



Alachua County Environmental Protection Department

Chris Bird, Director

May 18, 2011

Mr. Scott Miller
Remedial Project Manager
USEPA Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

Re: Alachua County EPD and City of Gainesville Comments on “ Arcadis-Beazer East, Inc. Offsite Summary and Fingerprinting Evaluation Report Cabot –Koppers Superfund Site Gainesville, FL dated April 6, 2011

Dear Scott:

The Alachua County Environmental Protection Department (ACEPD) and the City of Gainesville (City) have reviewed the above referenced Arcadis Offsite Summary and Fingerprinting Report and have significant comments and issues that are described in the attached “ACEPD and City of Gainesville Issues on Arcadis-Beazer East, Inc. Offsite Summary and Fingerprinting Evaluation Report” dated April 6, 2011. These issues include comments developed by ACEPD and City staff with input from Dean Williamson P.E., consultant to the City of Gainesville. ACEPD has previously submitted preliminary comments to USEPA on April 14, 2011 concerning this report and these are also included in the attached Summary.

If you have comments on questions about the issues contained in the attached Summary of Issues please do not hesitate to contact me at 352-264-6805 or at jjm@alachuacounty.us

Sincerely

A handwritten signature in black ink that reads "John J. Mousa".

John J. Mousa, Ph.D.
Pollution Prevention Manager

Cc: Dean Williamson, CH2M-Hill
Fred Murry, Asst. City Mngr., City of Gainesville
Kelsey Helton, FDEP
Robin Hallbourg, ACEPD
Paul Anderson, Arcadis
Anthony Dennis, ACHD

Chris Bird, ACEPD
Stewart Pearson, City of Gainesville
John Herbert, Geohydro Consultants
Rick Hutton, GRU
Mitchell Brouman, Beazer East

Attachment 1--ACEPD and City of Gainesville Comments on April 6, 2011 “Arcadis-Beazer East, Inc. Offsite Summary and Fingerprinting Evaluation Report” —May 18, 2011

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1. ACEPD and the City strongly disagree with the attempt by Beazer to dismiss certain areas of offsite soil contamination as not Beazer’s responsibility for further delineation and remediation. The report does not present either a legally or scientifically valid basis that supports Beazer’s claim that the Koppers site was not responsible for contamination in these areas. We are concerned that the Executive Summary of the report attempts to set the stage for the dismissal of offsite soil contamination through the following argument:

“The evaluation of the off-Site data presented in this report progresses from relatively simple comparisons of measured concentrations to delineation criteria to, depending upon constituent and if needed, more sophisticated statistical evaluations to determine if the Site or other sources were responsible for constituent concentrations exceeding delineation criteria. If delineation criteria are met, or if the Site is not responsible for the exceedances of delineation criteria, additional delineation by Beazer is not necessary.”

There are a number of fallacies with this presumptive contamination dismissal process that Beazer is attempting.

First, no conclusive proof is presented in the report that operations at the Koppers site were not responsible for or did not contribute to the contamination in these areas. The report makes claims about the possible existence of other potential sources that may have contributed to the contamination but provides no valid scientific proof that other sources or other responsible parties were responsible for the contamination. The “findings” presented in this report claiming that data indicate the Koppers site is not the source of contamination are based on speculation, rather than clear scientific evidence. The fingerprinting analysis, in particular, is not “proof” that contamination originating at the Koppers site did not contribute to contamination at these locations.

Secondly, CERCLA law holds that a party responsible for releasing contamination, even if it contributes only in part to that contamination, can be wholly accountable for the characterization and remediation of the contamination. Nothing in this report indicates that the Koppers site has not contributed at least in part, if not completely, to the contamination present in those areas that Beazer is indicating may have additional sources of contamination. For this reason, we disagree with Beazer’s claim that it is not responsible for certain areas of offsite contamination and we expect EPA to hold Beazer responsible for this offsite contamination.

Thirdly, CERCLA defines a Superfund site as the area of contiguous contamination, regardless of whether the contamination is located within or outside of the property boundary. Many of the contaminated soil areas that Beazer appears to be indicating it is not responsible for further investigating or remediating are part of the contiguous contamination at the Koppers site. Therefore, Beazer is responsible for delineation and remediation of this contamination, regardless of any unproven and speculative claims that

other parties are responsible for this contamination.

2. The City and ACEPD believe Beazer is making speculative claims in attempting to dismiss contamination at offsite soil sampling locations as its responsibility. One should consider the arguments presented regarding sampling locations SS06 and SS07, located in a residential area northwest of the site. BaP-TE concentrations at these locations were 120 and 280 ug/kg, respectively. These sampling locations are less than 100 ft from the Koppers property boundary and slightly more than 100 ft from a location on the Koppers site at which a PAH concentration of 3000 ug/kg was detected in surface soil. These soil sampling locations are part of the contiguous contamination at the Koppers site and therefore by definition, part of the Koppers site. Beazer even concludes that the PAH fingerprint at sample locations SS06 and SS07 is identical to the PAH fingerprint of its onsite samples. Because of the contiguous contamination and identical composition of this PAH contamination, there is no reason to consider this offsite contamination anything other than contamination from the Koppers site that has spread across the offsite property, in the same manner that dioxin contamination has spread offsite. Yet, the report speculates about the potential presence of a hypothetical alternate PAH source and simply dismisses these samples from being Beazer's responsibility based on "other sampling locations in the vicinity of these two samples had PAH concentrations that were less than default delineation criteria, indicating that the source of PAHs at these locations was likely localized and not related to the Site."

We are aware of no peer-reviewed literature that demonstrates that the presence of other samples with lower contaminant concentrations in the vicinity of higher contamination samples is scientific evidence of the presence of an alternate source of contamination, especially when this contamination is contiguous with other site contamination.

Similarly, the PAH concentration detected in the soil sample at location SS13 (550 ug/kg) is also part of the contiguous contamination at the Koppers site. This soil sampling location is approximately 100 ft from the Koppers facility boundary. The 4 soil samples from the Koppers site closest to this sample had PAH concentrations of 2500, 2800, 3700, and 5700 ug/kg. Yet Beazer attempts to dismiss its responsibility for this contiguous contamination based on its "fingerprint" analysis. Nothing in the fingerprint analysis demonstrates that contamination from the Koppers site did not cause or contribute to the contamination at this sampling location and it is part of the contiguous contamination from the Koppers site. Therefore, further delineation and remediation of this contamination remains Beazer's responsibility under CERCLA law.

The claim that this contamination is not related to the Koppers site ignores the obvious presence of extremely high PAH concentrations on the Koppers site barely 100 ft away and the nearly century-long use of creosote in wood treating operations at the site, with attendant periodic air emissions of PAH-containing vapors, which can migrate offsite and deposit PAHs on offsite property, as well as surface water runoff that may have been a pathway for the spreading of this contamination at some point over the past nearly 100 years of operations at the Koppers site.

The other claims in report that certain offsite contamination is not related to Koppers operations suffer from a similar lack of scientific rigor. No evidence is presented in the report that contamination from the Koppers site did not impact or contribute to the offsite contaminated areas in question.

3. We object to the comparison of offsite soil arsenic contamination in residential areas to background concentrations detected on industrial property in the City of Gainesville (first full paragraph on page E-2). There is no valid basis for comparing offsite residential property to industrial background values and that comparison should be deleted. Industrial background values are not appropriate for evaluation of risks for offsite residential property. Comparisons of residential soil sampling results should be compared only to appropriate residential cleanup criteria or residential background values, not industrial background values.
4. We object to Beazer's attempt to dismiss its responsibility for contiguous offsite PAH soil contamination to the east and south of the Koppers site. In the first full paragraph on page E-3, the report attempts to dismiss Beazer's responsibility for PAH contamination in soil samples collected from the east and south of the site. The last section of the paragraphs states:
"Such a comparison revealed that the PAH concentrations (expressed as BaP-TE) in off-Site soil samples to the east and south of the Site were consistent with or less than PAH concentrations found in other comparable areas and neighborhoods of Gainesville. These findings indicate that the concentrations to the east and south of the Site, though higher than the SCTLs, were consistent with PAH concentrations expected in Gainesville and were not caused by the Site."

The last sentence, *"These findings indicate that the concentrations to the east and south of the Site... were not caused by the Site"*, is another example of a speculative statement that is not supported by any scientific evidence. The report does not present any proof that the Koppers site did not contribute to this contamination, it simply makes a speculative conclusion that ignores the approximately 100 years of wood treating operations that occurred at the Koppers site as well as Superfund law regarding contiguous contamination. While multiple sources of PAHs may have contributed to the contamination in these samples, no data indicate that contamination from the Koppers site did not contribute to the contamination. Given the massive quantities of PAH-containing creosote used at the Koppers site and the frequent gaseous emissions from wood treating operations that contained vapors impacted with PAHs as well as stormwater runoff that may have spread this contamination throughout the properties surrounding the Koppers site, it can be reliably concluded that the Koppers site did likely contribute significantly to the elevated PAHs detected in soil samples to the east and south of the site over the past nearly 100 years of wood preserving operations. Because of such contribution to the contamination, Beazer is liable for further investigating and remediating this contamination under CERCLA law.

The first paragraph at the top of page E-4 reads:

“In summary, PAH concentrations in almost all soil samples to the west and north of the Site were less than the SCTL. PAH concentrations at the few locations that did exceed delineation criteria did not appear to be Site-related. Additionally, PAHs in soils to the east and south of the Site, though above default residential delineation criteria, were consistent with background concentrations and had a composition different from on-Site soils. These findings indicate that any potential off-Site impacts from PAHs are not associated with unacceptable risks and that additional off-Site delineation of PAHs beyond the locations that have been sampled already is not required. Consequently, no additional off-Site sampling for PAHs is proposed.”

We disagree with these “findings”, based on the reasons described above. The extent of PAH contamination above applicable screening criteria at offsite locations contiguous to the Koppers site must be completely delineated and appropriately remediated by Beazer.

5. The discussion of the dioxin results includes similar attempts to claim the presence of other speculative sources as responsible for elevated dioxin results, including very high dioxin results in the residential neighborhood immediately west of the Koppers property.

The second paragraph on page E-6 states:

“In summary, while TCDD-TEQ concentrations in many off-Site samples exceed FDEP’s SCTL, the fingerprinting analysis developed multiple lines of evidence indicating that some of those exceedances were related to sources other than the Site. Additional delineation of PCDD/F concentrations at such locations by Beazer is not necessary”

We strongly disagree that Beazer is not responsible for further delineation and remediation at those locations. The report does not provide any scientific evidence that the Koppers site did not contribute to dioxin contamination at these locations. The fingerprinting analysis in particular does not provide evidence that dioxin contamination from Koppers site is not present in the soil samples. Under CERCLA law, Beazer is completely responsible for further investigation and remediation of this contamination.

Further, the dioxin contamination in the residential area west of the site is part of the contiguous contamination from the Koppers site and therefore Beazer owns the responsibility for further delineation and remediation of this contamination.

6. The report excludes the western offsite samples near the Koppers fence line and puts them in a separate category and does not include them in the broad general statements about the extent of contamination offsite the west of the site. This practice tends to present a distorted picture of the past impact of site contamination on properties to the west of the site. The fact that fence line samples are the most contaminated with dioxins indicates that the site has been a major source of contamination to offsite properties.
7. The report presents the data from the few samples taken from industrial and busy street areas around the city as being representative of “background” conditions for comparison

to near offsite data. There has been insufficient data taken to establish a statistically valid “background” concentration for these contaminants.

8. The report consistently compares the offsite concentrations of dioxins near the site with USEPA Preliminary Guidelines and Beazer derived Site specific SCTLs. It should remain clear that the FDEP Default Residential SCTL of 7 ppt and the FDEP Default Commercial SCTL of 30ppt for dioxin remain the standard specified in the ROD to be used for delineation of offsite contamination offsite contamination and for remediation of offsite properties unless a valid background value is established and approved by FDEP and EPA.
9. ACEPD and the City believe that the fingerprinting analysis applied to the dioxin data for offsite soils which attempts to establish the potential for sources of dioxin contamination other than the site is inconclusive. While the isomer patterns and ratios presented in the report may be suggestive of alternative sources for dioxin contributing to concentrations in selected areas to the west of site, the data does not rule out the possibility that site related contaminants are also contributing partially to the observed concentrations.

Previously Submitted (April 14, 2011) ACEPD Comments and Issues on Arcadis “Offsite Data Summary and Fingerprinting Evaluation” dated April 6, 2011.

10. The workplan and report appear to be giving priority to getting additional samples to support the determination of a background associated with a busy street such as 6th street and just finishing up some data gaps immediately west of the Koppers site. However, ACEPD believes that an equally important target of any further offsite sampling should be to complete the delineation of ALL potential offsite impacts with dioxin from the site in order to be able to establish trends in the contamination. We believe it is important that sufficient testing be done to fully delineate the contamination and assess the general impact to the Stephen Foster Neighborhood so that the extent of area needing remediation can be expeditiously established and also provide sufficient data to assure the residents that the entire neighborhood is safe. While it may be possible to establish that there is a higher expected background of dioxin along a busy street like NW 6th Street, this busy street background would not be applicable to residential areas west of 6th Street. There does exist background residential data for dioxin from neighborhoods several miles away from the site taken in 2009 that indicate a very low residential background level below the FDEP SCTL. To this extent until there is agreement that an alternate residential background has been established and met or the FDEP SCTL (7ppt) is achieved, ACEPD believes it is necessary to continue sampling across NW 6th Street to the west to make sure that the level of contamination past NW 6th Street does in fact drop to the FDEP SCTL for residential or to the agreed to residential background level. It is equally important the entire 6th Street corridor west of the site be sampled. It is important that the delineation of dioxins not stop just because there is a proposed busy street background has been met at NW 6th Street immediately west of the site.

11. ACEPD believes that there needs to be additional limited sampling performed along rights of way or on properties to the north and northwest of the site, past where the FDEP SCTL is achieved along NW 33rd Ave. We believe this is necessary to definitively conclude that there are not site impacts with dioxin north of the line where the FDEP SCTL is met. There is data that shows a higher level concentration of dioxin on the City property north of the site which is adjacent to the NW 33rd Ave locations where the 7 ppt is met. This fact may indicate that there could be higher contamination north of where the current delineation has stopped.
12. ACEPD has reservations about whether an applicable supportable “background” for the NW 6th Street corridor can be legitimately established considering the different conditions that exist in terms of land use when comparing the streets proposed by Aracadis Beazer for the additional background samples.
13. In general we think that the delineation will be incomplete and not adequate if the testing is stopped without taking more samples along NW 6th Street, West of NW 6th Street and North of NW 33rd Ave in addition to proposed locations South of the site. In addition additional sampling to the east and northeast may also be needed. (In particular it appears necessary to continue sampling along NW 33rd Ave in the industrial area to the northeast until the FDEP Industrial SCTL is met.) These should be planned in this next round of sampling along with any data needed to try to get a better estimate of possible background values. Once all this data is obtained then there can be discussions about the applicability of background data, the meeting of SCTLs and the interpretation of the results.