

From: Patarcity, Jane M (Pittsburgh) USA
To: [Saari, Christopher A - DNR](#)
Cc: [Sager, John E - DNR](#); [Graham, Joseph R - DNR](#); [MALLY, DIANA](#); [Paul Powell](#); [Fassbender, Judy L - DNR](#); [Klatt, David/CHC](#); [Cieniawski, Scott](#); [Bessingpas, David](#); [Stu Messur \(smessur@anchorage.com\)](#)
Subject: May 1, 2020 email-Draft Agenda for 5/4 Crawford Creek Conference Call
Date: Monday, May 4, 2020 10:29:40 AM
Attachments: [2014-06-11 WDNR reply re Off-Property Supplemental Investigation.pdf](#)
[2012-2014 Data Gap Timeline.pdf](#)

Chris-

Beazer feels that it is necessary for this project to move forward to address the obvious errors and inconsistencies provided by the WDNR in its May 1, 2020 email. It is extremely disappointing that WDNR's May 1, 2020 email is again bringing up "ongoing concerns over the level of investigation that has been completed," and stating that WDNR has been "raising these same concerns for several years without adequate resolution." Contrary to WDNR's statements, the record clearly shows that Beazer, with input and concurrence from WDNR, already developed a work plan for and implemented an investigation that was specifically designed to address all of WDNR's "data gaps" that were identified in their January 10, 2012 and October 9, 2012 letters. In fact, WDNR's June 11, 2014 letter to Beazer (see the attached PDF), which documents WDNR's review of the *Supplemental Off-Property Investigation Summary Report* submitted by Beazer on April 15, 2014, states the following:

"Based on a review of this report and the result of previous investigations, it appears that you have defined the degree and extent of contamination upstream of the Wisconsin Central Ltd. Railroad embankment sufficiently to begin the corrective measures planning process for that area. We encourage you to proceed with the corrective measures study at your earliest convenience."

Similarly, WDNR's November 13, 2014 letter to Beazer (a copy of which was provided with and referenced in WDNR's May 1 email), which provided comments on the CMS Report submitted by Beazer in August 2014, states the following:

*"In our January 12, 2012 letter response to that proposal, we provided substantial comments on the concerns we had over the degree and extent of contamination, regulatory permits and approvals, access issues, protectiveness, and long-term care and maintenance of the remedy. Subsequent to that exchange of correspondence, we had met numerous times in person and over the telephone to further discuss some of these issues. **We acknowledge that progress has been made to address some of these issues (e.g., data gap sampling).**"*

To suggest Beazer has not been responsive to WDNR's data gap concerns is not true. A timeline summarizing all of the data gap-related discussions, correspondence and submittals between the January 10, 2012 and November 13, 2014 letters that were included with WDNR's May 1 email is attached.

Based on GLNPO's *Final Site Characterization Report – Assessment of Contaminated Sediments in the Crawford Creek/Nemadji River near Superior, Wisconsin*, it is also our understanding that WDNR was involved with scoping a supplemental investigation for the portion of Crawford Creek downstream of

the railroad embankment, which was implemented by GLNPO in 2014 and presumably addressed WDNR’s data gaps for that portion of the Site.

Notwithstanding the fact that Beazer/GLNPO have already addressed all of WDNR’s previously identified data gaps, more recently WDNR participated in numerous meetings/calls to discuss Jacob’s data gap evaluation as part of the GLLA project, and reviewed draft versions of the data gap evaluation memo as well as the Supplemental Data Gap Investigation Work Plan and QAPP. WDNR provided comments, which were addressed, and ultimately stated via emails that they had no further comments (copies of these emails were forwarded to the project team by Diana Mally on April 28, 2020). So, it is perplexing why WDNR is bringing up data gap-related concerns at this time, mere weeks before we plan to begin the DGI field work (not to mention the fact that the DGI field work was initially scheduled for last fall, and no concerns were brought up at that time).

WDNR’s May 1, 2020 email expresses a specific concern regarding the lack of subsurface analytical data. Please note that, at WDNR’s request, subsurface analytical data were collected during the 2013/2014 investigations mentioned above, both by Beazer and GLNPO. In addition, the 2020 GLLA Supplemental DGI Work Plan, which WDNR reviewed and approved, includes collection of the following soil/sediment samples for laboratory analysis:

Sub-Area	Soil Sampling Scope	Sediment Sampling Scope
A	6 locations – 0-0.5’ only	6 locations – 0-0.5’ only
B	2 locations – 0-0.5’, 0.5-1’, 1-2’, and black stained layer (if present)	2 locations – 0-0.5’, 0.5-1’, 1-2’, and 2’-End of Core
C	11 locations – 0-0.5’, 0.5-1’, 1-2’, and black stained layer (if present)	5 locations – 0-0.5’, 0.5-1’, 1-2’, and 2’-End of Core
D	6 locations – 0-0.5’, 0.5-1’, 1-2’, and black stained layer (if present)	6 locations – 0-0.5’, 0.5-1’, 1-2’, and 2’-End of Core

Notes:

1. Sample intervals may be adjusted in the field to account for observed changes in visual impacts and lithology (i.e., each sample interval will target a single visual observation type and lithologic type, to the extent possible).
2. All of the samples identified above are to be analyzed for PAHs, pentachlorophenol, dioxins/furans, and TOC (and a subset for grain size).

It was Beazer’s understanding, through participation in numerous meetings and calls, that the Project Coordination “Team” (PCT), including WDNR, believed that the GLLA Supplemental DGI data collection, combined with the prior data, would provide an adequate data set for FFS purposes.

Because of WDNR’s continuing concerns regarding the scope of the GLLA Supplemental DGI, Beazer does not believe that the DGI can be initiated on May 11, as planned. It is also very disappointing that WDNR does not recognize the effort and costs that were necessary to plan the DGI not once, but twice, as well as appreciate the commitment of the part of Arcadis and Jacobs to implement this work under the current COVID-19 guidelines. WDNR’s suggestion that “the additional analytical sampling at depth from the planned DGI soil borings and sediment cores be considered to provide necessary data for vertical COC definition”, does not even appreciate the implications of these last-minute suggestions on project planning and implementation. Lastly, the fact that WDNR has only recently submitted a formal regulatory request for access to Mr. Clayton Laurvick’s property on April

30, further supports the need for a delay of the DGI. Access to Mr. Laurvick's property has been a WDNR action item since the February 24, 2020 PCT call.

Finally, we want to voice our frustration with WDNR's continued lack of collaboration on this project and the suggestion that the PCT is not "neutral". Beazer believes that Arcadis, Anchor, EPA and their consultant Jacobs have participated in this project in a professional, collaborative manner using sound and objective science within the framework of WDNR regulations. To ensure agreement with each step of the process, meeting/call minutes have been generated and circulated to all parties for review/comment before finalizing. As stated in your email, it was WDNR who encouraged Beazer to sign up for a GLLA project, and threatened Beazer with enforcement actions if sufficient progress was not made. Yet WDNR was unwilling to be a signatory to the Project Agreement, and now is hindering progress on the GLLA project by continuously bringing up issues that have been resolved. The GLLA Project Agreement identifies WDNR as a PCT member, but WDNR seems unwilling to collaborate while also reserving their rights to comment on and disapprove any GLLA outcomes after the fact. That is not what Beazer had in mind when we signed up for this project – we were under the impression that this would be a collaborative effort and would lead to selection of a remedy that was protective of the public health and environment, addressed BUIs, and was agreeable to all parties, including WDNR. Beazer still sees value in continuing with the GLLA project, but needs to understand WDNR's commitment to being a PCT member and working collaboratively with Beazer and EPA throughout the process. If this will not happen, we will re-evaluate continuing with the PCT as contemplated in the Project Agreement.

Regards, Jane Patarcity

Timeline of 2012-2014 Supplemental Data Gap Investigation-Related Discussions, Correspondence and Submittals

- 1/10/12: WDNR submitted a letter to Beazer outlining WDNR's concerns regarding Beazer's 12/7/11 *Recommended Corrective Actions for Off-Property Area*, including four specific comments related to the "degree and extent of contamination"
- 2/20-21/12: Beazer provided a summary of the nature and extent of impacts at a meeting with WDNR in Madison
- 9/28/12: Beazer and WDNR participated in a meeting in Madison to discuss WDNR's perceived soil/sediment data gaps
- 10/9/12: WDNR submitted a letter to Beazer outlining specific data gaps
- 10/10/12: Beazer and WDNR participated in a meeting in Superior to discuss WDNR's perceived groundwater data gaps
- 4/19/13: Beazer and WDNR participated in a meeting in Madison; Beazer presented a scope of work for supplemental investigations to address WDNR's data gaps
- 5/24/13: Beazer and WDNR participated in a conference call/web meeting to discuss the proposed scope of work for supplemental investigations to address WDNR's data gaps
- 6/19/13: Beazer submitted draft *Work Plan for Supplemental Off-Property Investigations* to WDNR
- 6/26/13: Beazer and WDNR participated in a meeting in Madison to discuss draft Work Plan
- 6/28/13: Beazer submitted final *Work Plan for Supplemental Off-Property Investigations* to WDNR
- 7/3/13: WDNR submitted a letter to Beazer conditionally approving the *Work Plan for Supplemental Off-Property Investigations*
- 8/19/13-4/9/14: Beazer conducted the supplemental investigation field work
- 10/18/13: Beazer and WDNR participated in a conference call; a few additions/modifications to the approved scope of work were discussed with and approved by WDNR
- 4/15/14: Beazer submitted the *Supplemental Off-Property Investigation Summary Report* to WDNR
- 4/21/14: Beazer and WDNR participated in a conference call/web meeting; Beazer presented the supplemental investigation results to WDNR
- 6/11/14: WDNR submitted a letter to Beazer approving the *Supplemental Off-Property Investigation Summary Report*
- 8/22/14: Beazer submits the *Off-Property Focused Corrective Measures Study* to WDNR

Timeline of 2012-2014 Supplemental Data Gap Investigation-Related Discussions, Correspondence and Submittals

11/13/14: WDNR submits a letter to Beazer providing comments on the *Off-Property Focused Corrective Measures Study*



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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June 11, 2014

MS JANE PATARCITY
THREE RIVERS MANAGEMENT INC
MANOR OAK CIRCLE SUITE 200
1910 COCHRAN RD
PITTSBURGH PA 15220

Subject: Supplemental Off-Property Investigation Summary Report for the Former Koppers, Inc.
Facility, Superior, Wisconsin
WDNR BRRTS #02-16-000484

Dear Ms. Patarcity:

The Department of Natural Resources' Remediation and Redevelopment program has received the *Supplemental Off-Property Investigation Summary Report*, prepared for the above named site by ARCADIS and dated April 15, 2014. This report summarizes the results of additional soil and groundwater investigation performed in the summer and fall of 2013 and in January 2014 in the Crawford Creek floodplain upstream of the railroad embankment.

Based on a review of this report and the results of previous investigations, it appears that you have defined the degree and extent of contamination upstream of the Wisconsin Central Ltd. railroad embankment sufficiently to begin the corrective measures planning process for that area. We encourage you to proceed with the corrective measures study at your earliest convenience.

One issue that the Department believes warrants further evaluation as you move ahead with the planning and implementation of corrective measures is the degree of correlation between visually un-impacted floodplain material and the compliance of that material with applicable cleanup standards. We would have concerns with an overreliance on visual observations during remedial activities and the resultant potential for environmentally significant concentrations of site-related contaminants not being addressed through the corrective measures process. Because of that, we feel the need to point out that additional characterization may be needed to support remedial design. We hope to have further discussions with you and your consultants on this issue as we move forward.

Your continued cooperation in addressing the contamination at this site is greatly appreciated. If you have any questions concerning this letter or the project in general, please do not hesitate to write or call me at 715-685-2920. I can also be reached by e-mail at Christopher.Saari@Wisconsin.gov.

Sincerely,

Christopher A. Saari
Hydrogeologist

cc: Dave Bessingpas – ARCADIS
Jeff Holden – ARCADIS
Stuart Messur – Anchor QEA
Mark Thimke – Foley & Lardner LLP
John Robinson – DNR Wausau
Joe Graham – DNR Spooner
Steve Galarneau – DNR Madison WT/3
Bill Fitzpatrick – DNR Madison WT/3
Jim Killian – DNR Madison WT/3
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