

BLACK DOG AMPHITHEATER PROJECT CLEARS ONE OF TWO REMAINING LEGAL CHALLENGES - 3/27/2002

One of the final hurdles to the Black Dog Amphitheater project was cleared when a First Judicial District Judge ruled that an Environmental Impact Statement (EIS) is not mandated for the Black Dog Amphitheater, the City of Burnsville learned today.

"The Black Dog Amphitheater takes another step forward with this decision," commented Burnsville City Manager Greg Konat. "The City of Burnsville conducted an open and complete environmental review for the project and we are focused on reclaiming our riverfront in the most environmentally responsible way possible. We will diligently monitor the amphitheater to make sure that happens," added Konat.

The Bloomington Amphitheater Coalition (BAC) and the City of Bloomington both filed suits arguing that the City of Burnsville should have prepared an Environmental Impact Statement (EIS) for the Black Dog Amphitheater Project. The challenge has two parts:

- 1) A Mandatory EIS is required through state law; and,
- 2) The petitioners question the discretion shown by the Burnsville City Council in not requiring an EIS.

This legal decision resolves the first challenge and does not require the mandatory EIS. The second issue is the only remaining legal challenge now facing the Black Dog Amphitheater project, which was approved by the Burnsville City Council in September 2000, and has gained all the necessary approvals needed for construction.

In a decision filed Monday, March 25 in the First Judicial District Court in Hastings, Judge Thomas Murphy wrote the following in his decision:

"The parties agree that the only issue for the Court at this time is whether an EIS is mandatory pursuant to Minnesota Rules Chapter 4410.4400. subp. 22. The Court grants great deference to the decision of the Burnsville City Council. The Court finds that the City Council had before it a full and complete record, including reports and comments from engineers, planners, the fire department, department of natural resources, and the public. The Council had sufficient information before it that the capacity of the amphitheater would be less than 20,000. The Court finds that the City Council had a rational basis for its decision. Therefore, an EIS is not mandated and the Court grants partial summary judgment on the issue of a mandatory EIS."

The next step in the legal process includes a Court review to determine if the Burnsville City Council used the appropriate discretion in not ordering an EIS for the project. A resolution is expected within 90 days.

The Black Dog Amphitheater is a joint project of the Minnesota Wild and concert promoter Rose Presents that will host 25-35 concerts -- four months of the year--- and be constructed just south of the Minnesota River to the west of Interstate 35W. The project is considered an important step in a larger city vision to reclaim the riverfront, turning an area of 1600 acres from a heavy industrial use to one of more environmentally responsible activities and long-term economic growth. Improvements that will result from the project include the restoration of riverfront wetlands, development of riverfront trails and parks, regional transportation improvements, and the closure for a superfund landfill site.

Additional information on the Black Dog Amphitheater is available on the City of Burnsville's web site at www.burnsville.org under the 'Reclaiming the Riverfront' section.