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John Sager
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**Subject: Response to WDNR Letter to Koppers Dated June 16, 2020 Regarding
BRRS ID #: 02-16-585874 and Closure Demonstration for Concrete Drip Pad
Former Koppers Inc. Superior, WI Facility**

Mr. Sager:

Thank you for taking the time to speak with me on July 14, 2020 about your letter dated June 16, 2020 to Koppers Inc. (Koppers) regarding the concrete drip pad at the former Koppers wood treating facility in Superior, WI (the "Drip Pad"). As stated in the call, it is unclear to Koppers why the Wisconsin Department of Natural Resources (WDNR) designated the Drip Pad, or more accurately it appears, conditions below the Drip Pad, as a "Site," as defined in Wisconsin Administrative Code NR 700.03(56). In addition, and separately, Koppers does not understand why WDNR identified Koppers as a "responsible party" as defined in NR 700.03(51). As explained below, to the extent conditions below the Drip Pad are properly designated as a "Site," Koppers is not responsible for addressing, those conditions under WIS Stats. Ch. 292.11(3).

In addition to prompting the questions posed above, WDNR's June 16, 2020 letter fails to acknowledge and take into account the years of collaborative effort spent to address and close the Drip Pad under RCRA Subpart W. Based on correspondence between WDNR and Koppers regarding the drip pad closure demonstration report, Koppers believed the WDNR was on a path to resolve the final questions on the drip pad closure. Therefore, Koppers is mystified as to why WDNR would discontinue the ongoing discussions and attempt to address resolution of the drip pad closure under an apparent third regulatory path.

As noted above Koppers does not agree that it has responsibility, under WIS Stats. Ch. 292.11(3) to address the conditions identified in WDNR's June 16, 2020 letter. Koppers believes there are certain misinterpretations in the letter that have affected the path that the WDNR appears to have taken. In particular, the letter states on page 4 that *....."DNR understands that Koppers has retained control over and responsibility for the contamination beneath the drip pad, and therefore the DNR believes Koppers is responsible for the contamination as that responsibility is defined in WIS Stats. Ch. 292.11(3)".* At no point did Koppers indicate to WDNR, or otherwise state, that it has retained control and responsibility for contamination beneath the Drip Pad. To the contrary, Koppers' submittals have clearly stated that its responsibility relates to the closure of the concrete drip pad operated as a RCRA Subpart W unit. These obligations are separate from obligations that may be associated with the investigation of Area F, the "drip track", consisting of SWMUs 12, 13, and 14 identified in USEPA's 1988 RCRA Facility Assessment (RFA) as the identification of SWMUs 12, 13, and 14

and Area F pre-date Koppers purchase of the Superior site. Although the concrete drip pad is located within Area F, the obligations as defined above are separate. The 1988 RFA identifies the constituents of concern in Area F as creosote, pentachlorophenol, and number 6 fuel oil. Pentachlorophenol was used at the facility from 1955 to the late 1970s / early 1980s, also pre-dating Koppers purchase and operation of the Superior site. Therefore, several references in the June 16th letter to the need to investigate the presence of pentachlorophenol in the area of the drip pad are not associated with Koppers operation and closure of the concrete drip pad as regulated under Subpart W.

To reiterate, Koppers' obligations with respect to the Drip Pad are to obtain closure under Subpart W. Koppers began operation of the Drip Pad in December 1988 upon obtaining ownership of the Superior facility, and operated the Drip Pad in compliance with the RCRA Subpart W requirements since Subpart W promulgation in 1991, including application and maintenance of a low-permeability surface coating, drip pad inspections, and annual engineer's certification. As clearly stated in the drip pad closure demonstration work plan and subsequent report, Koppers' objective in the closure demonstration was to assess the competency of the concrete drip pad and soil impacts immediately below the pad. Koppers has met the Subpart W closure performance standard for the drip pad slab through decontamination of the drip pad surface in 2006 (approved by WDNR for the "purpose of partial closure" (see WDNR letter 06/28-2007)); analysis of concrete drip pad core samples in 2017 that demonstrated the concrete drip pad acted as an effective barrier to the penetration of wood preservatives as acknowledged in your June 16th letter (see the RCRA Subpart W Drip Pad Closure Demonstration Report, January 2019 (the Demonstration Report)), and analysis of soil samples from a depth of 0-1 foot beneath the concrete drip pad that show limited impact beneath the drip pad (see the Demonstration Report).

Koppers further notes that the Superior site has been investigated extensively through the RCRA corrective action process and the drip pad closure process. WDNR indeed conditionally approved a site-wide on-site closure remedy for soils that has been implemented and a natural attenuation remedy for site-wide groundwater. The soil data beneath the drip pad are consistent with the data in the remainder of Area F for which no corrective action was determined to be necessary (with exception of two minor covered areas not near the Drip Pad). Accordingly, it is reasonable to expect that further investigation of the drip pad area will not result in information that will alter or modify the actions taken at the site.

In light of the foregoing, and in the absence of additional information and explanation as to why it is properly designated a "responsible party" under WIS Stats. Ch. 292.11(3), Koppers is compelled to decline to accept such designation and to take the actions outlined in WDNR's June 16, 2020 letter.

I am available for further discussion on the matter. Thank you.

Sincerely,



Linda S. Paul
Manager, Legacy Programs

Cc: Chris Saari, WDNR
Rob Smith, KU Resources
Jane Patarcity, Beazer East, Inc.