



Alachua County Board of County Commissioners

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March 12, 2013

Assistant Attorney General
U.S. DOJ-ENRD
PO Box 7611
Washington, DC 20044-7611

RE: Alachua County, Florida- Comments to Proposed Consent Decree;
United States of America vs. Beazer East, Inc. Civil Action No. 1:13cv29-SPM-GRJ
D.J. Ref. No. 90-11-2-622/1.

Dear Assistant Attorney General:

This letter conveys comments by the Alachua County, Florida Board of County Commissioners (County) to the above referenced proposed Consent Decree. Protection of the environment, public health and welfare of the residents of Alachua County and the City of Gainesville is a top priority for the County. The Cabot Koppers Superfund site has long been a significant concern to our community, dating back well before the site was listed on the National Priorities List in 1983.

This site poses a significant threat to our community's water supply, located only 2 miles from the City of Gainesville's Murphree Wellfield which is the sole water supply for the City of Gainesville and for a major part of Alachua County. Residential neighborhoods adjacent to the site have soils contaminated with dioxins from the site, which creates public health concerns and affects property values for people living in the neighborhood. These soils need to be remediated as soon as possible. It is imperative the remediation begin as soon as possible to protect our community's drinking water, protect public health and the environment, and allow restoration of the site and surrounding neighborhoods.

In October 2010, the County and the City of Gainesville submitted extensive comments in response to USEPA's Proposed Clean-up Plan for the Cabot-Koppers Site. These comments were intended to improve USEPA's plan to better protect our water supply and the health and property values of the residents neighboring the Koppers site and provide maximum flexibility for future development of this site. We appreciate that USEPA agreed to make some of the changes recommended by the City and County.

We remain concerned that the Record of Decision and the Consent Decree do not provide an option for permanent relocation of residents living nearby the site whose properties have been impacted by contamination, who want to be relocated. We understand that the Record of Decision provides for removal of contaminated soils from properties contaminated above state criteria, nevertheless several residents in the neighborhood have continued to express to the County and City great anxiety about their current and future health impacts from contaminated soils and dust in and near their homes. These residents believe that permanent relocation is needed to improve their situation. We understand that USEPA Region 4 has

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employed permanent relocation in other Superfund clean-ups in Florida such as the Escambia Woodtreating Site, and we urge USEPA to include an option for permanent relocation of residents located within the delineated soil contamination area who want to be permanently relocated. It is also critical that the integrity of the residential neighborhood be preserved. Therefore, properties from which homeowners are relocated must still be cleaned up to residential standards to ensure that these properties be suitable for continued residential use.

The Alachua County Environmental Protection Department along with the City of Gainesville and its utility, Gainesville Regional Utilities (GRU), and the Alachua County Health Department have been working together collaboratively as part of the "Local Intergovernmental Team" (LIT). The LIT has been actively engaged in evaluating the site and in providing technical review and comment to EPA, in order to ensure that adequate and appropriate actions are taken to protect the water supply, public health and the environment. Alachua County and the City of Gainesville have both devoted extensive technical staff time and resources to this effort.

The issuance of the Record of Decision (ROD) in 2011 and the issuance of proposed Consent Decree are significant steps forward in the process. The ROD describes the remedial actions that EPA is requiring to be done to remediate the site. We recognize that the purpose of the consent decree is not to change the scope of the remedial actions, but rather to provide the legal basis for moving forward with the implementation of the ROD. However, the County believes there are issues related to the implementation of the Record of Decision and potential future remedial actions at the site that should be seriously considered by USEPA. Notwithstanding these issues, we urge the USEPA to expeditiously implement the offsite and onsite soil, sediment and groundwater remedies for this site. The County's comments to the proposed Consent Decree are as follows:

1. Expedited Offsite Soil Remediation

The expeditious remediation of the offsite neighborhood dioxin contaminated surface soils is an issue of critical importance to the County and local community. The confirmed contamination in the neighborhood soils is an issue of constant concern to the residents of the neighborhood and has led to increased anxiety about health impacts and has seriously impacted property values in the neighborhood. We believe that expeditious clean-up of this contaminated soil will also have a major impact on relieving resident concerns about indoor dust contamination in the neighborhood. We urge USEPA to take all appropriate actions to make sure this critical remediation task is given the highest priority in the schedule for remediation activities planned for this site. It is our understanding that Beazer East and USEPA plan to begin offsite soil remediation by the end of 2013. We request that USEPA and Beazer East to make meeting of this deadline and schedule a high priority. This will require a strong commitment from Beazer East and USEPA to continue their coordination with neighborhood groups and the City of Gainesville and the County to address and expedite logistical issues and public outreach and communication.

2. Household Dust Health Concerns

Certain property owners and residents in the Stephen Foster neighborhood near the Cabot Koppers Superfund site have raised concerns about indoor dust contamination with dioxins in their homes. The City of Gainesville and Alachua County in their October 2010 joint comments on the USEPA Proposed Plan for the Cabot Koppers Superfund (July 2010) urged the USEPA to study and take appropriate action to address these citizen concerns. USEPA in Appendix A, Responsiveness Summary of the Cabot-Koppers Amended Record of Decision (ROD)(February 2011) stated that it would convene a workgroup to study the issue and determine what, if any, indoor air quality sampling would be conducted. If indoor dust sampling was recommended, the USEPA stated it would conduct or require the responsible party to conduct the indoor dust sampling. USEPA subsequently conducted indoor dust sampling for dioxins in May 2012.

Based on the information released by USEPA (November 2012) to the residents participating in the indoor dust study, the USEPA has not identified a significant concern about the levels of dioxins in the tested

Stephen Foster neighborhood homes near the former Koppers site based on USEPA derived risk criteria. As stated in Appendix A of the ROD, the Florida Department of Environmental Protection (FDEP) has confirmed that its risk-based corrective action soil clean-up level standards do not apply to indoor dust. The Florida Department of Health (FDOH) under a Cooperative Agreement with the US Department of Health and Human Services, Agency for Toxic Substances and Disease Registry (ATSDR) has also issued a preliminary health review (December 2012) and has determined that the levels of dioxins do not pose an imminent health threat. The ROD and the Consent Decree Statement of Work of February 2013 do not provide for any remediation actions for indoor dust.

The FDOH is expected to issue a health consultation on the indoor dust study which will provide more information on the long term health impacts of the dioxin levels observed. If the health consultation from FDOH indicates a significant long term health risk or there are future changes in federal or state standards which would suggest greater health risk, then we request and urge USEPA to re-evaluate the indoor dust levels found in the neighborhood and the need for any remediation including amending the Record of Decision as appropriate. At a minimum, we request that USEPA consider an evaluation of this issue as part of the 5 year review process for the Superfund remedy.

3. Relocation Option

We strongly urge USEPA to include an option for permanent relocation of residents located within the USEPA delineated soil contamination area presently and in the future who want to be permanently relocated. It is also critical that the integrity of the residential neighborhood be preserved. Therefore, properties from which homeowners are relocated must still be cleaned up to residential standards to ensure that these properties be suitable for continued residential use.

4. On-site Surface Soil Remediation

We request the USEPA seriously consider input from the County, the LIT and neighborhood organizations including Protect Gainesville Citizens, Inc. on possible alternative design approaches to implementing the ROD remedy for contaminated on-site surface soils outside the Groundwater Containment Zone/Soil Consolidation Area. This area involves about 2/3 of the 90-acre site.

For example, the Statement of Work, Appendix B of the Consent Decree, indicates that surface soils will be excavated only where certain contaminants exceed groundwater leaching performance standards. A less water soluble contaminant such as dioxin, though highly toxic, would not trigger excavation even though it may be present in the surface soils at concentrations significantly above commercial direct contact standards due to its higher groundwater leaching standard. It appears that for the majority of this area, a surface cover of 2 feet of clean soil will likely be used to meet clean-up goals.

The anticipated future land uses on the site include both residential and commercial uses. We believe that covering contaminated soils in the majority of the site, without applying both leachability *and* direct contact standards first, would place undue restrictions on the future development of this site. An alternate design approach which removes a few feet of contaminated surface soils from this area and moves those soils into the consolidation area prior to application of clean fill surface covers is feasible and consistent with the remedy described in the ROD.

This alternative would allow for more unrestricted development of this large area of the site and should be considered by USEPA to meet its requirement to implement a remedy which will accommodate the future land uses of the land desired by the community. A more rigorous evaluation of soil data can lead to a balance of excavation and cover in the Remedial Design.

5. In-Situ Solidification/Stabilization (ISS/S) Treatment Depth

Appendix B page 2, the final sentence of the second to last paragraph of the proposed Consent Decree

states that "The final depth of ISS/S treatment will be based on pilot tests designed to determine the site-specific practical depth limit of effective ISS/S application." The ROD (page 120, last paragraph) specifies that application will extend to the Hawthorn Group Middle clay layer, approximately 65 ft deep. We acknowledge that any of the remediation approaches being implemented at the site should be modified appropriately if field data indicate technological issues, or site conditions which warrant modification. However, we are concerned that the proposed Consent Decree appears to deviate from the ROD on this issue, and that EPA appears to be relaxing the requirement for penetration depth of the ISS/S treatment. If the ISS/S treatment does not extend to the middle Hawthorn Group clay layer, this is likely to reduce its effectiveness since there are likely to be pockets of creosote located just above this clay layer which can continue to cause deeper contamination if not treated. Therefore, every effort should be made to extend the treatment down to the desired depth, and there should be a stringent burden of proof if the technology cannot be extended to this depth due to site conditions. As pointed out by EPA in the ROD Responsiveness Summary (Appendix A, page 31, third paragraph), "there have been other deep soil mixing uses of ISS/S of up to 110 ft below ground surface without negative unintended effects."

6. On-Going Involvement of LIT and Community

We appreciate that EPA has provided the County and the LIT the opportunity to be actively engaged in technical review and discussions throughout the remedial investigations and development of the ROD. We request a commitment from USEPA to continue to allow the County and the LIT to be actively engaged in the process of reviewing and commenting on the remedial design and construction documents. Also, we request that EPA continue to be actively engaged with the community by providing updates to the community and seeking input where appropriate. In the future if there is new information or additional impacts confirmed that are related to the site that warrant additional remedial actions, we expect that EPA will take prompt and aggressive actions, including amending the ROD if necessary, to protect human health, safety and the environment.

As stated previously, the remediation of the Koppers portion of the Cabot Carbon/Koppers Superfund site is an utmost priority in our community. It is critical that remedial design and remedial actions be initiated as soon as possible, in order to protect the water supply, public health, and the environment of our community. Therefore, we support moving forward as quickly as possible with entering the proposed Consent Decree.

We appreciate the efforts of the Attorney General's office and the EPA in moving forward with the remediation of the Koppers site. If you have any questions, or if we can provide further information, please do not hesitate to contact Mr. Chris Bird, Environmental Protection Department Director at 352-264-6801.

Sincerely,



Mike Byerly, Chair
Alachua County Commission
Chr13.036

MB/CB/lg

cc: Board of County Commissioners
Dave Wagner, County Attorney
Senator Bill Nelson
Congressman Ted Yoho
Department File

Richard Drummond, County Manager
Chris Bird, Director Environmental Protection
Senator Marco Rubio
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