

12/02/2010

This letter is directed to Prior Lake City Council Members, other Prior Lake officials, and interested parties.

Greetings,

My name is Nick Kelso. I am the co-owner of Jet-Black International. We are a national franchisor of asphalt sealcoating and repair small businesses. We also operate as a sealcoating contractor for several territories in Minnesota, including Scott County. We have 25 franchises operating in the State of Minnesota. I am a resident of Shakopee and my partner, Andy Hoiland, is a resident of Prior Lake.

I am writing in concern of the proposed refined coal-tar based sealer ban in Prior Lake. It is my understanding that a ban may be voted by the Prior Lake City Council on December 20th. I am very well studied on this subject and have many concerns with the validity of the studies and the politics in play with the proposed ban. While I am not a scientist, I do have a BS degree in Biology and Chemistry from the University of Wisconsin, so I am able to digest the technical language of the studies. We, at Jet-Black, have always provided both refined coal-tar and asphalt based sealers, so we are not simply trying to protect our brand. A potential ban would affect Jet-Black less than many other sealcoating contractors. I have analyzed this issue objectively. To keep it simple, I will list reasons we believe this proposed ban should not be passed or at minimum be delayed.

1. While sealcoating and the use of refined coal-tar sealants may seem insignificant to most, it directly affects business owners and their employees in Prior Lake and therefore, the well-being of its residents (your constituents). This decision is worthy of careful research and consideration and should not be rushed through a vote.
2. It is my understanding there are 2 new council members recently elected, who will occupy the position on 1/1/11. I believe it is unethical and irresponsible to hold such an important vote only a week or two before the newly elected members take office.
3. Asphalt based sealers are NOT a equal substitute for refined coal-tar sealers. Coal-tar sealers are much more durable (longer life) and resilient to gas and oil leaks on asphalt surfaces. Asphalt based sealers will actually be dissolved by gas and oil spills, while coal-tar sealers will shed this for easy clean up and protection of the underlying asphalt structure. Refined coal-tar sealers can be used in colder temperatures, allowing a longer working season in the Spring and Fall in Minnesota. We estimate 20% of our working season will be affected by temperature issues. Approximately \$650,000 in sales took place during cold temperatures for Jet-Black franchises alone in Minnesota in 2010. While asphalt based sealants are a decent replacement for low traffic areas (driveways), I believe there will be a drastic decrease in high traffic sealcoating (parking lots) when property owners realize the asphalt based sealants last significantly less than the previously used refined coal-tar. The end result will be a choice to not seal at all. This will have a massive effect on the industry as a whole. While Jet-Black is largely residential based, many sealcoating contractors work solely on commercial jobs.
4. This issue has largely become political instead of being based on science and facts. Nothing bothers the American public more than laws based on politics and not facts.; except maybe laws based

on kick-backs. Your own documents state "*However, it is unlikely a ban on sealers is going to eliminate all PAHs migration into water bodies. It does however make the city eligible for grants to clean up contaminated soils.*" Bans on anything that may affect business should not be taken lightly and should not be considered for the city's financial gain. Elected officials should vote based on right and wrong, and in this case, scientific facts.

5. Before White Bear Lake, to my knowledge, the only municipalities to ban coal-tar sealers are Austin, TX, Madison, WI, and Washington DC. I am not breaking news that these areas are considered some of the most extreme left leaning cities in America. I do not believe that the residents of Prior Lake, Scott County and Minnesota in general would like to fall in line with the myopic political ideals of these areas. To look at it from another perspective, there are tens of thousands of cities who have NOT banned refined coal tar sealers.

6. The State of Minnesota ban on government property is stated as **undiluted** coal-tar. What does this mean? Applied sealants are always diluted with water and many are a mix of coal-tar and asphalt emulsion. Let's please not be naive to believe that a State of Minnesota ban on state property necessarily signifies a good decision. The state should never blindly be considered an authority to local governments. Let's also not believe that just because someone with a title states that coal-tar is bad, constitutes fact.

7. I understand that Prior Lake is very concerned about water quality of its fantastic lakes; and for good reason. My partner, Andy Hoiland, lives on Prior Lake. **There is no evidence or even discussion on adverse affects of lakes.** The bodies of water in question are primarily storm run-off collection ponds. These are built to collect pollutants from water run-off. Therefore, they are doing what they are supposed to do.

8. While the hyperbole of many articles suggest that refined coal-tar sealants are a major contributor of PAHs in these ponds, the truth is they play a very small role. The banning of coal-tar will not cause a significant decrease in PAH levels in ponds. Therefore, it will not decrease the frequency of the pond clean-up process and related expenses. Please remember that PAHs come from all acts of combustion (automobile and boat exhaust, gas burning, wood burning, trash burning, food grilling and cooking, power generation, and more), as well as asphalt pavement itself, rubber tires, home shingles, diesel fuels, motor oil and other lubricants, treated wood like railroad ties and telephone poles, continuous naturally occurring atmospheric deposition and more. You can imagine that these contributors have a far greater effect on the actual contamination of these ponds. To put it in perspective, a one acre (a huge parking lot), freshly coal-tar sealed lot will release .02 grams of PAHs in 1 week. This is equivalent to the amount of PAHs in a half ounce of Denorex shampoo, one teaspoon of used motor oil, or a 6 inch length of a two lane roadway paved with asphalt. The weekly release of PAHs from coal-tar sealed asphalt decreases with time.

9. In the 23 years we have been involved in the sealcoating industry, we aggressively keep up to date on industry news by attending trade shows, reading industry periodicals, and networking with many other industry professionals across the country. There has never been a published article, or even discussions, of possible increased health problems of sealcoating professionals, manufacturers, or distributors using refined coal-tar products for over 6 decades in the US. These are the people working

directly with coal-tar sealers on a daily basis. If anyone would have adverse health effects, it would be these people.

10. The sole use of asphalt based sealers or not sealing at all will have a net effect of increased costs in more frequent sealing and asphalt replacement for home owners and property owners.

11. To my knowledge, the majority of information came from a flawed study in 2005 in Austin, TX. This study is clearly incomplete and not detailed enough to make any conclusions. The study has not been through a scientific peer review process, which is absolutely required in the scientific community before considering study results as conclusive and factual. Below are some facts:

- a. Coal-tar sealers were banned in 2005 in Austin. 3 years later there was no discernible difference in the amount or types of compounds found in the initial study. If the coal-tar was the cause of the high PAH levels, why would these levels not decrease 3 years after a ban?
- c. The PAHs in the Austin study were not finger-printed to show the actual sources and their corresponding percentages of the total PAHs. They have not taken into account other sources of PAHs.
- c. There are many quotes of "could be" or "potential" which suggests further studies are needed.
- d. I have been told there is a 5 year follow up study that will be published in the next few months.
- e. Old industrial facilities that formerly operated next to the Austin streams and ponds studied are a known source of PAHs in the sediment, on top of the known PAH contributors in our communities.
- f. Other than the Austin study, no data exists to corroborate that refined coal-tar based sealers are a significant source of PAHs in any sediment.

Other general facts:

- a. There are no published studies linking the use of refined coal-tar sealers to harmful effects of humans or animals.
- b. Coal-tar is considered a recycled material
- c. Many PAH's are listed as possible human carcinogens, but none are listed as known human carcinogens.
- d. Coal tar is used in shampoos, medications, and cosmetics.
- e. Refined tar used to make refined coal tar sealer, is a selectively distilled product that meets ASTM D 409 specifications for Road Tar (RT-12). Refined tar sealer is not made using crude coal tar as many reports allege.
- f. Refined coal tar-based products including refined coal tar sealers are not regulated as hazardous waste by the EPA.
- g. Asphalt based sealants also contain PAHs at lower levels.

I believe it is your obligation to read the information provided by the Pavement Coatings Technology Council. This information is easily accessed on their web site at www.pavementcouncil.org. On the right side of their home page is a box titled PCTC News Room. There are presently 7 articles and studies regarding coal-tar sealers. Much of my stated information is from their research.

Like anyone else, we do not want to use a product that is damaging to the environment, animals or humans. We want to look at this issue objectively. The truth is, these studies are so incomplete that it is irresponsible to come to any conclusions on the effects of refined coal-tar sealants in the community.

In fact, there is more data refuting this claim than supporting it. It is a bad practice to ban things for the sake of banning things; because others have banned them; or worse for state government grants.

There are many more legitimate studies being performed and will be published in the coming months

and years. It is not wise to rush to judgement on this issue and it would only be prudent to wait for more complete studies before voting on a ban. I believe the voters of Prior Lake would not be happy to hear of such a scenario. I am asking that the council delay a vote on this issue until more complete scientific studies have been finished. I am also asking the council to have an open hearing on this matter, with elected council members in attendance, before any vote is considered.

Thank you for your time, Nick Kelso

Jet-Black® International

Nick Kelso

CFO, Director of Franchising
952.212.0410 nick@jet-black.com
1-888-538-2525
www.Jet-Black.com

Connect with Jet-Black®: [Facebook](#), [Twitter](#), [You Tube](#), [Google](#), [LinkedIn](#)