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MAY 10 1984

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\*ALSO ADMITTED  
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\*\*PRESENTLY ADMITTED ONLY  
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FORREST D. NOWLIN  
MICHAEL C. JACKMAN  
STEPHEN B. SOLOMON  
JOHN E. DIEHL  
EMBER D. REICHGOTT

May 9, 1984

The Honorable Paul A. Magnuson  
Judge of District Court  
United States Courthouse  
St. Paul, Minnesota 55101

Re: Residents In Protest - I-35E et al v.  
Dole et al  
Court File No.: Civ. 3-83-346

Dear Judge Magnuson:

I am pleased to report to the Court that the parties to the above-entitled action have entered into a settlement agreement pursuant to which the Plaintiffs have agreed to dismissal of their post-trial Motion For Amendment or Addition of Findings and Judgment or For a New Trial in exchange for Defendants' agreement to join the Plaintiffs in a motion (The Joint Motion) requesting the court to: 1) incorporate certain specific findings of fact and conclusion of law into the Court's Memorandum Order entered February 10, 1984; 2) reaffirm the Memorandum Order in all other respects; 3) approve the settlement agreement entered into between the parties; 4) dismiss the Plaintiffs' post-trial motion with prejudice; and 5) order that all parties in this matter bear their own costs and expenses.

Copies of the Joint Motion, a Memorandum in Support of the Motion, a Proposed Order, and the Settlement Agreement entered into between the parties are enclosed for your review. The originals have been submitted to the Clerk of Court for filing.

LARKIN, HOFFMAN, DALY & LINDGREN, LTD.

The Honorable Paul A. Magnuson  
May 9, 1984  
Page Two

The specific Findings of Fact which the parties are requesting be incorporated into the Court's Memorandum Order are denominated by the letters A - D in the Joint Motion and the Proposed Order. These findings are, with two exceptions, derived entirely from the I-35E Final Environmental Impact Statement (FEIS).

Proposed Findings A and B are derived from the Commitments and Assurances section of the FEIS, which begins at page 93. (The FEIS was introduced at trial as Defendants' Exhibit No. 0-102). Finding D is derived from the description of the parkway characteristics of the preferred alternative found on page 2 of the FEIS.

The first sentence of Finding C is derived from page i of the FEIS, on which representatives of three of the Defendants have indicated, by their signatures, the approval of their agencies. The fourth defendant, the City of St. Paul, on April 12, 1983, adopted a resolution approving the 4-lane parkway design, closed to truck traffic with a 45-mile per hour speed limit. (See Paragraph 103 of the Stipulation of Facts filed with the Court; and Defendants Exhibit No. 3979). The second sentence of Finding C is derived from the testimony at trial of Commissioner Braun. The parties are in agreement that this testimony was received from Commissioner Braun during the trial of this matter.

The Conclusion of Law which the parties are requesting the Court to incorporate into its Memorandum Order is denominated as Paragraph E in the Joint Motion and Proposed Order. While the parties recognize that the entry of this proposed Conclusion of Law is a matter solely within the Court's discretion, the Court should be aware that the Proposed Conclusion of Law is intended by the parties to be entirely consistent with the Court's February 10, 1984 Memorandum Order.

The parties request that the Court take their Joint Motion under consideration without oral argument and that, if the Motion is granted, final judgment in this matter be entered accordingly.

Please call the undersigned if there are any questions.

Sincerely,



Peter K. Beck, for  
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.

ks

Enclosures

cc: All Counsel of Record

LARKIN, HOFFMAN, DALY & LINDGREN, LTD.

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CITY ATTORNEY

May 9, 1984

Mr. Robert E. Hess  
Clerk of United States District Court  
316 North Robert Street  
St. Paul, Minnesota 55101

Re: Residents In Protest - I-35E et al v. Dole et al  
Court File No.: Civ. 3-83-346

Dear Mr. Hess:

Enclosed and herewith submitted for filing in the above-entitled matter please find the following:

1. Joint Motion of all Parties Requesting that Certain Specific Findings and Conclusion be Incorporated in the Memorandum Order of the Court, that the Memorandum Order be Otherwise Reaffirmed, that the Settlement Agreement Between the Parties be Approved, that the Plaintiffs' Post-trial Motion be Dismissed, and that all Parties Bear Their Own Costs.
2. Memorandum in Support of Motion.
3. Proposed Order.
4. Settlement Agreement.

The parties request that the Court take the Joint Motion under consideration without oral argument and that, if the Motion is granted, final judgment in this matter be entered accordingly.

LARKIN, HOFFMAN, DALY & LINDGREN, LTD.

Mr. Robert E. Hess  
May 9, 1984  
Page Two

Please call the undersigned if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "P. K. Beck".

Peter K. Beck, For  
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.

ks

Enclosures

cc: All Counsel of Record

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

RECEIVED

MAY 10 1984

Civ. 3-83-346

CITY ATTORNEY

-----  
RESIDENTS IN PROTEST - I-35E, a  
Minnesota nonprofit corporation;  
STATE OF MINNESOTA by RESIDENTS IN  
PROTEST - I-35E; WEST SEVENTH/FORT  
ROAD FEDERATION; STATE OF MINNESOTA  
by WEST SEVENTH/FORT ROAD FEDERATION;  
SUMMIT HILL ASSOCIATION; STATE OF  
MINNESOTA by SUMMIT HILL ASSOCIATION;  
and RICHARD F. COATES, GWENDOLYN J.  
COATES, ROBERT KUEHN, OPAL KUEHN,  
GEORGE PICKA, BLANCHE PICKA, CHARLES  
REPKE, JR., MICHELE REPKE, RAYMOND  
C. WOOD, DIANE WOOD, ROBIN L. HOWARD,  
PATSY TUPPER, STANLEY S. TODORA, ANN  
M. TODORA, KAREN H. AVALOZ, CINDY YORK,  
CHARLES M. LOCKS, WILLIAM L. KLAS,  
LOUISE A. KLAS, DANIEL A. KLAS, MARY  
LOUISE KLAS, DAVITT FELDER, JEANNE  
FELDER, D. WARD JOHNSON, CHARLOTTE  
JOHNSON, DAVID M. LILLY, PERRIN B.  
LILLY, THOMOND R. O'BRIEN, ALVINA W.  
O'BRIEN, and JOHN R. RUPP, each  
individually and on behalf of the  
State of Minnesota;

Plaintiffs,

v.

ELIZABETH DOLE, Secretary of the  
United States Department of  
Transportation, in her official  
capacity; RAY BARNHART, Administrator,  
Federal Highway Administration, in  
his official capacity; RICHARD BRAUN,  
Commissioner of the Minnesota  
Department of Transportation;  
individually and in his official  
capacity; the METROPOLITAN COUNCIL  
and its members, individually and in  
their official capacity; the CITY OF  
SAINT PAUL; and the ST. PAUL CITY  
PLANNING COMMISSION and its members,  
individually and in their official  
capacity,

Defendants.  
-----

JOINT MOTION OF ALL PARTIES  
REQUESTING THAT CERTAIN  
SPECIFIC FINDINGS AND CONCLUSION  
BE INCORPORATED IN THE  
MEMORANDUM ORDER OF THE COURT,  
THAT THE MEMORANDUM ORDER BE  
OTHERWISE REAFFIRMED, THAT THE  
SETTLEMENT AGREEMENT BETWEEN THE  
PARTIES BE APPROVED, THAT THE  
PLAINTIFFS' POST TRIAL MOTION BE  
DISMISSED, AND THAT ALL PARTIES  
BEAR THEIR OWN COSTS

Plaintiffs and Defendants jointly move the Court for an Order as follows:

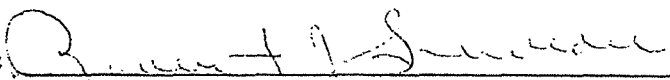
1. Incorporating the following specific findings of fact and conclusion of law in the Memorandum Order of the Court entered February 10, 1984:
  - A. The FEIS prepared and approved by the defendants makes the commitment for noise abatement that trucks (commercial vehicles over 9,000 pounds licensed gross weight, with certain exceptions such as buses, maintenance, and emergency vehicles) will be prohibited by Mn/DOT, with the approval of the FHWA, on the parkway segment of I-35E between West Seventh Street and I-94. FEIS at 93. The termini of the parkway segment are as defined in Minn. Stat. §§ 161.117(2) and 161.1245, Subd. 2 (1983).
  - B. The FEIS makes the additional commitment for noise abatement or mitigation that a reduced speed limit, 45 miles an hour, would be implemented for the parkway segment of I-35E between West Seventh Street and I-94. FEIS at 93.
  - C. The commitments identified in Paragraphs ~~105~~<sup>A</sup> and ~~106~~<sup>B</sup> have been reviewed and accepted by all of the defendants in the EIS process, as reflected in the Record of Decision. The Commissioner of the Minnesota Department of Transportation, Richard Braun, in his testimony before the Court specifically acknowledged these two FEIS commitments and the parkway concept of this segment of I-35E.
  - D. The basic design for the parkway segment of I-35E will be four through-traffic lanes with auxiliary lanes for signing and weaving where needed from West Seventh Street to I-94 in the St. Paul Capitol area.
  - E. The Court's conclusion that the I-35E Environmental Impact Statement prepared by Defendants complies with all Federal and State laws is based on all of the evidence received by the Court at the trial of this matter, including the commitments and assurances, and the design of the facility, set forth in Paragraphs A-D above.
2. Ordering that the Memorandum Order of the Court entered February 10, 1984, be in all other respects reaffirmed.

3. Approving the Settlement Agreement entered into by the parties, which is attached as Exhibit A to the Memorandum in Support of this Motion.
4. Dismissing with prejudice the Plaintiffs' Post Trial Motion for Amendment or Addition of Findings and Judgment or For a New Trial.
5. Ordering that all parties to this lawsuit bear their own costs and expenses.

This Motion is based upon all of the files, records, and proceedings herein and on the Memorandum in Support of the Motion and the Settlement Agreement attached as Exhibit A thereto.

LINDQUIST & VENNUM

Dated: 3/26/84

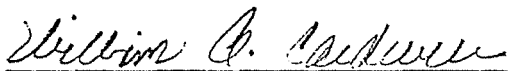
By:   
Robert J. Sheran  
David A. Allgeyer  
Richard T. Ostlund

ATTORNEYS FOR PLAINTIFFS

4200 IDS Center  
Minneapolis, Minnesota 55402  
(612) 371-3211

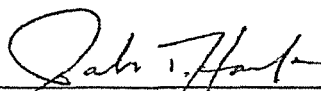
HUBERT H. HUMPHREY, III  
Attorney General  
State of Minnesota

Dated: 3/27/84

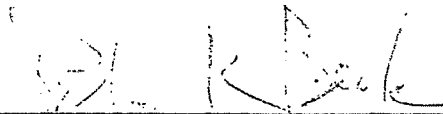
By:   
William A. Caldwell  
Special Assistant Attorney General  
515 Transportation Building  
St. Paul, Minnesota 55155

ATTORNEYS FOR DEFENDANT RICHARD BRAUN  
COMMISSIONER OF THE DEPARTMENT OF  
TRANSPORTATION  
STATE OF MINNESOTA

Dated: 3/30/84

  
John T. Hoeft  
Staff Counsel  
300 Metro Square Building  
St. Paul, Minnesota 55105

Dated:

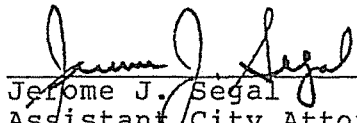
  
Peter K. Beck  
Special Counsel  
Larkin, Hoffman, Daly & Lindgren, Ltd.  
1500 Northwestern Financial Center  
7900 Xerxes Avenue South  
Minneapolis, Minnesota 55431

ATTORNEYS FOR DEFENDANTS METROPOLITAN  
COUNCIL AND ITS MEMBERS

EDWARD P. STARR  
City Attorney

Dated:

4/2/84

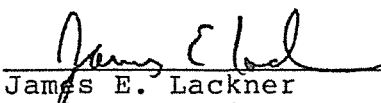
  
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Assistant City Attorney  
645 City Hall  
St. Paul, Minnesota 55102

ATTORNEYS FOR DEFENDANTS CITY OF ST.  
PAUL,  
ST. PAUL PLANNING COMMISSION, AND ITS  
MEMBERS

JAMES M. ROSENBAUM  
United States Attorney

Dated:

5/7/84

  
James E. Lackner  
Assistant United States Attorney  
234 United States Courthouse  
Minneapolis, Minnesota 55401

ATTORNEYS FOR DEFENDANTS ELIZABETH DOLE  
AND RAY BARNHART



UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

RECEIVED  
MAY 10 1984  
CITY ATTORNEY

----- Civ. 3-83-346

RESIDENTS IN PROTEST - I-35E, a Minnesota nonprofit corporation; STATE OF MINNESOTA by RESIDENTS IN PROTEST - I-35E; WEST SEVENTH/FORT ROAD FEDERATION; STATE OF MINNESOTA by WEST SEVENTH/FORT ROAD FEDERATION; SUMMIT HILL ASSOCIATION; STATE OF MINNESOTA by SUMMIT HILL ASSOCIATION; and RICHARD F. COATES, GWENDOLYN J. COATES, ROBERT KUEHN, OPAL KUEHN, GEORGE PICKA, BLANCHE PICKA, CHARLES REPKE, JR., MICHELE REPKE, RAYMOND C. WOOD, DIANE WOOD, ROBIN L. HOWARD, PATSY TUPPER, STANLEY S. TODORA, ANN M. TODORA, KAREN H. AVALOZ, CINDY YORK, CHARLES M. LOCKS, WILLIAM L. KLAS, LOUISE A. KLAS, DANIEL A. KLAS, MARY LOUISE KLAS, DAVITT FELDER, JEANNE FELDER, D. WARD JOHNSON, CHARLOTTE JOHNSON, DAVID M. LILLY, PERRIN B. LILLY, THOMOND R. O'BRIEN, ALVINA W. O'BRIEN, and JOHN R. RUPP, each individually and on behalf of the State of Minnesota;

Plaintiffs,

v.

MEMORANDUM IN SUPPORT  
OF MOTION

ELIZABETH DOLE, Secretary of the United States Department of Transportation, in her official capacity; RAY BARNHART, Administrator, Federal Highway Administration, in his official capacity; RICHARD BRAUN, Commissioner of the Minnesota Department of Transportation; individually and in his official capacity; the METROPOLITAN COUNCIL and its members, individually and in their official capacity; the CITY OF SAINT PAUL; and the ST. PAUL CITY PLANNING COMMISSION and its members, individually and in their official capacity,

Defendants.  
-----

This Memorandum is submitted jointly by Plaintiffs and Defendants in support of their joint motion requesting that specific findings of fact and conclusion of law be incorporated in the Memorandum Order of the Court entered February 10, 1984, that the Memorandum Order of the Court be otherwise reaffirmed, that the Settlement Agreement between the parties be approved, that the Post Trial Motion of the Plaintiffs be dismissed, and that all parties bear their own costs in this matter.

The events which have led to the filing of the joint motion are summarized briefly in the Settlement Agreement attached as Exhibit A to this Memorandum. The Plaintiffs have determined that it is not in their best interest to pursue this matter any further if certain specific findings of fact are incorporated into the Court's order and if they can be assured that they will have no potential liability for any costs or expenses other than those incurred themselves. Defendants have determined that they can agree to the specific findings and to forego their right to levy costs against the Plaintiffs only if they can be assured that there will be no appeal from the Court's Memorandum Order and that there will be no further judicial or administrative actions commenced to enjoin or otherwise interfere with completion of the I-35E parkway.

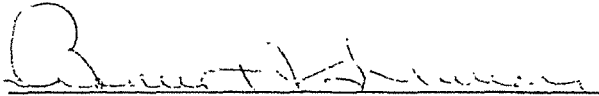
For these reasons, Plaintiffs and Defendants have agreed to enter into the attached Settlement Agreement and request that the Court

approve it and provide for its implementation by granting the relief requested in the joint motion.

Respectfully submitted,

LINDQUIST & VENNUM

Dated: 5/26/84


By:   
Robert J. Sheran;  
David A. Allgeyer  
Richard T. Ostlund

ATTORNEYS FOR PLAINTIFFS

4200 IDS Center  
Minneapolis, Minnesota 55402  
(612) 371-3211

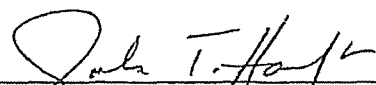
HUBERT H. HUMPHREY, III  
Attorney General  
State of Minnesota

Dated: 3/29/84


By:   
William A. Caldwell  
Special Assistant Attorney General  
515 Transportation Building  
St. Paul, Minnesota 55155

ATTORNEYS FOR DEFENDANT RICHARD BRAUN  
COMMISSIONER OF THE DEPARTMENT OF  
TRANSPORTATION  
STATE OF MINNESOTA

Dated: 3/30/84

  
John T. Hoeft  
Staff Counsel  
300 Metro Square Building  
St. Paul, Minnesota 55105

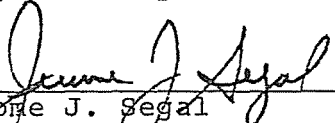
Dated: 7/1/84

  
Peter K. Beck  
Special Counsel  
Larkin, Hoffman, Daly & Lindgren, Ltd.  
1500 Northwestern Financial Center  
7900 Xerxes Avenue South  
Minneapolis, Minnesota 55431

ATTORNEYS FOR DEFENDANTS METROPOLITAN  
COUNCIL AND ITS MEMBERS

EDWARD P. STARR  
City Attorney

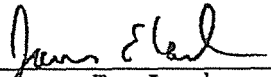
Dated: 4/2/84

  
\_\_\_\_\_  
Jerome J. Segal  
Assistant City Attorney  
645 City Hall  
St. Paul, Minnesota 55102

ATTORNEYS FOR DEFENDANTS CITY OF ST.  
PAUL,  
ST. PAUL PLANNING COMMISSION, AND ITS  
MEMBERS

JAMES M. ROSENBAUM  
United States Attorney

Dated: 5/7/84

  
\_\_\_\_\_  
James E. Lackner  
Assistant United States Attorney  
234 United States Courthouse  
Minneapolis, Minnesota 55401

ATTORNEYS FOR DEFENDANTS ELIZABETH DOLE  
AND RAY BARNHART

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

RECEIVED  
MAY 10 1984

Civ. 3-83-346 CITY ATTORNEY

-----  
RESIDENTS IN PROTEST - I-35E, a  
Minnesota nonprofit corporation;  
STATE OF MINNESOTA by RESIDENTS IN  
PROTEST - I-35E; WEST SEVENTH/FORT  
ROAD FEDERATION; STATE OF MINNESOTA  
by WEST SEVENTH/FORT ROAD FEDERATION;  
SUMMIT HILL ASSOCIATION; STATE OF  
MINNESOTA by SUMMIT HILL ASSOCIATION;  
and RICHARD F. COATES, GWENDOLYN J.  
COATES, ROBERT KUEHN, OPAL KUEHN,  
GEORGE PICKA, BLANCHE PICKA, CHARLES  
REPKE, JR., MICHELE REPKE, RAYMOND  
C. WOOD, DIANE WOOD, ROBIN L. HOWARD,  
PATSY TUPPER, STANLEY S. TODORA, ANN  
M. TODORA, KAREN H. AVALOZ, CINDY YORK,  
CHARLES M. LOCKS, WILLIAM L. KLAS,  
LOUISE A. KLAS, DANIEL A. KLAS, MARY  
LOUISE KLAS, DAVITT FELDER, JEANNE  
FELDER, D. WARD JOHNSON, CHARLOTTE  
JOHNSON, DAVID M. LILLY, PERRIN B.  
LILLY, THOMOND R. O'BRIEN, ALVINA W.  
O'BRIEN, and JOHN R. RUPP, each  
individually and on behalf of the  
State of Minnesota;

Plaintiffs,

v.

ORDER

ELIZABETH DOLE, Secretary of the  
United States Department of  
Transportation, in her official  
capacity; RAY BARNHART, Administrator,  
Federal Highway Administration, in  
his official capacity; RICHARD BRAUN,  
Commissioner of the Minnesota  
Department of Transportation;  
individually and in his official  
capacity; the METROPOLITAN COUNCIL  
and its members, individually and in  
their official capacity; the CITY OF  
SAINT PAUL; and the ST. PAUL CITY  
PLANNING COMMISSION and its members,  
individually and in their official  
capacity,

Defendants.

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The above-entitled matter came on before the undersigned on the Joint Motion of all parties requesting that certain specific findings of fact and conclusions of law be incorporated in the Court's Memorandum Order of February 10, 1984, that the Memorandum Order of the Court be reaffirmed in all other respects, that the Settlement Agreement entered into between the parties be approved, that the Post Trial Motion of the Plaintiffs be dismissed, and that all parties be ordered to bear their own costs and expenses.

Upon consideration of the Joint Motion submitted by the parties, the Settlement Agreement entered into between the parties, and based upon all of the files, records, and proceedings herein,

IT IS ORDERED:

1. That the following specific findings of fact and conclusion of law be and hereby are incorporated in the Memorandum Order of the Court entered on February 10, 1984:
  - A. The FEIS prepared and approved by the defendants makes the commitment for noise abatement that trucks (commercial vehicles over 9,000 pounds licensed gross weight, with certain exceptions such as buses, maintenance, and emergency vehicles) will be prohibited by Mn/DOT, with the approval of the FHWA, on the parkway segment of I-35E between West Seventh Street and I-94. FEIS at 93. The termini of the parkway segment are as defined in Minn. Stat. §§ 161.117(2) and 161.1245, Subd. 2 (1983).
  - B. The FEIS makes the additional commitment for noise abatement or mitigation that a reduced speed limit, 45 miles an hour, would be implemented for the parkway segment of I-35E between West Seventh Street and I-94. FEIS at 93.
  - C. The commitments identified in Paragraphs ~~105~~ and ~~106~~ <sup>A</sup> have been reviewed and accepted by all of the defendants in the EIS process, as reflected in the Record of Decision. The Commissioner of the Minnesota Department of Transportation, Richard Braun, in his testimony before the Court specifically acknowledged these two FEIS commitments and the parkway concept of this segment of I-35E.

- D. The basic design for the parkway segment of I-35E will be four through-traffic lanes with auxiliary lanes for signing and weaving where needed from West Seventh Street to I-94 in the St. Paul Capitol area.
- E. The Court's conclusion that the I-35E Environmental Impact Statement prepared by Defendants complies with all Federal and State laws is based on all of the evidence received by the Court at the trial of this matter, including the commitments and assurances, and the design of the facility, set forth in Paragraphs A-D above.
2. That the Memorandum Order of the Court entered February 10, 1984, be and hereby is in all other respects reaffirmed.
  3. That the Settlement Agreement entered into between the parties in the form attached as Exhibit A to the Memorandum of the parties in support of this Motion be and hereby is approved.
  4. That the Plaintiffs' Post Trial Motion for Amendment or Addition of Findings and Judgment or For a New Trial be and hereby is dismissed with prejudice pursuant to the request of the parties.
  5. That all parties in this matter shall bear their own costs and expenses.

BY THE COURT:

Dated:

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Paul A. Magnuson  
United States District Judge

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

RECEIVED  
MAY 10 1984

----- Civ. 3-83-346

CITY ATTORNEY

RESIDENTS IN PROTEST - I-35E, a Minnesota nonprofit corporation; STATE OF MINNESOTA by RESIDENTS IN PROTEST - I-35E; WEST SEVENTH/FORT ROAD FEDERATION; STATE OF MINNESOTA by WEST SEVENTH/FORT ROAD FEDERATION; SUMMIT HILL ASSOCIATION; STATE OF MINNESOTA by SUMMIT HILL ASSOCIATION; and RICHARD F. COATES, GWENDOLYN J. COATES, ROBERT KUEHN, OPAL KUEHN, GEORGE PICKA, BLANCHE PICKA, CHARLES REPKE, JR., MICHELE REPKE, RAYMOND C. WOOD, DIANE WOOD, ROBIN L. HOWARD, PATSY TUPPER, STANLEY S. TODORA, ANN M. TODORA, KAREN H. AVALOZ, CINDY YORK, CHARLES M. LOCKS, WILLIAM L. KLAS, LOUISE A. KLAS, DANIEL A. KLAS, MARY LOUISE KLAS, DAVITT FELDER, JEANNE FELDER, D. WARD JOHNSON, CHARLOTTE JOHNSON, DAVID M. LILLY, PERRIN B. LILLY, THOMOND R. O'BRIEN, ALVINA W. O'BRIEN, and JOHN R. RUPP, each individually and on behalf of the State of Minnesota;

Plaintiffs,

v.

SETTLEMENT AGREEMENT

ELIZABETH DOLE, Secretary of the United States Department of Transportation, in her official capacity; RAY BARNHART, Administrator, Federal Highway Administration, in his official capacity; RICHARD BRAUN, Commissioner of the Minnesota Department of Transportation; individually and in his official capacity; the METROPOLITAN COUNCIL and its members, individually and in their official capacity; the CITY OF SAINT PAUL; and the ST. PAUL CITY PLANNING COMMISSION and its members, individually and in their official capacity,

Defendants.  
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## INTRODUCTION

The above-entitled action has been brought by Plaintiffs pursuant to the National Environmental Policy Act, the Department of Transportation Act, the Federal Aid Highway Act, the Administrative Procedure Act, the Minnesota Environmental Rights Act, the Minnesota Environmental Policy Act, and the Minnesota Administrative Procedure Act, generally requesting that the Environmental Impact Statement for the I-35E Parkway in the Pleasant Avenue Corridor of St. Paul be declared inadequate and that construction of the parkway be enjoined.

Following extensive discovery proceedings, this matter was tried to the Court before the Honorable Paul A. Magnuson, United States District Judge, between January 9 and January 31, 1984. On February 10, 1984, the Court entered its Memorandum Order incorporating the Stipulation of Facts entered into by the parties, finding for the Defendants and against the Plaintiffs on all claims raised in Plaintiffs' Amended Complaint, and denying Plaintiffs' request for injunctive relief.

Following entry of the Court's Memorandum Order, Plaintiffs filed a motion for amendment or addition of findings and judgment or for a new trial (Plaintiffs' Post Trial Motion). Plaintiffs' Post Trial Motion is currently pending with the Court. Plaintiffs have represented to Defendants that the Post Trial Motion has been filed to preserve Plaintiffs' right to bring an appeal from the Court's Memorandum Order and that an appeal will be forthcoming if the motion is denied.

Plaintiffs have further represented to Defendants that their right to bring an appeal will be waived and no appeal will be brought if

certain specific findings are made by the Court and certain other conditions agreed to by Defendants. Defendants would prefer that no appeal of the Court's Memorandum Order be taken so that contracts may be let and construction of the I-35E parkway may proceed without the uncertainty that an appeal would raise and without the possibility of interruptions.

#### AGREEMENT

Therefore, Plaintiffs and Defendants hereby agree as follows:

##### I.

Plaintiffs and Defendants agree to join in the Joint Motion and Memorandum attached as Exhibits A and B, respectively, to this Settlement Agreement, requesting that the Court:

- A. Enter an order incorporating in its Memorandum Order of February 10, 1984, the specific findings of fact and conclusion of law identified and set forth in the Joint Motion;
- B. Reaffirm the Memorandum Order entered February 10, 1984, in all other respects;
- C. Approve this Settlement Agreement;
- D. Dismiss the Plaintiffs' Post Trial Motion;
- E. Order that all parties in this matter bear their own costs.

##### II.

Plaintiffs and Defendants agree that if the Court grants the joint motion, reaffirms the Memorandum Order of February 10, 1984, in all other respects, and approves this Settlement Agreement, then the Court may also enter an order dismissing Plaintiffs' Post Trial Motion and ordering that all parties shall bear their own costs.

##### III.

In consideration for Defendants' agreement to join in the joint motion and to forego any right to recover costs from Plaintiffs,

Plaintiffs hereby agree to waive any right of appeal from the Memorandum Order of the Court dated February 10, 1984, or from the Court's order dismissing the Plaintiffs' Post Trial Motion, and further agree that no judicial or administrative action to enjoin or otherwise interfere with completion of the I-35E Parkway will be brought by any Plaintiff in this matter. It is the intent of this paragraph that no individual, association, or corporate Plaintiff will appeal from any portion of the Court's Memorandum Order or commence any <sup>such</sup> judicial or administrative action. Plaintiffs specifically acknowledge that Defendants have entered into this Settlement Agreement upon specific reliance on the representations and agreements contained in this paragraph.

IV.

Plaintiffs and Defendants agree that if the Court does not enter an order incorporating the requested specific findings and conclusion in its Memorandum Order of February 10, 1984, and reaffirming its Memorandum Order in all other respects, then this Settlement Agreement shall be of no force and effect and the parties shall not be bound thereby.

Dated this            day of March, 1984.

LINDQUIST & VENNUM

Dated: 3/26/84

By: 

Robert J. Sheran  
David A. Allgeyer  
Richard T. Ostlund

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State of Minnesota

Dated: 3/27/84

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COMMISSIONER OF THE DEPARTMENT OF  
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STATE OF MINNESOTA

Dated: 3/30/84

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Dated: 4/1/84

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EDWARD P. STARR  
City Attorney

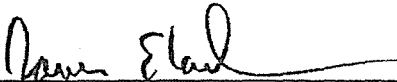
Dated: 4/2/84

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Jerome J. Segal  
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ATTORNEYS FOR DEFENDANTS CITY OF ST.  
PAUL,  
ST. PAUL PLANNING COMMISSION, AND ITS  
MEMBERS

JAMES M. ROSENBAUM  
United States Attorney

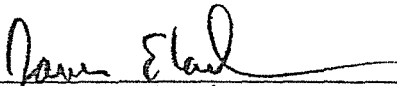
Dated: 5/7/04

  
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ATTORNEYS FOR DEFENDANTS ELIZABETH DOLE  
AND RAY BARNHART

JAMES M. ROSENBAUM  
United States Attorney

Dated: 5/7/01

  
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