

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 27, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: SUP ENFORCEMENT PROCESS AND PROCEDURES

City Council has asked staff to describe the process and procedures by which it enforces conditions of approved Special Use Permits (SUPs).

The Department of Planning and Zoning is responsible for enforcing the Zoning Ordinance, including SUPs approved by Council. Enforcement of SUPs is done concurrently through two parallel processes of proactive enforcement and enforcement based on citizen complaints. The Department employs two zoning inspectors as part of the Land Use Services Division who are responsible for zoning enforcement through these parallel processes.

The proactive SUP enforcement process involves 1) an initial inspection of the use; 2) a one year inspection; and 3) an inspection when a change in ownership or amendment occurs. In addition, the Department of Planning and Zoning recently initiated a three year SUP review process to ensure that at least every three years there will be a review of the approximately 2,000 Special Use Permits on record. This enables the City to review the older, long standing SUPs. We also conduct directed comprehensive enforcement of certain uses such as gas stations, fast food restaurants and roominghouses. Each of these inspections ensure that conditions of approved SUP's are checked on a regular basis.

General SUP Enforcement

Historically, the City has employed a complaint based system for enforcement. Under that system, staff investigates each complaint by citizens who contact the City with information about a zoning violation. Typically, a property will be inspected to verify the complaint and, if required, the history and zoning rules researched. If a zoning violation is found, the office is authorized and does issue tickets and fines.

In regard to SUP enforcement as a result of reported violations, since the beginning of 2004, the Department of Planning and Zoning has received a total of 484 reports of zoning violations. Of these, 38 (less than 8% of all reported violations) have been reports of violations of SUP conditions. These violations vary from live entertainment beyond permitted hours in a restaurant to parking of used cars in an unauthorized location. The vast majority of these

violations have been resolved by notifying the SUP violator, reinspecting and verifying compliance with the conditions. While staff has the ability to assess fines for SUP violations up to \$500 for a third violation and up to a maximum of \$3,000 for any single violation, staff has not had to use this tool over the past year, since most violations are resolved voluntarily.

Enhanced SUP Enforcement

For SUPs approved during the past 10 + years, staff has added a series of enhanced features to the City's historical SUP system, all designed to augment the enforcement of SUP conditions and supplement the complaint based system.

Initial Inspection.

The SUP enforcement process starts immediately after a SUP is approved by City Council. After approval and before the issuance of a Certificate of Occupancy, Planning staff conduct an inspection of the property. The purpose of this initial inspection is twofold: to make sure that the SUP holder is aware of all of the conditions of the approved SUP and to visibly assure that any pre-occupancy conditions are adhered to (parking, signage, building improvements, landscaping, etc.)

One Year Review condition.

SUPs approved in the last 10 years have included one or more conditions requiring a review for compliance with conditions. It is one of the most important standard conditions and typically requires a review by P&Z after the use has been operational for one year. The SUP review that takes place involves the applicant and staff from each of the departments involved in the case. The SUP site is inspected and any outstanding matters are resolved.

If problems are uncovered as a result of the review, then staff typically works with the applicant to resolve them, as applicants are, in the vast majority of cases, interested in complying with conditions. On the other hand, if there are problems with noncompliance, staff will not hesitate to issue tickets and fines when voluntary compliance does not occur.

SUP violations which are not corrected immediately, which constitute repeat violations, or which create a direct and immediate adverse impact on the surrounding community require that the SUP be brought back for public hearings before the Planning Commission and Council. An SUP can also be docketed if the Planning and Zoning Director receives a complaint that rises to the level of a violation of the permit conditions or if the director has determined that there are problems with the operation of the use and that new or revised conditions are needed.

Change of ownership/amendments

In addition to the above inspections, if there is a change in ownership of a use which has been granted a SUP, Planning and Zoning will inspect the SUP prior to approving the change of ownership. If there are violations that are not resolved, the SUP can be docketed for public hearing by the Planning Commission and City Council.

Specialized Proactive Enforcement

The Department of Planning and Zoning conducts specialized proactive enforcement of SUPs, including inspections of gas stations, fast food restaurants and roominghouses. This specialized enforcement has sometimes concentrated on areas of the City where there has been a history of repeated violations.

Revocation of SUPs

The Director is authorized to, and has in the past, issued an order requiring that an event, activity or business cease, and has called on the Police to assist with ensuring compliance with that order. The Director is also authorized to docket an SUP for revocation when the seriousness of uncorrected violations warrants. Revocation is not taken lightly and is primarily for those uses where there are egregious violations or where normal enforcement efforts have yielded little or no cooperation from the violator. Council has considered SUP revocation cases in a few occasions over the past 10 years, including for the Pines of Florence restaurant in Fox Chase Shopping Center (SUP revoked) and the Afghan Restaurant on Route 1 (SUP not revoked).

New Three Year Proactive SUP Enforcement Program

In addition to the initial and one year SUP inspections, the Department recently has instituted a three year SUP inspection cycle. The purpose of the three-year inspections is to make sure that, at least once every three years after a SUP is approved, it is reviewed for compliance with all conditions. If there are documented violations found as a result of a three-year inspection, staff will seek voluntary compliance by the applicant. It will issue tickets and fines if necessary and take other appropriate steps. Staff has established a procedure for three year SUP inspections which outlines the steps to be taken as part of the three year SUP enforcement program. The three-year inspection approach will assist in uncovering violations of SUPs approved prior to the City's recent SUP system, which has proved to be a successful enforcement program, and will create a proactive system of enforcement for SUP conditions.

Staff believes that these parallel and enhanced efforts will address the issue and enable the City to identify violations with respect to the much older, long standing SUPs. This combination of efforts will ensure continued enforcement of SUP conditions.

STAFF:

Eileen Fogarty, Director, Planning and Zoning

Richard Josephson, Deputy Director, Planning and Zoning

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 27, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: STATUS REPORT ON USE OF THE BISHOP IRETON HIGH SCHOOL ATHLETIC FIELD

ISSUE: Neighbor's concerns that the Bishop Ireton High School athletic field is being used for non school related activities and that there is an intensification of the use of the field.

RECOMMENDATION: That Council receive this status report. Staff has made a determination regarding the athletic field and intensification of its use and has advised the school that certain activities must cease immediately.

DISCUSSION: Neighbors of Bishop Ireton (BI) High School have communicated to Council and staff their concerns about the increased activity at the BI athletic field after the school installed artificial turf in the summer of 2003. Although Planning and Zoning staff determined that there is no zoning or special use permit violation, it has been working extensively with the school, with the Clover-College Park Citizens Association, residents of the area, with other staff and with input from Councilman Gaines to resolve a series of school and neighborhood issues.

Citizen Concerns

In response to complaints from neighbors immediately adjacent to the Bishop Ireton (BI) athletic field, in March 2005, Planning and Zoning Department staff met with a group of neighbors, a representative of the Clover-College Park Citizens Association, and Councilman Gaines. Neighbors related a series of problems with the use of the athletic field, including the following:

- There was activity during the week and on weekends from dawn to dusk, even during the summer when school was not in session;
- Many non-school related events occurred on the field since the field is now suitable for all-weather play;

- BI was allowing the athletic field to be used for commercial purposes because, in some cases, teams from out of state were competing with one another on the field on the weekend and during the week;
- There were plans to use the field this summer for summer sports camps and leagues, which had not been offered in past years by the school;
- BI had failed to create a neighborhood relations committee as required by condition #43 of BI's 1995 SUP;

The immediate neighbors said that they had no problem with BI school activities on the field, including school physical education, team practice, and school games. They did list several additional issues which they believed were a result of the increase in field activity, including:

- The use of the school's exterior public address system for music and play-by-play announcements during non school events;
- The accumulation of trash and litter along the perimeter of the school's property facing the neighbors' lots;
- The parking of out-of-state vehicles on the neighborhood streets;
- Public urination in the northeast corner of the of the school property near the neighbor's homes;
- The outdoor storage of equipment; and
- The proposed relocation of a baseball batting cage closer to the neighbors' homes.

Zoning and SUP Issues

There are two active BI SUPs. In 1962, Council approved SUP #504, which allowed the construction of the school. It contains very few conditions and all of them relate to the original construction of the school. In 1995, Council approved SUP # 95-0093, allowing the construction of an auditorium and additional classrooms as well as additional off-street parking. **Neither SUP includes any condition that addresses the use or operation of the athletic fields.**

The 1995 SUP does contain a condition requiring BI to establish and maintain a neighborhood relations committee made up of students, parents of students, school officials, and neighbors. P&Z staff determined that this committee had not been established.

P&Z staff also determined that while there is no express condition in the SUP with regard to the fields, the City does have authority under the zoning ordinance and the SUP to review and limit the scope of the schools activities in certain cases:

1. Non-school uses.

If there are non-school related sports activities occurring on the athletic field, the use of the field may no longer be an accessory use to the private school and would not be permitted. It is understood that, in addition to the primary education function, private schools may also have

special functions and athletic events that occur from time to time that are related to their education purpose. Special dances, family dinners, social events, fund-raising events, and athletic competitions are accessory to the education mission of the school when they involve students, families of students, prospective students or friends and associates of the school. However, when school facilities, such as the athletic field, are used as a commercial money-making enterprise and become a magnet for non-school related sports events, especially adult sports leagues and sport competitions that do not involve school students and the mission of the school, they are no longer accessory to the school, but become a commercial use which is not permitted in a residential area.

2. Intensification.

When an SUP is approved, there is an expectation, based on the information presented in the application and at the hearing, regarding the level of activity that will be associated with the SUP. If there is evidence that the level of activity has increased above that which was reasonably envisioned in the approval of the SUP, then there is an intensification of the use which, under Section 11-509 of the zoning ordinance, requires approval of a new SUP.

City Determination and Resolution of Neighborhood Issues

P&Z staff had a series of meetings with BI officials, neighbors, and representatives of the Clover-College Park Civic Association during April, May, and June to try to work out a way that the school can use the field for legitimate school related activities and, at the same time, not unduly impact the immediate neighbors. The process has been necessarily slow and time consuming because part of the effort is to begin to restore a level of trust between the school and the neighbors.

From staff's initial meeting with the school, BI has expressed its strong wish to cooperate with its neighbors. Staff has found most residents in the area, including representatives of the Clover-College Park Civic Association, are in general agreement with the direction of the discussion and the City determinations. A few immediate neighbors remain unsatisfied with the degree to which the school's operations have been curtailed. The following determinations have been made:

Neighborhood Relations Committee. BI has begun this committee, as required by the SUP, and held a few initial meetings with neighbors, including one facilitated by Jim Butler, the President of the Clover-College Park Civic Association. All parties agree that if the Neighborhood Relations Committee had been meeting over the last few years, the issues experienced this spring could have been avoided. Additional work needs to be done to ensure the committee as envisioned by the SUP becomes a permanent, on going effort that fosters understanding between the school and its neighbors, and staff will monitor the situation in the future as part of its SUP enforcement work.

Non-school use of the fields. School officials acknowledge that with the installation of the new artificial turf, they had approved its increased use without realizing that only school related activities were allowed to occur on the field. BI agreed to curtail all non-school use of the field at the end of its then existing commitment through the end of May 2005. The Alexandria Soccer

Association would like to use the field, as part of the City's programming of fields, in direct exchange for BI's taking several of the school's activities to other City facilities.

Summer use of field. BI had planned extensive use of the athletic field over the summer, including by summer sports camps and sports' leagues, and maintains that all of these camps and leagues are school related and consistent with the types of activities that other private schools schedule during the summer. Planning staff has reviewed the plans for field use this summer within the context of its operation as a private school under the 1962 and 1995 SUP and determined:

- The four weekday morning sports camps for students and prospective students are acceptable as accessory and within normal bounds of school athletic activity.
- The Men's Lacrosse League games (scheduled for late afternoon/evening) and the Women's Lacrosse Camp (Sunday) are an intensification of the use of the field and may not be held this summer on the school's field. BI agreed, and the activities are being held at other athletic fields in the City.

Planning staff has determined that the above level of activity is consistent with the school use and BI's SUPs.

Additional Limitations

In an attempt to lower the level of activity on the field and reduce the noise level, BI has agreed to the following:

- Not to use the field on Sundays, except for occasional school team practice and school special events.
- Not to use the field on the following holidays: New Year's Day, Easter Sunday, Memorial Day, Fourth of July, Thanksgiving, and Christmas.
- To limit the use of the field public address system to 15 minutes at the start of school soccer and lacrosse varsity games. However, the school will still use the public address system for announcements and play-by-play for the five scheduled home varsity football games on Saturday afternoons.
- Whistles will be used during non-league lacrosse games rather than air horns to signify the end of the quarters.

Hours of Operation. The school understands that they should only be using the athletic field for school related activities: physical education during the school day, school team practice, and school games. However, they want the flexibility to be able to schedule these activities during agreed upon hours of operation of the field. The neighbors agree. However, what those hours should be still needs to be worked out. P&Z staff is working with the school and neighbors to define these hours.

Other Issues. There are remaining issues that still need to be worked on by the school.

- Parking problems in the neighborhood. The school will be working to require field participants and spectators to use the parking area in the front of the school.
- Trash in the field area and around the school perimeter. This is also an SUP condition. School officials say that they have become more vigilant about this problem over the past several months.
- The school should consider the planting of additional trees and shrubs to screen the field from view by the neighbors.
- They will improve communications with the immediate neighbors and surrounding neighborhood through the Neighborhood Relations Committee, as well as through other means.

Conclusion

Working with neighbors, school officials and the civic association, Planning staff intends to monitor the progress of the Neighborhood Relations Committee to ensure that neighborhood issues are addressed.

STAFF:

Eileen Fogarty, Director, Planning and Zoning

Hal Phipps, Chief, Zoning & Land Use Services, Planning and Zoning

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 27, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: VIRGINIA PAVING ASPHALT PLANT, 5601 COURTNEY AVENUE

ISSUE: Citizen complaints regarding vehicular traffic at the Virginia Paving asphalt plant in violation of the terms of the plant's Special Use Permit.

RECOMMENDATION: That City Council ask staff to take one of the following actions:

- A. Take immediate action on the SUP #398's prohibition on nighttime vehicle activity at the Virginia Paving facility; or
- B. Take immediate action on the SUP #398's prohibition on nighttime vehicle activity, except as to that work which is most critical for the public health, safety and welfare, such as work on the Woodrow Wilson Bridge; or
- C. Require Virginia Paving to complete the environmental review and testing it has agreed to perform, hold the SUP for hearing in September, and delay enforcement of the condition until that time.

DISCUSSION: During the public comment portion of Council's June 21, 2005, public hearing, representatives of Cameron Station asked Council to act immediately on the conditions of Virginia Paving Company's SUP. Council requested this memorandum and that staff address these complaints at Council's June 28 meeting.

Virginia Paving SUP Condition

Virginia Paving, formerly Newton Asphalt, has been in operation in the City at its current location for 45 years. It is located on Courtney Avenue, east of South Van Dorn Street just south of the intersection with South Pickett Street.

SUP Violation

When the asphalt plant was established in Alexandria, it required Council approval by SUP. SUP No. 398 (attached), approved in 1960, contains the following language, which is one of the few

limitations included in the permit, and which was recommended as a matter of traffic safety by the City's Director of Traffic:

That no operation of this plant requiring exit or entrance of vehicles be permitted after hours of darkness or during inclement weather or on Sundays or holidays.

The restriction neither generally limits the operation of the plant nor sets hours of operation for the plant. However, it does limit plant operation with respect to vehicular traffic to and from the plant – primarily the trucks that transport the removed asphalt road surface to the plant to be recycled and those that take the newly manufactured asphalt from the plant for installation on the roadway being repaved. The limitation has to do with vehicular traffic related to asphalt-making operations, not the production of the asphalt itself, which can take place at any time.

Although this condition was imposed on the plant back in 1960, the City has no record of any complaints regarding violation of this condition since the plant has been in operation. Since the City's enforcement system historically has been complaint-driven, and there have been no complaints regarding vehicular traffic at the plant after dark, the City has never taken an enforcement action against the facility regarding after hours vehicular traffic.

Current Contracts

Virginia Paving currently provides asphalt paving service from its Alexandria plant for the City, the federal government, VDOT, other local governments, and the private sector. According to Virginia Paving, some of these paving contracts, including ones for the Woodrow Wilson Bridge Project, the Springfield Interchange, and Fairfax County contain requirements for paving at night in order to reduce the impact on traffic when a repaving project is in process. Virginia Paving also has contracts with the City of Alexandria. These contracts require that paving take place between 9:00 AM and 3:30 PM, but contract modifications are sometimes granted to allow paving at night. See the attached list of current contracts with the City. Asphalt paving generally requires relatively warm weather, so the spring and summer tend to be the plant's busiest months.

Citizen and City Concerns

Over the last year, with the near completion of Cameron Station as a residential neighborhood, there have been an increasing number of complaints from Cameron Station residents regarding:

- air quality
- odors
- noise
- smoke and soot

In response to these complaints, the City staff investigated potential sources of the problems, and researched the SUP, including the violation of the above condition. Staff has also focused on a series of other issues, primarily environmental, in order to require Virginia Paving to address potential environmental damage, both past and future, by the plant. Specific issues which have

been part of the investigation include:

- air emissions, including odors
- noise
- storm water management
- asphalt spillage
- maintenance
- building and fire code violations
- Resource Protection Area (RPA) buffer
- underground storage tanks
- storage and disposal of oil and hazardous materials

While the above issues pertain to industrial uses generally, and are regulated in large part by the Commonwealth, Virginia Paving's violation of its SUP gave the City the opportunity to comprehensively review and improve the facility, with the potential of bringing it to a higher level than required by its state permits. In fact, Virginia Paving is in compliance with all applicable Virginia Department of Environmental Quality standards regarding air emissions. While there was a fine assessed at one point by the EPA, this fine was related to the lack of a storm water management plan, and not to any emission from the plant. The City is investigating the compliance status of other site discharges.

Proposed Amendment to SUP

When staff reviewed Virginia Paving's violation of its condition regarding traffic limitations, it advised both the plant and residents about the violation. In response, on March 29, 2005, Virginia Paving, filed an application to amend its SUP, specifically the restriction on nighttime vehicle travel. The applicant originally sought to have its application heard in June of 2005, and to limit the scope of the hearing to the nighttime driving issue, but the hearing was deferred by staff until September in order to be able to address the broad scope of improvements that the neighbors are concerned about and that the plant seems willing to address.

Staff has viewed the SUP application as an opportunity to address plant issues that were not part of the original SUP, such as buffers to the adjacent stream, measures to control noise and odor, stormwater management, and other neighborhood impacts. Staff from Planning, T&ES, Code Enforcement and the City Attorney's Office therefore have engaged in an extended dialogue with the plant representatives, working with Virginia Paving on a broad based environmental plan directed at the environmental issues, as well as those that formed the overwhelming majority of the residents' complaints since the development of Cameron Station – air quality, smoke, odor and soot.

There is Virginia Paving environmental testing going on that will conclude in late July, and which should supply the City with sufficient data to respond accurately and fully to citizen concerns and to best fashion conditions for the continuing operation of the plant. The attached recent letter

from Mary Catherine Gibbs, counsel for Virginia Paving, outlines in detail the work that will be accomplished in response to the City's requirements.

In order to allow that work to continue, and in order to allow the plant to continue night operations to satisfy their existing contracts, including a contract for paving for the Woodrow Wilson Bridge construction project, staff has held final action on the SUP condition regarding late night or Sunday vehicular activity until Council's September public hearing meeting. Staff will be meeting with Virginia Paving representatives throughout the summer to review the specific actions to be taken regarding noise, odors, stormwater management and hours of operation.

Conclusion

The issue for Council is whether it wishes to direct staff to take action on the SUP condition immediately, which will curtail any nighttime traffic by the plant. Again, this will result in creating issues with regard to existing paving contracts. Additionally, it is anticipated that such action could further exacerbate traffic congestion when such paving is done during the day.

The Council may also determine that immediate elimination of all nighttime plant traffic is advisable, except for the most crucial public projects, such as the Woodrow Wilson Bridge and Springfield Interchange.

Alternatively, Council may wish to wait to learn the results of Virginia Paving's extensive testing and investigation over the summer, so that there is sufficient information to answer questions about environmental issues, including noise, odors, other air emissions and water management, and to act on this matter in the context of the SUP amendment application, which is now scheduled for hearing in September.

ATTACHMENTS:

Attachment 1. SUP No. 398

Attachment 2. Gibbs' June 21 letter

Attachment 3. City of Alexandria Existing Asphalt Contract Work

STAFF:

Eileen Fogarty, Director, Planning and Zoning

Richard J. Baier, P.E., Director, Transportation & Environmental Services

William Skrabak, Division Chief, Environmental Quality

Arthur Dahlberg, Code Enforcement

Ignacio Pessoa, City Attorney

Christopher Spera, Assistant City Attorney

Attachment 1

APPLICATION

for

SPECIAL USE PERMIT, ART. X, ORD. 708

Alexandria, Va., February 10, 1960

4-13-60 7 99 110
12 160
3-7-398

TO THE CITY MANAGER:

The undersigned hereby applies for a Special Use Permit under the provisions of Article X, Ordinance 708, as follows:

Name of Applicant: Newton Asphalt Company, Incorporated
Name of Owner: Contract owner - Alexandria Bituminous Corporation
Premises located at: Courtney Avenue, Alexandria, Va. (Map No. 46, Lots 1, 2, 5, (Legal Lots 1-5 of Courtney Subd.))
Use requested: Asphalt Plant **MAP 37**

Miller 11-1-60

John Thorpe Richards
(Signature of Applicant) John Thorpe Richards,
Atty. for Alexandria Bituminous Corp.
102 N. Fairfax St., Alex., Va.
(Address)
Te6-7400
(Telephone Number)

(DO NOT WRITE BELOW THIS LINE)

Application received 2/18/60 Fee Paid 3/12/60 Amount: 4.00 Date of Council Hearing 3-8-60

Advised on _____ Adjoining property owners notified _____

Referred to Planning Commission _____ Report received _____

✓ Traffic Board 2/18/60 Report received 3/23/60

✓ Health Dept. 2/18/60 Report received 3/11/60

✓ Fire Prevention 2/18/60 Report received 2/23/60

✓ Building Inspector 2/18/60 Report received 2/23/60

✓ Public Works 2/18/60 Report received 2/23/60

March 8, 1960 -- referred to Planning Commission for further reports in re Health and public

APPROVED BY COUNCIL: nuisance aspects. DENIED ON: _____
March 22, 1960 see over for motions

398

SPECIAL USE PERMIT
ISSUED UNDER THE PROVISIONS OF ARTICLE X, ORD. 708

Permission is hereby granted to _____ to use
property located at _____

for the following purpose: _____

and under the following conditions: _____

RECEIVED
CITY CLERK'S OFFICE

From John Thorpe Richards
For March 23 1960

(Date)

CITY MANAGER

Applicant

LEGIBILITY TEST STRIP

March 22, 1960

1st motion -- in view of the action on Item No. 11 it would not be proper to consider this application.

2nd motion -- Deferred action on SUP #398 until the next Regular Meeting of Council on April 12, 1960 at which time the Public Hearing will be held on the above emergency rezoning Ordinance

April 12, 1960 -- Granted, subject to the recommendations and requirements of the various City departments.

SPECIAL USE PERMIT REQUIREMENTS SHEET

Applicant Horton Asphalt Company, Inc. Application No. 378
 Location LOTS 2, 3, 4, & 5 of COURTESY AVENUE
North Side of Courtney Ave. 300' east of Date February 26, 1961
South VAN BORN STREET.
 Use Requested Asphalt plant

RECOMMENDATIONS:

Department of Traffic Control: If request is granted, it be granted subject to the following: That exits and entrances to the property be approved by the Directors of Public Works and Traffic. That, if in the opinion of the Director of Public Works, a bond should be required for the damage to a street and keeping same clear, that it be required. That all trucks serving this asphalt plant comply with maximum load limits. That such signs that may be deemed appropriate by the Director of Traffic be supplied and the cost for installation and maintenance of same be born by the applicant. (over)

Department of Health: This company has a good record of cooperation and compliance with Health Department recommendations. Their plant presently located on Mill Road was demolished in July 1956. Control of dirt, smoke, odor and industrial waste has been satisfactory since that time. If request is granted, it be granted subject to the following: (1) Detail plans for installation must receive approval of the Alexandria Health Department in consultation with the Bureau of Industrial Hygiene of the Virginia

Department of Public Works: If request is granted, it be granted subject to the following: (over)

1. Applicant to make necessary arrangements with Fairfax County Sanitary Sewer Dept. for sewer service.
2. Any realignment, dredging, or improvement of Back Lick Run to be subject to approval of Director of Public Works. (over)

Fire Prevention Bureau: Approved to location only - Any buildings to be constructed plans must be submitted.

Department of Construction & Inspection: At such time as drawings are presented of the subject installation, they will be reviewed for the purpose of ascertaining if they are in compliance with all the applicable regulations which are enforced by this department.

Alexandria Planning Commission: Recommendation granted to Horton Asphalt Company, Inc., subject to the recommendations of the various interested departments; and if approved by City Council, the special use permit would in abeyance until a certificate of occupancy has been issued bearing a certification of compliance with their recommendations by all city departments.

Others:

Application was denied by City Council on _____.

Application was approved by City Council on 2/12/61 subject to compliance with recommendations of the various City Departments, Commissions and Boards as outlined above. The Department Heads shall certify that all work recommended by them has been completed on the application for Certificate of Occupancy.

NOTE: Granting of a special use permit by Council does not constitute issuance or permission to operate. A Certificate of Occupancy must be issued by the Department of Construction and Inspection and all necessary licenses and other permits must be obtained.

Traffic Department

operation of this plant requiring exit or entrance of vehicles be
closed after hours of darkness or during inclement weather or on Sundays
and holidays.

Continued Public Works Department

3. Arrangements to be made with City Engineer for paving of Courtney Drive.
4. Satisfactory settling basins to be provided to prevent discharge of silt,
asphalt, etc. into Back Lick Run.

Continued Health Department

State Health Department. (2) Environmental sanitation factors in this operation
shall be checked periodically by Health Department Sanitarians. (3) In the event
that the plant is found to be creating a public nuisance or a public health problem,
operations will be suspended by the company until satisfactory corrections are made in
accordance with further recommendation of the Virginia State Bureau of Industrial
Hygiene and the Alexandria Health Department.

SPECIAL USE PERMIT REPORT

From: Department of Planning

Application No. 398

To: Traffic
(Department)

Date February 18, 1960

Applicant Newton Asphalt Company, Incorporated - John Thorne Richards, Atty.
for Alexandria, Bituminous Corp., 102 N. Fairfax St. Te 6-7400

Location Lots 2, 3, 4, & 5 of Courtney Avenue - north side of
Courtney Avenue 400 feet east of South Van Dorn Street

Use Requested Asphalt Plant

This request has been set for hearing before City Council on March 8, 1960
and it is requested that you submit a report and recommendation on this request
to this office not later than February 23, 1960.

Denis H. Cahill
Denis H. Cahill
Director of Planning.

ACTION OF DEPARTMENT

Date: February 23, 1960

Facts pertaining to request

Recommendations: If request is granted, it be granted subject to the following

That exits and entrances to the property be approved by the Directors of Public Works and Traffic.

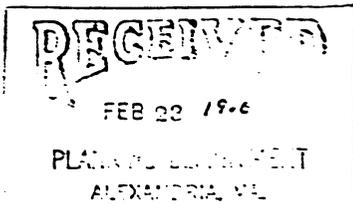
That, if in the opinion of the Director of Public Works, a bond should be required for the damages to street and keeping same clean, that it be required.

That all trucks serving this asphalt plant comply with maximum load limits.

That such signs that may be deemed appropriate by the Director of Traffic be supplied and the cost for installation and maintenance of same be born by the applicant.

That no operation of this plant requiring exit or entrance of vehicles be permitted after hours of darkness or during inclement weather or on Sundays or holidays.

*



Kenneth W. Smith
K.W. Smith, Director of Traffic
Department Head

SPECIAL USE PERMIT REPORT

From: Department of Planning

Application No. 398

To: Public Works
(Department)

Date February 15, 1960

Applicant Newton Asphalt Company, Incorporated - John Thorpe Richards, Atty.

for Alexandria Bituminous Corp., 102 N. Fairfax St. Te 6-7400

Location Lots 2, 3, 4, & 5 of Courtney Avenue - north side of Courtney
avenue 100 feet east of South Van Dorn Street.

Use Requested Asphalt Plant

This request has been set for hearing before City Council on March 8, 1960
and it is requested that you submit a report and recommendation on this request
to this office not later than February 23, 1960.

Denis H. Cahill
Director of Planning.

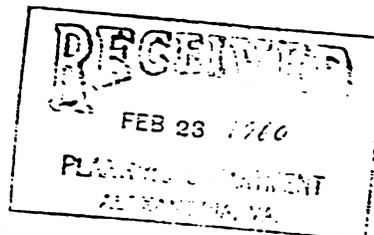
ACTION OF DEPARTMENT

Date: February 19, 1960

Facts pertaining to request

Recommendations: If request is granted, it be granted subject to the following

1. Applicant to make necessary arrangements with Fairfax County Sanitary Sewer Dept. for sewer service.
2. Any realignment, dredging, or improvement of Back Lick Run to be subject to approval of Director of Public Works.
3. Arrangements to be made with City Manager for paving of Courtney Drive.
4. Satisfactory settling basins to be provided to prevent discharge of silt, asphalt, etc. into Back Lick Run.



Department Head

SPECIAL USE PERMIT REPORT

From: Department of Planning

Application No. 398

To: Fire Prevention
(Department)

Date February 18, 1960

Applicant Newton Asphalt Company, Incorporated - John Thorne Richards, Atty.
for Alexandria Bituminous Corp., 102 N. Fairfax Street Te 6-7400

Location Lots 2, 3, 4, & 5 of Courtney Avenue - north side of Courtney
Avenue 400 feet east of South Van Dorn Street

Use Requested Asphalt Plant

This request has been set for hearing before City Council on March 8, 1960
and it is requested that you submit a report and recommendation on this request
to this office not later than February 23, 1960.

Denis H. Cahill
Denis H. Cahill
Director of Planning.

ACTION OF DEPARTMENT

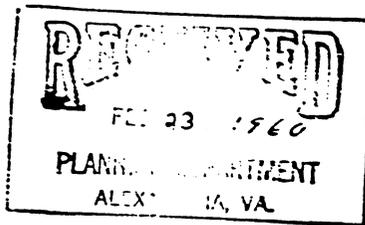
Feb. 23, 1960

Date: _____

Facts pertaining to request

Recommendations: If request is granted, it be granted subject to the following

*Approved to location only- Any buildings to be constructed -
plans must be submitted.*



F. Miller
Department Head

SPECIAL USE PERMIT REPORT

From: Department of Planning

Application No. 398

To: Health
(Department)

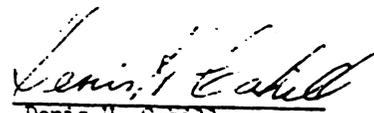
Date February 18, 1960

Applicant Newton Asphalt Company, Incorporated - John Thorpe Richards, Atty.
for Alexandria Bituminous Corp., 102 N. Fairfax Street Te 6-7100

Location Lots 2, 3, 4, & 5 of Courtney Avenue - north side of Courtney
Avenue 400 feet east of South Van Dorn Street

Use Requested Asphalt Plant

This request has been set for hearing before City Council on March 8, 1960
and it is requested that you submit a report and recommendation on this request
to this office not later than February 23, 1960.


Denis H. Cahill
Director of Planning.

ACTION OF DEPARTMENT

Date: February 25, 1960

Facts pertaining to request

This company has a good record of cooperation and compliance with Health Department recommendations. Their plant presently located on Mill Road was remodeled in July 1956. Control of dust, smoke, odor and industrial waste has been satisfactory since that time. Recommendations: If request is granted, it be granted subject to the following

- (1) Detail plans for installation must receive approval of the Alexandria Health Department in consultation with the Bureau of Industrial Hygiene of the Virginia State Health Department.
- (2) Environmental sanitation factors in this operation shall be checked periodically by Health Department Sanitarians.
- (3) In the event that the plant is found to be creating a public nuisance or a public health problem, operations will be suspended by the company until satisfactory corrections are made in accordance with further recommendation of the Virginia State Bureau of Industrial Hygiene and the Alexandria Health Department.


Department Head

HART, CALLEY, GIBBS & KARP, P.C.

ATTORNEYS AND COUNSELLORS AT LAW

307 NORTH WASHINGTON STREET
ALEXANDRIA, VIRGINIA 22314-2557

TELEPHONE (703) 836-5757

FAX (703) 548-5443

hcgk.law@verizon.net

OF COUNSEL
CYRIL D. CALLEY

RETIRED

ROBERT L. MURPHY, 2001

HARRY P. HART
MARY CATHERINE H. GIBBS
HERBERT L. KARP

June 21, 2005

Via Hand-Delivery

Mr. Christopher Spera
Assistant City Attorney, City of Alexandria
City Hall
301 King Street, Room 1300
Alexandria, VA 22314

Re: Virginia Paving Company Asphalt Plant, 5601 Courtney Avenue
Status Report

Dear Mr. Spera:

In further cooperation with the City of Alexandria, this letter is provided as a status report on the measures implemented or planned by Virginia Paving Company related to several issues at its Asphalt Plant located at 5601 Courtney Avenue including: 1) Air emissions; 2) Noise; 3) Water and 4) Stream Buffer/RAP pile size.

1) Air emissions:

Virginia Paving will engage the services of RAMCON Environmental, a nationally recognized expert in air emissions testing¹, to perform air emissions testing on its stacks. RAMCON did such testing last summer for Virginia Paving, and determined at that time that Virginia Paving was well within their VDEQ permitted emission levels. To respond to concerns of nearby residents regarding potential emission issues from their facilities, they will engage RAMCON to perform additional particulate testing. The tests will begin in the second week of July. Virginia Paving will make the results available to the City as soon as they are provided by RAMCON.

Virginia Paving is committed to installing emission controls that exceed the Best Available Control Technologies (BACT). They already utilize the BACT for asphalt plant

¹ RAMCON Consulting has a history of over twenty eight (28) years in air emissions testing and environmental consulting. Enclosed please find material downloaded from their website regarding their professional experience.

emissions by providing a filtration baghouse on the stacks. However, in response to concerns raised by the Staff, Virginia Paving intends to spend nearly a half a million dollars on the purchase and installation of further controls on the silo storage bins, a state-of-the-art Blue Smoke Control System, which should further eliminate emissions and odors. Virginia Paving is currently working with the manufacturer on the design of this system and anticipates issuing a purchase order for such technology by the end of July 2005. Installation of such technology, if approved by Staff, will take up to four months from that time. This technology has primarily been used in areas of California.

2) Noise/Odor:

a) Noise: Virginia Paving has engaged the services of Wyle Laboratories² to do a comprehensive noise study of the associated noises affiliated with its operation. Testing will take place for twenty four hours a day for a five to seven day period beginning on Wednesday, June 22, 2005, and will test the various noise levels at several boundaries of the site, most importantly those closest to the residential areas near the site. Train noise will also be measured and compared to provide on-site vs. off-site noise and source comparison. The results of those tests will be made available to the City as soon as Virginia Paving receives them.

Virginia Paving has already taken steps to limit the noise associated with its operation. The plant already provides an enclosed air burner designed to capture most of the noise from the production process and absorb it internally. Additionally, sound attenuators or mufflers on batchers have been installed to diminish noise from the plant. Virginia Paving has taken other steps to limit the noise associated with its operation at night by not unloading from freight cars during nighttime hours.³ Virginia Paving has also installed signs at its site ordering the truck drivers to take care to limit noise from their own trucks on the site at night. Virginia Paving is looking into modifying the routes taken by the trucks within the site to limit the need for the back-up beeper. In addition, Virginia Paving is generating a train receiving log to monitor track aggregate delivery times.

b) Odor: On June 14, 2005, Virginia Paving installed an automated mixture system that feeds an odor absorbing material, Ecosorb, into the production process and helps eliminate odors from the asphalt mixing process. In fact, operation personnel have reported a noticeable difference in the smell around the plant since last week. In addition, Virginia Paving's installation of better than BACT technology on the top of the silos will further eliminate odors from being released based upon the advanced controls installed to eliminate fugitive emissions.

² Wyle Laboratories, Acoustic Research and Consulting, is located at 2001 Jefferson Davis Highway, Suite 701, Crystal Plaza, Arlington, VA 22202. Enclosed find material from their website regarding their experience.

³ Aggregate which is delivered via these freight cars is merely a combination of small and large rocks, not coal.

3) Storm Water Management:

As part of the Full Environmental Baseline Study obtained by Virginia Paving through an independent environmental consultant, Greenfield International Corporation⁴, and submitted to the City on March 31, 2005, Virginia Paving has developed a proposed Storm Water Management Plan that includes the installation of a super silt fence, a stone filter, a settling basin and an oil/water separator, as well as additional berming and channeling of water to the settling basin. A proposed Storm Water Management Plan was submitted to the City on June 20, 2005 for review and comment. Virginia Paving has committed to achieving Best Management Practices for automotive related uses as requested by the City. Virginia Paving is committed to install a full functioning storm water management system within 6 months of receiving approval from the City for their plan/design.

Virginia Paving has already taken the following measures to improve storm water runoff conditions prior to implantation of the full Storm Water Management Plan as well as beautifying the stream itself:

a) As part of the Adopt-A-Stream program in the Commonwealth of Virginia, Virginia Paving, Virginia Paving's walks a ¼ mile stretch of Backlick Run twice a year to clean up the stream bed of trash and other materials.⁵

b) Best Management Practices (BMPs), identified in Virginia Paving's "Short Term Work Plan," submitted to the City on February 4, 2005, for stormwater runoff are being utilized in interim prior to sediment basin design approval and construction. Virginia Paving has provided a temporary settling basin with check dams to slow stormwater. The storm water runoff is filtered through a silt fence initially, and then an infiltration bed of crushed stone.

c) Virginia Paving has a current Stormwater Pollution Prevention Plan (SWPPP) and VPDES General Permit for Storm Water Discharge Associated with Industrial Activity in place. The SWPPP sets out measures to reduce and eliminate the discharge of contaminated storm water.

4) Stream Buffer/RAP pile size:

Virginia Paving has committed to increasing the current buffer between its RAP pile and the top of the streambed of Backlick Run to 25 feet at a minimum by September 1, 2005 and to install landscaping within that buffer area in consultation with City Staff. Virginia Paving has already begun to move the pile back from where it has historically been located and has hired a landscape architect to draft a landscape plan for submission by mid- to late-July, 2005. Virginia Paving is also committed to installing an earth berm upon design approval.

⁴ Enclosed please find material from Greenfield's website regarding their professional experience.

⁵ A copy of Virginia Paving's certificate from the Adopt-A-Stream program is also enclosed.

5) Conclusion:

Virginia Paving has taken significant steps to maintain and even improve the condition at its Asphalt Plant at 5601 Courtney Avenue which is in compliance with all of its State DEQ and Federal EPA permits for all matters, including emissions. We note that Virginia Paving's 2004 EPA citation was for a violation for not having a Stormwater Pollution Prevention Plan, and for no other reason. Virginia Paving has provided the EPA with such a plan, paid a fine, and is now in compliance.⁶ In this one of the last remaining industrial areas of this City, Virginia Paving has committed to being an even better neighbor by installing measures that exceed the Best Available Control Technologies for its industry, including state-of-the-art Blue Smoke technology on its silos. It is important to note that Virginia Paving is located within approximately half-mile radius of at least six other industrial uses in close proximity to the residences that have been built within the last five years, including two State landfills, a Virginia Department of Transportation operations facility, Vulcan Materials Company, and the City's Waste to Energy Plant. This remains a vibrant industrial area.

Virginia Paving remains committed to making any and all improvements to their operation deemed necessary to maintain and/or exceed the best available control technologies for this site. Virginia Paving encourages the City to continue to visit and observe the improvements that have already been made, and will continue to be made. Please do not hesitate to contact me with any questions or comments.

Very truly yours,



Mary Catherine Gibbs

Enclosures

cc: Mr. Richard Josephson, Deputy Director, Planning & Zoning
Mr. Richard Baier, Director, T&ES
Mr. Dennis A. Luzier, Plant Manager, Virginia Paving Company
Mr. Mark A. Schiller, Assistant District Manager, Virginia Paving Company
Mr. Jay S. Cruickshank, Vice President Legal and Safety, The Lane Construction Corp.

⁶ See the Full Environmental Baseline Study at page 7. A copy of the closure letter from the EPA is also enclosed. In 1983, A Leaking Underground Storage Tank (LUST) was discovered on the site, and in accordance with the corrective action plan (CAP) #168, it is expected that clean closure for this LUST site will be achieved by September 2005.



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- PETRO / CHEMICAL
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RAMCON Environmental has a history of over twenty eight (28) years in air emissions testing and environmental consulting. RAMCON Environmental has the capability to provide testing professionals and consulting engineers for the most demanding projects. We know the regulations, the methods, the equipment and the processes. We are driven to excel, demanding more of ourselves than required.

Proud to be a member of the following professional organizations:



INTERNATIONAL
Standards Worldwide



National Asphalt Pavement Association



In US EPA regulations:

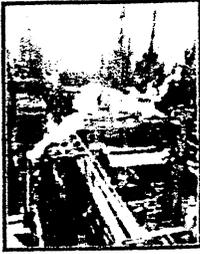
- NSPS
- PSD
- Title V
- BACT
- MACT
- RCRA
- CERCLA
- SARA 313

In US EPA Protocol / NIOSH / OSHA / NCASI Methods.
The professionals at RAMCON execute these methods routinely.
Adept at applying methodologies for your specific needs.

Driven to Excellence in Service

RAMCON Environmental, the professionals, the specialists suited to meet your Environmental Consulting and Air Emissions Testing needs.

1. Experienced Consultants in NSPS, PSD, BACT, MACT, RCRA, CERCLA, NESHAP, and SARA 313 for reporting requirements, equipment modification, and compliance.
2. Full capability air emissions measurement services including preparation and submittal of pre-test sampling protocols, regulatory compliance and consultation.
3. Real-time measurement of THC, SO₂, CO, NO_x, O₂, and CO₂ providing on-site test results with continuous emission gas analyzers.
4. Relative Accuracy Test Audits (RATA) for continuous emission monitoring systems as established in EPA Part 60 Performance



Specifications and EPA Part 75 regulations.

5. Predictive Emissions Monitoring System (PEMS) development and certification using neural network technology. (Pavilion Technologies, Inc. - Software CEM)

6. Gas Chromatography analysis using direct interface (on-site) sampling technique for Hazardous Air Pollutants, Total Reduced Sulfur (TRS), Specific VOC's for all industry categories.

7. Isokinetic measurement of Particulate Matter, Multi-metals, Dioxins/Furans, PAH's, PCB's, semi-volatiles, Aldehydes/Ketones, Ammonia, and Acid gases.

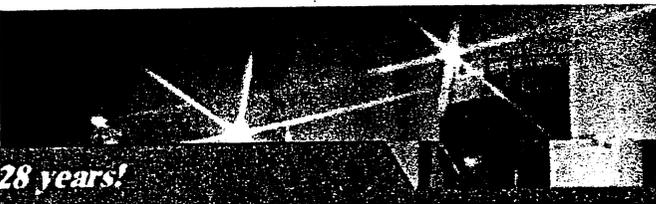
8. Air emissions compliance determinations for many process types and designs including Boilers, Furnaces, Catalytic Cracking Units, Turbines, Incinerators, Kilns, Dryers, Reactors, and Distillation Columns.

9. Efficiency determinations for all major air pollution control systems and technologies: Baghouses, Scrubbers, Cyclones, Electrostatic precipitators, Afterburners, and RTO's.

10. Complete knowledge of the ever changing regulations and how they effect your facility.



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ASPHALT

RAMCON Environmental has performed literally thousands of stack testing and consulting projects on Batch, Drum-Mix, and Hybrid asphalt facilities; ranging from Wet-scrubber and fabric filter technology, alternative fuel applications, and storm water requirements. RAMCON is considered the industry standard for air emissions sampling and consulting in the materials industry. Providing sampling and consulting for 28 years. RAMCON Environmental has been an active member of NAPA for 25 years providing support and guidance for environmental challenges facing the industry.

Manufacturers of Asphalt facilities often request our service for performance testing of new installations.

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- [Cedar Rapids](#)
- [CMI](#)
- [ALMix](#)

RAMCON Environmental services include:

- Set-up consulting
- Process optimization
- Stack testing
- Permit application
- Annual report requirements

MEMBER

NAPA



**NATIONAL ASPHALT
PAVEMENT ASSOCIATION**

Ramcon/W.D. Sawyer
1625 HWY 70, Kingston Springs, TN 37082
(615) 952-5461 Office • (615) 952-5411 Fax



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The Wyle Acoustics Group provides a wide range of professional services concerned principally with acoustics, vibration, and their allied technologies, including services to the aviation industry. Since its inception in 1963, Wyle has completed thousands of projects in areas as diverse as aircraft noise, railroad and railyard noise, acoustical design of buildings, highway noise, sonic boom studies, research into the effects of noise on people, specialized noise and vibration studies, and active noise control.

Today, the group is among the world's largest and most diversified acoustical consulting group and maintains a staff of more than 50 professionals, many with advanced degrees in their area of specialty.

Wyle's goal is to understand each client's unique goals and requirements and to continually strive to provide each client with innovative, yet practical and cost-effective, solutions. Wyle maintains an international reputation for technical excellence as they continue to serve clients as diverse as:

- NASA
- Federal Aviation Administration
- Aerospace industry
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- Airports
- Federal, state, and local government agencies
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- Industrial and manufacturing organizations
- Railroad industry
- Architects, engineers, and planners

Wyle provides services in the following areas:

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(Photo courtesy of

- Industrial Noise Control
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Greenfield International has extensive experience in developing, implementing, and executing environmental programs and mitigative measures in private and commercial operations, academic and research institutions, and Federal, State, and local programs including the Department of Defense. Our success continues to be founded on our unparalleled ability to rapidly assess environmental requirements, determine where real risks exist, and institute efficient, technically, and economically sound solutions to environmental challenges faced by all organizations in today's environmentally sensitive cultural and business climate.

Greenfield International has identified considerable cost savings within existing agencies' environmental programs, and saved our clients millions of dollars while assisting them in the efficient and effective management and mitigation of environmental and occupational hazards. Rapidly assessing real risk and proactive allocation of resources is our main effort to help eliminate negative environmental conditions and concerns. We provide the client with a full compliment of environmental services allowing a streamlined proactive approach to environmental hazard identification and mitigation.

Our Vision

Environmental considerations are an integral part of routine business for all organizations today. Successful businesses have operating and capital investment budgets for environmental assessment and control . . .

27
28.2

Key individuals

- Soe Aung
- Thidar Lwin
- John Love
- King Troensegaard
- Thein Aung
- Win Pe

Certificate of Appreciation

Stewardship Virginia

presented to
Virginia Paving Company's
Alexandria Asphalt Facility

Thank you for taking part in Stewardship Virginia. Your spirit of volunteerism and commitment to citizen stewardship have contributed to conserving and enhancing Virginia's lands and waters. Your contribution helps ensure the health of our waterways for present and future generations.

May 26, 2005

date

Mark R. Warner
Mark R. Warner
Governor



W. Tayloe Murphy, Jr.
W. Tayloe Murphy, Jr.

Secretary of Natural Resources



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Received
APR 11 2005
Legal Department
Lane

Mr. Jay S. Cruickshank, Vice President Legal
Lane Industries Incorporated
965 East Main Street
Meriden, CT 06450

APR 07 2005

APR 11 2005
Copy for (GAW)
ret. - JSC

cc: MAG
MWR
OAL
JAH
RB
COM
MRH
GAB

Re: Amended Administrative Order
Docket No. CWA-03-2004-0064DN
NPDES Permit No. PAR706118

Dear Mr. Cruickshank:

This agency has completed a review of its enforcement docket. Based on that review, the above referenced Administrative Order is officially closed.

We look forward to your continued compliance. Any noncompliance with your National Pollutant Discharge Elimination System (NPDES) permit or the Clean Water Act (CWA) could result in the initiation of an enforcement action against you pursuant to the federal enforcement provisions set forth in Section 309(a) of the CWA, 33 U.S.C. Section 1319(a).

Thank you for your cooperation in this matter. If you have any questions, please contact Ms. Gilda Coker at (215) 814-5432.

Sincerely,

Angela McFadden

Angela McFadden, Acting Chief
NPDES Branch
Office of Compliance and Enforcement

cc: John D. Bowden, Northern Region VA DEQ
James R. Collier, DC DOH
Terry Pallas, PA DEP

City of Alexandria
Existing Asphalt Contract Work - Summer/Fall 2005

- King - from ~ Janneys to Walnut
- Van Dorn - Edsall to Duke
- Henry - Queen to Duke
- Patrick - Queen to Duke
- Duke - Daingerfield to Henry