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City of Columbus

July 26, 2017

*By messenger*

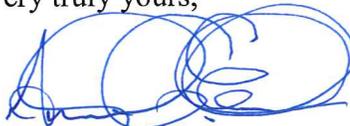
Elizabeth Mursko  
City Administrator  
City of Columbus  
16319 Kettle River Blvd.  
Columbus, MN 55025

Re: Documents for inclusion in packet for City Council meeting

Dear Ms. Mursko:

Enclosed please find documents submitted for inclusion in the packet for tonight's City Council meeting. The enclosed documents include a letter from Minnesota Racing Commissioner Ralph Strangis, and a citizen's petition to the Minnesota Environmental Quality Board, with Exhibits, requesting that Bituminous Roadways, Inc. be required to prepare an Environmental Assessment Worksheet in connection with its planned development of an asphalt plant in Columbus.

Very truly yours,



Anthony G. Edwards

Enclosures

ANDREW D. PARKER  
CHRISTOPHER M. DANIELS  
JESSE H. KIBORT  
ANTHONY G. EDWARDS  
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RUNNING ACES LOCATION  
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MINNESOTA RACING COMMISSION

July 25, 2017

To Whom it May Concern:

I write on behalf of the Minnesota Racing Commission to express concerns about the Bituminous Roadways proposed asphalt processing plant in Columbus, Minnesota nearby the Running Aces Casino and Racetrack.

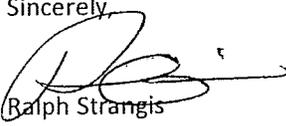
The Minnesota Racing Commission ("MRC") is a nine-member regulatory board appointed by the Governor to oversee horse racing at Minnesota's two licensed racetracks. The MRC is required to ensure that horse racing in Minnesota is conducted in the public interest and is empowered to "take all necessary steps to ensure the integrity of racing in Minnesota." See Minn. Stat. Sec. 240.03.

The MRC only recently learned of the proposed plant. It is troubling that the city council's consideration of the project is moving so quickly and with so little opportunity for public review and input. The proposed project was discussed at the MRC's monthly public meeting on July 19th. The Commissioners expressed unanimous concern that the project may create significant environmental effects that will threaten the health of horses and horsepersons. We believe further study is needed.

In particular, we understand that large trucks carrying crushed asphalt and various aggregates will be passing within 100 feet of the racetrack hundreds of times per day between 7 a.m. and 7 p.m., up to seven days per week. Racehorses use this track for training six days per week from 7 a.m. to 12:00 noon during the summer months. They also race in the evenings, beginning at 6:00 p.m. on some days. We fear that dust emanating from materials carried by these trucks, as well as noise and emissions from the trucks themselves, will be harmful to the racehorses and those who train and care for them. We also have concerns about dust and emissions from the asphalt plant itself. So far as the MRC is aware, these concerns have not been adequately studied by the City of Columbus or addressed by Bituminous Roadways in order to assess the impact on horseracing. Clearly it would be contrary to the public interest to place racehorses and horsepersons in harm's way. This would run contrary to the MRC's mandate to protect the health, safety and welfare of horseracing participants.

Dr. Lynn Hovda has served as the MRC's chief commission veterinarian for 23 years, and is widely considered one of the preeminent racetrack veterinarians in the industry. Dr. Hovda's concerns are spelled out in the attached letter and are shared by the entire MRC. Therefore, we urge the City of Columbus to conduct the due diligence necessary to protect the interests of all stakeholders, including those located at Running Aces racetrack.

Sincerely,



Ralph Strangis

Chair

Minnesota Racing Commission

July 25, 2017

*By messenger and by email to  
Env.Review@state.mn.us*

Environmental Quality Board  
520 Lafayette Road North  
Saint Paul, Minnesota 55155

RE: Request for Environmental Assessment Worksheet regarding  
proposed asphalt plant development in Columbus, Minnesota

Dear Sir or Madam:

I am the representative submitting a petition on behalf of several hundred concerned citizens, including myself, who are requesting that Bituminous Roadways, Inc. (“Bituminous”), 150 Commerce Drive, Mendota Heights, Minnesota 55120, be required to perform a Minnesota Pollution Control Agency Environmental Assessment Worksheet (“EAW”) in connection with its application for a Conditional Use Permit, Interim Use Permit, re-zoning, site plan review and variance to develop an asphalt plant in Columbus, Minnesota, an incorporated, fourth-class city.

**I. Description of Planned Development.**

On April 11, 2017, Bituminous its application for a Conditional Use Permit, Interim Use Permit, re-zoning, site plan review and variance to the City of Columbus.<sup>1</sup> The location for the requested development is located at 13345 and 13363 West Freeway Drive and legally described as part of the East Half of the Southwest Quarter of Section 36, Township 32, Range 32, lying westerly of Interstate Highway 35E, southerly of Interstate Highway 35W and easterly of West Freeway Drive [also known as CSAH 54, formerly known as CSAH 21] (hereinafter, the “Property”). See Ex. A, p. 36.

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<sup>1</sup> See Bituminous’ application, enclosed as Exhibit (“Ex.”) A.

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The Property currently contains two parcels and two residences. *Id.* If Bituminous' proposal is approved the Property's zoning will change from LI Light Industrial to C/I Commercial/Industrial. *See* Ex. A, p. 36.

According to its application, Bituminous intends to develop the Property into two lots. *See* Ex. A, p. 4. If permitted to do so, Bituminous will construct a permanent facility for the production of asphalt and handling of various construction materials on Lot 1. Bituminous does not have a firm plan for Lot 2, but hopes to use it for "a complimentary use, such as a concrete batch plant or construction materials storage/handling facility. *Id.*

Bituminous' planned facility is expected to operate from 7:00 a.m. to 7:00 p.m., though the company anticipates that it may sometimes operate through the night to produce asphalt for large projects such as MnDOT roadways, airports, and high-intensity commercial sites. Ex. A, p. 5. Bituminous will also periodically conduct crushing operations, in which rubble concrete and asphalt will be crushed for use in producing new asphalt. Ex. A, p. 6. These crushing sessions are expected to last 3-4 weeks and occur approximately twice per year. *Id.*

Bituminous' plant will include various equipment for producing asphalt. Ex. A, p. 4. Among other things, the plant will include four above-ground asphalt cement storage tanks, each with a capacity of 30,000 gallons and approximately 43" in height. *Id.* There will also be six hot mix asphalt storage silos, each with a capacity of 200 tons and an approximate height of 60 feet. *Id.*

Bituminous will store large volumes of material on site in outdoor storage areas. Bituminous proposes the following material storage piles:

- 50,000 tons of rubble asphalt (50' max height)
- 50,000 tons of rubble concrete (50' max height)
- 30,000 tons of recycled asphalt (50' max height)
- 50,000 tons of recycled concrete (50' max height)
- 20,000 tons of asphalt millings (40' max height)
- 10,000 tons of ½" rock (40' max height)
- 10,000 tons of ¾" rock (40' max height)

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- 10,000 tons of plant sand (40' max height)
- 10,000 tons of manufactured sand (40' max height)

Ex. A, p. 6.

Bituminous anticipates shipping large volumes of material in and out of its plant by truck. Ex. A, p. 8. On peak days, Bituminous estimates that 250 round-trip truck visits will enter and leave the plant (meaning 500 one-way travel legs will occur) per day. *Id.* Bituminous estimates that 120 of these trips will be loads of asphalt shipped out to construction sites, with the remainder consisting of incoming aggregate, incoming rubble or outgoing base. *Id.* Bituminous estimates that during the eight-month construction season, its plant will average approximately 120 round-trip truck visits (or 240 one-way travel legs) per day. *Id.* Bituminous states that its northerly driveway, on West Freeway Drive, will be the primary entrance (meaning that in most instances trucks making deliveries of scrap material will approach the plant from the north, via West Freeway Drive). Ex. A, p. 7. Trucks leaving the facility may exit to the north or the south. *Id.*

## II. Environmental Impact of Proposed Development.

The Property lies roughly two miles from the Running Aces racetrack, which conducts harness racing between mid-May and mid-September. The Property and Running Aces are both serviced by West Freeway Drive.

Dr. Lynn Hovda, the Chief Commission Veterinarian for the Minnesota Racing Commission, has opined that the proposed development of the Property causes her serious concerns, in terms of the health and welfare of the horses who live, train and race at Running Aces.<sup>2</sup>

Dr. Hovda's primary concern is with the fact that West Freeway Drive passes very close to Running Aces' racing surface. *Id.* At one point, the road is only about 50 feet from Running Aces' chain-link fence, with the racing surface immediately on the other side. *Id.*

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<sup>2</sup> See Letter from Dr. Hovda dated July 25, 2017, enclosed as Ex. B.

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Dr. Hovda states that the heavy truck traffic in and out of the Property, as described by Bituminous, would generate a large volume of dust and debris which would be cast off toward the racetrack. *Id.* This would include not only dust kicked up by moving tires, but also fine sand, dust and debris falling off the trucks. This sort of particulate matter can cause very severe respiratory illnesses in horses, particularly when (as would be the case) the horses are racing or working out, because they breathe particularly large volumes of air, under high pressure, while running. *Id.* Dr. Hovda is also concerned by the impact of truck exhaust, and the risk of a truck crashing through Running Aces' fence, as dangerous conditions for Running Aces' animals. Dr. Hovda also states that the large volume of truck traffic would cause great amounts of sound and vibration which would stress the horses and cause loss of sleep.

Dr. Hovda also has concerns about the Property itself. Dr. Hovda notes that asphalt production generates toxic chemicals, including polycyclic aromatic hydrocarbon ("PAH") mixtures like toluene and xylene which can be inhaled and carried by wind, as well as heavy metals and benzene. In addition, Dr. Hovda believes that the very large-volume material piles envisioned by Bituminous (including hundreds of thousands of pounds of rubble materials, crushed rock and sand) may allow fine dust to be blown toward Running Aces. In addition, Dr. Hovda notes that the crushing activities envisioned by Bituminous (which are projected to occur twice per year, for 3-4 weeks at a stretch) will likely generate noise and vibration which will further harm the health of horses boarded and running at Running Aces.

In addition to the foregoing, the proposed development will have significant impact on wetlands. The development will increase the impervious area on the Property from 0.90± acres to 20.85± acres and disturb an additional 38± acres.<sup>3</sup> In aggregate, Bituminous proposes 3.55 acres of wetland impact, requiring 6.30 acres of replacement. *See* Ex. C, p. 4. The remediation plan proposed by Bituminous has been submitted to the Rice Creek Watershed District, and the engineers who have reviewed the plan on behalf of the District have recommended approval, so long as certain conditions are satisfied. *See* Ex. C, p. 1.

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<sup>3</sup> *See* the Rice Creek Watershed District' Engineer's Report, at Ex. C, p. 3.

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### III. Petitions

We have obtained several hundred petitions signed by Minnesota citizens, enclosed herewith, requesting that the City's approval of the proposed development of the Property be stayed pending the preparation of an EAW.<sup>4</sup>

### IV. Legal Discussion

As noted above, [[NUMBER]] of concerned citizens have requested that the approval of the proposed development of the Property not occur until an EAW is prepared. *See* Ex. E. In addition, we have provided the additional information required under Minn. R. 4410.1110 to petition for review of whether an EAW is required, including a description of the proposed project and the name, address and telephone number of the proposer of the project (*see* Ex. A), a brief description of the environmental effects that may result from the project (*see* Section II, above), material evidence indicating that there may be potential for significant environmental effects (*see* Ex. B). In addition, we have notified Bituminous in writing of our petition filed with the Environmental Quality Board (the "Board").<sup>5</sup>

While we have petitioned the Board to require an EAW, an EAW is in fact mandatory based on the parameters of the proposed development of the Property. *See* Minn. R. 4410.4300 (stating that "[a]n EAW must be prepared for projects that meet or exceed the threshold of any of subparts 2 through 37 [of the Rule]"). Specifically, we believe an EAW is required because the development's effect on wetlands (*see* Minn. R. 4410.4300, subp. 27), because the development involves the construction of a large industrial facility (*see* Minn. R. 4410.4300, subd. 14), and because the development will foreseeably generate hazardous waste (*see* Minn. R. 4410.4300, subp. 16).

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<sup>4</sup> *See* the signed petitions, at Ex. D. Although some petitions lack full address information, there are several hundred petitioners, and collectively far more than 100 fully signed petitions with appropriate identifying information.

<sup>5</sup> *See* the letter to Bituminous dated July 25, 2017, at Ex. E.

Environmental Quality Board

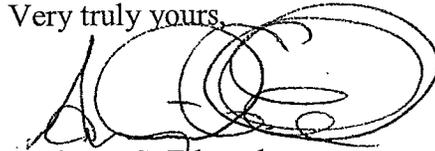
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July 25, 2017

Based on the foregoing, we respectfully request that the Board require an EAW as a precondition of any potential approval of Bituminous' proposed development of an asphalt plant on the Property.

Please feel free to contact me with any questions you may have regarding this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'A. G. Edwards', written over a circular stamp or seal.

Anthony G. Edwards

Enclosures

PARKER | DANIELS | KIBORT

Environmental Quality Board

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July 25, 2017

bcc: Taro Ito