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May 1, 2023

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: Request for Additional Information  
Long-Term Care License Application, Rev.1, Oct. 10, 2022  
Koppers Inc./Beazer East, Inc.  
EPA ID No. WID006179463

Dear Ms. Patarcity and Mr. Peterson:

The Department of Natural Resources (department) has completed its initial review of the revised long-term care license application from Beazer East, Inc. (Beazer) for the Koppers Inc./Beazer East, Inc. facility located at 3185 County Road A in the Town of Superior, Wisconsin (“the facility”). This included a review of Beazer’s letter dated October 10, 2022 (“Beazer’s letter”), which responded to the department’s May 10, 2022, Notice of Incompleteness letter (“2022 NOI”), and Revision 01 of the long-term care license application prepared by Field and Technical Services, LLC (“2022 revised application”) and also dated October 10, 2022.

We have identified the following items for further action by the applicant(s). Please provide a response within 60 days of the date of this letter. Note that a further revision of the 2022 revised application is not requested; rather, the responses can be provided in a letter that is certified as required under s. NR 670.011, Wis Adm. Code. The department will inform the applicant(s) if an amended application is needed after reviewing any responses.

1. Confirmation of Changes

To assist the department in completing its review, please provide a summary of all changes from the November 1, 2021 application to the 2022 revised application. Minor editorial changes (such as correction of typos) do not need to be identified. Feel free to use a “Record of Revision” format.

2. Easement

Beazer's letter, in several places, refers to an irrevocable easement dated December 19, 2012. Please provide a copy of this document. The department also requests a copy of the June 16, 2014, letter regarding notification of continuing obligations that is referred to in footnote #1.

### 3. Contingency Plan

In its response to 2022 NOI comment 4, Beazer's letter states, "...should the Department expressly determine that a contingency plan is required, Beazer proposes that the PPC Plan will serve as the Site's contingency plan." The department has determined that a contingency plan is needed. The department requests that the PPC plan be amended to state that it represents the Contingency Plan required by s. NR 664.0051, Wis. Adm. Code. Please provide a copy of the amended plan.

### 4. Table 2-1

In its response to 2022 NOI comment 5, Beazer's letter states, "Because the off-property portion of the Site is not a SWMU and corrective measures have not yet been completed, off-property areas have not been added to Table 2-1". The department requests that Table 2-1 be amended to identify the off-site corrective action areas, perhaps as "Area(s) of Concern" (rather than "SWMUs").

### 5. Corrective Action Timing

In 2022 NOI comment 5, the department expressed increasing concern that progress on off-property corrective action has been slow. In 2022 NOI comment 6, the department requested a clear description of the basis for and the estimated schedule and completion date(s) and resultant duration(s) of the long-term care and corrective action period(s) for use, among other things, in supporting the associated cost estimates and establishing financial assurance. In its response to 2022 NOI comment 6, Beazer's letter states, "...because an actual remedy for the off-property area has not yet been selected/approved, it is not feasible to determine when such corrective actions will occur or how long they will take." Further, Beazer's letter did not address the completion schedule for long-term care.

The department again requests a clear description of the basis for and the estimated schedule and completion date(s) and resultant duration(s) for corrective action. The key assumptions used for this estimate should be included. For example, regarding off-property corrective action, this would include estimates of:

- when the proposed remedy will be proposed and approved,
- a description of the remedy (as is further discussed later in this letter)
- the length of time expected to implement the remedy, and
- a description of and estimated duration of subsequent continuing monitoring and maintenance.

### 6. Updated Off-Property Corrective Action Cost Estimate

In its response to 2022 NOI comment 6, Beazer's letter states that the Appendix H cost estimates are based on Alternatives A2, B.1 and C.2 of the 2014 Focused Corrective Measures Study.

- a. The department requests that the cost estimate be revised to utilize the more current information in the September 30, 2022, Draft Focused Feasibility Study (DFFS),

- b. Additionally, the DFFS contains a range of options and costs associated with the remediation of the off-property contamination. The applicant(s) should only consider those options that are approvable based on feedback provided by the department's Remediation and Redevelopment Program.

#### 7. Corrective Action Cost Estimate - Assumptions

In its response to 2022 NOI comment 6, Beazer's letter identifies additional assumptions used in the cost estimate.

- a. *Pre-disposal costs*. Please ensure that the revised estimate includes reasonable estimates of costs for dewatering/stabilization that may be required before materials can be hauled offsite and disposed, and for collecting and analyzing samples of waste materials. See footnote 36 in the 2022 DFSS.
- b. *50% funding of by GLLA (except for long-term inspection, maintenance, and monitoring)*. Please provide documentation to support the reasonableness of this assumption.

#### 8. Corrective Action Cost Estimate – Basis for Costs

- a. Item 8.a of Beazer's letter states, "Regarding the request to better define the term "costs" as used in Table 1 of Appendix H, Beazer is unclear as to what this question is referring to and requests further clarification". Item B.2.c of the department's May 5, 2021 letter (CCO letter) established that cost estimates should include a clear description of the source of and/or basis for the cost estimates' quantities and unit costs. Put another way, this description should explain where each quantity and each unit cost come from or how it was derived. The department reminds the applicant(s) to include this information with its cost estimates.
- b. Item 8.c of Beazer's letter states, "The costs for procurement and management of the vendor(s) is (sic) absorbed by Beazer." Please include these costs in the revised cost estimate, as this work would be performed by the State if the licensee was unwilling or unable to perform.

#### 9. Groundwater Monitoring Program - General

One of the purposes of hazardous waste license renewals is to review the terms of the current license and previous approvals, and to ensure they meet regulatory standards.

Item 11.b of the 2022 NOI requested that the application demonstrate compliance with the monitoring requirements in ch. NR 664, Wis. Adm. Code. The response in Beazer's letter does not provide this information; rather, it simply states that the April 2002 sampling and analysis plan (SAP) has already been approved by the Department. Therefore, it is not clear how the SAP meets each of the applicable regulatory requirements.

- a. The department requests that the applicant(s) detail how this program meets each of the monitoring requirements in ss. NR 664.0091 through NR 664.0099, Wis. Adm. Code, and the monitoring related requirements in s. NR 664.0100, Wis. Adm. Code. If applicant(s) believe any of these requirements are not applicable, applicant(s) should provide their reasoning.

If the program does not meet each of these requirements, the applicant(s) should:

- Present a modified monitoring program to assure that it meets each of these requirements, or
- Present details of an alternative monitoring program provisions per s. NR 664.0090(6), Wis. Adm. Code, which allows for the replacement of all or part of these requirements with alternative requirements. For each of these requirements for which an alternative is proposed, the proposal

should describe in detail how it will protect human health and the environment, as further required by s. NR 664.0090(6)(b), Wis. Adm. Code.

- b. In providing this information, the applicant(s) should pay special attention to the following specific code sections which require the owner or operator to determine or specify particular information:
- NR 664.0097(7) (sampling procedure and interval)
  - NR 664.0097(8) (statistical method and pql's)
  - NR 664.0097(9) (statistical method details)

- c. In providing this information, the applicant(s) should pay special attention to the following specific code sections which require that the license specify particular information and should provide support or rationale for the proposed approach:

**All monitoring programs**

- NR 664.0091(2) (specific elements of the monitoring and response program, which may include one or more of the programs identified in sub. (1))
- NR 664.0093(1) (hazardous constituents to which the groundwater protection standard of s. NR 664.0092 applies)
- NR 664.0093(2) (excluded constituents and rationale)
- NR 664.0094(1) and (2) (concentration limits and alternate concentration limits)
- NR 664.0095 (point of standards application)
- NR 664.0096 (compliance period)
- NR 664.0097(7) (sampling procedure and interval)
- NR 664.0097(8) and (9) (statistical methods)
- NR 664.0097(10) (data submittal schedule)

**Detection monitoring programs**

- NR 664.0098(1) (parameters or constituents to be monitored)
- NR 664.0098(4) (frequencies for collecting samples and conducting statistical tests)
- NR 664.0098(6)(b) (period of time to complete statistics)

**Compliance monitoring programs**

- NR 664.0099(1)(a) through (d) (groundwater protection standard)
- NR 664.0099(3) (sampling procedures and statistical methods)
- NR 664.0099(4)(b) (period of time to complete statistics)
- NR 664.0099(6) (frequencies for collecting samples and conducting statistical tests)

- d. Groundwater Monitoring Program – Drip Pad

In addressing the department's request and recommendations provided above regarding the groundwater monitoring program, please bear in mind that the drip pad has never been "clean-closed" as required by s. NR 662.017(1)(h), Wis. Adm. Code, and therefore the facility must meet all long-term care requirements in NR 665.0117, Wis. Adm. Code, including the monitoring requirements of subch. F of NR 665, Wis. Adm. Code. Please describe how the monitoring plan meets each of the monitoring requirements in ss. NR 665.0090 through NR 665.0094, Wis. Adm. Code,

If the program does not meet each of these requirements, the applicant(s) should:

- Present a modified monitoring program to assure that it meets these requirements, or

- Present details of an alternative monitoring program provisions per s. NR 665.0090(6)(a), Wis. Adm. Code, which allows for the replacement of all or part of these requirements with alternative requirements. For each of these requirements for which an alternative is proposed, the proposal should describe in detail how it will protect human health and the environment, as further required by s. NR 665.0090(6)(b), Wis. Adm. Code.

#### 10. Groundwater Monitoring Plan Details

In its response to 2022 NOI comment 11.a, Beazer’s letter indicates that updates to the 2002 SAP “are summarized in the SAP Addendum (Appendix M) and are not being retransmitted to the Department as they have already been provided in the March 1, 2021 response to the Department’s December 9, 2020 Notice of Noncompliance.” (For information, please note that Item 8 of Beazer’s March 1, 2021 letter referred to a table in its Attachment C, but this table appears to actually have been in its Appendix F). The “Notes” below the table (in Attachment F of March 1, 2021 letter appears to have included only a listing of documents involving SAP changes that Beazer prepared after 2002, not the documents themselves, even though Item 11.a of the 2022 NOI had requested copies of these documents, along with any approvals. Therefore, the department assumes that these changes were never approved.

- a. For any past changes to the SAP that were desired, department approval should have been requested and approved prior to implementation. Without approvals, the validity of such changes cannot be recognized when the department assesses compliance. It is recommended that the applicant(s) document or acquire approval of the desired changes to the 2022 SAP.
- b. Please modify the table in Appendix M of the 2022 revised application to incorporate these changes and approvals. This will assist the department in its continuing review.

#### 11. On-Property Corrective Action Plan

- a. To assist the department, please provide a summary of the facility’s on-property corrective action program. This summary should address how the plan meets each of the requirements in s. NR 664.0100 and NR 664,0101, Wis. Adm. Code, Corrective Action Program.

This summary should be sufficiently detailed to describe how the corrective actions that will achieve compliance with the groundwater protection standards, as required by s. NR 664.0099(8)(b)1., Wis. Adm. Code. It can include references as appropriate to historical documents that provide background details.

In providing this information, the applicant(s) should pay special attention to the following specific code sections which require that the license specify particular information and should provide support or rationale for the proposed approach:

- NR 664.0100(1)(a) through (d) (groundwater protection standard)
  - NR 664.0100(2) (specific corrective action measures that will be taken)
  - NR 664.0100(3) (when the corrective action will begin)
  - NR 664.0101(2) (corrective action description, schedule and financial assurance)
- b. The applicant(s) should provide a report, as required in s. NR 664.0100(7), Wis. Adm. Code, describing the effectiveness of the corrective action program. (For information, note that this report is an annual requirement).

## 12. Financial Assurance

Currently, financial assurance in the amount of \$600,100 is on file. In its response to 2022 NOI comment 10, Beazer's letter indicates, "Upon the Department's approval of the proposed long-term care cost estimate included in Beazer's Revised Application, Beazer will, in accordance with NR 664.0145(4)(g), update the financial assurance instrument to match the Department-approved cost estimate." To demonstrate compliance with long-term care and corrective action financial assurance requirements, the department recommends that the applicant(s) promptly update its letter of credit to the revised cost estimate (in Appendix H of the 2022 revised application) of \$6,354,000 (as of March 30, 2022), plus applicable inflation adjustment, and not wait for any additional department approval. For this purpose and for the time being, the department approves this revised cost estimate amount; it may need to be increased (or reduced) in the future if appropriate, based on the terms of future approvals or license requirements.

Please contact Dustin Sholly, our program's Financial Assurance Specialist, for any questions or assistance in establishing financial assurance documentation and inflation adjustments. Dustin can be reached at (608) 866-0154, and [Dustin.Sholly@wisconsin.gov](mailto:Dustin.Sholly@wisconsin.gov).

## 13. Deed Notation

Regarding the response to in Beazer's letter to 2022 NOI comment 12, please include a schedule for completing the discussed deed notation work, and for providing a copy of such work to the department.

## 14. Maps

Regarding map information in the 2022 revised application:

- a. Item 13.c of the 2022 NOI (referred to as 13.d on Beazer's letter) indicated that injection and withdrawal wells within 1,000 feet do not appear to be shown. Revised Figure 2-2 shows some wells, but does not extend to all areas within 1,000 feet of the site, so it may not show all wells. Please provide a revised figure, ensuring that all required injection and withdrawal wells within 1,000 feet of the facility's boundary are shown.
- b. As indicated in Item 13.f of the 2022 NOI, s. NR 670.013(12), Wis. Adm. Code (Contents of Part A), 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." This was repeated in Item 13.f of the 2022 NOI (referred to as 13.d on Beazer's letter). The locations of all drinking water wells within this radius could not be found. Please provide a map of figure showing all injection and withdrawal wells within ¼ mile of the property boundary

## 15. Inspections – Run-off Controls

The second and third bullets of Item 14.d of the 2022 NOI requested information to better describe/identify the run-off control systems to be inspected, and for these inspection items, to identify the types of problems to be looked for during inspections and more clearly identify these problems. The response in Beazer's letter does not address these items. Please provide this information.

Informational Items: To assist the applicant(s), the department offers the following comments:

May 1, 2023 Request for Information to Beazer and TRP

- Item 1 discussed certification requirements. As of this writing, TRP has certified only that it owns the facility. The 2022 revised application continues to be missing certified information related to requirements for which Beazer has indicated it is not responsible.
- Length of “Rolling Window” for Financial Assurance: In its response to comment 7, Beazer’s letter describes its assumption to use a “rolling 40-year window” for long-term care and corrective action costs. For your information, a rolling 30-year window would be acceptable to the department, as previously discussed in our May 10, 2022 letter.

Please contact me with any questions at 608-843-2160 (mobile) or [douglas.coenen@wisconsin.gov](mailto:douglas.coenen@wisconsin.gov).

Regards,



Douglas W. Coenen, P.E.  
Hazardous Waste Engineer  
Hazardous Waste Prevention and Management Section  
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cc: Jayne Wade, WDNR  
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