

Mr. Gregory W. Council, P.E.
Principal Engineer
Tetra Tech
1165 Sanctuary Parkway, Suite 270
Alpharetta, GA 30009

Dear Mr. Council:

Thank you for the August 23, 2013, Institutional Control Implementation and Assurance Plan (ICIAP) for the Cabot Koppers Site (the Plan) that was submitted on behalf of Beazer East. Our comments on this submittal are as follows:

General Comments

1. This Plan does not include certain information and items that EPA considers to be important aspects of an ICIAP document, as described in EPA's December 2012 guidance document entitled "Institutional Controls: A Guide to Preparing Institutional Control Implementation and Assurance Plans at Contaminated Sites", OSWER 9200.0-77, EPA-540-R-09-002 (guidance document). Table 1 of this guidance document provides a comprehensive list of information that should be included in the ICIAP. Please update the Plan to address these items and resubmit the document.
2. Please update this Plan to include specific details (such as legal descriptions of restricted areas, parcel ownership/parcel tax numbers, responsible parties and specific activities that each party will perform related to IC maintenance and reporting) whenever an offsite property at which ICs will be implemented in lieu of remediation is identified. A schedule describing when this plan will be updated should be included in the plan. It is also necessary to include a status of negotiations with offsite parties as it relates to obtaining ICs in lieu of conducting offsite soil remediation activities. For instance, Beazer East has previously indicated that it had an interest in obtaining ICs in lieu of conducting soil remediation on commercial properties east of the Koppers main site and west of North Main Street where there were exceedances of soil cleanup levels in the 2011 Record of Decision. EPA desires to be aware of these discussions, and may take part in conversations with affected property owners to assist Beazer East in obtaining ICs on these properties. In addition, it is imperative that local Site stakeholders be aware of where ICs are planned and the status of these discussions moving forward as part of the remedial design process.
3. Reference to Appendix F from the Consent Decree is made in several locations in the draft ICIAP. A copy of Appendix F should be included in this Plan.

Specific Comments

1. Section 4, Institutional Control maintenance. This section lacks many essential details that describe how maintenance will be performed. It makes references to a few actions that "may" be

implemented such as visual inspections or periodic reviews but does not include any specific actions that "will" be implemented. The EPA guidance document on preparing ICIAPs indicates that the IC maintenance section should describe:

- * The entity responsible for IC monitoring
- * The frequency of site inspections and IC monitoring
- * Activities that constitute monitoring
- * Event and activities to be monitored

These details should be added to Section 4. The language should indicate specific activities that "will" be implemented by specific entities.

In addition, the Plan has no references to reporting, an important element of an ICIAP. Reporting requirements and details that EPA indicates should be included in the Plan include:

- * Entity responsible for reporting
- * Reporting procedures and frequency
- * Events and activities to be reported
- * Locations and procedures for accessing records
- * Stakeholder and regulatory entity contacts

2. Section 5 - Institutional Control Enforcement - Additional information, as recommended in the EPA ICIAP guidance document, that should be included in Section 5 includes:

- * Enforcement triggering events and responsible entity
- * Procedure and time frame
- * Enforcing entity and notification procedures
- * Contingency plans
- * Financial assurances

3. On page 13 (pdf page 18) of the document, the following italicized language appears related to Beazer East's belief that it has some availability to calculate an alternate offsite soil cleanup number for nonresidential properties. This approach is inconsistent with the 2011 Record of Decision, does not exist for the Cabot/Koppers Site, and must be removed from the document for the document to be acceptable to EPA:

"For non-residential parcels that have soil concentrations above the unrestricted-use cleanup goals as a result of past releases at the former Koppers facility, Beazer may either propose to conduct a soil removal and replacement action to achieve unrestricted-use cleanup goals or Beazer may pursue proprietary controls that will preclude future use of the parcel in a manner that could lead to exposures above applicable regulatory standards. This proprietary-control option may be utilized for non-residential properties (i.e. properties that are neither zoned residential nor are being used as residential) that have soil concentrations above the unrestricted-use cleanup goals, but below the commercial/industrial cleanup goals. It may also be possible to restrict future land use at non-residential parcels and propose alternative (less stringent) cleanup goals provided that Beazer can demonstrate with risk calculations that the allowable future land uses would not result in

unacceptable human-health risk, defined per Florida Law as an excess lifetime cancer risk greater than 10^{-6} or a hazard index greater than 1.”

4. Page 12, Section 3.2 Land Use Restriction, Paragraph 4-- Please submit a figure showing the locations and concentrations of the deeper samples taken in offsite soils to support the statement “ there have been no off-Property exceedances of cleanup goals measured in samples collected from depths greater than 6 inches below the ground surface.” This additional figure would serve to provide some certainty to clear up any concerns from residents about potential contamination at depth on the off-site properties. In addition, a final map with all of the parcels where there is planned remediation must be submitted as part of this updated Plan.

5. Land Use Restrictions General Comment-- The Plan does not clearly describe what actions will be taken by Beazer East and what consequences will be if a property owner refuses to approve clean-up of property that requires remediation. Also, the consequences of the failure of a property owner of a non-residential property for refusing to agree to a Beazer proposed proprietary institutional controls on groundwater or land use on their properties are not enumerated. These points should be clarified in the Plan.

We respectfully suggest the following updates be made to the Plan to improve the readability of the document and provide clarification to it:

1. Neither the introductory paragraph (Section 3) nor the discussion of Groundwater Use Restriction (Section 3.1) acknowledge the requirement in the ROD that groundwater outside the containment area be remediated to Florida GCTLs.
2. The second paragraph of Section 3.3.1 states “For groundwater, the presently envisioned containment remedy will ultimately result in meeting cleanup goals at all off-Property areas ... without need for off-Property engineering controls or permanent institutional controls.” Beazer East may consider moving that text and a discussion of ROD requirements to the introduction of Section 3- so the reader will have that information when reading the reading the discussion of groundwater use restrictions.
3. We recommend that passages related to attribution of Site groundwater contamination be removed from the document.
4. Page 2, Section 1.1 Site and Property Description, Paragraph 4—The statement is made” After pretreatment, a portion of the water (that meets Florida drinking-water quality standards) is used for on-Property irrigation....” We are not aware of data that shows that the treated groundwater being used for irrigation meets all drinking water criteria. We understand that some of the identified contaminants in the groundwater being treated have State of Florida MCLs and that other contaminants are being treated to Florida Groundwater Cleanup Target Levels (FGCTLs). Without supporting data, we would suggest alternate wording that states “meets Florida drinking water quality standards or Florida Groundwater Contaminant Target Levels (GCTLs) for identified groundwater contaminants”.

5. Page 13 Section 3.2 Land Use Restriction, Paragraph 2— We recommend inserting the word “ only” in the statement “ This proprietary control option may **only** be utilized for non-residential properties.....”
6. Page 13 Section 3.2 Land Use Restriction, Paragraph 4 – The proposed language for the restrictive covenants that will implement land use restrictions appears to restrict some development that may be suitable under controlled mixed use future development at the former Koppers site. Please provide the basis for prohibiting hotels, lodging, recreation, parks and museums.

If I may be of assistance in this matter, please contact me at (404)562-8819 or via Internet e-mail at kestle.rusty@epa.gov.

Sincerely,

W. Russell Kestle, Jr., P.G.
Remedial Project Manager
Superfund Remedial Branch