



October 19, 2021

Mr. Mike Bollinger  
Beazer East, Inc.  
c/o Three Rivers Management, Inc.  
600 River Avenue, Suite 200  
Pittsburgh, PA 15212

Subject: Review of Revised Interim Action Work Plan

Former Koppers Tar Plant and Wabash Alloys Site  
9100 South 5<sup>th</sup> Avenue, Oak Creek, WI 53154  
FID #: 241379050; BRRTS #: 02-41-553761  
Connell VPLE BRRTS #: 06-41-560058

City of Oak Creek Utility Corridor Lot 1  
9170 South 5<sup>th</sup> Avenue, Oak Creek, WI 53154  
FID #: 341074470; BRRTS #: 02-41-561425

Dear Mr. Bollinger:

The Wisconsin Department of Natural Resources (DNR) has reviewed *Beazer's Response to Notice of Removal from the VPLE Program*, dated September 29, 2021, the *Revised Interim Action Work Plan (Work Plan)*, dated September 30, 2021 and *Beazer's Response to DNR's Fourteen Enumerated Directives*, also dated September 30, 2021, for the subject site. The Work Plan was prepared by Tetra Tech, Inc. (Tetra Tech) on behalf of Beazer East, Inc. (Beazer), and Beazer's responses were prepared by Beazer.

This letter confirms DNR concurrence that Beazer is no longer in the VPLE Program. Beazer is still under the requirements of a remedial action site in environmental enforcement and therefore must follow all applicable provisions in Wis. Adm. Code chs. NR 700-799. As Beazer is no longer paying a VPLE rate for DNR review, the DNR directs you to submit all submittals with appropriate review fees under the authority of Wis. Adm. Code § NR 728.06. All applicable submittals require fees in accordance with Wis. Adm. Code § NR 749 and all schedules should incorporate appropriate DNR review times as specified in applicable provisions of chs. NR 700-799. Failing to account for these requirements extends your violation of Wis. Stat. § 292.11(3) for failing to restore the environment and minimize harmful effects.

The DNR specifically directed Beazer in multiple letters dated January 8, 2020; May 5, 2020; March 3, 2021; and August 31, 2021 to implement an interim action under Wis. Adm. Code § NR 708.05 and submit a revised work plan to achieve specific interim action results. The last communication from Beazer on September 30, 2021 indicates the remedy proposed was not revised, and therefore remains insufficiently protective of human health and the environment and therefore noncompliant with Wis. Stat. § 292.11(3).

The interim action proposed in your work plan must include all appropriate free product removal and all appropriate excavation of contaminated soil. To be clear: the limited remedy proposed by Beazer on September 30, 2021 which included minimal free product removal and minimal soil excavation followed by capping with a patchwork in-situ stabilization remedy is **not acceptable** given the known degree and extent of the contamination Beazer and Tetra Tech have presented in the environment at this remedial action site. The DNR has repeatedly

directed Beazer to remove the known contaminated soil and the known free product in the environment. Allowing this highly contaminated material to remain on site is tantamount to maintaining a hazardous waste landfill at this remedial action site, which is not acceptable. The limited remedy proposed leaves a contaminated mass in place and is not an acceptable remedy in Wisconsin at any remedial action site. The DNR is aware of Beazer's extensive removal actions at remedial action sites in other states and does not understand the continued recalcitrant and limited approach at this site. For example, the Cabot Koppers Superfund Site in Gainesville, Florida included extensive soil removal before stabilization and capping as the primary remedy.

In addition to the above revisions, the submittal must include an amended schedule for implementation including adequate time for appropriate DNR fee-based review. The DNR reviews documents upon receipt of the fee with the submittal. The removal action required above is an option in the remedial options previously provided by DNR and specifically referenced in the Wisconsin Department of Justice (DOJ) letter to Beazer dated October 8, 2021. Since Beazer is out of compliance with § 292.11(3) and will remain out of compliance until this deficiency is addressed, DNR directs you to submit a revised interim action work plan by November 19, 2021 with the appropriate fee.

The DNR is aware of your upcoming revised remedial action options report (RAOR) with the DNR supplied deadline of October 30, 2021. To ensure consistency, DNR directs you submit your RAOR incorporating these comments by November 19, 2021 with the appropriate fee. DNR will not review the submittal until receiving the required Wis. Adm. Code ch. 749 fee.

Regarding your request for a meeting, DNR proposes a meeting with representatives from all of the stakeholders in this remedial action site including, Beazer, its environmental consultant Tetra Tech, Connell, its environmental consultant Ramboll, the City of Oak Creek, and DOJ to discuss Beazer's revised proposal at this site. DNR will distribute an agenda for a call following receipt of your revised interim action work plan, revised RAOR and coordinate appropriate meeting times with stakeholders.

If you have any questions regarding this letter, please contact Eric Amadi, the DNR Project Manager, by calling (414) 405-0752 or by email at [eric.amadi@wisconsin.gov](mailto:eric.amadi@wisconsin.gov).

Sincerely,



Christine Haag - Program Director  
Remediation & Redevelopment Program

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