Peter
SW-57

Minnesota Pollution Control Agency

March 2, 2000

Mr. John Shardlow
President and Director of Development
Dahlgren, Shardlow, and Uban
300 First Avenue North
Suite 210
Minneapolis, MN 55401

RE: Black Dog Amphitheater Environmental Assessment Worksheet (EAW)

Dear Mr. Shardlow:

The Minnesota Pollution Control Agency (MPCA) staff have reviewed the draft EAW for the Black Dog Amphitheater Project as part of the MPCA's enhanced role in developing the draft EAW. This letter describes where the MPCA will write additional information into the EAW and where the city of Burnsville must provide additional information. We discussed this information with you at our meeting held at the MPCA offices on February 29, 2000. We appreciated the opportunity to discuss these comments with you in person.

Traffic and Vehicle Related Air Emissions (sections 21 and 22)

1) The first paragraph under section 21 will be added by MPCA:

"The project requires a new Indirect Source Permit (ISP). The original Indirect Source Permit (ISP) (90-3) for the project has expired. An ISP is required for the project since the 6,300 parking spaces proposed for the project exceeds the parking spaces threshold requirement needed for an ISP."

2) In section 21 under "Amphitheater Traffic Management Plan," the city of Burnsville should provide a detailed discussion regarding existing transit service to the project area, as well as any proposed expansion if planned. Additionally, some discussion of rideshare and carpool programs to reduce the number of projected single occupancy vehicles to the project site should be discussed. The MPCA staff notes that the 2.8 occupancy rate used in the traffic analysis is within normal range for this type of facility, however, some rideshare and carpool promotions will likely be needed to achieve that number. (MPCA staff notes the existing park and ride facility near the project site).

3) In section 21, please clarify if Table 1 assumes roadway improvements. In addition, please provide detailed maps explaining existing access to the project site and the access points proposed as part of the roadway improvements for the amphitheater.

4) The MPCA will delete the paragraphs in section 22. A complete air quality analysis should be provided in the EAW.

MPCA staff met with the project consultant in December of 1999, to discuss the traffic and air quality analysis needed for the EAW and the ISP application. It is the MPCA staff's understanding that background Carbon Monoxide (CO) monitoring has now been completed for the project, and that a complete air quality analysis will be provided in the EAW and the ISP application. The air quality analysis should include the predicted maximum CO concentrations under full development conditions to ensure that the state ambient air quality standards for CO are not violated. If the project is large enough to require an ISP, the public has the right to review the full impacts of the project in the EAW.

Noise (section 24)
Listed below are further noise analyses that must be conducted, then included in the EAW. The MPCA will review this information again for completeness once the analyses are concluded

1) The estimated noise levels at the most significantly effected residential receptors must be predicted or modeled using the reasonable worst case acoustical estimations outlined in the Paoletti Acoustical analysis.

2) Architectural specifications, related to sound attenuation of the proposed Black Dog Amphitheater, must be included in the EAW. Paoletti Associates Inc. must review these architectural plans and relate these design plans to the predicted noise levels at the most significantly affected residential receptors.

3) Traffic noise level modeling must be performed for residential receptors potentially affected by traffic noise related to the operation of the Black Dog Amphitheater.

4) The estimated noise levels at the most significantly affected residential receptors must be predicted using the reasonable worst case acoustical estimations and must specifically address the acoustical properties of the river valley and the unique acoustical characteristics of the sound as it passes over the river. This should also include the effect of reasonable worst case wind conditions for the proposed site. (This is consistent with the agency's policy concerning outdoor amphitheaters.)

5) The probability of temperature inversions in the river valley near the proposed facility must be investigated, and if there is a significant potential for this meteorological condition to occur, predict the effect it would have on noise levels of the most significantly affected residential receptors.

6) The method of limiting the sound level to 105 decibel A-weighted (dBA) at the mixing board needs to be very specifically defined.

Physical Impacts on Water Resources (section 12)
1) The EAW needs to include a layout of the natural features of the site (as requested in item 5 of the EAW) that specifically shows the location of existing wetlands on the site. Under "wetland impact," the EAW indicates there will be 1.88 acres of wetland impact that will occur from fill from the construction of the interchange. The layout needs to show the location and relationship of the proposed impacts to the wetlands from the proposed construction.

2) Under "wetland impacts," the EAW indicates that most of the wetland mitigation for the 1.88 acres of wetland fill will occur onsite. The document should describe where and how the wetland mitigation will take place and the layout should show the onsite wetland mitigation in relationship to the construction. Also, a description of how the off site wetland mitigation will be constructed, along with a location map showing the off site mitigation site, should be provided.

3) It is not clear in the EAW if stormwater ponds will be constructed in an existing wetland. This needs to be clarified if it is or is not the case for the following reason. Construction of stormwater ponds in an existing wetland is considered an impact and alteration of that wetland by water quality standards and will not be permitted unless it can be demonstrated that there are no prudent and feasible alternatives to locating the storm pond in the wetland. If the alteration of the wetland to stormwater ponds is considered unavoidable, then the impact must be mitigated through wetland compensatory mitigation in order to satisfy Minn. R. 7050.0186 subp. 6. A wetland compensatory replacement plan must be provided that will replace the function and designated uses of the altered wetland with an area replacement ratio of at least 1:1. In addition the creation of storm water management basins should not be considered as wetland compensatory mitigation for the purposes of Clean Water Act requirements.

Erosion and Sediment /Water Quality: Surface Water Runoff (sections 16 and 17)

1) Section 16 suggests that erosion during construction will be addressed principally with silt fencing. This is contrary to the MPCA National Pollutant Discharge Elimination System (NPDES) permit for construction, which would require this site to employ temporary cover, temporary ponding, and maintenance during construction.

2) The EAW discusses major roadway modifications to support this land use. It further states that all these improvements are currently being proposed as part of this project. Under the Public Financial Assistance section of the EAW it states "all of these roadway projects will include utility adjustments and stormwater improvements". All of these improvements will need to get a NPDES stormwater permit and provide for erosion/sediment control and permanent wet sediment storage unless already provided for in a regional stormwater treatment facility.

3) The construction of the stormwater ponds will be in the flood plain and will be subject to periodic flooding. Discuss how the proposed storm ponds will be functional once the floodwaters recede. Describing the pond clean out procedures would be helpful.

4) The EAW needs to address the 2, 10, and 100-year predevelopment rates of runoff.

5) The EAW should identify buffer areas to the waterways as part of the plan.

6) The EAW describes that there will be construction dewatering and ongoing maintenance dewatering of the proposed site. The EAW should describe the potential for hazardous or toxic substances being drawn from the landfill area and discharged with the dewater. The EAW should describe possible mitigation treatment options.

Issues Surrounding Landfill Closure (a variety of sections)

The MPCA will provide text for the following areas in the EAW:

1) Regarding Section 6b of the EAW, the MPCA will be adding language to discuss its responsibility for designing and constructing the Freeway Landfill cover and active gas system. To accommodate the development of a parking lot on top of the landfill and adjacent to the amphitheater, the design may have been substantially altered.

2) The MPCA will include the Binding Agreement and Development Agreement, and a possible noise variance in Section 8 of the EAW. The MPCA will also add information to the "Public Financial Assistance" section that addresses what funding will come from the state.

3) In section 23, the MPCA will provide language that discusses the methane and other decomposition gases that will be generated by the landfill, and the construction of a final cover and a gas extraction system to deal with this issue.

4) Regarding Section 20, there is the potential that some of the waste that would be removed in order to construct the proposed interchange could be hazardous, or there could be asbestos-containing waste that would require special handling. Since an MPCA contractor will likely be moving/removing the garbage, MPCA staff will provide information regarding a contingency action plan that would be used if problem wastes were encountered.

The following is information that must be provided by the city of Burnsville:

5) Section 10 as written describes grass overflow parking areas (24.97 acres); this is NOT acceptable to the MPCA. An agreement was reached between the City of Burnsville, Rose Wild and the MPCA that all parking areas will be either gravel/class 5, per Burnsville ordinance, or asphalt. This part will need to be re-written to make this clear.

6) Section 12 references a detailed field investigation and analysis of possible wet areas at the quarry bottom that was done by the "professional wetland scientist" hired by the city. Please provide the scientist's name and credentials, along with a summary of the scientist's findings.

7) Regarding Section 23, please describe the mitigation measures that would be used for dust control. This is particularly important if further mining operations will provide limestone from the quarry for the parking lot. If this is not the case (as stated in section 25), please remove that from the EAW.

8) Section 13 should include updated location maps for the monitoring wells and gas probes and a description of their status.

If you have questions regarding these comments, please contact me at (651) 297-1766. Since we distributed a list of names and phone numbers of staff who attended the meeting, please feel free to call individual staff if you have a specific question regarding their comments. We are looking forward to our continued work together on this EAW.

Sincerely,

Susan Heffron

Susan Heffron
EQB Technical Representative

SH:cad

cc: Greg Konat, Burnville City Manager
Mike Sullivan, EQB Executive Director
Karen Studders, MPCA Commissioner
Lisa Thorvig, MPCA Deputy Commissioner
Tim Scherkenbach, Policy and Planning Division Director