



Transmitted via e-mail to Jane.Patarcity@TRMI.Biz and terry@omahatrack.com

May 10, 2022

File Ref: FID # 816009810
Douglas County
HW Lic

Beazer East, Inc.
c/o Three Rivers Management, Inc. (Agent for Beazer East, Inc.)
600 River Avenue, Suite 200
Pittsburgh, PA 15212
Attn: Jane Patarcity, Senior Environmental Manager

TRP Properties, LLC
12390 I Street
Omaha, NE 68137
Attn: Terry Peterson

Subject: Notice of Incompleteness; Long-Term Care License Application
Koppers Inc./Beazer East, Inc., EPA ID #WID006179463

Dear Ms. Patarcity and Mr. Peterson:

The department has performed an initial review of the long-term care (LTC) license application documents from Beazer East, Inc. (Beazer) for the site referred to as the Former Koppers Inc./Beazer East, Inc. located in the Town of Superior, Wisconsin. The application documents consisted of Beazer's cover letter dated November 1, 2021 (Cover Letter), and a document dated November 1, 2021, and titled "Wisconsin Long-Term Care License Renewal Application" (Application), prepared by Field & Technical Services, LLC (FTC). The application also addresses corrective action (CA) requirements.

For general background, the site contains hazardous waste surface impoundments that received waste after July 26, 1982, and that were certified for closure (non-clean) after January 26, 1983. Therefore, the site's owner(s) and operator(s) must comply with long-term care standards in accordance with NR 664.0228(2), Wis. Adm. Code and must have a long-term care license in accordance with s. NR 670.001(3), Wis. Adm. Code. In addition, the site involves multiple on-property solid waste management units (SWMUs) and an off-property area of concern that require corrective action under subch. J of ch. NR 664, Wis. Adm. Code.

The Cover Letter and the Application assert that Beazer does not control, and or have responsibility for, certain on-property areas and therefore cannot address in its license application long-term care and corrective action activities associated with certain parts of the site. Examples cited include a closed "90-day" drip pad last operated by a separate entity [understood by the department to be now known as Koppers, Inc. (Koppers)], and other portions of the site currently used by the landowner, TRP Properties, LLC (TRP) for railroad tie grinding operations and by Koppers (under a lease with TRP) for the storage and treatment of untreated railroad ties. As indicated by its letter dated September 17, 2020, the department indicated that it intends to issue the renewed long-term care license to both Beazer and TRP. For this reason, the department has addressed today's letter to each party. The department recommends that Beazer and TRP work together in developing a revised application to ensure that the entire site can be properly addressed, and would be pleased to assist in this effort as requested.

As part of its compliance assessment, the department issued a conditional close-out letter dated May 5, 2021. (CCO). The CCO established that the assessment would be considered closed when a complete long-term care application was submitted, and identified the minimum information needed to be included in the application.

The following items of the Application were found to require more information or clarification.

1. Owner Signature and Certification

The Application was not signed by the landowner (TRP). Section NR 670.010(2), Wis. Adm. Code, requires that the application also be signed by the site owner. The application should include the landowner signature and certification in accordance with the requirements and details in s. NR 670.011, Wis. Adm. Code.

2. Site Uses and Site-Wide Activities and Controls

Use of the site is limited by s. NR 664.0117(3), Wis. Adm. Code. In general, uses that may disturb any cover, containment system, or monitoring system are not allowed unless the department finds that they are necessary and will not increase potential hazards. This standard may be more difficult to continuously achieve at this type of site, where there are multiple parties that use or operate at the site or that may have certain contractual responsibilities. More specifically, it appears that responsibilities such as cover disturbance controls, inspections and maintenance, monitoring, training, preparedness and prevention, contingency planning, and security may involve multiple parties associated with the site.

Section A (on page 4) of the Cover Letter states:

“The Application relates only to those solid waste management units managed by Beazer and does not relate in any way to any solid waste or hazardous waste units and/or activities managed or conducted by TRP Properties, LLC (the current property owner) and Koppers Inc.”.

Section 2.3.2 of the Application refers to Table 2-1 to describe the SWMUs associated with the site, but states:

“Table 2-1 provides a summary of the former SWMUs/potential source areas at the site managed by Beazer, and does not relate in any way to any solid waste units managed by and/or activities conducted by TRP (the current property owner) and Koppers, including, but not limited to, those activities related to the drip pad at the site regulated under 40 CFR Subpart W.”

Accordingly, the Application appears to exclude corrective action responsibilities, activities or controls that may involve contractual obligations of parties other than Beazer. As the department has previously communicated to Beazer and TRP, this is unacceptable.

It is unclear which units or activities managed or conducted by TRP or Koppers are being addressed in Section A of the Cover Letter and Section 2.3.2 of the Application, or why this sort of distinction is considered relevant to the Application. Regarding the drip pad area, in a letter to the department dated July 30, 2020, Koppers asserted that it is not responsible for contamination below the drip pad area because it may pre-date Koppers' purchase of the site. In combination with Section A of the Cover Letter and Section 2.3.2 of the Application, as referenced above, it appears that both Beazer and Koppers deny responsibility for the drip pad area.

The following summary provides additional information regarding responsibilities for the drip pad area. In a transmittal dated January 10, 2019, KU Resources, Inc. (on behalf of Koppers) requested a determination that the drip pad closure “meets the requirements for a RCRA Subpart W closure.”, and that this determination be

issued “at such time as WDNR provides final approval of Beazer’s on-property site-wide RCRA Corrective Action remedy.” In an email dated July 10, 2019, KU clarified that the request was to request “approval of clean closure and end to the ongoing obligations under NR 6000 (sic) series hazardous waste rules as the 90-day generator drip pad has been sufficiently cleaned.” “Clean closure” has not been demonstrated under ss. NR 662.017(1)(h) and 665.0445, Wis. Adm. Code, and the department discussed further actions in its letter to Koppers dated June 16, 2020. Koppers’ response letter dated July 30, 2020 refers to obligations of other unnamed parties for contamination in the drip pad area from activities that that pre-date Koppers’ purchase of the site.

It is noted that several references within the Application describe fencing around the area of closed surface impoundments (depicted on Figure 2-1), which the Application indicates will limit activities in and adequately prevent disturbance to the regulated units’ cover system. For site areas outside of this fencing certain items important for proper long-term care and/or corrective action were not addressed in the Application. Specific examples include:

- a. **Monitoring Wells:** The Application’s PPC Plan (Appendix G-1), Section 3.1, and Training Plan (Appendix G-2), Section 2.3. establish that TRP and Koppers (as the owner and tenant, respectively) have been notified of the location of groundwater monitoring wells, which lie outside of the fenced area. The department is concerned that personnel and/or equipment operating at the site or trespassers may inadvertently damage wells, so we recommend that additional physical measures to help protect the wells from inadvertent damage (such as bollards, high-visibility signs, fencing) be implemented.
- b. **Covers/caps:** It appears that all non-regulated unit SWMUs and their cover systems lie outside of the fenced area. Personnel and equipment operating at the site (such as railroad tie grinding and railroad tie processing mentioned in Section 2.3.2 of the Application, or other future disturbing activities) may inadvertently damage these cover systems, and unauthorized trespassers could damage these cover systems. The department recommends that additional controls be implemented to minimize this possibility, and the minimum frequency of cover system inspections (currently annual) be reassessed to account for these risks.
- c. **Drainage:** Surface water drainage systems outside of the fenced area have been developed to minimize infiltration, erosion, and deleterious effects to cover systems. Other activities or disturbances at the site may inadvertently damage or affect the performance of these systems. The department recommends that additional controls be implemented to minimize this possibility, and the minimum frequency of drainage system inspections (currently annual) be reassessed to account for these risks.

Independent of contractual arrangements and responsibilities, all site-wide long-term care and corrective action systems, controls, and measures should be integrated into applicable parts of the application.

3. Preparedness and Prevention

Section 4.2 of the Application states:

“There is no possibility of fire, explosion, or immediate release of hazardous waste constituents from the closed RCRA-regulated unit that would constitute a threat to human health or the environment. In general, this performance standard was achieved by removing all K001 hazardous waste from the former RCRA-regulated surface impoundments as described in Section 2.3.1. The performance standard is being ensured through inspection and maintenance of the closed RCRA regulated unit and groundwater monitoring. Pursuant to NR 670.014(2)(f) and the preceding justification, it is therefore requested that the Post-Closure Preparedness and Prevention Plan requirements be waived for this Site.

Even though a waiver has been requested, the most recent Preparedness, Prevention and Contingency (PPC) Plan (FTS), February 2021) is provided herein as Appendix G.1 to demonstrate compliance with historical requirements”.

To better justify a waiver request, the application should be clarified, and improved in the following ways:

- a. While some hazardous waste may have been removed from the surface impoundments, it disagrees that “all” hazardous waste was removed. This should be corrected (both here and in Application Section 3.1, first paragraph). The application should better describe the waste and waste residues that were left in place at closure and the associated risks for a fire, explosion, or release identified in s. NR 664.0031, Wis. Adm. Code.
- b. The application should better describe how inspection, maintenance and monitoring activities adequately address these risks.
- c. It is not clear what is meant by “Post-Closure Preparedness and Prevention Plan.” This should be clarified.
- d. It is not clear how or why the PPC Plan is being referenced here to “demonstrate compliance with historical requirements”, and how this supports a waiver request. This should be clarified.

4. Contingency Plan

Section 4.3 of the Application asserts that a Contingency Plan in accordance with the requirements of s. NR 670.014, Wis. Adm. Code, is not required for the closed surface impoundment units.

There is no variance or waiver provision in Wisconsin’s regulations that allows the department to waive the requirement for a contingency plan. The application should include a Contingency Plan. You may want to propose that the PPC Plan (included in Appendix G.1 of the Application) serve as the site’s contingency plan, provided it meets the requirements of s. NR 664.0051(1), Wis. Adm. Code. Additional comments regarding the PPC Plan are provided in other sections of this letter (e.g., sections 4, 14, 15, 16, and 17)

5. Off-Property Corrective Action

Item B.1 of the CCO established that the application should include a detailed description of all corrective action work. On page 6 of the Cover Letter, Beazer states, “The attached Application addresses both long-term care and corrective action requirements, including references to various existing plans, as appropriate”. These plans appear to only address on-property activities. The Application does not describe corrective actions for off-property contamination.

The application should address corrective action for all areas of off-property contamination in sufficient detail to support a proper cost estimate and proper financial assurance. This may be accomplished by adding off-property areas to Table 2-1 of the Application, and by describing off-property corrective actions (perhaps as an additional Section 4.1.3).

Please also refer to related discussions in this letter involving topics that involve or are affected by off-property corrective action (for example sections 3 and 4, 6 through 11, and sections 14 through 16).

Since U.S. EPA transferred corrective action regulatory lead authority to the department in 1997, some work regarding off-property corrective action has been performed by Beazer and its consultants. However, more recently, movement towards completion of the focused Feasibility Study (FFS) and remedy selection and implementation has been delayed further. The department is increasingly concerned that progress on off-property corrective action has been slow.

6. Off-property Corrective Action Cost Estimate

As background, Item 2.f of the department's Notice of Noncompliance (NON) dated December 9, 2020, alleged non-compliance with financial assurance requirements regarding off-property corrective action and required that this cost estimate be developed and provided to demonstrate compliance. Beazer responded on March 1, 2021, that it was impossible to estimate the cost for this because a remedy had not yet been selected. In the CCO, the department disagreed with this position; the department reminded Beazer that cost-related information had been previously developed in Arcadis' 2014 report, and could, along with other information, be used in developing the cost estimate, and that the cost estimate could always be updated as more information becomes available. Accordingly, sections B.2 and B.6 of the CCO established that the application include estimated corrective action costs for off-property remediation activities.

The Application did not include estimated corrective action costs for off-property remediation activities. In fact, Table 1-1 of the Application asserts that this information is "Not Applicable." The department disagrees, based in part on the following requirements:

- Section 291.37(2)(a), Wis. Stats., requires proof of financial responsibility for the cost of corrective action. This cannot be accomplished without proper cost estimates.
- Section NR 670.014(4)(a)6., Wis. Adm. Code, requires the application to include a description of the corrective action, the anticipated time period for achieving compliance and the basis for its length, and a cost estimate for completion of corrective action.

In the Cover Letter (page 12), Beazer suggests that cost estimates from Arcadis' 2014 report cannot and should not be used because the report has not been approved by the department. The department disagrees that its approval or non-approval of a report renders the report's information unusable, particularly when the report was certified by a professional engineer.

Beazer goes on to also state, "In the absence of a selected remedy, it is impossible to estimate the financial assurance required by the regulations." The department disagrees. The department understands that Beazer is close to completing a Great Lakes Legacy Act (GLLA) focused feasibility study (FFS) and believes that Beazer and its consultants can develop a reasonable cost estimate based on the amount of site-specific information available and the work completed to date.

Also note that a basic purpose of this financial assurance is to assure that funds are available for corrective action activities in the event that the owner or operator will not, or cannot, accomplish the activities. At present, no cost estimate or financial assurance has been established for off-property corrective action, and thus the State would be left to fund any corrective action should it become necessary. This is not acceptable.

The application should include the estimated corrective action costs for off-property remediation activities, including but not limited to additional investigations, remedy detailed design and implementation, post-remedy maintenance and monitoring, and completion date. This off-property corrective action cost estimate should present the supportive information identified in section B.2 of the CCO, including but not limited to estimated costs by task for each year until corrective action is no longer necessary and an explanation of the basis for the estimate's quantities and unit costs.

The department acknowledges that in some cases it may be more difficult to develop a cost estimate prior to the formal selection/approval of a remedy, because certain assumptions are needed. We recommend that you develop and describe these assumptions in presenting its cost estimate. Please note that as more information becomes available in the future, the cost estimate and its assumptions can and should be updated. In any case,

the cost estimate should be based on completion of corrective action work that can be reasonably expected to meet the standards of chs. NR 700-799, Wis. Adm. Code.

7. LTC and CA Period (Completion Dates/Duration)

Section B.5 of the CCO established that the application was to include the estimated time period (i.e., the completion date or duration) for long-term care and corrective action, for use in developing the cost estimates for these activities. Also note that s. NR 670.014(4)(a)6., Wis. Adm. Code, requires the application to include the anticipated time period for completing corrective actions for each unit and the basis for its length, in a manner that is consistent with the long-term care cost estimate.

The Cover Letter and Application were unclear regarding the estimated completion date(s). For example:

- The Cover Letter (page 10) states, “Beazer proposed a 40-year LTC time period in the Application in accordance with NR 664.0117(a)(a)”. We assume this meant to refer to s. NR 664.0117(1)(a), Wis. Adm. Code (which establishes that long-term care must continue for a minimum of 40 years after completion of closure of the unit), which may mean that for the purposes of computing financial assurance requirements, a 40-year period that would end in 2029 (i.e., 40 years after the approved 1989 closure certification) is proposed. This appears to be inconsistent with the Cover Letter (page 11) which states, “Financial assurance cost estimates are included in Appendix H of the Application.” Appendix H of the Application shows 40 years of costs as of June 3, 2021, which may mean that a period that would end in 2061 (i.e., 2021 plus 40 years) is proposed.
- Appendix I of the Application is cited (in the Table 1-1 “crosswalk” table) as addressing the completion date/duration-related questions raised in the CCO. This appendix only includes a copy of a 2012 amendment to an irrevocable standby letter of credit. It is unclear how this document relates to or explains the estimated completion dates/duration for its cost estimates.
- The submittal did not address the schedule and completion date/duration for off-property corrective action work, which should be addressed.

The application should provide a clear description of the basis for and the estimated schedule and completion date(s) and resultant duration(s) of the LTC and CA period(s) for use, among other things, in supporting the associated cost estimates and establishing financial assurance. These dates should reflect when you believe LTC and CA work will no longer be needed for each unit. Additional discussion regarding financial assurance is included in other sections of this letter (for example, sections 8 through 10).

Since U.S. EPA transferred corrective action regulatory lead authority to the department in 1997, some work regarding off-property corrective action has been performed by Beazer and its consultants. However, more recent movement towards completion of the FFS, and the remedy selection and implementation, has been delayed further. The schedule should reflect completion of off-property corrective actions no later than five years from present, or by 2027.

8. Basis for Estimated Costs

Item B.2.c of the CCO established that cost estimates include a clear description of the source of and/or basis for the cost estimates’ quantities and unit costs. More specifically, CCO items B.2.a through B.2.c established that the cost estimates identify each task and subtask (as included in the LTC and CA work descriptions) and the quantity, unit, unit cost and extended total for each task/subtask. Items B.2.c requires the cost estimates to include a description of the source and/or basis for the quantities and costs. Item B.2.b requires the inclusion of costs needed to procure and manage a third party to perform the work.

Cost information is presented in Table 1 in Appendix H of the Application. This table is incomplete and/or unclear. The following clarifications and improvements are needed for Appendix H of the Application:

- a. A footnote in Table 1 states, “Costs are based on actual costing from Operations and Maintenance Subcontractor.”
 - The term “Operations and Maintenance Subcontractor” is unclear. Please clarify if this is referring to Field & Technical Services. LLC (FTS) as this “Subcontractor”, whose duties are summarized in Section 1.0 of Appendix G.2 (and include the use of FTS’ “appointed subcontractor”).
 - Regarding the term “costs”, it is not clear if this is referring to units cost only, or to the quantities as well. Please clarify the source (or basis) of units and unit costs.
- b. In Table 1’s “Post-Closure Care” and “Corrective Measures” sections, there are entries for erosion repairs and well repairs. This sort of work may or may not be needed in any given year, but when needed could be substantial. Clarification is needed, such as:
 - Do these values represent an average over some previous period of time of the costs actually experienced, or a previous year’s costs, or forecasted costs independent of previous actual costs?
 - What is the repair/replacement work is assumed to occur, how often?
- c. In Table 1’s “Post-Closure Care” and “Corrective Measures” sections, there are entries totaling \$1,000 per year for project management/administration. A footnote says, “Costs are based on actual costing from Operations and Maintenance Subcontractor,” which suggests that these are costs as experienced by a vendor or vendors. Therefore, it appears that there are no costs included for the procurement and management of the vendor(s). Item B.2.d of the CCO indicated that the cost estimate “should be based on utilizing a third party to complete the estimated remaining work, including costs to manage and administer the work.” The cost estimate should be amended to include these project management costs.

The application should include additional information and details regarding these items necessary to clarify and support the cost estimate for this work.

9. Monitoring Costs

Appendix H of the Application appears to include all groundwater monitoring costs under Activity 1 (for surface impoundment LTC) and no monitoring costs for Activity 2 (for **on-property** corrective measures). It is the department’s understanding that the groundwater monitoring described in Section 5.3.1 of the Application is intended to comply with both sets of requirements. If this is the case, please add a clarifying footnote to the cost estimate table. If this is not the case, you should add estimated costs for are missing groundwater monitoring activities to Activity 2.

Appendix H shows one lump sum total of \$12,790 for laboratory analysis. Two sampling rounds per year are performed with slightly different parameter lists. You should break this out into two line items, one for each annual event.

The application should address these recommendations.

10. Financial Assurance Amount

The cost estimate in Table 2 of Appendix H shows a total combined estimated cost of \$2,208,000 for long-term care and corrective action. The financial assurance documentation in Appendix I includes a copy of a 2012 amendment to an irrevocable letter of credit showing a total of \$600,100. It is unclear why letter of credit amount is significantly lower that the Application’s cost estimate.

The application should include documentation required to demonstrate financial assurance for long-term care and corrective action in the proper amount. For additional information, please refer to section B.5.b of the

CCO that discusses the use of a “rolling window” for financial assurance; we recommend that financial assurance be demonstrated and maintained for a 30-year rolling window unless and until a successful demonstration that a period of less than 30 years is justified based on site-specific conditions regarding protection of human health and the environment.

Also note that the financial assurance instrument(s) needs to be properly worded. For example:

- Required wording for a LTC letter of credit is established in ss. NR 664.0145(4) and NR 664.0151(4), Wis. Adm. Code. Specific wording for corrective action is not specified by code but must be acceptable to the department. If a single instrument is used for both long-term care and corrective action, both types of expenditures should be addressed in the financial assurance instrument. Please contact the department’s Dustin Sholly at dustin.sholly@wisconsin.gov for more information regarding detailed wording requirements.

11. Groundwater Monitoring Program

- a. The proposed groundwater monitoring plan need further clarification. According to Section 5.3.1, of the Application, monitoring is conducted in accordance with the April 2002 Sampling and Analysis Plan (SAP) and refers to Appendix M. Appendix M includes a one-page table purported to represent the currently approved SAP. However, it appears that revisions since 2002 have been implemented.
 - Section 5.4 states:
“There are no proposed revisions to the current groundwater monitoring program (as described in Section 5.3.1) at this time, however; an addendum to the approved SAP (The RETEC Group, Inc., April 2002) has been provided as Appendix M to incorporate groundwater monitoring network modifications that have been made since WNDR-approval of the existing SAP in 2002.”
 - However, item 10 (page 13) of the Cover Letter states, “Minor modifications to the Sampling and Analysis Plan (“SAP”) are provided in the SAP Addendum, which is included in Appendix M of the Application.”

This appears to reflect a desire to modify the currently-approved groundwater monitoring plan, but it is not evident what these proposed modifications are. The application should include a clear description of the proposed SAP. If changes have been implemented or are proposed, this should include:

- The 2002 approved SAP and the approval.
 - Copies of requests for approval of any subsequent modifications, and associated approvals. This could include, for example, copies of the documents (or key excerpts therefrom) that are referenced in footnote #2 of Attachment C of Beazer’s March 1, 2021 submittal (as referenced in item 9 of the Cover Letter).
 - Any proposed modifications that have not been previously proposed and approved, along with the rational or justification for the change.
 - An updated version of its proposed SAP that the department should consider for technical review, and to facilitate development of the license requirements of s. NR 664.0091(2), Wis. Adm. Code.
- b. The groundwater monitoring plan should demonstrate compliance with the applicable monitoring requirements of ss. NR 664.0090 through NR 664.0100, Wis. Adm. Code. The application should describe how all of these requirements are met.

Please note that s. NR 664.0090(6), Wis. Adm. Code, allows the department to approve alternatives to these prescribed requirements in certain circumstances. If you desire that the proposed SAP be approved under this provision, please describe

- How the regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management units (or areas of concern) are likely to have contributed to the release, as required by s. NR 664.0090(6)(a), Wis. Adm. Code, and
- How the alternative requirements (as represented in the proposed SAP) will protect human health and the environment, as required in s. NR 664.0090(6)(b), Wis. Adm. Code.

12. Deed Notation

The “crosswalk” in in Table 1-1 of the Application indicates that documentation of the deed notation, as required in s. NR 664.0119(2), Wis. Adm. Code, was contained in Section 4.1 and in Appendix B.4.

- Section 4.1 of the Application does not discuss or contain this deed notation documentation.
- Appendix B.4. of the Application includes a closure construction documentation report from Keystone from November, 1989. Section 6.0 of this report appears to discuss a future plan to establish the required deed notation, but does not provide the required documentation.
- It is noted that Section 4.7 of the Application discusses notices required by ch. NR 725, Wis. Adm. Code. However, this does not address the deed notation documentation required in s. NR 664.0119(2), Wis. Adm. Code.

The application should include documentation demonstrating that the deed notation required by s. NR 664.0119(2), Wis. Adm. Code, has been properly recorded.

13. Map Information

Section NR 670.014(2)(s), Wis. Adm. Code, specifies mapping requirements for the application. Based on the Table 1-1 “crosswalk,” and a review of the Application’s figures, the Application appears to be missing the following required information in ch. NR 670, Wis. Adm. Code:

- a. NR 670.014(2)(s)3., Surface waters including intermittent streams. (Note that intermittent streams do not appear to be shown).
- b. NR 670.014(2)(s)4., Surrounding land uses (residential, commercial, agricultural, recreational).
- c. NR 670.014(2)(s)9. Injection and withdrawal wells both on-site and off-site. (Note that wells within 1,000 feet of the site are do not appear to be shown).
- d. The following information from NR 670.014(2)(s)10.: Run-off control systems; storm, sanitary and process sewerage systems.
- e. NR 670.014(2)(s)11. Barriers for drainage or flood control.
- f. NR 670.013(12) (Contents of Part A) also requires a topographic map depicting “wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within ¼ mile of the site property boundary”.

The application should address this information. If certain features do not exist or are not applicable, the application should clearly explain this.

14. Inspections

- a. Section 4.5.3 of the Application proposes to continue annual inspections of certain on-property features related to SWMUs (e.g., surface covers and the Outfall 001 drainage ditch). Because the site has limited perimeter security controls to restrict access, and because there are multiple parties that use or operate at the site, the department recommends that inspections be performed more frequently than annually (see

item 1), and suggests quarterly inspections of these features. Please evaluate the proposed inspection frequency and explain in the application how it is based on the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections.

- b. The most recent inspection report (FTS, December 10, 2021) did not include inspection results for all SWMU cover systems. For example, the documentation included for the drip pad area (Area F) appears to be limited to two smaller areas (F-1 and F-2). Inspections of the entire cover system for all SWMUs should be addressed in the application and more clearly on the inspection log/form, including the entire Area F drip pad SWMU.
- c. Section 4.5 of the Application should be revised to include the entire monitoring well network, not just wells associated with the “Closed RCRA-regulated unit”.
- d. Regarding the line item for run-on/run-off in the “Post-Closure Inspection Form” in Appendix F.1 (also contained in Appendix G’s PPC Plan), the only example “type of problem” is shown as “Watering Pond”.
 - It is unclear what sort of problem this is meant to describe. The department recommends this be better described in the LTC Plan or on the log sheet.
 - It is unclear which particular run-off controls are intended to be inspected. This be better described in the LTC Plan or on the log sheet.
 - Section NR 664.0015(2)(c), Wis. Adm. Code, requires the inspection schedule to identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection. The application and forms should more clearly identify and identify these problems for use in inspections of the regulated units and SWMUs.
- e. The inspection program should address inspections needed for off-property remediation and corrective action activities.

The application should address these concerns and recommendations.

15. PPC Plan (Contingency Plan)

- a. Section 8 of the PPC Plan (in Appendix G.1 of the Application) refers to training “on proper monitoring, inspection, reporting and emergency response equipment replacement procedures.” It states this training will be provided to “employees who perform work at the Facility” and will include “Facility personnel hazardous waste management procedures.” The topics covered in the PPC plan are likely to involve actions to be executed by employees of multiple employers. It is not known what is meant by “facility personnel;” again, execution is likely to involve personnel that are located both at the facility and off-site. The application should provide a clear identification and of all personnel and their employer that are required to be trained for each PPC Plan topic.
- b. Section 9.1.2 of the PPC plan describes notifications to State and County Agencies (in its Appendix E “Emergency Release Notification” form) only for certain releases that result in “exposure to persons outside the site boundaries.” The application should also identify and describe the reporting and notification requirements for hazardous substance discharges established by ch. NR 706, Wis. Adm. Code, and the 15-day reporting requirement described in s. NR 664.0056(9), Wis. Adm. Code.
- c. The evacuation route depicted on Figure 3 appears to show routes that are not on the site or property. The application should depict evacuation routes that would be used by personnel and vehicles on the property, and show property/site egress locations.

The application should address these recommendations.

16. Training

- a. Section 4.6 of the Application (as well as Appendix G.2's training plan) only addresses activities associated with the "closed RCRA-regulated unit". The training program and plan should also address corrective action activities.
- b. Regarding section 2 of the Application's training plan in Appendix G.2, the application should address training for the Emergency Coordinator(s) and any other emergency response personnel identified in the PPC Plan.
- c. Section 2.3 of the Application's training plan in Appendix G.2 states, "All affected employees are briefed on the emergency procedures for the Site." The training topics and tasks regarding emergency procedures involve "employees" of multiple employers. The application should provide a clear identification and of all personnel and their employer that are required to be trained.
- d. The last paragraph of section 1.0 of the Application's training plan in Appendix G.2 identifies the tasks to be conducted by FTS. It appears that this should also identify the Emergency Coordinator personnel, described in the training plan's section 3.3 as the "Site Inspector" and "the OM&M Program Manager."

The application should address these recommendations.

17. Detailed Corrections

The department noted the following editorial items in the Application that appeared to be incorrect or unclear, and should be corrected.

- a. The "crosswalk" (Table 1-1) includes a reference to Figure 2-2d near the bottom of page 1. This figure could not be found.
- b. The cover sheet for Appendix G (which included two sections, G.1 and G.2) of the Application should refer to the PPC Plan included in G.1.
- c. On pages 9 and 13 of the PPC Plan, regarding the 15-day notice, change "EPA Region 5 Administrator" to the Wisconsin DNR's hazardous waste program.
- d. The example letter in Appendix D of the PPC Plan refers to "NR 665.053." This should be corrected to "NR 664.053."

Next Steps

The Department recommends that you provide the information identified above in a revised application within 2 months of the date of this letter. To assist in its review of the revised application, the department recommends that you provide a "crosswalk" that identifies where in the revised application this information is provided.

The complete and timely submittal of this information is needed for the application meet ch. NR 670, Wis. Adm. Code, and the conditions of the department's May 5, 2021 conditional close-out letter.

Because of the large size and breadth of the November 1, 2021 submittal and this letter, the department reserves the right to issue additional comments and identify additional informational needs.

Closing Remarks

We appreciate Beazer's and FTS' efforts in assembling the November 1, 2021 submittal. Please feel free to contact me at 608-843-2160 or douglas.coenen@wisconsin.gov.

Regards,

A handwritten signature in black ink, appearing to read 'D. Coenen', written in a cursive style.

Douglas W. Coenen, P.E.
Hazardous Waste Engineer
Hazardous Waste Prevention and Management Section
Waste and Materials Management Program

cc: Jayne Wade, WDNR
John Sager, WNDR
Dustin Sholly, WDNR
Michael Slenska, P.E., Beazer East, Inc. (Mike.Slenska@TRMI.Biz)
Angie Gatchie, Field and Technical Services, LLC (agatchie.2006@f-ts.com)
Robert Tasch, Koppers, Inc. (TatschRS@koppers.com)