Missouri
Department of
Natural Resources

SUMMARY AND RESPONSE TO COMMENTS
DRAFT ENVIRONMENTAL COVENANT AND STATEMENT OF BASIS
RIVER CEMENT COMPANY, D/B/A BUZZI UNICEM USA
FESTUS, MISSOURI
EPA ID# MOD050232560

The Missouri Department of Natural Resources (hereafter the Department) approved the proposed final remedy of no further corrective action with institutional controls at River Cement Company (RCC), d/b/a Buzzi Unicem USA (hereafter the Facility). The Department is also releasing the facility from regulation as a former interim status hazardous waste treatment, storage, and disposal facility subject to the corrective action requirements of the Missouri Hazardous Waste Management Law and regulations.

The Department conducted public participation activities for the proposed remedy and regulatory release. On August 24, 2013, the Department issued a Statement of Basis in support of the proposed final remedy of no further corrective action with institutional controls. The Department invited the public to review and offer written comments on the draft Environmental Covenant and Statement of Basis during a 30-day public comment period. The public comment period began August 24, 2013, and ended September 23, 2013.

All written comments received during the public comment period concerning the draft Environmental Covenant and Statement of Basis are listed below. The Department's response to each comment and an explanation of how each comment was addressed is also included. The Department changed certain requirements in the final Environmental Covenant based on technical or legal issues contained in the comments. All changes made in the final Environmental Covenant, executed by the Department and the Facility and filed with the Jefferson County Recorder of Deeds on September 26, 2013, are identified in the following responses.

COMMENTS FROM THE FACILITY ON THE DRAFT ENVIRONMENTAL COVENANT:

Comment #1:

The Facility proposed inserting "Owner and Holder may also be referred to as RCC." in the first paragraph of the Environmental Covenant.

Response #1:

The final Environmental Covenant language was changed to incorporate the language above.

Comment#2:

The Facility proposed inserting "(RCC Facility); and a portion of the contiguous RCC Facility identified" in the first WHEREAS clause of the Environmental Covenant.

Response #2:

The final Environmental Covenant language was changed to incorporate the language above.

Comment #3:

The Facility proposed to strike the word "Property" and insert "RCC Facility" in the sixth WHEREAS clause of the Environmental Covenant.

Response #3:

The final Environmental Covenant language was changed to incorporate the language above.

Comment #4:

The Facility proposed deleting the historical information concerning the facility and inserting "WHEREAS, the environmental response project conducted on the Property as more particularly described in the Statement of Basis, the Administrative Record and related files and records located in the Department's offices in Jefferson City, Missouri and EPA's offices in Lenexa, Kansas. Information regarding the environmental response project may be obtained by making a request to the Department pursuant to Section 4 of this Covenant."

Response #4:

The Department decided to leave the facility history in place, as there needed to be an underlying explanation in the Environmental Covenant describing why the property activity and use restrictions are needed. In doing so, anyone doing a future title search can get that information without having to contact the Department or file a state Sunshine or federal Freedom of Information Act request.

Comment #5:

The Facility proposed inserting "WHEREAS, Once this Covenant is fully executed and recorded with the office of the recorder of each county in which the Property is situated, the Department will acknowledge in writing that no further corrective action is needed at the RCC Facility and the Department shall release RCC and the RCC Facility from further regulation as a former interim status hazardous waste treatment, storage, and disposal facility subject to the corrective action requirements of the Missouri Hazardous Waste Management Law and regulations."

Response #5:

The final Environmental Covenant language remained the same as the draft Environmental Covenant language. The Department's future intentions related to further corrective action and release from regulation were already adequately articulated in the Statement of Basis.

Comment #6:

The Facility proposed inserting "Owner, on behalf of itself and any Transferees, hereby grants to the Holder, Department, and EPA and their respectively authorized agents, contractors, and employees, the right to access the Property at all reasonable times during

regular business hours subject to at least five (5) days prior written notice to Owner/Transferee for implementation, monitoring, inspection, or enforcement of this Covenant and the related environmental response project. Nothing herein shall be deemed to limit or otherwise impede the Department's or EPA's rights of access and entry in accordance with any applicable federal or state law or other agreement" under **Right of Access** in the Environmental Covenant."

Response #6:

The final Environmental Covenant language was changed to incorporate the language above.

Comment #7:

The Facility proposed deleting "which is free, clear and unencumbered" from "Owner is the sole owner of the Property and holds fee simple title, which is free, clear and unencumbered" under **Representations and Warranties** in the Environmental Covenant.

Response #7:

The final Environmental Covenant language was changed to read, "Owner is the sole owner of the Property and holds fee simple title which, **to the best of its knowledge**, is free, clear and unencumbered."

COMMENTS FROM THE FACILITY ON THE STATEMENT OF BASIS:

Comment:

The Facility provided comments on the Statement of Basis.

Response:

The Department acknowledged those comments and placed them in the facility file/administrative decision-making record; however, the Department did not revise or reissue the Statement of Basis.