

RESPONSIVENESS SUMMARY

**Hazardous Waste Management Facility Operating License
Major Modification
The Dow Chemical Company
Michigan Operations, Midland Plant**

**1790 Building
Midland, Michigan
MID 000 724 724**

May 2010



**Michigan Department of Natural Resources and Environment
Waste and Hazardous Materials Division**

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On March 11, 2010, the Michigan Department of Natural Resources and Environment (DNRE), Waste and Hazardous Materials Division (WHMD), held a public hearing to receive comments concerning a major modification of the 2003 hazardous waste management facility operating license (License) issued to The Dow Chemical Company (Dow) for the Michigan Operations, Midland Plant, located at 1790 Building, Midland, Michigan 48674, pursuant to Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and Title 42 of the United States Code, Section 6901 *et seq.*, the Resource Conservation and Recovery Act of 1976, as amended (RCRA). In accordance with paragraph 47 of the Administrative Settlement Agreement and Order on Consent for Remedial Investigation, Feasibility Study and/or Engineering Evaluation and Cost Analysis, and Response Design, CERCLA Docket No. V-W-10-C-942 (AOC or Settlement Agreement), for the Tittabawassee River/Saginaw River & Bay "Site," the purpose of the License major modification is to allow specific corrective action obligations in the License that pertain to the "Site" to be satisfied by work conducted in compliance with the AOC.

The public hearing and public comment period were announced in the Midland Daily News, The Saginaw News, and The Bay City Times on February 4, 2010, and on area radio stations, WSGW and WCMU. The public comment period extended from February 4, 2010, to April 5, 2010. On February 15, 2010, and March 1, 2010, notice regarding the proposed Part 111 License major modification appeared in the DNRE Environmental Calendar, which is published every two weeks to provide public notice of pending public hearings, DNRE decisions, etc.

In accordance with R 299.9515 of the Part 111 administrative rules, this document was prepared to respond to significant comments submitted during the public comment period and to describe any significant changes made to the draft License major modification. No oral comments were received during the formal, recorded portion of the public hearing. Written comments were received from two individuals during the public comment period. The DNRE has not made any modifications to the draft License major modification as a result of the comments received. A summary of the comments received and the DNRE response to the comments are presented in Attachment 1, Summary of Comments. Minor administrative changes made to the draft License major modification by the DNRE and the reasons for each change are presented in Attachment 2, Summary of Changes.

ATTACHMENT 1 Summary of Comments

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COMMENT 1: A commenter stated that as a citizen of the state of Michigan it was in their interest to ensure that the rivers and lakes of our state are maintained in a wise manner. That means that rivers and lakes should be available to all citizens to be safely used for recreation or as a source for clean water. Citizens who use the water have the responsibility to return it in the same condition in which they found it. The commenter stated that they felt that Dow or any other corporation, business, or citizen should be required to return our water to us in the same, or better, condition than when they first used it, without added chemicals, minerals, organic matter, or other substances.

DNRE RESPONSE: The DNRE acknowledges this comment. Under the License major modification, Dow remains responsible for conducting remedial investigation, feasibility study and/or engineering evaluation and cost analysis, and response design for the Tittabawassee River/Saginaw River & Bay "Site" under the January 2010 AOC. The DNRE reserves the right to require Dow to conduct these actions under the License. The DNRE will continue to work with the U.S. Environmental Protection Agency (U.S. EPA) to ensure that the investigation and cleanup of the Site is done in a manner that complies with applicable state and federal laws and regulations and the AOC.

No changes were made to the draft License major modification as a result of this comment.

COMMENT 2: A commenter stated that the License major modification information primarily addresses only the waste storage and disposal at the Midland Plant. Though this is very important and should be addressed accordingly to ensure complete compliance from Dow, which has never happened to date, it is an area that they are not very familiar with and have not been following. The commenter, whose property is located on the Tittabawassee River, stated that their concerns relate to continued exposure to the high degree of contamination on their property, not receiving responses when writing to the DNRE and U.S. EPA, and the lack of meaningful cleanup action and protection for the river residents.

The commenter also expressed concern about the absence of information at the Thomas Township Public Safety Building having to do with the toxins and how they may affect those who may be unfortunate enough to come in contact with them. The commenter stated that such information was supposed to be present at all libraries.

DNRE RESPONSE: While the Dow License does contain requirements related to operation of the waste storage and treatment facilities at the Midland Plant, it also

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contains requirements related to Dow's corrective action obligations. The conditions related to off-site corrective action in Part XI of the License are the main conditions that are proposed to be revised as part of this major modification. The proposed revisions to Part XI of the License are shown in "track changes" format and may not have been easy to find by someone who is unfamiliar with the License document.

The DNRE and U.S. EPA understand that the commenter and other residents who live in the Site are concerned about the presence of contamination on their properties, the pace of the remediation process, and not always receiving personal responses when writing to the agencies.

Dioxin informational materials that contain recommendations for minimizing the potential for exposure have been provided to the commenter and other affected residents and are available on the DNRE Web site at <http://www.michigan.gov/deqdioxin> and at a number of Community Information Centers located at libraries and township halls in Midland, Saginaw, and Bay Counties. The established Community Information Center for Thomas Township is located at the Thomas Township Library rather than at the Thomas Township Public Safety Building.

Information on the Tittabawassee River/Saginaw River/Saginaw Bay Cleanup is available on the U.S. EPA Web site at <http://www.epa.gov/region5/sites/dowchemical/>. Copies of the DNRE and U.S. EPA informational materials are also available upon request to people who do not have Internet access.

While both agencies strive to provide personal responses to e-mails and letters when possible, these materials have been developed as a means to provide information to the general public and to help keep community residents updated on recent developments.

Additionally, as stated in the Responsiveness Summary document (located at http://www.epa.gov/region5/sites/dowchemical/pdfs/dowchemical_aoc_20100114_responsiveness_summary.pdf) that was prepared as part of the approval process for the AOC, the U.S. EPA and DNRE want the community to understand that cleanup will take a significant amount of time. The agencies believe that the approach developed in the Settlement Agreement – an approach that will provide the basis for any necessary remediation in an upstream to downstream fashion and that considers each river segment independently and in the context of the entire Site – will ultimately provide the best way to address the problems at the Site. However, because this systematic approach will take time, the Settlement Agreement also contains provisions to assess and address acute and near-term exposure and contaminant transport risks throughout the Site earlier in the process. This process is currently underway.

No changes were made to the draft License major modification as a result of this comment.

ATTACHMENT 2 Summary of Changes

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COVER PAGE

CHANGE - WHMD-Initiated Revisions to Cover Page: Since the draft License major modification was made available for public review, there has been a change in the Chief of the Waste and Hazardous Materials Division (WHMD). The name of the current WHMD Acting Chief was placed in the signature block and the date the License major modification became effective was included on the cover page.

THROUGHOUT THE LICENSE

Since the draft License major modification was made available for public review, minor typographical changes were made as a result of final proofreading that have not been summarized in this document. Such changes include corrections to punctuation and pagination. These changes may be viewed in the "track changes" version of the License.