

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Gloria L. McCutcheon, Regional Director

Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-3128
FAX 414-263-8606
Telephone 414-263-8500
TTY Access via relay - 711

April 20, 2009

John Curtin, Vice President, Legal and Environmental Issues
Connell Limited Partnership
Connell Aluminum Properties, LLC
1 International Place – Fort Hill Square
Boston, MA 02110

CERTIFIED MAIL
246048000

Notice of Violation and Enforcement Conference

Dear Mr. Curtin:

The Department of Natural Resources ("DNR") has reason to believe that Connell Aluminum Properties, LLC, is in violation of Section 292.11 (3), Wisconsin Stats, which states that *a person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable, and minimize the harmful effects from the discharge to the air, lands, or waters of the state.*

According to our records, groundwater and soils at the property located at 9100 South 5th Avenue in Oak Creek, (the "Property") contain environmental contaminants, including, but not limited to, polychlorinated hydrocarbons, naphthalene, and benzene above the enforcement standard.

On April 7, 2008, the DNR sent a letter to Connell, as the owner of the Property (see enclosure). The letter explained your company's responsibility to address contamination at the Property under s. 292.11, Stats. The letter requested that you send written verification to the DNR by May 8, 2008, confirming that you had hired an environmental consultant, and that you submit a work plan for conducting a site investigation, in accordance with ch. NR 716, Wis. Admin. Code, to the DNR by June 9, 2008.

On July 17, 2008, DNR staff met with you, Michael Tishchuk of Beazer East, Inc., and Tom McElligott representing Vulcan Materials (former property owner), to discuss the environmental conditions and the liability of the aforementioned companies pertaining to the Property.

At the meeting, DNR staff extended the deadline for submittal of a draft work plan to October 17, 2008, and advised the companies that Beazer East, Inc., Connell/Wabash Alloys, LLC., and Koppers should work out how they would coordinate the responsibilities and activities. (see enclosure).

To our knowledge, no investigation or environmental response actions have taken place to date.

I have scheduled the following enforcement conference to discuss this issue:

Conference Date	May 6, 2009
Conference Time:	10 a.m.
Location:	DNR – Sturtevant Office 9531 Rayne Road Sturtevant, WI 53177

Please come prepared to discuss the steps that you intend to take and the schedule you intend to follow to complete the investigation and remediation of the site. If we are unable to reach agreement on how the

environmental response actions under ch. NR 700 rule series will proceed, the DNR will take additional action. These actions may include, but are not limited to, the following:

- Referral of the case to the Wisconsin Department of Justice to seek court ordered investigation and remediation. Under this option, the state may seek forfeitures of up to \$5,000 per violation. Each day of continuing violation is considered to be a separate offense.
- Initiation of a publicly funded action to investigate and remediate the site. If the DNR takes such actions, it will preserve all state and federal cost recovery rights, including the right to file a superior lien on the property, in accordance with s. 292.81, Wisconsin Stats., and the right to seek cost recovery under s. 107(a) of the Comprehensive Environmental Response and Liability Act (CERCLA). To that end, the DNR may elect to respond to this site utilizing its federal CERCLA site assessment resources, including conducting a preliminary assessment, screening site inspection, hazard ranking scoring package and other related activities, by requesting assistance from the Superfund Removals program, or a combination of those actions.

If you have any questions on technical issues involving this case, please contact Eric Amadi at 414-263-8639. If you need to reschedule this meeting, I can be reached at (414) 263-8663.

Sincerely,



Pat Chung
Environmental Enforcement
Southeast Region

Enclosures

cc: Eric Amadi - SER
Jim Schmidt - SER
Darsi Foss - RR/7
Kathleen Strasbaugh, Attorney - LS/5
CTC Corporation System, 8025 Excelsior Dr, Suite 200, Madison, WI 53717



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
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Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-0436
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TTY 414-263-8713

April 7, 2008

Wabash Alloys, LLC
c/o C T Corporation Systems
8040 Excelsior Drive, Suite 200
Madison, WI 53717

(Certified Mail #: 7007 1490 0003 1778 3120)

Wabash Alloys, LLC
c/o Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

(Certified Mail #: 7007 1490 0003 1778 3137)

Subject: Notice of Contamination and Responsibilities at Wabash Alloys, LLC, 9100 South 5th Avenue, Oak Creek, Wisconsin
WDNR FID # 241486740; WDNR BRRTS # TBA

Dear Sir or Madam:

The Wisconsin Department of Natural Resources ("the Department") has become aware of continuing, historic hazardous substance discharges to the environment at the Wabash Alloys, LLC, property (the "Property"), located at 9100 South 5th Avenue, Oak Creek, Wisconsin. The Property is owned by Wabash Alloys, LLC. As part of the on-going efforts in this area of the City of Oak Creek, the Department is requesting your assistance in getting the Property investigated and cleaned up.

The Department has reviewed the information that it has in its possession concerning the Property. Based on that review, the Department believes that there are historic, continuing hazardous substance discharges that are adversely impacting the air, lands or waters of the state. In particular, the Department has concluded that these known hazardous substances discharges have adversely impacted soil and groundwater, including polychlorinated hydrocarbon (PAH), naphthalene, and benzene. The Department bases this conclusion on the review of the Department's files including, but not limited to, the following files relating to the Property:

- Data and conclusions of the underground storage tank investigation that was conducted by Wabash Alloys and closed by the Department in 1999;
- US Environmental Protection Agency Screening Site Investigation, 1989;
- Correspondence between the Department and Vulcan Materials, former Property owner, in the 1980's, documenting the "oily residue" and "black viscous material" that was found in numerous locations on the Property;
- City of Oak Creek's Brownfields Site Assessment Grant (2006) submitted to the Department, with sampling data and visual documentation of hazardous substance discharges.

Based on the information that has been submitted to the WDNR regarding the Property, we believe you are responsible for investigating and restoring the environment at the above-

described Property under Section 292.11, Wisconsin Statutes, known as the hazardous substances spill law.

This letter describes the legal responsibilities of a person who is responsible under section 292.11, explains what you need to do to investigate and clean up the contamination, and provides you with information about cleanups, environmental consultants, possible financial assistance, and working cooperatively with the WDNR.

Legal Responsibilities:

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, Section 292.11 (3) Wisconsin Statutes, states:

- **RESPONSIBILITY.** A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands, or waters of the state.

Wisconsin Administrative Code chapters NR 700 through NR 749 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

Steps to Take:

The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first three steps to take:

1. Within the next **30 days**, by May 8, 2008, you should submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. If you do not take action within this time frame, the WDNR may initiate enforcement action against you.
2. Within the next **60 days**, by June 9, 2008, your consultant should submit a work plan and schedule for the investigation. The consultant must comply with the requirements in the NR 700 rule series and should refer to WDNR technical guidance documents. To facilitate prompt agency review of your reports, your consultant should use the site investigation and closure formats which are available on-line at <http://dnr.wi.gov/org/aw/rr>

Once an investigation has established the degree and extent of contamination at your site, your consultant will be able to determine whether Commerce or the WDNR has authority over the case.

3. Within 30 days of completion of the site investigation, you or your consultant must provide a brief report at least every 90 days as required by s. NR 724.13 (3), Wis. Adm. Code.

Quarterly reports need only include one or two pages of text, plus any relevant maps and tables. Should conditions at your site warrant, we may require more frequent contacts.

4. Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System ("BRRTS"), a version of which appears on the WDNR's internet site. You may view the information related to your site at any time (<http://botw.dnr.state.wi.us/botw/Welcome.do>) and use the feedback system to alert us to any errors in the data.

If you want a formal response from the agency on a specific submittal, please be aware that a review fee is required in accordance with ch. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you should proceed under the advice of your consultant to complete the site investigation to maintain your compliance with the spills law and chapters NR 700 through NR 749. **Do not delay the investigation of your site by waiting for an agency response.** We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative rules and should be able to answer your questions on meeting cleanup requirements.

All correspondence regarding this site should be sent to:

Victoria Stovall
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
2300 N. Dr. MLK Jr. Drive
Milwaukee, WI 53212

Unless otherwise requested, please send only one copy of plans and reports. To speed processing, correspondence should reference the BRRTS and FID numbers (if assigned) shown at the top of this letter.

Additional Information for Site Owners:

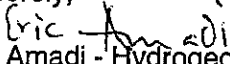
Information to help you select a consultant, and materials on controlling costs, understanding the cleanup process, and choosing a site cleanup method are enclosed. In addition, *Fact Sheet 2, Voluntary Party Remediation and Exemption from Liability* provides information on obtaining the protection of limited liability under s. 292.15, Wis. Stats.

Financial Assistance:

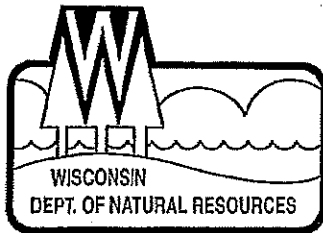
Call Darsi Foss, Chief, Brownfields and Outreach Section, for more information on eligibility for financial assistance or visit the RR web site:
<http://www.dnr.state.wi.us/org/aw/rr/financial/index.htm>.

Thank you for your cooperation.

Sincerely,


Eric Amadi - Hydrogeologist
Remediation & Redevelopment Program - SER Milwaukee

Enclosures: 1. PECFA Fact Sheet; 2. Selecting a consultant; 3. Fact Sheet 2, VPLE
cc: Judy Ohm, Legal Counsel, DNR / Darsi Foss, Chief, Brownfields Section / SER Case File



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
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September 4, 2008

John Curtin
Vice President, Legal and Environmental
Connell Limited Partnership
1 International Place - Fort Hill Square
Boston, MA 02110

Subject: Wabash Alloys, 9100 South 5th Avenue, Oak Creek, WI

Dear Mr. Curtin:

Thank you for meeting with Darsi Foss and me at the Wisconsin Department of Natural Resources (DNR) office in Milwaukee on July 17, 2008. This meeting was in response to responsible party (RP) letters we sent out to Wabash Alloys, LLC, and numerous other persons in April 2008, concerning unaddressed hazardous substance discharges at 9100 South 5th Avenue (the "Property"). As we discussed at the meeting, our records indicate that Wabash Alloys owned and operated a manufacturing business at the Property starting in 1987. As you are aware, Wabash Alloys, LLC, is the present owner of the Property, although Wabash Alloys no longer operates there.

The RP letters we sent to your company in June directed you to hire an environmental consultant by May 8, 2008, and submit a workplan by June 9, 2008, to conduct a site investigation in accordance with ch. NR 716, Wis. Admin. Code. At the meeting in July, we agreed to provide you with an extension until September 17, 2008, so that Beazer East (a successor corporation to Koppers) could have the opportunity to investigate's records pertaining to the Property in Oak Creek.

Thus, no later than September 17, 2008, we expect a written response from Beazer East, Inc., with respect to whether or not it plans to proceed with satisfying the DNR-issued RP letter. If Beazer East, Inc., concludes that it is not a responsible party at the Property under s. 292.11, Wis. Stats., we have requested that the written response that is provided to the DNR by September 17, 2008, should detail the specific reasons for that conclusion.

Whether or not Beazer East, Inc. agrees to comply with the RP letter or not, the draft workplan for the site investigation should be submitted to DNR no later than October 17, 2008. As we discussed at the meeting, how Beazer East, Inc., Wabash Alloys, LLC, and Vulcan will coordinate these responsibilities and activities is something that should be cooperatively worked out between the parties. Once you have done so, please let me know how the responsibilities for conducting the site investigation will be allocated. Also, please let me know who will be the main contact for your RP group as well as the environmental consultant.

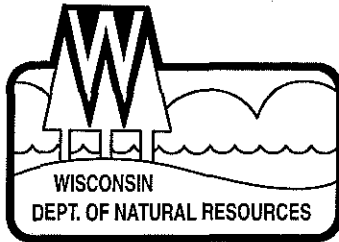
We look forward to working with you on this Property. If you have any questions, please feel free to call me at (414) 263 8639.

Sincerely,



Eric Amadi -- Hydrogeologist
Remediation and Redevelopment, SER Milwaukee

Cc: Judy Ohm, DNR Legal Counsel
Darsi Foss, Chief, Brownfields and Outreach Section
Tom McElligot, Quarles and Brady
Michael Noel, Geo Trans
Michael Tischuk, P.E., Beazer East, Inc.
Kris Krause, RMT



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April 20, 2009

Jill Blundon, Esq.
Paul S. Kline, Esq.
Three Rivers Management
Beazer East, Inc.
One Oxford Center, Suite 3000
Pittsburgh, PA 15219-6401

CERTIFIED MAIL
246048000

Notice of Violation and Enforcement Conference

Dear Ms. Blundon and Mr. Kline:

The Department of Natural Resources ("DNR") has reason to believe that Beazer East, Inc. is in violation of Section 292.11 (3), Wisconsin Stats, which states that a *person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable, and minimize the harmful effects from the discharge to the air, lands, or waters of the state.*

According to our records, groundwater and soils at the property located at 9100 South 5th Avenue in Oak Creek, (the "Property") contain environmental contaminants, including, but not limited to, polychlorinated hydrocarbons, naphthalene, and benzene above the enforcement standard. The Property was owned and operated by the Koppers Gas and Coke Company from 1935 to the 1960's. On April 7, 2008, the DNR sent a letter to Beazer East, Inc., as the successor corporation to Koppers (see enclosure), explaining your company's responsibility to address contamination at the Property under s. 292.11, Stats. The letter requested that you send written verification to the DNR by May 8, 2008, confirming that you had hired an environmental consultant, and that you submit a work plan for conducting a site investigation, in accordance with ch. NR 716, Wis. Admin. Code, to the DNR by June 9, 2008.

On July 17, 2008, DNR staff met with Michael Tishchuk of Beazer East, Inc., John Curtin of Wabash Alloys LLC/Connell Properties and Tom McElligott representing Vulcan Materials (former Property owner) to discuss the environmental conditions and the liability of the aforementioned companies pertaining to the Property. As a result of the discussion, the DNR agreed to extend the deadlines for hiring a consultant and submitting a work plan, to allow Beazer East additional time to investigate Property records. We also extended the deadline for submittal of a draft work plan to October 17, 2008, and advised Mr. Tishchuk that Beazer East, Inc., Connell Limited/Wabash Alloys, LLC., and Vulcan should work out how they will coordinate the responsibilities and activities for remediation of the Property. (see enclosure).

On September 18, 2008, the DNR received a letter from Mr. Kline, who argued that Beazer East is not a responsible party under Wisconsin statutes or administrative code, because: (1) the company received an indemnity from the persons who purchased the Property from Beazer East in the 1960's; and (2) the contamination was the result of mismanagement of pre-existing hazardous substances by Vulcan Materials, who owned the Property from 1968 to 1987.

The Department does not agree with this analysis. Beazer East is a responsible party under Wisconsin statutes.

I have scheduled the following enforcement conference to discuss the steps that you intend to take and the schedule you intend to follow to complete the investigation and remediation of the site:

Conference Date May 5, 2009
Conference Time: 10:00 a.m.
Location: DNR - Sturtevant Office
 9531 Rayne Road
 Sturtevant, WI 53177

If we are unable to reach agreement on how the environmental response actions under ch. NR 700 rule series will proceed, the Department will take additional action. These actions may include, but are not limited to, the following:

- Referral of the case to the Wisconsin Department of Justice to seek court ordered investigation and remediation. Under this option, the state is authorized to seek forfeitures of up to \$5,000 per violation. Each day of continuing violation is considered to be a separate offense.
- Initiation of a publicly funded action to investigate and remediate the site. If the DNR takes such actions, it will preserve all state and federal cost recovery rights, including the right to file a superior lien on the Property, in accordance with s. 292.81, Wisconsin Stats., and the right to seek cost recovery under s. 107(a) of the Comprehensive Environmental Response and Liability Act (CERCLA). To that end, the DNR may elect to respond to this site utilizing its federal CERCLA site assessment resources, including conducting a preliminary assessment, screening site inspection, hazard ranking scoring package and other related activities, by requesting assistance from the Superfund Removals program, or a combination of those actions.

If you have any questions on technical issues involving this case, please contact Eric Amadi at 414-263-8639. If you need to reschedule this meeting, I can be reached at (414) 263-8663.

Sincerely,



Pat Chung
Environmental Enforcement
Southeast Region

Enclosures

cc: Eric Amadi - SER
 Jim Schmidt - SER
 Darsi Foss - RR/7
 Kathleen Strasbaugh - Attorney LS/5
 CT Corporation System, 8040 Excelsior D, Suite 200, Madison, WI 53717



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Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-0436
Telephone 414-263-8500
FAX 414-263-8606
TTY 414-263-8713

April 7, 2008

Ms. Jane Patarcity
Beazer East, Inc.
One Oxford Centre, Suite 3000
Pittsburgh, PA 15219-6401

Certified Mail #: 7007 1490 0003 1778 3083

Subject: Notice of Contamination and Responsibilities at
9100 South 5th Avenue, Oak Creek, Wisconsin
WDNR FID # 241379050; WDNR BRRTS # TBA

Dear Ms. Patarcity:

The Wisconsin Department of Natural Resources ("the Department") has become aware of continuing, historic hazardous substance discharges to the environment at the Wabash Alloys, LLC, property (the "Property"), located at 9100 South 5th Avenue, Oak Creek, Wisconsin. The Property is currently owned by Wabash Alloys, LLC. This Property was owned and operated by the Koppers Gas and Coke Company, from 1935 to 1968. As a successor corporation to the Koppers Company, Inc., we are sending this responsible party notice to you, Beazer East, Inc.

As part of the on-going efforts in this area of the City of Oak Creek, the Department is requesting your assistance in getting the Property investigated and cleaned up.

The Department has reviewed the information that it has in its possession concerning the Property. Based on that review, the Department believes that there are historic, continuing hazardous substance discharges that are adversely impacting the air, lands or waters of the state. In particular, the Department has concluded that these known hazardous substances discharges have adversely impacted soil and groundwater, including polychlorinated hydrocarbon (PAH), naphthalene, and benzene. The Department bases this conclusion on the review of the Department's files including, but not limited to, the following files relating to the Property:

- Data and conclusions of the underground storage tank investigation that was conducted by Wabash Alloys and closed by the Department in 1999;
- US Environmental Protection Agency Screening Site Investigation, 1989;
- Correspondence between the Department and Vulcan Materials, former Property owner, in the 1980's, documenting the "oily residue" and "black viscous material" that was found in numerous locations on the Property;
- City of Oak Creek's Brownfields Site Assessment Grant (2006) submitted to the Department, with sampling data and visual documentation of hazardous substance discharges.

Based on the information that has been submitted to the WDNR regarding the Property, we believe you are responsible for investigating and restoring the environment at the above-described Property under Section 292.11, Wisconsin Statutes, known as the hazardous substances spills law.

This letter describes the legal responsibilities of a person who is responsible under section 292.11, explains what you need to do to investigate and clean up the contamination, and provides you with information about cleanups, environmental consultants, possible financial assistance, and working cooperatively with the WDNR.

Legal Responsibilities:

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, Section 292.11 (3) Wisconsin Statutes, states:

- **RESPONSIBILITY.** A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands, or waters of the state.

Wisconsin Administrative Code chapters NR 700 through NR 749 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

Steps to Take:

The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first three steps to take:

1. Within the next **30 days**, by May 8, 2008, you should submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. If you do not take action within this time frame, the WDNR may initiate enforcement action against you.
2. Within the next **60 days**, by June 9, 2008, your consultant should submit a work plan and schedule for the investigation. The consultant must comply with the requirements in the NR 700 rule series and should refer to WDNR technical guidance documents. To facilitate prompt agency review of your reports, your consultant should use the site investigation and closure formats which are available on-line at <http://dnr.wi.gov/org/aw/rr>

Once an investigation has established the degree and extent of contamination at your site, your consultant will be able to determine whether Commerce or the WDNR has authority over the case.

3. Within 30 days of completion of the site investigation, you or your consultant must provide a brief report at least every 90 days as required by s. NR 724.13 (3), Wis. Adm. Code. Quarterly reports need only include one or two pages of text, plus any relevant maps and tables. Should conditions at your site warrant, we may require more frequent contacts.

4. Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System ("BRRTS"), a version of which appears on the WDNR's internet site. You may view the information related to your site at any time (<http://botw.dnr.state.wi.us/botw/Welcome.do>) and use the feedback system to alert us to any errors in the data.

If you want a formal response from the agency on a specific submittal, please be aware that a review fee is required in accordance with ch. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you should proceed under the advice of your consultant to complete the site investigation to maintain your compliance with the spills law and chapters NR 700 through NR 749. **Do not delay the investigation of your site by waiting for an agency response.** We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative rules and should be able to answer your questions on meeting cleanup requirements.

All correspondence regarding this site should be sent to:

Victoria Stovall
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
2300 N. Dr. MLK Jr. Drive
Milwaukee, WI 53212

Unless otherwise requested, please send only one copy of plans and reports. To speed processing, correspondence should reference the BRRTS and FID numbers (if assigned) shown at the top of this letter.

Additional Information for Site Owners:

Information to help you select a consultant, and materials on controlling costs, understanding the cleanup process, and choosing a site cleanup method are enclosed. In addition, *Fact Sheet 2, Voluntary Party Remediation and Exemption from Liability* provides information on obtaining the protection of limited liability under s. 292.15, Wis. Stats.

Financial Assistance:

Call Darsi Foss, Chief, Brownfields and Outreach Section, for more information on eligibility for financial assistance or visit the RR web site:
<http://www.dnr.state.wi.us/org/aw/rr/financial/index.htm>.

Thank you for your cooperation.

Sincerely,


Eric Amadi - Hydrogeologist
Remediation & Redevelopment Program, SER Milwaukee

Enclosures: Fact Sheet 2, VPLE

cc: Judy Ohm, Legal Counsel, DNR / Darsi Foss, Chief, Brownfields Section/ SER Case File



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September 4, 2008

Mr. Michael D Tishchuk, P.E.
One Oxford Centre
Suite 3000
Pittsburgh, PA 15219-6401

Subject: Former Koppers' Gas and Coke Plant, 9100 South 5th Avenue, Oak Creek, WI 53154

Dear Mr. Tishchuk:

Thank you for meeting with Darsi Foss and me at the Wisconsin Department of Natural Resources (DNR) office in Milwaukee on July 17, 2008. This meeting was in response to responsible party (RP) letters we sent out to Beazer East, Inc., and numerous other persons in April 2008, concerning unaddressed hazardous substance discharges at 9100 South 5th Avenue (the "Property"). As we discussed at the meeting, our records indicate that Koppers owned and operated a gas and coke plant at the Property from 1935 to 1968. After that time, the Property was purchased by Vulcan, and they operated at the Property until selling it to Wabash Alloys in 1987. Wabash Alloys, LLC, is the present owner of the Property, although they no longer operate there.

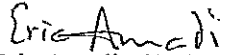
The RP letters we sent to your company in June directed you to hire an environmental consultant by May 8, 2008, and submit a workplan by June 9, 2008, to conduct a site investigation in accordance with ch. NR 716, Wis. Admin. Code. At the meeting in July, we agreed to provide you with an extension until September 17, 2008, so that you could have the opportunity to investigate Beazer East's records pertaining to the Koppers' Property in Oak Creek.

Thus, no later than September 17, 2008, we expect a written response from Beazer East, Inc., with respect to whether or not it plans to proceed with satisfying the DNR-issued RP letter. If Beazer East, Inc., concludes that it is not a responsible party at the Property under s. 292.11, Wis. Stats., the written response that is provided to the DNR by September 17, 2008, should detail the specific reasons for that conclusion.

If you plan to proceed and comply with the RP letter, the draft workplan for the site investigation should be submitted to DNR no later than October 17, 2008. As we discussed at the meeting, how Beazer East, Inc., Wabash Alloys, LLC, and Vulcan will coordinate these responsibilities and activities is something that should be cooperatively worked out between the parties. Once you have done so, please let me know how the responsibilities for conducting the site investigation will be allocated. Also, please let me know who will be the main contact for your RP group as well as the environmental consultant.

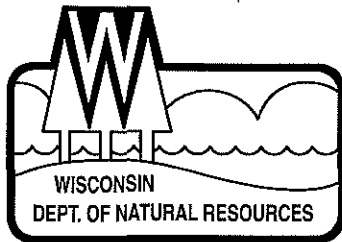
We look forward to working with you on this Property. If you have any questions, please feel free to call me at (414) 263 8639.

Sincerely,



Eric Amadi - Hydrogeologist
Remediation and Redevelopment, SER Milwaukee

Cc: Judy Ohm, DNR Legal Counsel
Darsi Foss, Chief, Brownfields and Outreach Section
Tom McElligot, Quarles and Brady
Michael Noel, Geo Trans
John Curtin, Connell Limited Partnership
Kris Krause, RMT



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April 20, 2009

Walter W. Turner, Chief Executive Officer
Stephen C Kifer, Deputy General Counsel
Koppers, Inc.
436 Seventh Avenue
Pittsburgh, PA 15219-1800.

Notice of Violation and Enforcement Conference

Dear Mr. Turner and Mr. Kifer:

The Department of Natural Resources ("DNR") has reason to believe that Koppers, Inc. is in violation of Section 292.11 (3), Wisconsin Stats, which states that a *person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable, and minimize the harmful effects from the discharge to the air, lands, or waters of the state.*

The property located at 9100 South 5th Avenue in Oak Creek (the "Property") was owned and operated by the Koppers Gas and Coke Company from 1935 to the 1960's. Koppers manufactured certain chemicals, including wood creosote. According to DNR records, groundwater and soils at the Property contain a variety of environmental contaminants, including but not limited to polychlorinated hydrocarbons, naphthalene, and benzene above the enforcement standard. On April 7, 2008, the DNR sent a letter to Koppers, Inc., explaining the company's responsibility to address contamination at the Property. The letter requested that Koppers send written verification to the DNR by May 8, 2008, confirming that Koppers had hired an environmental consultant. The DNR also requested that the company submit a work plan to us by June 9, 2008.

The DNR received a letter from Mr. Kifer on April 17, 2008, denying Kopper's knowledge of and liability for contamination on the Property, and directing the DNR to contact Beazer East, Inc. on the matter.

Based on our review of our files and the information you have provided to the department, Koppers Inc. is identified as a responsible party under Wisconsin statutes.

To date, neither Koppers, Inc., nor Beazer East has taken action to address the hazardous substance discharges that are associated with Koppers' manufacturing operations at the Property.

The Department has scheduled the following enforcement conference to discuss this issue:

Conference Date	May 5, 2009
Conference Time:	1:30 p.m.
Location:	DNR - Sturtevant Office 9531 Rayne Road Sturtevant, WI 53177

Please come prepared to discuss the steps that you intend to take and the schedule you intend to follow to complete the investigation and remediation of the site. If we are unable to reach agreement on how the remediation will proceed, the DNR will take additional action. These actions may include, but are not limited to, the following:

- Referral of the case to the Wisconsin Department of Justice to seek court ordered investigation and remediation. Under this option, the state may seek forfeitures of up to \$5,000 per violation. Each day of continuing violation is considered to be a separate offense.
- Initiation of a publicly funded action to investigate and remediate the site. If the DNR takes such actions, it will preserve all state and federal cost recovery rights, including the right to file a superior lien on the property, in accordance with s. 292.81, Wisconsin Stats., and the right to seek cost recovery under s. 107(a) of the Comprehensive Environmental Response and Liability Act (CERCLA). To that end, the DNR may elect to respond to this site utilizing its federal CERCLA site assessment resources, including conducting a preliminary assessment, screening site inspection, hazard ranking scoring package and other related activities, by requesting assistance from the Superfund Removals program, or a combination of these actions.

If you have any questions on technical issues involving this case, please contact Eric Amadi at 414-263-8639. If you need to reschedule this meeting, I can be reached at (414) 263-8663.

Sincerely,



Pat Chung
Environmental Enforcement
Southeast Region

cc: Eric Amadi - SER
Jim Schmidt - SER
Darsi Foss - RR/7
Kathleen Strasbaugh, Attorney - LS/5
CSC - Lawyers Incorporating Service Co., 8040 Excelsior D, Suite 400, Madison, WI 53717



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Gloria L. McCutcheon, Regional Director

Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-0436
Telephone 414-263-8500
FAX 414-263-8606
TTY 414-263-8713

April 7, 2008

Mr. Walter W. Turner
Koppers, Inc.
436 Seventh Avenue
Pittsburgh, PA 15219-1800

Certified Mail #: 7007 1490 0003 1778 3076

Subject: Notice of Contamination and Responsibilities at
9100 South 5th Avenue, Oak Creek, Wisconsin
WDNR FID # 241379050; WDNR BRRTS # TBA

Dear Mr. Turner:

The Wisconsin Department of Natural Resources ("the Department") has become aware of continuing, historic hazardous substance discharges to the environment at the Wabash Alloys, LLC, property (the "Property"), located at 9100 South 5th Avenue, Oak Creek, Wisconsin. The Property is currently owned by Wabash Alloys, LLC. This Property was owned and operated by the Koppers Gas and Coke Company, from 1935 to 1968. As a successor corporation to the Koppers Company, Inc., we are sending this responsible party notice to you, Koppers, Inc.

As part of the on-going efforts in this area of the City of Oak Creek, the Department is requesting your assistance in getting the Property investigated and cleaned up.

The Department has reviewed the information that it has in its possession concerning the Property. Based on that review, the Department believes that there are historic, continuing hazardous substance discharges that are adversely impacting the air, lands or waters of the state. In particular, the Department has concluded that these known hazardous substances discharges have adversely impacted soil and groundwater, including polychlorinated hydrocarbon (PAH), naphthalene, and benzene. The Department bases this conclusion on the review of the Department's files including, but not limited to, the following files relating to the Property:

- Data and conclusions of the underground storage tank investigation that was conducted by Wabash Alloys and closed by the Department in 1999;
- US Environmental Protection Agency Screening Site Investigation, 1989;
- Correspondence between the Department and Vulcan Materials, former Property owner, in the 1980's, documenting the "oily residue" and "black viscous material" that was found in numerous locations on the Property;
- City of Oak Creek's Brownfields Site Assessment Grant (2006) submitted to the Department, with sampling data and visual documentation of hazardous substance discharges.

Based on the information that has been submitted to the WDNR regarding the Property, we believe you are responsible for investigating and restoring the environment at the above-described Property under Section 292.11, Wisconsin Statutes, known as the hazardous substances spills law.

This letter describes the legal responsibilities of a person who is responsible under section 292.11, explains what you need to do to investigate and clean up the contamination, and provides you with information about cleanups, environmental consultants, possible financial assistance, and working cooperatively with the WDNR.

Legal Responsibilities:

Your legal responsibilities are defined both in statute and in administrative codes. The hazardous substances spill law, Section 292.11 (3) Wisconsin Statutes, states:

- **RESPONSIBILITY.** A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands, or waters of the state.

Wisconsin Administrative Code chapters NR 700 through NR 749 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wisconsin Administrative Code chapter NR 140 establishes groundwater standards for contaminants that reach groundwater.

Steps to Take:

The longer contamination is left in the environment, the farther it can spread and the more it may cost to clean up. Quick action may lessen damage to your property and neighboring properties and reduce your costs in investigating and cleaning up the contamination. To ensure that your cleanup complies with Wisconsin's laws and administrative codes, you should hire a professional environmental consultant who understands what needs to be done. These are the first three steps to take:

1. Within the next **30 days**, by May 8, 2008, you should submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. If you do not take action within this time frame, the WDNR may initiate enforcement action against you.
2. Within the next **60 days**, by June 9, 2008, your consultant should submit a work plan and schedule for the investigation. The consultant must comply with the requirements in the NR 700 rule series and should refer to WDNR technical guidance documents. To facilitate prompt agency review of your reports, your consultant should use the site investigation and closure formats which are available on-line at <http://dnr.wi.gov/org/aw/rr>

Once an investigation has established the degree and extent of contamination at your site, your consultant will be able to determine whether Commerce or the WDNR has authority over the case.

3. Within 30 days of completion of the site investigation, you or your consultant must provide a brief report at least every 90 days as required by s. NR 724.13 (3), Wis. Adm. Code. Quarterly reports need only include one or two pages of text, plus any relevant maps and tables. Should conditions at your site warrant, we may require more frequent contacts.

4. Sites where discharges to the environment have been reported are entered into the Bureau for Remediation and Redevelopment Tracking System ("BRRTS"), a version of which appears on the WDNR's internet site. You may view the information related to your site at any time (<http://botw.dnr.state.wi.us/botw/Welcome.do>) and use the feedback system to alert us to any errors in the data.

If you want a formal response from the agency on a specific submittal, please be aware that a review fee is required in accordance with ch. NR 749, Wis. Adm. Code. If a fee is not submitted with your reports, you should proceed under the advice of your consultant to complete the site investigation to maintain your compliance with the spills law and chapters NR 700 through NR 749. **Do not delay the investigation of your site by waiting for an agency response.** We have provided detailed technical guidance to environmental consultants. Your consultant is expected to know our technical procedures and administrative rules and should be able to answer your questions on meeting cleanup requirements.

All correspondence regarding this site should be sent to:

Victoria Stovall
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
2300 N. Dr. MLK Jr. Drive
Milwaukee, WI 53212

Unless otherwise requested, please send only one copy of plans and reports. To speed processing, correspondence should reference the BRRTS and FID numbers (if assigned) shown at the top of this letter.

Additional Information for Site Owners:

Information to help you select a consultant, and materials on controlling costs, understanding the cleanup process, and choosing a site cleanup method are enclosed. In addition, *Fact Sheet 2, Voluntary Party Remediation and Exemption from Liability* provides information on obtaining the protection of limited liability under s. 292.15, Wis. Stats.

Financial Assistance:

Call Darsi Foss, Chief, Brownfields and Outreach Section, for more information on eligibility for financial assistance or visit the RR web site:
<http://www.dnr.state.wi.us/org/aw/rr/financial/index.htm>.

Thank you for your cooperation.

Sincerely,



Eric Amadi - Hydrogeologist
Remediation & Redevelopment Program - SER/Milwaukee

Enclosures: Fact Sheet 2, VPLE

cc: Judy Ohm, Legal Counsel, DNR / Darsi Foss, Chief, Brownfields Section/ SER Case File