SW-57

Minnesota Pollution Control Agency

June 14, 2000

Mr. John Shardlow
City of Burnsville
Planning Consultant
100 Civic Center Parkway
Burnsville, MN 55337

RE: Black Dog Amphitheater Environmental Assessment Worksheet

Dear Mr. Shardlow:

Thank you for the opportunity to review and comment on the Black Dog Amphitheater project to be built in the city of Burnsville, Dakota County. Based on the information contained in the Environmental Assessment Worksheet (EAW), the Environmental Planning and Review Office staff believes that significant effects related to Minnesota Pollution Control Agency (MPCA) issues are not likely to occur as a result of the project. Therefore, the preparation of an Environmental Impact Statement (EIS) does not appear to be needed for MPCA-related approvals. However, we do have the following comments and concerns:

1. Indirect Source Permit

This EAW document adequately responds to comments that were raised in the MPCA's March 2, 2000, and May 5, 2000, letter to the city of Burnsville regarding the draft EAWs for the project reviewed by MPCA staff, specifically Section 21. (Traffic) and Section 22. (Vehicle Related Air Emissions).

The EAW has adequately addressed the traffic and air quality impacts expected from the proposed project. The EAW has provided a Traffic Impact Study that describes in detail the type of impacts the proposed project will have on both the regional and local transportation systems. The level of service (LOS) capacity analysis conducted for the project indicates that most of the key intersections analyzed will operate at an acceptable LOS during both peak hour arrival and departure time periods. However, various approaches and intersections will experience high traffic volumes during peak hours that will require additional lanes and other geometric improvements. The MPCA staff notes that based on the traffic study, the existing roadway system in the project area is not adequate to support the proposed project and that roadway improvements required to accommodate event traffic are proposed as part of the project. The Indirect Source Permit (ISP) for the proposed project will include a provision requiring completion of the assumed roadway improvements before occupancy of the facility.

The air quality analysis conducted for the project assumed the completion of the roadway improvements to help ensure efficient traffic operations for the facility events and to prevent any violation of the carbon monoxide standards. In addition to the roadway improvements, other mitigation proposals were also assumed in the traffic and air quality analysis conducted for the project. These traffic management programs will further help in creating smooth traffic operations during arrival to and departure from the facility. The MPCA staff understands that the city and the developer will coordinate, develop, and implement a traffic management plan (TMP) to be used before and after facility events. The ISP for the proposed project will include a provision requiring implementation of the traffic management programs in the TMP.

In addition to the comments provided above, staff requests clarification on the following:

- **Figure 5** in the Traffic Impact Study identifies year 2001 p.m. Peak Hour Volumes (assumes Figure 6 peak arrival hour is 7 p.m. - 8 p.m. and Figure 7 peak departure hour is 10:30 p.m. – 11:30 p.m.). Please clarify what is the peak hour of analysis.

- **Table 1** in the Traffic Impact Study identifies year 2001 Arriving Peak Hour 1 and Arriving Peak Hour 2. The initial assumptions contained in the study indicate a peak arrival hour of 7 p.m. - 8 p.m. Please clarify what is Peak Hour 1 and Peak Hour 2.

- The initial assumptions contained in the Traffic Impact Study indicate a peak arrival hour of 7 p.m. - 8 p.m., with 60-percent of the patrons arriving during this hour. The EAW states that the gates to the parking areas will be opened two hours before an event; this assumes 6 p.m. for an 8 p.m. concert. Assuming a majority of the patrons are general admission ticket-holders and would arrive early to obtain good seats, it is likely that as attendance approaches the design level – maximum capacity (16,200 – 19,500 persons), the percentage of general admission patrons arriving prior to or during the 6 p.m.-7 p.m. time period is expected to be higher than what is assumed in the EAW. This additional traffic would put added pressure on I-35W during the p.m. peak hour. Please discuss and state what information the 60 percent is based on.

2. Landfill

- Page 22. The Binding Agreement and Notice of Compliance should be listed under MPCA.

- Page 32. The south road requirement by MPCA is misrepresented. The road was originally located on landfill property. As heavy service trucks would not be allowed to drive on a road that is located over the landfill cover, MPCA would require waste to be re-located before this service road would be built. This waste re-location would be considered part of the incremental cost for amphitheater development that MPCA would not pay for. The city of Burnsville suggested that the road be built south of the landfill property on Edward Kraemer property in order to reduce the incremental cost. MPCA had no objection to this re-location.

- Page 51. The second complete paragraph is somewhat confusing. Our interpretation of what is being stated is if the Edward Kraemer quarry dewatering system were turned off, that any seepage (flowing through the soil, not daylighting at the surface of the landfill as a leachate seep) from the landfill would collect in the McGowen quarry before discharging into the Minnesota River. This is unlikely, as the McGowen quarry would also fill up with ground water, so leachate from the landfill would travel in the same direction as ground water flow, namely north, and not into the McGowen quarry to the west. Statements that the dikes in the formerly proposed marina area or on the east side of the McGowen quarry would provide remediation of leachate are unfounded. The leachate would remain in the groundwater, below grade, until it discharged into the Minnesota River. It is also unlikely that a leachate seep would daylight after the final cover is installed, as the cover would prevent new moisture from entering the landfill from precipitation, precluding leachate seeps from occurring.

- Page 95. The allowable hours of operation should be explicitly stated. MPCA construction contracts require the construction contractor to comply with local ordinances. These allowable hours of operation are usually from 7:00 a.m. to 7:00 p.m., Monday through Saturday. Noise is a very important issue for this project, and the amount of noise from the associated construction projects will also be significant to nearby residents.

- Page 3, #13 – At some time dewatering wells will likely be needed, therefore this should not be marked "No", as it is misleading. A simple statement should be added to state that there is a potential for future dewatering wells to be installed.

- Page 4, #15 – Even though a "river audience" is not planned for by this proposal, it seems a statement should be made to recognize that during concerts it would seem likely that boat traffic would increase in the area near the amphitheater.

- Page 39 – Since the Kraemer quarry will cease operation within the operating life of the amphitheater the MPCA believes that it is necessary for the city to look at just what dewatering scenario will be needed in the future to deal with ground water impacts.

3. Noise

The Acoustical Analysis performed by Paoletti Associates, Inc. for the Proposed Black Dog Amphitheater (Paoletti Report) identifies potential violations of the State noise rules. The proposed Black Dog Amphitheater must comply with the State noise rules for event noise and traffic noise.

The Black Dog Amphitheater may employ one, or a combination of the following noise mitigation methods, or any other appropriate method, to comply with the noise rules: 1) modify the amphitheater design and/or operation to reduce the noise level observed by the neighboring properties; 2) change the land use of the neighboring residential receivers to a land use with a less restrictive noise area classification; or 3) the facility can apply for a variance from the State noise rules under Minn. R. Chapter 7000.7000.

We look forward to receiving the required responses to our comments, and your decision on the need for an EIS. If you have any questions regarding our comment letter, please contact me at (651) 296-7432 or Susan Heffron at (651) 297-1766.

Sincerely,

Susan Heffron for

Kevin J. Kain
Planner Principal
Operations and Planning Section
Metro District

KJK:gs

cc: Greg Konat, Burnsville City Manager
Tibor Gallo, Attorney General's Office
Karen Studders, MPCA Commissioner
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Tim Scherkenbach, MPCA, Policy and Planning Division Director
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