



**BEAZER EAST, INC.**

c/o Three Rivers Management, Inc. (Agent for Beazer East, Inc.)  
1910 Cochran Road, Manor Oak One, Suite 200, Pittsburgh, PA 15220-1273

August 31, 2017

Kody C. Hansen  
Environmental Enforcement Specialist  
Wisconsin Department of Natural Resources  
Northeast Region Headquarters  
2984 Shawano Avenue  
Green Bay, WI 54313-6727

Re: Beazer Response to Enforcement Conference Summary Letter  
Casetrack ID No. 2017-NEEE-022  
Former Koppers Tar Plant and Wabash Alloys Site  
Oak Creek, WI

Dear Mr. Hansen,

Beazer East, Inc. ("Beazer") is writing in response to the Wisconsin Department of Natural Resources' ("WDNR") August 14, 2017 Enforcement Conference Summary Letter (the "Summary Letter") concerning the Former Koppers Tar Plant and Wabash Alloys Site ("Site") located in Oak Creek, Wisconsin. We appreciate your efforts, especially considering the difficulty of accurately noting and summarizing the statements made by all persons in the July 26, 2017, Enforcement Conference ("Conference"). While Beazer generally agrees with the Summary Letter, there are a few items that, based on our participation in the conference, we believe should be clarified and/or supplemented with additional detail to provide a more accurate accounting of the statements made in the Conference for the administrative record. Beazer retains its right to contest any language of the Summary Letter, regardless of whether or not it is discussed in this response. Accordingly, Beazer's silence on any matter addressed in the Summary Letter should not be construed as acquiescence with such matters.

As a general comment, Beazer notes that the Summary Letter's heading titles and organization are somewhat confusing and do not track the actual format of the Conference. The heading titles and organization in the Summary Letter make it appear as though Beazer was provided a single opportunity to speak at length regarding all of its questions and issues and then the WDNR provided its collective responses as the final word on all matters. Rather, the Conference proceeded in a discussion-like format with both parties providing questions and statements throughout the duration of the Conference.

In addition to this general comment, Beazer presents additional comments as discussed below and organized according to the headings provided in the Summary Letter.

Writer's Direct Dial: 412-208-8867

Beazer provided a background of its company.

Although the Summary Letter accurately reflects that Beazer has been involved in investigating and remediating some 100-150 impacted sites across the U.S., the statement as written in the Summary Letter is not technically accurate. Beazer is not “in the business” of restoring contaminated properties. Rather, Beazer is the same company formerly known as “Koppers Company, Inc.,” there was just a name change. As you know, Koppers (now known as Beazer) was the former owner of portions of the Site. In 1988, Koppers ceased the chemical side of its business and sold most of the properties and operations related to that business, but retained pre-closing environmental responsibilities. Shortly afterwards, Koppers changed its name to Beazer. It is those pre-1988 environmental liabilities associated with the former Koppers chemical businesses that Beazer is currently addressing at various sites throughout the United States, including at the Wabash Alloys Site.

Beazer provided its perspective regarding the violations alleged in the NOV.

Beazer notes that additional statements were made by Beazer during the Conference that are appropriate to include in the administrative record. Beazer stated that it believes that it is in compliance with the requirements of Wisconsin Spills Law and the NR 700 rule series. In fact, Beazer entered the Site into the VPLE program and has been making reasonable progress toward completion of the environmental restoration of the property. As discussed below, any perceived lack of progress on the Site has primarily been due to the WDNR’s delay in responding to Beazer’s submissions, and its sudden and abrupt about-face on previously approved documents. Beazer has met all of the WDNR’s deadlines and has continued groundwater monitoring at the Site while waiting for the WDNR to respond. There is simply no reasonable basis to assert that Beazer has not been making reasonable progress toward completion of remediation.

Further, Beazer stated in the Conference that it has been responsive to the WDNR; however, the WDNR has not been responsive to Beazer. Beazer cited the example that, pursuant to the October 2015 technical meeting between the WDNR and Beazer, the WDNR was to provide Beazer with a letter that provided the WDNR’s detailed review of the Remedial Action Options Report (“RAOR”). The WDNR did not send this review letter until December 21, 2016 – well over a year after the October 2015 meeting. Additionally, this letter disapproved the RAOR yet contained little to no specific substance as to the WDNR’s reasoning for doing so, certainly not enough to justify the delay in sending the letter. Beazer responded to the WDNR’s December 21, 2016 letter via a letter dated March 30, 2017, wherein Beazer responded to the WDNR’s comments and requested additional information regarding the WDNR’s rationale and also requested a technical meeting with the WDNR to discuss practical, cost-effective and technically justifiable adjustments to the remediation approach outlined in the RAOR to determine if a mutually agreed upon remedial approach for the Site could be developed. During the Conference, the WDNR expressed surprise at Beazer’s statement that its March 30, 2017 letter included a request for such a technical meeting, so Beazer produced a copy of said letter which clearly indicated Beazer’s request for such a technical meeting. That the WDNR seemingly did not even know that Beazer had requested such a technical meeting further demonstrates the WDNR’s lack of responsiveness at this Site.

Mr. Kody C. Hansen

August 31, 2017

Page 3

Beazer further stated that on July 14, 2017 the WDNR provided supplemental information for the WDNR's disapproval of the Site Investigation Report ("SI Report") and RAOR. Less than two hours later, the WDNR issued the Notice of Violation ("NOV") that was the subject of the Conference. Beazer expressed its frustration that it had no opportunity to even review the WDNR's supplemental response prior to the issuance of the NOV, let alone take the information provided into consideration or respond to it.

Department staff responded to the statements and questions.

During the Conference Beazer reiterated its firm belief that both the RAOR and the remedy recommended in the RAOR are in compliance with the NR 700 series. In addition, Beazer stated that both the RAOR and recommended remedy are consistent not only with remedies that have been approved by state and federal agencies and implemented at other sites across the U.S., but also in Wisconsin.

In response to the WDNR's allegations that Beazer has yet to complete a site investigation, Beazer stated that it did have an approved SI Report for approximately 3 years. The SI Report was previously approved by the WDNR in a letter dated September 22, 2014. The WDNR only rescinded its approval of the SI Report in its letter dated July 14, 2017, providing Beazer with no notice or opportunity to comment before the NOV was issued just two hours later.

Actions moving forward and enforcement were discussed.

With regards to the WDNR's proposed Consent Order, Beazer expressed its concern that the Site is currently enrolled in the VPLE program, which requires no such order, and that entry of a Consent Order seemed counter intuitive to the purpose of the VPLE program.

Beazer respectfully requests that the WDNR attach this response to the Summary Letter. If you should have any questions, please feel free to contact me at (412) 208-8867.

Sincerely,



Michael Slenska, P.E.

Senior Environmental Manager

Cc: Eric Amadi, WDNR  
Michele Norman, WDNR  
Darsi Foss, WDNR  
Jessica Kramer, WDNR