



**BEAZER EAST, INC.**

c/o Three Rivers Management, Inc. (Agent for Beazer East, Inc.)  
1910 Cochran Road, Manor Oak One, Suite 200, Pittsburgh, PA 15220-1273

March 3, 2017

Certified Mail No. 7015 0640 0007 7876 6842

Ms. Patricia A. Hickman, Director  
WVDEP Division of Land Restoration  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304

Re: Environmental Covenant for Property located at 100 Koppers Road, Follansbee, WV

Dear Ms. Hickman:

Please find enclosed the recorded environmental covenant for the property located at 100 Koppers Road, Follansbee, WV. Should you have any questions, please contact Mr. Kurt Paschl at (412) 327-3372.

Best regards,

Timothy S. Bytner  
Associate In-house Counsel

Enclosures

Sylvia J Derzo  
BROOKE County 12:02:39 PM  
Instrument No 65770  
Date Recorded 02/14/2017  
Document Type AGR  
Pages Recorded 12  
Book-Page 372-748  
Recording Fee \$12.00  
Additional \$7.00

Koppers Inc.  
EPA ID# WVD004336749

## ENVIRONMENTAL COVENANT

This is an environmental covenant executed pursuant to the Uniform Environmental Covenants Act, West Virginia Code Chapter 22, Article 22B, to restrict the activities on, and uses of, the following described property:

**Property Affected.** The property affected ("Property") by this environmental covenant is located in Follansbee, Brooke County, West Virginia.

The postal street address of the Property is: 100 Koppers Road, Follansbee, WV 26037.

The latitude and longitude of the center of the Property affected by this environmental covenant is: Latitude: 40.339544 Longitude: -80.606389.

The Property has been known by the following names: Koppers Company, Inc.; Koppers Industries, Inc.; Koppers, Inc.; Beazer East, Inc.; and American Tar Products Company.

The West Virginia Department of Environmental Protection ("WVDEP") Primary Facility ID# is: 54-009-000 ("Facility").

A complete description of the Property is attached to this environmental covenant as Exhibit A.

A map of the Property is attached to this environmental covenant as Exhibit B.

Activities on and uses of the above described property that may result in excessive human exposure or in the release of a contaminant that was contained as part of the remedial action related to this covenant are prohibited. Those activities and uses include, but are not limited to:

- (a) The Property shall not be used as "residential" property, as that term is defined in W.Va. Code §22-22-2(bb).
- (b) Any future construction activities such as excavation, drilling, penetration or any other type of disturbance unless such excavation, drilling, penetration or disturbance is conducted by a contractor who is informed and trained about releases and exposures to contaminants known to exist at the site. The contractor will be required to perform the work in accordance with a site specific Health and Safety Plan and the December 2014 Materials Management Plan that was approved by the U.S. Environmental Protection Agency ("EPA"). Existing surface covers shall be maintained over the impacted areas to minimize surface water infiltration and prevent direct contact with site soils.

TIM BYTNER  
BARST OLLAND CLEMENTS & ZIMMER PC  
TWO GATEWAY CITY BTH FLOOR  
PITTSBURGH, PA 15222-

- (c) Groundwater at the Property shall not be used for potable purposes or uses that result in direct contact or new or additional risk to human health or the environment. Extraction of groundwater for groundwater monitoring and/or remediation is permitted. Any other use of groundwater in the future shall be conducted according to a plan which will be documented and submitted to WVDEP that the use is for non-potable and non-contact purposes only and will not result in new or additional risk to human health or the environment.
- (d) A notice must be provided to on-site workers/contractors that any underground construction activities may result in exposure to impacted soils and groundwater. This notice and a map of the impacted soils will be incorporated into a site specific Health and Safety Plan(s).
- (e) Any construction, excavation and deposition of materials in, over, or under waters of the Ohio River at or adjacent to the Property must be permitted by the United States Army Corps of Engineers pursuant to regulations promulgated under the Rivers and Harbors Act of 1899, 33 U.S.C. 403. (See p.8, Section II. of the FDRTC)

The owner of record of the property, and its contact information, are:

Koppers Inc.  
436 Seventh Avenue  
Pittsburgh, PA 15219

The following entity is the Holder of this covenant:

Beazer East, Inc.  
c/o Three Rivers Management, Inc.  
1910 Cochran Road  
Manor Oak One, Suite 200  
Pittsburgh, PA 15220

The facts regarding the remediation response project at this property are:

In 1914, American Tar Products Company constructed a tar distillation plant ("Facility") on the subject Property. The Facility operated to produce creosote, road tar, and pitches. In the mid-1950s, environmental investigations began on the Property, evaluating the alleged seepage of perched groundwater from the Facility into the neighboring coke manufacturing facility's coal pits. Environmental investigations completed between the late 1970s and late 1980s focused on understanding the behavior of groundwater flow and extent of dissolved-phase chemicals of potential concern in groundwater. The scope of the investigations eventually expanded to encompass the entire Facility property, including portions of the Ohio River, and to include soil, sediment, and surface-water media beginning in 1993 during implementation of a Resource Conservation and Recovery Act ("RCRA") Facility Investigation ("RFI"). Based on the results of those investigations, the U.S. Environmental

Protection Agency ("EPA") required implementation of groundwater and dense non-aqueous phase liquid ("DNAPL") monitoring and Interim Measure ("IM") programs at the Facility.

In September 1990, EPA and Beazer East, Inc., ("Beazer East") former owner of the Facility, entered into an Administrative Order on Consent pursuant to 42 U.S.C. §6928(h) of RCRA, Docket Number RCRA-III-037CA. The Order required Beazer East to perform IM, a RFI and a Corrective Measures Study. As a result, EPA issued a Final Remedy for the Facility in its Final Decision and Response to Comments ("FDRTC") on March 3, 2011. On September 29, 2011, EPA and Beazer East entered into another Administrative Order on Consent ("Order") in Docket No. RCRA-03-2011-0190CA. As part of the Order, Beazer East agreed to and was ordered to implement corrective action measures set forth in the FDRTC. The Final Remedy for the Facility consists of a Soil Remedy, Sediment Remedy, Groundwater Remedy and Facility-wide non-engineering controls. The Soil Remedy and Facility-wide non-engineering controls require compliance with and maintenance of institutional controls ("ICs"). Because the majority of the plant surface is paved or covered with structures, EPA determined that Facility soils do not currently pose a threat to human health or the environment and require no further engineering controls at this time. However, because contaminants of concern ("COC") remain in the soil at concentrations that exceed residential use and worker scenarios, ICs that limit potential future use and maintain ground surface covers must be implemented to prevent residential use and minimize the potential for workers to be exposed to soils containing COCs. The ICs are implemented through this Environmental Covenant pursuant to W.Va. Code §22-22B-1 et seq. A description and list of the COCs at the Facility can be found at pages 11-17 of the FDRTC, incorporated herein by reference. Copies of the FDRTC, Orders and other documents in the WVDEP's administrative record for the Property are available for inspection at the WVDEP's office, 601 57th Street SE, Charleston, WV 25304.

The owner(s) of the property shall provide written notice to the holder, the Secretary of the West Virginia Department of Environmental Protection, and the United States Environmental Protection Agency, Region III (EPA Region III) within ten (10) days following: transfer of a specified interest in the property subject to this covenant, changes in use of the property, application for building permits or proposals for site work affecting the contamination on the property.

The owner(s) shall conduct inspections of the property to monitor compliance with this covenant at least one time per year and shall submit two (2) signed copies of the inspection report to WV DEP, 601 57th Street, Charleston, West Virginia, 25304 within thirty (30) calendar days of the inspection.

The owner(s) shall file this environmental covenant with the Recorder of Deeds for Brooke County, and send a file-stamped copy of this environmental covenant to the WVDEP. The owner also shall send a file-stamped copy to each of the following: Beazer East, Inc., the City of Follansbee and Brooke County; each person holding a recorded interest in the property; and each person in possession of the property.

This covenant shall not be amended, modified, or terminated except by written instrument executed in accordance with W.Va. Code §22-22B-9 or 22-22B-10, by and between the owner at the time of the proposed amendment, modification, or termination; the Secretary of the West Virginia Department of Environmental Protection and EPA Region III and the holder(s) of this covenant. Additionally, the then current owner of the property shall provide EPA and West Virginia Department of Environmental Protection written notice of the pendency of any proceedings or any proceedings that could lead to a foreclosure, as referred to in W.Va. Code §22-22B-9(a)(4), within seven (7) calendar days of the owner's receiving notice of the pendency of such proceedings. Within five (5) days of executing an amendment, modification, or termination of this environmental covenant, the owner shall record such amendment, modification, or termination with the Clerk of the County Commission, and within five (5) days thereafter, the owner shall provide a true copy of the recorded amendment, modification, or termination to the Secretary of the Department of Environmental Protection.

The administrative record for the environmental response project reflected in this covenant is maintained in the United States Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103-2029 and is entitled:

Koppers Inc. - Follansbee  
RCRA ID #: WVD 004336749

WVDEP and EPA Region III are granted full right of access to the property for the purpose of the implementation or enforcement of this covenant.

Pursuant to W.VA. Code § 22-22B-11(a), a civil action for injunctive or other equitable relief for violating this covenant may be maintained by EPA.


All restrictions and other requirements described in this covenant shall run with the land and shall be binding upon all holders and the current owner(s) and their grantees, lessees, authorized agents, employees, or persons acting under their direction or control.



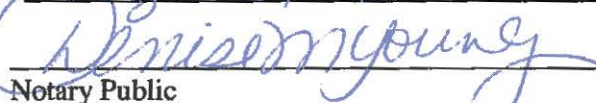
In the event of amendment by court action, the owner of the property shall provide EPA and WVDEP with written notice of such said amendment in accordance with W. VA. Code § 22-22B-9 or § 22-22B-10.

IN WITNESS WHEREOF, the following have executed this Environmental Covenant on the dates indicated.

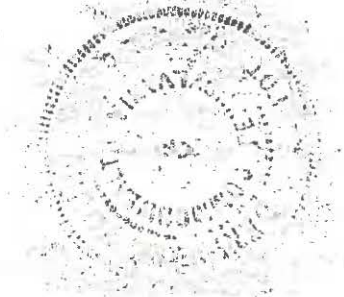
Koppers Inc. - as Owner

By:   
Name: James H. Sullivan  
Title: SVP LMC  
Address: 426 South Ave, P. H. S. B. L., PA 15219  
Date: 01/24/2017

I, Denise M. Young, a Notary Public in and for the County of Allegheny, State of Pennsylvania, do hereby certify that the Owner/Holder(s) identified above, this day executed this document in my presence or this day acknowledged same to be true act and deed of said Owner/Holder(s).  
Given under my hand this the 24<sup>th</sup> day of January, 2017.  
My commission expires August 31, 2020

  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
Denise M. Young, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires Aug. 31, 2020  
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

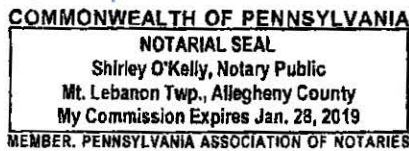


Beazer East, Inc. - as a Holder

By: [Signature]  
Name: Robert S. Markwell  
Title: President  
Address: 1910 Cochran Rd. Suite 200  
Date: Pittsburgh, PA 15220  
01/18/2017

I, Shirley O'Kelly, a Notary Public in and for the County of  
Allegheny, State of Pennsylvania, do hereby certify that the  
Owner/Holder(s) identified above, this day executed this document in my presence or this day  
acknowledged same to be true act and deed of said Owner/Holder(s).  
Given under my hand this the 18th day of January, 2017.  
My commission expires January 28, 2019

[Signature]  
Notary Public



**West Virginia Department of Environmental Protection**

Printed Name: Patricia A. Hickman

Title: Director, Director of Land Restoration

Patricia A. Hickman

1-31-17

Signature

Date

I, Jessica A. Henson, a Notary Public in and for the County of Kanawha, State of West Virginia, do hereby certify that Patricia A. Hickman whose name is signed above, as the authorized representative of the West Virginia Department of Environmental Protection, signed above, this day executed this document in my presence or this day acknowledged same to be true act and deed.

Given under my hand this the 31<sup>st</sup> day of January, 20 17.

My commission expires April 7, 2020.



Jessica A. Henson

Notary Public

The Clerk will return the recorded document to:

Ms. Patricia A. Hickman, Director

WVDEP, DLR

601 57th Street SE

Charleston, WV 25034



**EXHIBIT A**

## EXHIBIT A

On December 28, 1988, the Property, situate in Cross Creek District, Brooke County, West Virginia, was conveyed by Koppers Company, Inc. to Koppers Industries, Inc. by Special Warranty Form of Deed, as described below:

Beginning at a point at the most northerly corner of the herein described tract, said beginning point being located the following four (4) bearings and distances from a point now or formerly iron pin No. 95, a point of tangent on the U.S. Harbor Line as established A.D., 1902: (1) by the line as determined by U.S. Harbor Pins No. 95 and 97 and the southerly prolongation of said line S. 05° 10' E. 523 and 89/100 feet to a point; (2) thence N. 77° 00' E. 158 and 47/100 feet to a point now or formerly a concrete monument at the northwest corner of the first tract of land leased by Wheeling Steel Corporation (now Wheeling-Pittsburgh Steel Corporation) to American Tar Products Co., Inc., (now Koppers Company, Inc.), by lease agreement dated August 31, 1926, and recorded in the Office of the Clerk of the County Court of Brooke County, West Virginia, in Deed Book 67, at page 174; (3) thence N. 06° 30' W. 234 feet to a point now or formerly an iron pin; (4) thence N. 77° 00' E. 141 and 83/100 feet to said beginning point; thence from said beginning point and with other lands now owned by Wheeling-Pittsburgh Steel Corporation, the following eight (8) courses and distances: S. 31° 39' E. 245 and 38/100 feet to a point; thence S. 25° 55' 22.62" E. 595 and 666/1000 feet to a tack in concrete; thence S. 13° 00' E. 102 and 844/1000 feet to an iron pin; thence S. 25° 55' 22.62" E. (at 1061 and 56/1000 feet passing an iron pin) 1418 and 632/1000 feet to a point; thence S. 64° 04' 37.38" W. 320 and 518/1000 feet to a spike in a wood post; thence S. 34° 46' 07.75" E. 319 and 99/100 feet to a point; thence with a curve to the right having a radius of 2544 and 982/1000 feet for an arc distance of 388 and 635/1000 feet, chord bearing and distance for said arc being S. 30° 23' 37.75" E. 388 and 28/100 feet to a point; thence S. 26° 01' 07.75" E. 166 and 842/1000 feet to an iron pin; thence S. 62° 49' 33.5" W. (at 170 and 346/1000 feet passing an iron pin) 222 and 346/1000 feet to a point in the Ohio River; thence up said river with the meanders

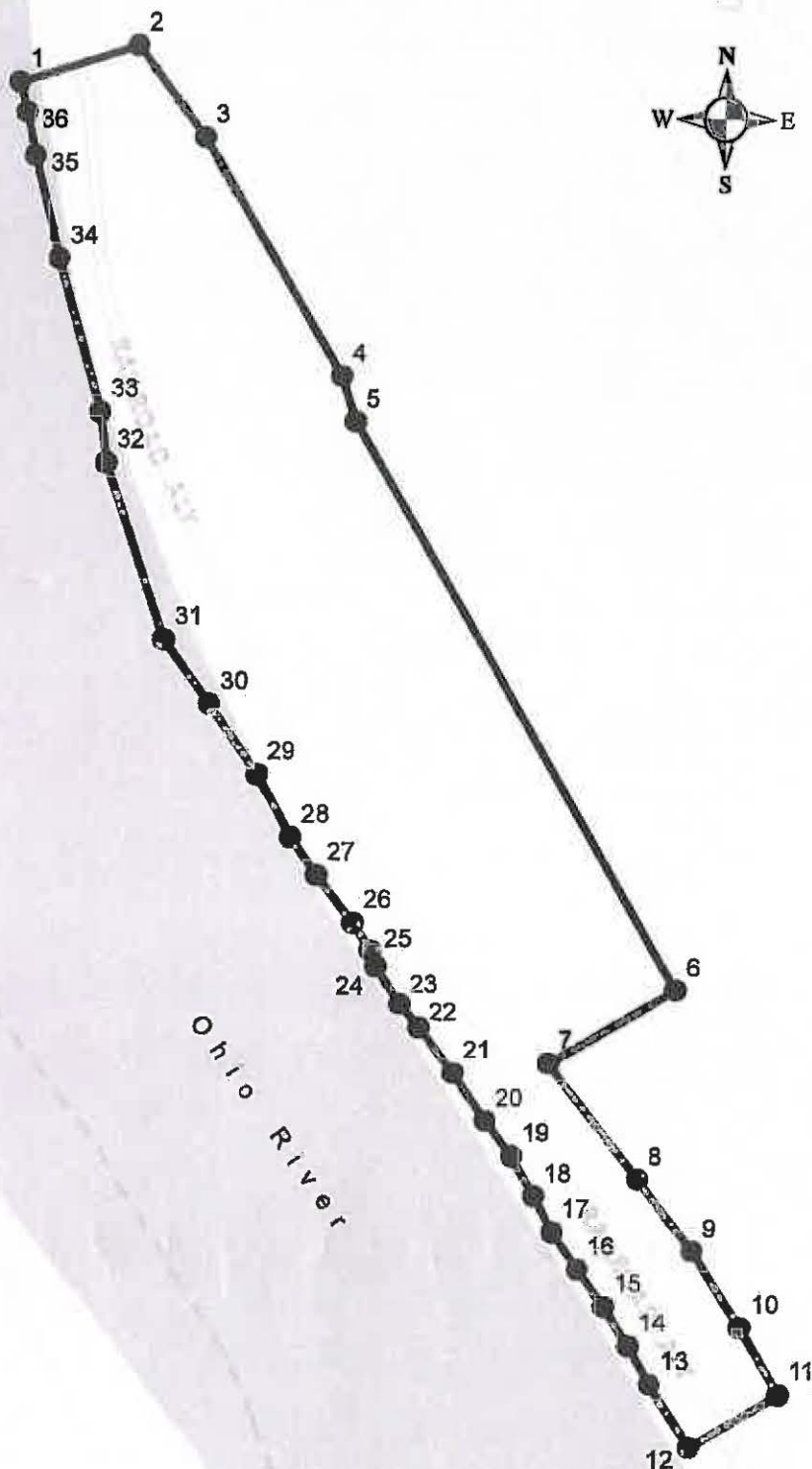
thereof, the following twenty-five (25) bearings and distances: N. 28° 02' 03.5" W. 160 and 57/100 feet to a point; thence N. 28° 24' 26.5" W. 95 and 39/100 feet to a point; thence N. 28° 54' 26" W. 99 and 66/100 feet to a point; thence N. 32° 19' 52.5" W. 100 and 27/100 feet to a point; thence N. 30° 37' 49.5" W. 99 and 77/100 feet to a point; thence N. 23° 57' 44.5" W. 86 and 66/100 feet to a point; thence N. 24° 53' 26.5" W. 100 and 04/100 feet to a point; thence N. 34° 32' 40" W. 95 and 85/100 feet to a point; thence N. 30° 35' 30" W. 126 feet to a point; thence N. 33° 12' W. 124 and 22/100 feet to a point; thence N. 35° 47' 40" W. 66 and 48/100 feet to a point; thence N. 29° 20' 44" W. 96 and 96/100 feet to a point; thence N. 12° 14' W. 35 and 44/100 feet to a point; thence N. 28° 08' W. 72 and 41/100 feet to a point; thence N. 34° 04' W. 129 and 54/100 feet to a point; thence N. 30° 01' W. 98 and 69/100 feet to a point; thence N. 24° 24' W. 154 and 4/10 feet to a point; thence N. 29° 59' W. 182 and 93/100 feet to a point; thence N. 31° 30' W. 171 and 67/100 feet to a point; thence N. 14° 27' W. 403 and 87/100 feet to a point; thence

N. 02° 33' W. 111 and 5/10 feet to a point; thence N. 11° 17' W. 343 and 48/100 feet to a point; thence N. 09° 45' W. 229 and 76/100 feet to a point; thence N. 06° 42' W. 95 and 1/10 feet to a point; thence N. 10° 19' W. 67 and 82/100 feet to a point; thence leaving said river and with other lands now owned by Wheeling-Pittsburgh Steel Corporation N. 77° 00' E. 271 and 248/1000 feet to the place of beginning, containing by survey made by Stegman & Schellhase, Inc., Civil Engineers and Surveyors, Wheeling, West Virginia, Thirty-Two and Fifty-Three One Thousandths (32 and 53/1000) acres, more or less.

The said 32 and 53/1000 acre tract being subject to the U.S. Harbor Line as established in 1928.

EXHIBIT B

Point	Latitude	Longitude
1	40.34246281	-80.60874573
2	40.34268661	-80.60781769
3	40.3421427	-80.60729853
4	40.34073268	-80.60621675
5	40.34046344	-80.60610587
6	40.3371053	-80.60352972
7	40.33665992	-80.60452121
8	40.33597984	-80.60379486
9	40.33555437	-80.6033748
10	40.33510562	-80.60299838
11	40.33471106	-80.60269457
12	40.33439068	-80.60337337
13	40.3347623	-80.60368303
14	40.33498929	-80.60385358
15	40.33521767	-80.60405035
16	40.335438	-80.6042659
17	40.33566199	-80.60447178
18	40.33587113	-80.60461988
19	40.33611041	-80.60479593
20	40.33631477	-80.60501247
21	40.33659779	-80.60527223
22	40.33686761	-80.60554466
23	40.33700681	-80.60569885
24	40.33722785	-80.60589249
25	40.33732102	-80.60592908
26	40.33748841	-80.60606911
27	40.33776646	-80.60635874
28	40.33798969	-80.6065593
29	40.33836075	-80.60682689
30	40.33877468	-80.60719833
31	40.33915593	-80.60756022
32	40.34020447	-80.60803051
33	40.34050822	-80.60807956
34	40.34141551	-80.60841455
35	40.34202679	-80.60861734
36	40.34228286	-80.60868357



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Lat/Lon Datum: NAD83

Geoid: GEOID09

Field Survey Performed on October 14, 2015

0 200 400 600 800 1,000 1,200  
Feet

**Exhibit B**  
**Property Map and Coordinates**  
**Beazer East, Inc.**  
**Koppers Inc. Plant**  
**Follansbee, WV**

 Property Boundary