

March 12, 2013

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

RE: City of Gainesville, 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 City of Gainesville, Florida City Commissioners (City) 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 City. 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 1984.

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 that 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 City of Gainesville and Alachua County 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. However, we remain disappointed that the clean-up plan in the Record of Decision leaves contamination buried on the site instead of removing contamination from the property. We were particularly disappointed 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. While 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 City and County great anxiety about their perceived 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 employed permanent relocation in other Superfund clean-ups in Florida such as the Escambia Woodtreating Site and we urge USEPA to consider including an option for permanent relocation in the remedial plans for this Koppers site at least for those residents living on contaminated properties adjacent to the site.

The City of Gainesville and its utility, Gainesville Regional Utilities (GRU) along with the Alachua County Environmental Protection Department 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. The City of Gainesville and Alachua County 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 City 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. The City'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 City and the Alachua County 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 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, the City of Gainesville and Alachua 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. Notwithstanding this indoor dust issue, we support the approval of this Consent Decree and urge the USEPA to expeditiously implement the offsite and onsite soil, sediment and groundwater remedies for this site.

3. On-site Surface Soil Remediation

We request the USEPA seriously consider input from the City, 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. For example, the Statement of Work, Appendix B of the Consent Decree, indicates that in a few highly contaminated areas surface soils will be excavated to meet groundwater leaching performance standards. However, 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. We believe that covering contaminated soils in the majority of the site 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 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 for implement a remedy which allows for appropriate future land use of the land.

4. 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.”

5. On-Going Involvement of LIT and Community

We appreciate that EPA has provided the City 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. Also, if new information becomes available which requires additional actions, we expect that EPA will amend the remedial actions, and amend the ROD if appropriate.

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. Rick Hutton, GRU Supervising Engineer at 352-393-1218 huttonrh@gru.com or Fred Murry, Assistant City Manager at 352-334-5010 murryfj@cityofgainesville.org. Chris Bird, Environmental Protection Department Director at 352-264-6801.

Sincerely,

Craig Lowe, Mayor
Gainesville City Commission

CL/hh

cc: Gainesville City Commission
Russ Blackburn, City Manager
Nicolle Shalley, City Attorney
Bob Hunzinger, General Manager for Utilities
Fred Murry, Assistant City Manager
Rick Hutton, GRU Water/Wastewater Supervising Engineer
Chris Bird, Director Environmental Protection
Senator Bill Nelson
Senator Marco Rubio
Congressman Ted Yoho
Congresswoman Corrine Brown