



PINELANDS PRESERVATION ALLIANCE

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September 11, 2012

Mr. Charles Horner
Pinelands Commission
P.O. Box 359
New Lisbon, N.J. 08064

Re: Spring Lake Blvd, Pemberton Township, Burlington County

Dear Mr. Horner,

Pinelands Preservation Alliance (PPA) would like to submit some additional information about the Spring Lake Blvd road project in Pemberton Township. We believe the roadside activities are a violation of the CMP, the MOA between the Pinelands Commission and the Township, and NJ DEP Solid Waste regulations. We ask the Commission to play a constructive role in ensuring the violations are corrected and future practice is consistent with the CMP.

Township employees resurfaced Tensaw Drive, then deposited the resulting asphalt millings in piles within the vegetated area adjacent to Spring Lake Blvd and along the vegetated road shoulder of Spring Lake Blvd (Figures 1-4). On August 27, 2012, we visited the site and found that the millings had been spread up to 10 ft wide along the shoulder and extended one mile along the roadside. Additionally, these millings have been applied to at least one sand road in the Township, North Branch Road (Figures 5-7). This sand roadway is within the Preservation Area of the Pinelands.

PPA asked Pemberton officials about the Spring Lake Roadway project at the Township's Council meeting on September 5, 2012. The Township engineer stated that this activity is permitted by the MOA between the Commission and the Township (attached). When asked what would be done with excess and stockpiled millings, the Township engineer responded that they would be applied on top of sand roads within the Township. The engineer acknowledged that the millings have not and will not be processed with a binder prior to application, because doing so "would be putting down pavement."

Contrary to the Township engineer's assumptions, these activities are not authorized by the MOA, but are in violation of the CMP, the MOA, and DEP Solid Waste regulations for the following reasons:

1. The MOA between Pemberton Township and the Commission states that “the resurfacing of a right-of-way constructed of an impervious material which will not result in an increase in the width of the existing impervious surface” does not require the filing of a formal application for the approval of the Commission. While this exemption applies to the resurfacing work done on Tensaw Drive, it does not apply to the application of the unprocessed millings to the vegetated shoulder along Spring Lake Blvd and along the sand surface of North Branch Road.

The Township engineer also stated that the shoulder of Spring Lake Blvd was existing impervious surface before the millings were spread along the roadside. However, PPA does not believe this to be the case. The shoulder on the north side (the other side) of the road, although it does contain some gravel and other course debris, is still pervious sand with vegetative cover (Figures 8, 9). Moreover, the south shoulder at both ends of the millings also is not paved, but is vegetated. This vegetation is a good indication that the south side of the road shoulder, where the millings were applied, was in the same condition prior to the road work. At the time we visited the site on August 30, the millings were beginning to be spread along the north shoulder as well. Viewing Spring Lake Blvd on any satellite imagery (Google Earth, Bing Maps) shows that the shoulder on both sides of the road was predominantly sand. This is not impervious cover.

The sand roads upon which the unprocessed millings have been and continue to be applied are also not impervious surfaces and therefore do not fall within the permissions allowed by the MOA. In fact, the Commission indicated to us last week that surfacing of sand/dirt roads with millings does require an application to the Commission and must meet applicable environmental standards.

2. The MOA explicitly states that the resurfacing of an impervious material “will not result in an increase in the width of the existing impervious surface.” As is evident in the attached photos, the millings application extends far beyond the paved surface of the road, into the surrounding herbaceous and woody vegetation. In fact, during our visit to the site, we even observed roadside trees that had been knocked down by the millings application. It is obvious that the width of the millings application exceeds the width of the existing impervious surface (i.e. Figure 2).
3. The NJ DEP Asphalt Millings Guidance Document (attached) states that, “The use of loose unbound asphalt millings on land and roadway surfaces without the placement of a paved top surface is not generally appropriate, and asphalt millings are not considered clean fill. In order to avoid sediment contamination, asphalt millings should not be used where runoff to surface water features would be possible.” In this situation, the millings were not recycled at a road asphalt manufacturing plant, were not beneath and contained by a paved road surface, were not treated with a binder, and application of unprocessed asphalt millings is not listed as a beneficial use project under the Solid Waste Regulations at N.J.A.C. 7:26-1.7(g). Therefore, these millings are to be treated as solid waste.
4. PPA also notes the proximity of wetlands to Spring Lake Blvd, particularly towards the intersection with Route 70 (Figure 10). The NJ DEP Natural Heritage Program shows an

occurrence record of Curly-grass Fern (*Schizaea pusilla*) – a plant protected by the CMP – in this area. The NJ DEP Asphalt Millings Guidance Document (attached) outlines the environmental and public hazards of unprocessed millings: “The bitumen binder used in asphalt paving applications contains a relatively large concentration of a family of organic compounds which can have the potential to pose human health and environmental concerns in certain circumstances especially when asphalt material is ground into very small particles that easily blow off of or wash from the surface. These compounds, known as polycyclic aromatic hydrocarbons (PAHs) are specified as targeted pollutants by the U.S. Environmental Protection Agency (USEPA), and are present in asphalt at much higher levels than the criteria established by the DEP for general use in a loose fashion on land. Asphalt millings used alone without a paved top surface have the potential to significantly migrate from the roadway through the actions of water, wind, and physical displacement and possibly contaminate surrounding soils and/or surface water sediments. Traffic traveling on the unpaved asphalt millings would generate dust containing the compounds referenced above and the dust would be a major migration route of the millings to the surrounding environment.”

Given the proximity of the millings application to wetlands, we are very concerned about the potential impacts to water quality, especially when considering the above information regarding the toxicity of unpaved millings. The application of the millings to sand roads, upon which traffic travels and “would generate dust containing the compounds referenced above and the dust would be a major migration route of the millings to the surrounding environment” should not be allowed at all, and especially not in the Preservation Area of the Pinelands.

We appreciate the expedient attention of the Commission to this matter, given that Pemberton Township is actively applying these untreated asphalt millings to sand roads and roadsides within the Preservation Area in the Pinelands at this time.

Sincerely,

A handwritten signature in black ink that reads "Amy Karpati". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Amy Karpati, Ph.D.
Director for Conservation Science

Cc: David Patriarca, Mayor, Pemberton Township
Ken Cartier, President, Pemberton Township Council
Jason Allen, Councilman, Pemberton Township Council
Richard Prickett, Councilman, Pemberton Township Council
Sherry Scull, Councilwoman, Pemberton Township Council
Diane Stinney, Councilwoman, Pemberton Township Council
Harry Van Sciver, Investigator I, NJ DEP Solid Waste & Pesticides Enforcement