Remediation Section
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Mark Koplitz
Petroleum Brownfields Program
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

RE: Amendment to 6/14/05 Proposed Actions Letter
Hiawatha Business Center Project - Former CMC Lite Yard Site
Formerly 2000-2100 East 28th Street
Minneapolis, Minnesota (the **Property**)
Leak ID #s 1583 and 9035; MDA Case File #95-0100E

Dear Patrice and Mark:

Peer Engineering, Inc. (**Peer**) is writing this letter at the request of our clients Ryan Companies US, Inc. (**Ryan**) and 2800 Hiawatha, LLC to amend the Proposed Actions and Request for Liability Assurances Letter (**Proposed Actions Letter**), dated June 14, 2005 and prepared by Ryan which was submitted to the Minnesota Pollution Control Agency (**MPCA**) on June 17, 2005.

It is herein requested that the MPCA amend the Proposed Actions Letter to include the following additional proposed action with respect to 2800 Hiawatha, LLC:

- Ownership, maintenance, operation (including sampling) and abandonment of monitoring wells associated with the Property.

The other proposed actions for 2800 Hiawatha, LLC in the Proposed Actions Letter will remain unchanged.

If you have any questions regarding this copy of the Proposed Actions Letter, please contact Marie McCallum at 612-492-4331.

Sincerely,


Stephen T. Jansen, M.S., P.G.
President

cc: Robert Anderson, MDA
Marie E. McCallum
Elizabeth Goodman
Mark Schoening

File

Actions

3341 or