



West Virginia Paving Statement In Response to DOH Attorney's Letter to the Joint Legislative Oversight Commission on Department of Transportation Accountability

Mr. Michael J. Folio, Director of the Legal Division for the Division of Highways (the "DOH"), sent a letter yesterday to The Joint Legislative Oversight Committee on Department of Transportation Accountability (the "Joint Committee"). It is clear from DOH's actions to date and Folio's letter that the DOH acted hastily and with suspect information in filing suit against several paving companies, including West Virginia Paving.

Mr. Folio said in his letter that he believed filing the lawsuit would "reform West Virginia's asphalt market." On several occasions in the past, West Virginia Paving has offered solutions and feedback to the Division of Highways but those comments were never taken into consideration. At no point before the lawsuit did Mr. Folio reach out to West Virginia Paving to discuss concerns with its pricing or the markets for asphalt and asphalt paving.

If Mr. Folio and the DOH truly wanted to discuss those concerns, we would have and would continue to welcome those conversations with open arms. We would love to participate in meaningful discourse aimed at tangible solutions.

In a Deloitte Performance Audit of the Division of Highways performed for The Joint Legislative Oversight Committee on Department of Transportation Accountability last year, there are several recommendations made concerning the DOH. The DOH has not even attempted to implement those recommendations. One of those suggestions was to "analyze the asphalt mix designs and specifications with different states in terms of quality and lifespan of finished product"—DOH requires its contractors to be able to produce as many as 60 different mix designs, many of which are of questionable value. We have made this same suggestion to DOH on multiple occasions, which suggestion seems to have fallen on deaf ears. We believe that this simple step would result in a huge cost savings to the public and allow for more roads to be paved with longer lifespan of the finished product.

The Deloitte report also outlines several factors that substantially affect the price of asphalt and asphalt paving throughout the state—none of which have anything to do with the number of competitors manufacturing asphalt or performing asphalt paving. Those factors include proximity to asphalt plant locations, existing terrain conditions, and vicinity to aggregate quarries. Another large factor in the price of asphalt is the price of asphalt cement (also known as liquid asphalt). Liquid asphalt is a petroleum product produced by companies such as Marathon Oil and its price fluctuates with the price of oil much as the price of gasoline does. Neither West Virginia Paving nor any of the other paving companies attacked by DOH and Mr.

Folio have anything to do with the production or price of asphalt cement.

It is clear from his communication to the Joint Commission, and his actions since filing the lawsuit, that Mr. Folio is looking to pass the blame of DOH's inaction and inefficiency onto hard working West Virginians who work day and night to provide safe roads for everyone to travel.

We have reached out to the Attorney General and look forward to a solution-driven discussion about how we can better serve the people of West Virginia. We are also sending a letter to the Joint Committee to start a conversation about how we can create solutions to any concerns they may have. Solutions will be found through open and honest dialogue, not through legal action that threatens the livelihoods of hundreds of West Virginians.

We will continue to fight these unfounded, slanderous allegations on behalf of the 350 West Virginia workers who will continue to work tirelessly to ensure that our friends, families and fellow West Virginians have safe roads to drive on everyday.

Bob Brookover
President, West Virginia Paving