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DEPARTMENT OF ENVIRONMENTAL QUALITY

THE DOW CHEMICAL COMPANY

TOWN HALL MEETING ON
PROPOSED ONGOING COMMUNITY INVOLVEMENT PROCESS

HOLIDAY INN, MIDLAND

AUGUST 24, 2005

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MR. NELSON: All right. I'd like to welcome you all tonight for this town hall meeting on the proposed ongoing community involvement process here in Midland. We have a small group tonight, so I'd like to ask each of the persons here to introduce themselves so folks know who you are.

(Introductions are made)

MR. NELSON: I call your attention to the agenda. If you look on the back of the agenda, we have ground rules for tonight's meeting. These ground rules are designed so everybody gets a fair opportunity to state their case and folks are respectful to everyone who speaks and people are respectful when they speak so everyone gets a good opportunity and we will work through things very nicely that way.

If you'll note on the agenda then, we're going to go through a power point. First, Director Chester is going to provide us with an update on facility policy. Then John Musser will talk about Dow's interim response actions, and then Deputy Director Jim Sygo will be talking about a proposed ongoing community involvement plan. Then we'll have an opportunity for discussion and questions.

1 We'd like to hold discussion and questions until
2 that time so we can keep some continuity, and we'll
3 address all questions and discussions at that time,
4 including things on the facility plan and on Dow's
5 interim actions, but we'll hold those all for one
6 spot, and then we'll go on to what's next and then
7 adjourn.

8 I would also note that the folks from Dow and DEQ
9 will be here for half an hour after the meeting for
10 you to have one-on-one conversations. So Director
11 Chester, you're on board.

12 MR. CHESTER: Thank you. I want to take
13 just a couple of minutes to talk about the facility
14 directive that was provided to DEQ staff, and let me
15 give you a little bit of background. I think it was
16 June of 2003, the Department of Environmental Quality
17 did send a brochure out to about 2,000 residents
18 living along the Tittabawassee flood plain.

19 And the reason that brochure had gone out is that
20 we had some inquiries from residents and prospective
21 purchasers about Part 201 or the clean up law and its
22 possible application to the flood plain. So the
23 brochure was intended to provide general information.
24 It was not specific to any property.

25 It's a common practice for the Department to send

1 out brochures, fact sheets, Q and A's to the public on
2 different aspects of Part 201 and the clean up law.
3 As a matter of fact, we recently sent some information
4 out to the Ann Arbor community with respect to some
5 contamination that exists in that community.

6 So in June, we sent this out, in June of 2003,
7 and unfortunately, a number of property owners
8 concluded that we were designating or identifying
9 their property as being a facility. When we talk
10 about a facility, all that means is, it's the term
11 that's used under Michigan's clean up law to identify
12 a piece of property where contamination exists above
13 certain clean up criteria, and as I said, we had a
14 number of citizens and residents who unfortunately
15 thought the brochure was specific to their property,
16 and it raised some concerns for them about property
17 values and so forth.

18 As you know, Representative Moolenaar and others
19 last year tried to run some legislation that didn't go
20 very far, but nonetheless, the Representative was
21 interested in us clarifying the situation that existed
22 and had asked us to, you know, do something about
23 that. The truth of it is, for most of 2004 quite
24 honestly, we worked very closely with Dow on the
25 development of the framework and moved through those

1 issues and hadn't really concentrated or spent a lot
2 of time on this particular issue.

3 Earlier this year, Representative Moolenaar
4 reaffirmed his interest in us trying to resolve this
5 issue, and so we put together a directive to our staff
6 that does a number of things. First of all, it very
7 clearly states that staff is not to communicate with
8 the public and identify or suggest their property is
9 contaminated and thus a facility, unless there are
10 certain criteria that clearly apply.

11 This particular slide identifies those criteria,
12 and I'm going to mention each one in a minute. In
13 addition to that, the directive to staff clearly
14 states that, you know, when we're looking at a piece
15 of property, a parcel of property, let's say a
16 five-acre parcel, and it's only one acre or half an
17 acre that's contaminated, it's only that part that's
18 contaminated that's considered a facility. It isn't
19 the entire five acres of property, so we put together
20 this directive.

21 We did, in fact, speak with Representative
22 Moolenaar and Senator Goschka about the policy. What
23 I took out of that meeting personally was that frankly
24 they were pleased with the progress we had made in the
25 development of that policy. Nonetheless,

1 Representative Moolenaar still has legislation, many
2 of you know, that he's pursuing, but we believe this
3 directive really answers the questions that were
4 raised by residents along the Tittabawassee flood
5 plain.

6 The heart of the directive essentially says that
7 property will not be considered a facility by the
8 Department unless one of these conditions exist.
9 First of all, there's available data. There's
10 analytical data that confirms that soils or ground
11 water on the property are contaminated above clean up
12 levels. The second is that the property is identified
13 in an approved work plan that's been submitted by a
14 liable party, and consequently, the property will be
15 the subject of either some interim responses and/or
16 some long-range remedial actions.

17 As we go through a couple of slides later, we'll
18 all see how this applies in this particular
19 circumstance, and then lastly, under Michigan's clean
20 up law, and this is not unusual, this is true for
21 virtually all of the environmental laws that we
22 implement, the Department under the clean up law
23 specifically is expected to exercise professional
24 judgment when it implements and administers the law,
25 and it's something we do frankly in our air program

1 when we issue air permits, in our water program when
2 we issue water discharge permits.

3 And in this particular circumstance, the third
4 factor, refers to reasonable inferences where we have
5 information and data that may not be specific to a
6 parcel of property but nonetheless provides enough
7 information for us to reasonably conclude that the
8 property is contaminated or a facility.

9 And let me give you a couple of examples of that
10 and then I'll show you some slides on a particular
11 example applicable to this area. First of all, let's
12 say we go out to a piece of property and we have
13 55-gallon drums that are dumped on their side. These
14 drums contain a hazardous substance. It's reasonable
15 to conclude or infer that the property soils on the
16 property have been contaminated in proximity of those
17 drums, and that's not an uncommon situation.

18 Another very common situation in Michigan
19 actually applies in the Ann Arbor community. Let's
20 say you have monitoring wells that are located
21 100 yards, 300 yards apart from each other and you
22 know the flow of ground water is from monitoring well
23 A to monitoring well B and both wells you've taken
24 samples and the samples show that ground water in both
25 locations is contaminated. It's reasonable to

1 conclude or infer that ground water beneath the
2 property from point A to point B is contaminated. So
3 that's what we mean by reasonable inferences.

4 Let me show you a third example which is specific
5 to the Tittabawassee flood plain. We have a number of
6 slides here identified. The blue line represents the
7 frequently flooded area, is that correct, Jim?

8 MR. SYGO: Repeatedly flooded they're
9 calling it now.

10 MR. CHESTER: That's the 7 to 10 year flood
11 area, and the 100 year flood plain actually moves out
12 quite a distance from there. You see the pink line
13 over here. We have a fair amount of data in this
14 frequently flooded or repeatedly flooded area, and the
15 data is pretty dramatic, and you'll see it over the
16 course of these next few slides.

17 In the frequently flooded area, we have levels of
18 dioxin at 408 parts per trillion, 2534, 1236 parts per
19 trillion. Then as you move out of the frequently
20 flooded area the numbers drop off dramatically. This
21 particular sample here is at 29 parts per trillion,
22 which is below even the residential clean up criteria
23 for dioxin.

24 Same kind of thing here. You have the frequently
25 flooded area and you have the 100 year flood plain

1 area designated, and as you can see, you're at 369,
2 922 parts per trillion. As you move beyond that area,
3 it drops off dramatically to 4 parts and 26 parts per
4 trillion.

5 Again, another example of that in the frequently
6 flooded area, you're at 1100, 852, 94, and then as you
7 get at the edge and move beyond the frequently flooded
8 area, it drops off dramatically to 49 parts per
9 trillion.

10 This is a different example. This is a school
11 located up on high ground, but you can see that even
12 though the topography is kind of complex, when you're
13 looking in the areas that are frequently flooded, we
14 have elevated levels around 600 parts per trillion,
15 and then those levels fall after -- I'm sorry, you
16 have levels at 1526 parts per trillion, and then as
17 you go to the high ground, they drop off dramatically.
18 They're very low levels of dioxin.

19 This is the area of Midland near the Dow Chemical
20 Plant. Similar kind of situation. We've identified
21 three small areas as being Priority 1 areas, areas in
22 which Dow is doing some interim measures, and John [Musser]
23 will be talking about what they're doing there. If
24 you look at the data, you can see this is the Corning
25 Lane area, east of Corning Lane and the bullet shaped

1 property here. Near those areas, you're seeing
2 elevated levels of dioxin, and consequently, it's
3 reasonable for us to infer that those particular
4 areas, which encompasses about 103 residences, are
5 part of the facility.

6 So the bottom line is that with respect to the
7 Tittabawassee flood plain area, even though we don't
8 have samples for every piece of property that is
9 located within the frequently flooded area, based on
10 the data that we have, it's reasonable to conclude or
11 infer that properties in the frequently flooded area
12 are contaminated at levels above the clean up
13 criteria.

14 So that is another example of a reasonable
15 inference that's specific to the circumstances that we
16 have here, and then I think I'm actually done, and
17 then, John, are you up?

18 MR. MUSSER: Thank you, Steve. I just want
19 to go through relatively quickly what the interim
20 activities have been to date that Dow has been
21 implementing, mostly this summer, but some of this
22 activity stretches back into 2004, early 2004. All of
23 this activity, by the way, is required by DEQ consistent
24 with our operating license, and also, its detailed in
25 the framework for agreement which was signed by Dow

1 and DEQ in January of this year.

2 The intent of these interim actions is to

3 minimize potential contact with soils that are

4 contaminated (or are thought to be contaminated) above

5 the 1,000 part per trillion ATSDR

6 dioxin/furan action level. This action level is a

7 level at which the ATSDR suggests that anything above

8 that there should be either surveillance or research

9 or health studies or exposure studies and/or community

10 education, and I think a lot of those criteria have

11 been part of the interim actions that have been taking

12 place both by Dow and DEQ throughout the course of

13 this year. All of these interim action areas where

14 this work is being done are generally characterized as

15 public or high use areas and to some extent, of

16 course, designated residential properties both in

17 Midland and along the Tittabawassee, as Steve had

18 outlined earlier.

19 We have Priority 1 areas. Steve had mentioned

20 103 properties approximately near and downwind of the

21 Dow Plant and about 351 properties along the

22 Tittabawassee River where we had these frequently

23 flooded areas or inundated -- I guess our criteria is

24 that the properties were either inundated where the

25 flood waters got into the home or they were within a

certain distance, 20 feet, of the residence. Also,

1 all of that activity by the way is being undertaken
2 during 2005. In 2006, we'll be going forward to
3 address the so-called Priority 2 areas, and these are
4 properties that are generally flooded a lot less
5 routinely and/or extensively. In addition, we
6 mentioned activity in the parks and namely Freeland
7 Festival Park, Imerman, and West Michigan Park.

8 In the case of the residential interim response
9 activities, we have been doing interior house
10 cleaning, including dusting, the cleaning of carpets,
11 and furnace ducts, replacing furnace filters upon
12 request, installation of materials to cover any
13 exposed soils in the yards, and other reasonable
14 measures on a case by case basis that are needed to
15 minimize potential contact with these soils.

16 To date, in the case of Midland, we are at about
17 an 80 percent participation level. Participation in
18 this case is described as people who have met with our
19 contractors, discussed their situation on their
20 property, and have been provided with vouchers to get
21 work done per their interest. They're not obligated
22 to do this, but if they wish to, they can take
23 advantage of it, and they'll be provided these
24 vouchers that make it no cost for them.

25 Along the Tittabawassee River, we're at a

1 65 percent participation level, and our actions
2 continue to be to make contact with people that we
3 haven't been able to reach thus far or have reached
4 but they haven't responded. So we'll continue that
5 effort as long as we can. We're running up against
6 the weather situation here in the not too distant
7 future where we won't be able to do the work, but
8 we've still got some time to bring around more
9 participation.

10 In the parks, and this differs a little bit from
11 park to park, but the work generally has been to
12 install mobile hand wash stations, to replace soils
13 and/or to reseed areas that have lost their cover, and
14 in some parks, we've done some bank stabilization to
15 minimize erosion when there is flooding. We've put
16 woodchips on pathways and in play areas around
17 swing sets and the like. We've also done some paving
18 of some parking lot areas or walkways.

19 In the case of Imerman Park, we have a plan
20 pending a permit from DEQ to position a staging pad, a
21 concrete pad, for the cross country teams that compete
22 there, and also, in all of the cases, there is
23 advisory signage that has been or will be put up in
24 the parks. Dow has provided the escrow account and
25 the funding for that and DEQ actually positions the

1 signage.

2 In addition, on the communication front, we have
3 positioned throughout the Tri-Cities area a number of
4 information kiosks, and in each case, they're stocked
5 and maintained with the relevant DEQ, Community
6 Health, Department of Agriculture, and ATSDR
7 literature. As I mentioned earlier, we have these
8 advisory warning signage in the parks and in other
9 public use areas, such as boat docks.

10 And I wanted to spend just a moment to review --
11 there are a number of other interim actions in the
12 form of studies that either have been completed or
13 are underway both by Dow and contractors that Dow has
14 funded and EPA, as well as DEQ, has studies that they
15 are doing or have done. There's the list. I think
16 many of those you have seen communications about in
17 the newspapers. I'm not going to spend any time
18 talking about those, but if you have questions, you're
19 free to ask and I'll do my best to answer. I think
20 that's it. Thank you.

21 MR. NELSON: We're going to try to do
22 questions at the end, Terry. So Jim, can you talk
23 about the purpose for tonight's meeting and take us
24 through community involvement.

25 MR. SYGO: One of the primary purposes for

1 tonight's meeting was really to continue our effort to
2 get community involvement and into the public
3 participation process that will surround the framework
4 that was negotiated between Dow and the Department of
5 Environmental Quality. That framework was developed
6 back in January, and since January, we've been in the
7 process of also developing the community public
8 involvement process to deal with that.

9 Comments that we receive tonight as well as
10 comments that we received in Bay City on August 17th,
11 which was last Wednesday, and comments that we receive
12 tomorrow night in Saginaw Township at the Horizons
13 Center will all be used to modify the proposal that
14 we've prepared, which was available on the table in
15 front here. There's actually a proposal by DEQ and
16 Dow for an ongoing public involvement process and for,
17 what we refer to as, a Community Action [Advisory] Committee, and
18 that's the premise of the discussions tonight
19 regarding those proposals.

20 Now those proposals were actually developed as a
21 result of bringing together a selected group of
22 individuals from four different areas in the Saginaw
23 watershed community, in Midland, the Tittabawassee
24 area, the Saginaw area, and the Bay City area, and
25 what we refer to is convening meetings and discussing

1 the framework with those people along with what they
2 thought might be the best ways to gain and get
3 participation by those communities in this process as
4 it went forward. One additional document that's on
5 the table as you walked in was a summary of the
6 results of those convening meetings, and I'm just
7 going to briefly go over that information.

8 Basically, we held those meetings back in March
9 and April, the four convening meetings. Dow and DEQ
10 sat down to start developing the ongoing process, but
11 in summarizing those convening meetings, three major
12 areas showed up basically. One, people are telling us
13 in all of those meetings that information just needs
14 to be presented clearly and unambiguously by both DEQ
15 and Dow. Over time, the year or year and a half
16 before that, there was a great deal of conflict.

17 There were different sources of people discussing this
18 particular issue, and quite honestly, a lot of people
19 were confused as to what's the accurate information,
20 and sometimes there's differing opinions, and it's not
21 unusual where the Department of Environmental Quality
22 will disagree with what Dow might have to say. I can
23 say the same for Dow. Dow might disagree with the
24 position of the Department of Environmental Quality.
25 The point was, we ought to have one source. If we're

1 going to identify discrepancies, we ought to do that
2 very concisely so that people aren't confused in the
3 press.

4 Another item was to use a variety of means to
5 convey the information to the community. Up to that
6 point, we primarily had been utilizing the internet
7 and e-mails to notify people. I think what people
8 were suggesting is there ought to be more direct
9 mailings. There ought to be the utilization of the
10 various community channels where information can be
11 broadcasted on cable TV, and I think some of the other
12 things that they were suggesting is we might use
13 newspaper inserts as well [that] might be very helpful.

14 Then, finally, I think the point that came across
15 in all four of those meetings is that people should
16 have meaningful input into the decisions on how
17 historical releases are going to be addressed, and it
18 wasn't real clear exactly which way to go on that, but
19 one item that came up is you need to have some type of
20 stakeholder group so that people can be represented
21 and that representation would be a diversification of
22 people that are represented throughout the entire
23 community of the Tri-Cities areas basically.

24 That stakeholders group and those types of
25 meetings, I think all people were saying, that they

1 needed to be neutrally facilitated. They again needed
2 to represent a diversity of the entire Tri-Cities
3 community. There ought to be some rules for those
4 meetings so that, similar to this meeting, people are
5 following those rules. There ought to be specific
6 agenda items for those meetings and those agenda
7 meeting items should be covered appropriately, and
8 then there ought to be an opportunity for public
9 comment and input by the public as part of that
10 process as well.

11 Some differences of opinion in terms of having
12 some type of input, there were some differences in
13 that some people thought, well, how many groups do you
14 need to represent the Tri-Cities community. Some
15 people thought, maybe you need a stakeholders group
16 for the Midland area, the Saginaw area, and the Bay
17 City area. It might be difficult to manage three
18 areas. Other people thought one overall convening
19 group might be better and represent the entire
20 watershed area. Some people thought this group ought
21 to be advisory in nature. Others thought they ought
22 to have some decision making power, and other people
23 thought that it ought to be a standing group versus
24 open to anyone who wants to attend that meeting and be
25 part of the group. So that's kind of the

1 diversification of comments that we received as part
2 of the convening meetings.

3 The overall concept that came out of this in
4 terms of what the ongoing community involvement process
5 would be is really to make sure that both DEQ and Dow
6 are relaying information and gathering input from the
7 Tri-Cities communities in a variety of ways based on
8 the input that we're receiving from the meetings that
9 we're holding, and all of these efforts are really
10 intended to make sure that we're sharing information
11 with the community, that we're obtaining feedback from
12 the community, and representing that in our decision
13 making process, so that we're improving our decision
14 making process and that we're building trust among all
15 parties.

16 Now one thing that I think I discussed at other
17 meetings before, and some people might disagree with
18 me, is this is going to be a long process. This
19 process is not going to end in one, two, three or four
20 years. It's probably going to go on much longer than
21 that. Typical clean ups of this magnitude could take
22 as long as 10, maybe longer than 10 years. So it's
23 something that we're going to be involved with for
24 some duration of time, but in that whole process, both
25 DEQ and Dow are committed to addressing all of these

1 challenges in ways that will reduce any potential
2 exposure to residents in the community. We'll protect
3 public health. We'll benefit both the environment and
4 the economy, and we'll actively and effectively
5 involve the Tri-Cities communities and those
6 interested in the future of the region.

7 It's as a result of that as part of the proposal
8 that we put together a community involvement process.
9 We've considered the establishment of a Community
10 Advisory Committee and have proposed that as the focal
11 point for community involvement. It would be based on
12 some of the discussions that we've had in our former
13 DEQ CAP, our Community Advisory Panel, but it would be
14 expanded upon that. It would advise both DEQ and Dow
15 on specific aspects of the corrective action process
16 to resolve the dioxin issue, including the needs of
17 community involvement.

18 Now as part of the DEQ CAC, what we've proposed
19 is to look at a 16 to 20 member CAC, and that
20 particular emphasis comes on roughly having maybe four
21 people from the Bay City area, four from the Saginaw
22 area, four from the Midland area, and four members at
23 large. What we'd want is that part of those members
24 would have to commit to making sure that they're
25 involved for the period of time that they would be on

1 the CAC and they'd be committed to attending a
2 specific number of meetings and that might be as many
3 as four to six meetings over a period of two years.
4 We'd anticipate that the meeting membership or the CAC
5 membership might change over time but we'd try to do
6 that by staggering the appointments so that we retain
7 continuity on the CAC and make sure that we have fresh
8 ideas and new energy coming about as well, because as
9 this gets longer, people are liable to lose some of
10 their interest in it.

11 One of the biggest things that we were looking
12 for, not only from the convening meeting but also from
13 this meeting, is a selection process that would be
14 used. We had proposed the possibility of appointing
15 or identifying a selection committee that would
16 actually select the CAC and use applications from the
17 community at large to see who should be represented on
18 the CAC, and I'll talk a little more about how that
19 went in another meeting that we had to at least
20 discuss that.

21 But it comes to be that some of the biggest
22 concerns that we were seeing is how do you actually
23 select somebody to even select members that would be
24 on the CAC. So the issue is, who do you trust in the
25 selection of who's going to sit on this type of

1 committee. We'd anticipate though that the CAC would
2 be run again by a professional facilitator, such as
3 Chuck, so it would be a neutral and balanced process.
4 Again, the meetings would be open to the public with
5 an agenda that includes a segment for public comment
6 so there can be direct input from the community, and
7 that we'd also be taking a machine transcript down and
8 have it produced by a professional recorder, as
9 Natalie is doing tonight at this particular meeting,
10 so that we have that available for the public as well.

11 One thing that we did once we developed this
12 proposal was to run this by what was the former
13 Department of Environmental Quality Citizens [Community] Advisory
14 Panel, and they had met for the previous year and a
15 half or so and assisted the Department as a sounding
16 board, basically, for things that were being done as
17 part of the licensing process and things that were
18 being started as part of the corrective action.

19 Their initial review of this after we presented
20 this information was, gee, it just seems that the
21 process seems too cumbersome. They thought that the
22 16 to 20 members might be too limiting and not be
23 representative of the Tri-Cities area community.
24 Again, they expressed a great deal of concern over an
25 outside selection committee being appointed to select

1 the members of what would essentially be the CAC, the
2 citizens [Community] Advisory Committee. As an alternative, the
3 DEQ CAP that we met with on June 28th, what they had
4 suggested at that meeting is that we might consider
5 instead holding regular town hall meetings every other
6 month, as an example, and that we could handle that in
7 the same way, where everyone could attend who wanted
8 to attend, instead of establishing a specific CAC.

9 Their thought would be that you rotate those meetings.
10 So this month you might have one in Midland. In two
11 months, it might be in Saginaw. Third one might be in
12 Bay City, and that we could rotate them based on the
13 topics that were being discussed.

14 There are some strengths of dealing with the CAC
15 proposal versus a regular town hall meeting, and some
16 of them that we've looked at, and I'm sure there are
17 others besides this, is that the strengths of the CAC
18 would provide for dedicated individuals for a specific
19 time frame, so the hope would be that you had a
20 commitment from those people who decided to become
21 members to engage themselves in the work that's being
22 done and to be part of that process then. It would be
23 an ongoing involvement, so that there would be again
24 staggering appointments. The hope would be that we
25 would have a regular group of people that we could

1 depend on and utilize them for the input, and also to
2 communicate with the community as well, and the other
3 thing it would do is minimize the re-education at each
4 meeting that we would have and preserve some of the
5 continuity from meeting to meeting.

6 The sense from prior comments that we received is
7 that the potential is there such that the CAC proposal
8 could work if it could be simplified somewhat, and
9 again, we haven't really made a determination on that
10 yet, and we won't make that determination on this
11 until we receive all the comments from all the
12 meetings and the town hall meeting that we're
13 currently having.

14 What we'd like tonight is your comments on
15 whether you think a CAC is a good idea, whether you'd
16 rather see town hall meetings, and we'll incorporate
17 those types of comments into what essentially would be
18 a proposal that we would communicate in a fashion, you
19 know, that would get out to the entire communities.
20 Now in addition to the CAC, we also proposed as part
21 of the continuing ongoing public involvement process a
22 set of different meetings, as well as other ways to
23 get information out.

24 One item was technical information meetings, and
25 we held one of these in Midland here not too long ago

1 in early July when Linda Birnbaum came in, but my
2 expectation is we could have additional technical
3 information meetings that might center around the
4 probabilistic risk assessment that will be done. It
5 might center around the bioavailability study that
6 Dow's completing. There are other technical items in
7 particular that we'll need to discuss over time, and
8 those might be good agenda items that are going to
9 take maybe several meetings to discuss and get input
10 from the community at large. We also talked about
11 periodic town hall meetings. We'd have the CAC but
12 also have town hall meetings when we'd want a broader
13 view of the community basically, and what we're
14 finding out is a lot of people that have come to our
15 smaller meetings are also showing up at the town hall
16 meetings, so the question is, how much additional
17 effort are you getting, but nonetheless, it's a
18 thought that we had. It might be best if we had
19 separate town hall meetings for getting a larger,
20 broader base input.

21 The other item that we talked about is having
22 some special meetings that would engage a community
23 dialogue, and these would be meetings for what we call
24 major end points basically I guess. One might be on
25 the final agreement that we end up negotiating with

1 Dow and possibly with the trustees that are associated
2 with evaluating natural resource damages. In a
3 situation like that, it might make sense to have
4 larger meetings that first provide some opportunity
5 for public comments and questions and then have a
6 formal comment period, such as a public hearing does,
7 so that we can gain those comments on those particular
8 types of topics.

9 Another item of that nature might be for the
10 final Remedial Action Plan. Under law, we're required
11 to hold a public meeting, but before you hold a
12 meeting on a document of that nature, it might be of
13 benefit to hold several meetings to engage the public
14 in a discourse of questions and answers that they
15 might have about a document of that nature. I'm going
16 to go forward for a second. All of those particular
17 meetings again would be held when needed with the DEQ
18 and the DNR, Dow, and more importantly, we'd be
19 receiving feedback from the public. Those meetings
20 would be open to anybody who wanted to attend them.
21 They would all be run by a professional facilitator
22 again, and they would all have their specific agenda
23 items, and again, we'd have transcripts that would be
24 specifically for those particular meetings, and
25 finally, we also recommended the development of

1 information sheets, and the sheets that are out
2 there today kind of provide information about the
3 citizens [Community] Advisory Committee on the convening
4 process, a summary of the convening process, and there's
5 another one out there on the corrective action
6 process.

7 We'd expect additional ones that we've worked on
8 with Dow so that we feel that both of us have had our
9 input on it, and we feel that they represent what we
10 want to say together on this, and if there are areas
11 of discrepancy, we've identified those areas of
12 discrepancy. So those types of information sheets
13 could be very beneficial. Another information sheet
14 that's out there is the brochure that the Director
15 talked about earlier regarding facilities.

16 Finally, there would be additional group meetings
17 as would be necessary, and this would give everyone an
18 opportunity to work with groups that might have a
19 specific item that they're particularly interested in.
20 They might be different types of community groups that
21 are looking for a speaker that want more information
22 about a particular topic associated with the dioxins
23 and furans and the corrective action process. We've
24 done some of these already as well. We've talked with
25 the Farm Bureau and Rotary Clubs. I know we've talked

1 with a number of different MUCC local wildlife clubs
2 as well, but again, I think the issue here is to make
3 sure that if we're going out talking with somebody we
4 let Dow know and they're invited to come along. If
5 Dow's going out, they should let us know and we're
6 welcome to come along, whether we both make a
7 presentation or not. That's not the biggest issue.
8 The biggest issue is to make sure we're moving this
9 forward collectively and someone's not saying
10 something that the other one is not expecting them to
11 say, so that we're again trying to talk with one voice
12 but recognize that there are some differences.

13 At this point, I think we'll turn it over to
14 Chuck, the facilitator, to start taking some of the
15 questions you might have.

16 MR. NELSON: Thanks, Jim. Before we go on
17 and discuss community involvement questions
18 specifically, I want to give you an opportunity to
19 address questions that might relate to the facility
20 policy or to Dow's interim actions.

21 So are there any questions related to that before
22 we get on to the community involvement aspects?

23 AUDIENCE MEMBER: I received an e-mail this
24 afternoon from my friend, Karl Tomion, who's unfortunately unable to
25 be here. I think he received very short notice of

1 this meeting, but he asked us to convey that the City
2 is absolutely not satisfied with the whole
3 clarification of facility policy, and we feel it
4 continues to give the DEQ basically carte blanche to
5 declare whatever they want [on] a facility and that the
6 City of Midland continues to support Representative
7 Moolenaar's bill which has been passed by the Michigan
8 House I believe.

9 MR. NELSON: Terry, you had your hand up.

10 AUDIENCE MEMBER: Yes. I was just debating
11 whether to react to that, and I probably should go to
12 my original question, and it was for John. 1996 the
13 State took a snapshot of the lower levels of dioxin,
14 with the exception of some parks and schools. Nothing
15 happened, and that's one of the reasons the State at
16 that time under a different commission promised that
17 that was simply a snapshot and there would be more
18 extensive sampling to follow. Nothing happened.

19 We petitioned to ATSDR and this whole thing has
20 gotten started and the discoveries of contamination in
21 the Tittabawassee, that sort of thing, but what I'm
22 getting around to is your license requires you to
23 eventually do testing. After the framework, this sort
24 of arbitrary number of 1,000 parts per trillion came
25 out. It is now 2005. We're starting a new school

1 year. Those parks and schools where the levels were
2 beyond the 90 parts per trillion have still not been
3 tested.

4 Is there any consideration of actually
5 volunteering to do that or doing it a little bit more
6 expeditiously than what's required by the framework
7 and/or remediating at least the parks and schools that
8 have elevated levels?

9 MR. MUSSER: Let me see if I understand the
10 question right. Is there any effort or interest in
11 accelerating the sampling activities and/or the
12 activities to actually address the contamination?

13 AUDIENCE MEMBER: Yes.

14 MR. MUSSER: And the answer to that is, you
15 know, in the broad sense, we've invested a little over
16 \$35 million thus far. Most recently, we undertook a
17 scoping study which we spent 2X on to get the results
18 done as quickly as we could. A number of activities
19 that we've undertaken recently we've taken on at our
20 own risk because we have not been given the permits to
21 actually accomplish that work in some of those cases.

22 So we've been moving as fast as we can to find
23 out answers that are going to guide us in designing a
24 solution that really is protective of human health, it
25 protects the environment, and also protects the

1 viability, economically and socially, in the area.

2 AUDIENCE MEMBER: I'm talking specifically
3 about the schools and parks in Midland, that '96
4 snapshot.

5 MR. MUSSER: I can't speak about that
6 specifically. As you may know, there is an effort
7 underway and we're obligated by the end of the year to
8 draw this into a proposal for what sort of remedial
9 activity or investigation will take place to properly
10 characterize the nature and the scope of the
11 contamination in Midland and along the Tittabawassee
12 River. Now I can't say whether it's going to include
13 schools or any other particular property by name, but
14 all I can do is pass that information back to the
15 people in charge of putting that investigation plan together and
16 take it under advisement I guess.

17 AUDIENCE MEMBER: So there's nothing planned
18 for this year?

19 MR. MUSSER: To my knowledge, there is not
20 any sampling at schools in the plan that I'm aware of
21 at this point.

22 AUDIENCE MEMBER: Okay. Thank you.

23 MR. NELSON: Any other questions relating to
24 this subject?

25 AUDIENCE MEMBER: Well, I wanted to touch on

1 this facility designation just a little bit, too. I'm
2 Mike Krecek, Midland County Health Officer, Director
3 of the local health department. My first question,
4 I'm assuming that you're familiar with the Pilot
5 Exposure Investigation that MDCH conducted in the last
6 year or so, and the report that recently came out,
7 they've quoted a section in here regarding -- this had
8 to do with the flood plain area.

9 It says -- I guess I'll try to read it. In the
10 summer/fall 2003, MDEQ sampled soil on 22 properties
11 believed to be frequently flooded by the
12 Tittabawassee. It was an analysis [that] suggested
13 contamination above the criteria of 90 parts per
14 trillion only on 15 of those properties, and these are
15 properties that you had a real strong suspicion were
16 contaminated. So I have a concern about arbitrarily
17 assigning properties a facility designation without,
18 you know -- particularly without testing, because in
19 this case, if I'm reading this correctly, these were
20 ones that you believed to be above the 90 parts per
21 trillion and you were wrong about 32 percent of the
22 time for these 22 properties.

23 MR. SYGO: I think you're right. Those were
24 done in 2003 I think, Mike, right?

25 AUDIENCE MEMBER: That's what this says,

1 summer/fall 2003.

2 MR. SYGO: At that point in time, we did not
3 have the March 2004 flood data digitized, obviously
4 because we hadn't had the March 2004 flood yet. What
5 happened is, as a result of that flood, that was
6 determined to be what was quoted as a 7 to 10 year
7 event in evaluating that. Both Dow as well as the
8 Department took aerial photos then. We had those
9 digitized, so we knew where those lines were for what
10 we're calling repeatedly flooded areas now.

11 And the work that's been done subsequent to that
12 time when we've tried to overlay the data that we've
13 taken historically when it's within that seven to ten
14 year flooded area, the levels are very high. It was
15 part of the premise by which Dow agreed to move
16 forward with the IRA to start working at reducing
17 those levels in those particular repeatedly flooded
18 properties, and these are areas that we would
19 characterize at, near or probably above 1,000, but it
20 was that 7 to 10 year line where we saw, as you move
21 the other way, it dramatically falls off.

22 Now is that every case in the flood plain? No,
23 but I think with a high probability, and I'm going to
24 say a high competence level, if you went into the
25 frequently flooded areas and sampled any property,

1 you're going to find levels over 90. You might find
2 some levels under 90, which is the generic number, but
3 when you find those, there's generally a reason why.
4 Similarly, we do see levels that are extremely high,
5 over 1,000, outside of that 7 to 10 year flood plain
6 going toward the 100 year flood plain.

7 Part of the rationale there is historically when
8 people built homes they'd take materials from the flood
9 plain, bring it out of the flood plain to build their
10 home on, and that's kind of what has developed with
11 discussing why these areas are high and finding out
12 more about their construction technique of those
13 homes. So at the time that that report was being
14 developed and when that sampling was being taken, we
15 just didn't have that information of where that line
16 was basically, and I think we have a better
17 understanding now because of the event of 2004.

18 AUDIENCE MEMBER: Can I make another
19 comment? I mean, I'm -- I mean, that's all fine, but
20 these are -- these were 22 properties that you
21 believed to be above 90 and only turned out to be 15
22 that actually were when tested, and so I'm agreeing
23 with Terry to a large extent, that I think we need
24 some additional testing to have a better profile on
25 what our communities are really like, and you know, I

1 don't think we're there yet, and if you look at
2 Midland, Midland's quite a bit different, most of that
3 is going to be airborne.

4 MR. SYGO: Make no mistake, I'm not.

5 AUDIENCE MEMBER: To designate an entire
6 community as a facility is going to be off the mark in
7 a number of cases, and so I just -- I want -- I just
8 want to make that . . .

9 MR. CHESTER: What community have we
10 designated?

11 AUDIENCE MEMBER: Well, we had some
12 neighborhoods in Midland.

13 MR. CHESTER: Okay. 103 properties based on
14 data.

15 AUDIENCE MEMBER: Based on subdivisions and
16 some subsections of communities, subsections. I don't
17 know how much testing has been done there, but then,
18 you know, along the flood plain we've had the same
19 designation for many homes, and you know, based on
20 your information, this seems to be inaccurate in some
21 cases, 32 percent of the time at least according to
22 this information.

23 MR. SYGO: Well, again, you're pointing to a
24 study that community health did. We were looking --

25 AUDIENCE MEMBER: It was in your data.

1 MR. SYGO: We were looking -- well, but we
2 were looking at those data [based] on input that we were
3 getting from residents that their property had been,
4 in fact, flooded. Come to find out when we overlay
5 those properties with the digitized maps that we have,
6 now they're not in the frequently flooded area or
7 repeatedly flooded area. So again, I think we
8 believe -- is it perfect, it's not perfect. There are
9 anomalies in it, but as a general statement, I think
10 you can say that in those repeatedly flooded areas that
11 represent the 7 to 10 year flood that at least some
12 portion of those properties exceed the 90 parts per
13 trillion criteria and would be facilities and many of
14 them are very high numbers, much in excess of 90.

15 MR. NELSON: Let's go on. Shirley, you had
16 your hand up first. Go ahead.

17 AUDIENCE MEMBER: Yes. First of all, I live
18 in one of the frequently flooded areas. Last year,
19 the water was within about 10, 12 feet of my back
20 door. I might add that I don't know where you get the
21 idea that that's a 7 to 10 year flood because it is
22 the highest I've ever seen the water since 1986, and
23 1986 was the first time we'd ever had it near our
24 house and it came in. Okay.

25 So I think that making assumptions, just like in

1 the olden days, they said it makes an ass of you and
2 me, that's what's still happening, because you have to
3 look at what's really happening. Now I'm going to say
4 more about that because of where I lived, and I
5 received one of those notices with the Q and A because
6 of where I live I presume, and I wrote down seven -- I
7 developed six questions. I got the seventh one after
8 I came here. They all pertain to the facility
9 designation.

10 Now I don't know how you want to handle it. I'd
11 like to ask questions because I'd like to have
12 answers. I can give you a copy of it and you can read
13 the questions and answer it for me. It could be
14 probably Mr. Sygo or Mr. Chester. Those are those
15 sorts of questions. Would you like to read them and
16 answer them for me?

17 MR. NELSON: I think the trick is that we
18 need to read them so everybody can hear them. Take a
19 look at them before I read them. Shirley, if we
20 could, I'm going to see if there are any others issues
21 while these guys are being studious. Someone else had
22 a hand up here. Did anybody else? Sir, did you have
23 a hand up? Okay. Terry, go ahead.

24 AUDIENCE MEMBER: Well, I just want to
25 respond to Mike's comments, because indeed, I do

1 believe Midland should be sampled more. There may be
2 hot spots that we have not been able to identify. I
3 am very disappointed in City support of this
4 legislation of the House. I think this legislation is
5 absolutely terrible for the State. I think that the
6 idea that every single property has to be sampled is
7 ludicrous. If there is reasonable assurance that it's
8 contaminated, I think that is adequate. If the
9 State's sampling indicates based on flooding we don't
10 need to do anymore, I mean, the precautionary principle
11 can be at work here. If every property has to be
12 sampled, the burden to the regulated party or the
13 potentially responsible party could be tremendous,
14 whether it's Dow or another company.

15 If, in fact, it's an orphan site and we don't
16 know the source of contamination, then the burden
17 falls on the State, and that means tax payers are
18 going to have to assume the cost of all the sampling.
19 In addition, this legislation doesn't require
20 notification of potential contamination to potential
21 buyers and that sends a dishonest legislation and does
22 not protect prospective home buyers. Also, it doesn't
23 protect people. If, in fact, a facility isn't labeled
24 a facility or a property isn't labeled a facility, the
25 responsible party may, in fact, not be obligated to

1 clean it up or pay for the cost of clean up. So it's
2 really disappointing, I think, that the City is backing
3 this legislation because I think it's very bad
4 legislation for the entire State.

5 MR. NELSON: I don't want to shut down any
6 discussion about this, but I want to draw it to a
7 close in a couple of minutes because I want to focus
8 on community involvement. Let me first -- let's go
9 back to Shirley for just a second here and make sure
10 we go through this clearly.

11 The folks from the DEQ would really like time to
12 respond to what you have said in writing, so they're
13 absolutely clear about it and they have an opportunity
14 to study what you've asked. There are some detailed
15 things you've asked here. They want the opportunity
16 to sit down and write about it. They would happily
17 talk after the meeting about this, but they're going
18 to put it on the record what they said back to your
19 questions. They would rather take that approach than
20 do it off the cuff right now.

21 AUDIENCE MEMBER: Okay. Then I would like
22 to ask one question right now since Mr., what's his
23 name, on Lone Tree, he tends to be
24 a gentleman that cuts me short so it gets kind of
25 tiresome to listen. What I have to ask about is the

1 fact that why at one point in time we were led to
2 believe that -- we meaning Midland Matters and the
3 Tittabawassee River Voice people -- were led to believe
4 that we could not change the designation, which isn't
5 really a designation I'm told, of the word facility on
6 my property and it had to go through legislation.

7 The minute we got going and we really got it
8 swinging and got the legislation moving, all of a
9 sudden you could change it with a magic wand and a
10 couple of words. It just doesn't seem fair. It
11 seemed kind of like a lie, but you know, I guess maybe
12 it wasn't, but it sure sounded like one.

13 MR. CHESTER: Shirley, that is a profound
14 misunderstanding of what the directive does and what
15 the law is. Our directive to staff -- it is not
16 unusual for State governments and local governments to
17 give their staff policy direction on how they will
18 administer laws. Our guidance to staff and our
19 directive does not change the law one bit, not one.
20 We'll clarify that in response to your questions, but
21 that's a fundamental misunderstanding of what this
22 directive does, and we'll do our best to clarify that,
23 and we'll be here after 8:30 to try to more directly
24 discuss with you, you know, what the directive does.

25 AUDIENCE MEMBER: Okay.

1 MR. NELSON: Now, sir, you had your hand up
2 next.

3 AUDIENCE MEMBER: Since we're bantering back
4 and forth, Terry, I'd like to suggest maybe you'd like
5 to overhaul the criminal justice system. It would be
6 a lot easier to put all suspected criminals in jail
7 without having to prove them guilty, and I think that
8 analogy is more frightening to me.

9 AUDIENCE MEMBER: It is a very appropriate
10 analogy.

11 MR. NELSON: Let's go on, and remember our
12 ground rules about being respectful to all of us.
13 Sir, go ahead.

14 AUDIENCE MEMBER: Comment and question
15 probably for Steve Chester and Jim Sygo. Your
16 response to Shirley about profound misunderstanding,
17 Shirley and I were at the same meeting, as you know,
18 eyeball to eyeball with you, and the statement from us
19 a lot of times when Dick was there, too, was really
20 very simple. The question was, is there anything at
21 all you could do about this facility designation, and
22 you told us, it's the law, it's a quagmire, it's
23 Freudian or not, Lieutenant Governor Cherry, there is
24 nothing you can do.

25 You can put it in any bureaucratic language you

1 want, but my real question to you is, we have heard
2 and we have read DEQ's position on the House Bill
3 4617, Moolenaar's bill. One part of DEQ's response is
4 the expense of testing would be, we'll say,
5 unreasonable or too high. When you came up with that
6 position, and this is the question, what economic
7 analysis or economic thought, maybe not a big report,
8 did you put into it in terms of the cost to the
9 residents who are the property owners?

10 If you gave any thought to that, and where I'm
11 coming from is, we the property owners start from a
12 position that our property ownership is sacrosanct,
13 that means number one, and the property is not
14 contaminated until proven guilty, if you will, and we
15 do not take lightly the situation where a government
16 regulatory agency can cast an unproven label on our
17 property. In fact, if this worked through the Court,
18 which it may have to do, I wonder if it's really
19 unconstitutional delegation of authority for DEQ even
20 to attempt to do that, but that's a question for the
21 attorneys and Court.

22 My real question is, did you give any economic
23 thought to the homeowner's property rights on this
24 when you came up with your policy position as it's
25 going to be too expensive if we have to test every

1 property?

2 MR. CHESTER: Well, a couple of things.

3 First of all, Bill, I respectfully disagree with your
4 characterization as to my answer at that meeting. We
5 were asked by Representative Moolenaar to do something
6 in response to the mailing that we sent out in June of
7 2003, which was intended to be a generic mailing, but
8 unfortunately, and we admitted it, unfortunately, the
9 property owners, and there were 2,000 of them that we
10 sent the mailing to, many of them interpreted that as
11 specific notification that their property was a
12 facility. That it had, in fact, been contaminated
13 with dioxin from historical operations.

14 And we did not change the law. What we did is we
15 addressed very specifically Representative Moolenaar's
16 concern and we did that through our directive to
17 staff, and as I laid out, there are three criteria
18 that staff must look to or must exist before there can
19 be communication between our staff and a member of the
20 public as to the status of their property, and those
21 are very simply stated. You've got actual analytical
22 data. Your property's been identified by the liable
23 party and in a work plan because it needs remediation.
24 Third, based on existing data, you can draw reasonable
25 inferences with respect to the property, even if you

1 do not have a specific sample for that property, and
2 that's an exercise of professional judgment that is
3 done all the time by departments and agencies and
4 professionals, and this is not done lightly. The
5 policy directive lays out very specifically the
6 circumstances in which we are to exercise that kind of
7 judgment.

8 With respect to the second part of your question,
9 we looked at a number of different things, but your
10 question is based on false premise, based on the
11 premise that somehow we have designated and have
12 designated huge areas all being a facility, and that's
13 not the case. Without Moolenaar's legislation --

14 AUDIENCE MEMBER: Could I interject to help
15 you? The meeting with this dialogue, I'm not talking
16 about the broad sweep. I'm talking about one property
17 owner, one piece of property.

18 MR. CHESTER: My point is, you asked about
19 the economics. On the one hand, this law is meant to
20 be our clean up law, as well as our brownfield
21 redevelopment law, and if you have a large area of
22 contamination or potential contamination like this
23 situation or along the Kalamazoo River or like in Ann
24 Arbor, you have to determine the scope and character
25 of the contamination.

1 That's exactly what Dow is working on as part of
2 their work plan. When we do that, we do not typically
3 demand that every piece of property be sampled. Dow
4 or the other parties involved can come up with a
5 sampling plan. We can grid out the properties or the
6 area and take samples in different areas and based on
7 that sampling make determinations as to the scope of
8 the contamination. It does not require parcel by
9 parcel sampling.

10 If you now change the law and require that each
11 piece of property must be sampled to determine whether
12 it is or is not a facility for purposes of determining
13 the scope of contamination, the liable party will be
14 required to undertake extensively more sampling and
15 that would drive up their cost substantially. That
16 was taken into consideration when we made that
17 comment.

18 AUDIENCE MEMBER: I understand that.

19 MR. CHESTER: Okay. Also, with respect to
20 the property owners, we weren't talking broad brushes.
21 We were talking where we had one of three conditions,
22 analytical, in a work plan, a reasonable inference.
23 Those are the three circumstances, and the one point
24 where we seem to get the most push back and
25 concern are on the reasonable inference that somehow

1 the DEQ can exercise professional judgment and make
2 certain assertions, but even if we were to do that
3 with respect to your property, that isn't the end all.
4 That doesn't mean your property is a facility.

5 You could undertake sampling or sampling could be
6 done by another party and it could be determined based
7 on that sampling that reasonable inference was either
8 accurate or inaccurate. The statute still controls.

9 So we looked at that, and then we took into account,
10 okay, you also have to keep in mind that this statute
11 is intended to protect property owners in two ways.
12 It protects the existing property owners as follows.
13 If your property has been contaminated by a third
14 party, under the statute, that third party has an
15 obligation to re --

16 AUDIENCE MEMBER: Steve, please.

17 MR. CHESTER: -- the property owner. It
18 protects the prospective purchaser.

19 AUDIENCE MEMBER: I didn't ask for a
20 rationale.

21 MR. CHESTER: You asked for the basis. I
22 gave you the basis.

23 AUDIENCE MEMBER: I asked the question
24 pretty simple. Did you or did you not take into
25 consideration the individual property owner's

1 financial impact?

2 MR. CHESTER: I told you how we took that
3 into account.

4 AUDIENCE MEMBER: That's a no from what I
5 heard.

6 MR. NELSON: Let's see if we can move on.
7 Do we have any other questions or comments about
8 either the IRA's, facilities, because we do need to
9 get into the public input on the CAC question.

10 AUDIENCE MEMBER: Just a question, John,
11 does Dow support this legislation?

12 MR. MUSSER: We've taken no position on it.

13 MR. NELSON: Let's move on to the Community
14 Advisory Committee.

15 AUDIENCE MEMBER: I was just trying to
16 clarify what you just said.

17 MR. NELSON: Let's move on to the Community
18 Advisory Committee discussion. Sorry if I wasn't
19 clear. First thing I'd like to do is get just a
20 general feel on your views. We talked about the two
21 basic ideas that are on the table, the Community
22 Advisory Committee and a broader town hall meeting
23 format at some relatively regular schedule that would
24 rotate among communities. So if you could talk about
25 those two options for community involvement and what

1 your preferences are and rationale, I'd appreciate it.

2 Sir.

3 AUDIENCE MEMBER: This is more for Jim Sygo
4 because he presented the information, just a pretty
5 good summary of where the dialogue has been on the
6 participation format. The part I took exception to
7 is, Jim, it is my understanding after the June 28th
8 meeting that the consensus, I [don't?] use that word lightly,
9 in the room. There was some agreement of having any
10 type of authorized group was probably not preferred
11 and to have a format, town hall meeting was the
12 consistent term used, where it would be a communication
13 type meeting as opposed to any type of pre-approved
14 authorized body. I left that meeting thinking that
15 was the general sense I got, but I heard from you was
16 an excellent wrap up of everything, but when you got
17 to it again, I sense you guys still want to go ahead
18 with some type of authorized body, is that correct?

19 MR. SYGO: Well, you got to remember what
20 the June 28th meeting was about. What I mean, we were
21 going back to the DEQ CAP. We took the proposal we
22 had and wanted them to have the first crack at it. I
23 would agree with everything you said in terms of what
24 the conclusions or what the consensus was in that
25 group, but I think we did say at that meeting, I

1 recall saying it, maybe people didn't hear it, but
2 that we're going to continue to take our proposal out
3 to the town hall meetings to gain comment from the
4 broader community, and based on the broader community,
5 then we will take all that information, and what we'll
6 do is we'll revise or tweak or either we might look at
7 the town hall meetings or a different version of the
8 CAC, but we wanted to get a broader basis to get
9 information coming in to decide where do we need to go
10 from there.

11 AUDIENCE MEMBER: I agree with you that
12 there wasn't closure, but you do agree that the
13 general consensus was town hall preferred over all?

14 MR. SYGO: Absolutely, for that meeting.

15 AUDIENCE MEMBER: Do you also agree with my
16 sense that your position is tending towards a more
17 organized authoritative group? That's not the right
18 word, but an organized group as opposed to town hall?

19 MR. SYGO: Quite honestly, we're just
20 getting comments on the proposal. What I mean, if
21 that's your position tonight as a community wide
22 person, I think we know where you're coming from, but
23 we're still getting comments. We haven't taken a
24 position that we're tending one way or the other at
25 this point. We put a proposal out there. We saw what

1 the DEQ CAP said. We wanted to represent to the
2 communities at the town hall meetings that the CAP is
3 seeing this, they didn't like it, and they were
4 leaning toward having a town hall meeting, but we
5 still want to get everyone's thoughts.

6 AUDIENCE MEMBER: Do you have a closure date
7 in mind?

8 MR. SYGO: I think what we're looking at is
9 hopefully by the end of September we will have
10 something out to everybody, and we'll probably do that
11 through possibly a mailing insert of some nature of
12 where we'll be going and what the ongoing community
13 involvement process will be, yes.

14 AUDIENCE MEMBER: So is it safe to say this
15 year you should have an idea of the structure?

16 MR. SYGO: Absolutely, yes.

17 MR. NELSON: John, you have a follow up?

18 MR. MUSSER: I just wanted to chime in a
19 little bit. I think just speaking for Dow our bias is
20 to have some structure. A town hall meeting is a fine
21 thing to get input from the group. It can get out of
22 hand pretty easily if it's not facilitated, if there's no
23 agenda, there may not be any outcome. So the idea of
24 having some structure, whether it's a formal seated
25 body of individuals that are representative of the

1 communities involved or it's something closer to a
2 town hall that has a regular -- has an agenda and it's
3 facilitated or something in between, I think our bias
4 is certainly for some structure so that we can have
5 some meaningful dialogue and hope to be able to get
6 some meaningful input from the community to be
7 responsive to community requests for information and
8 to help move the process along in a way that serves
9 the broad community the best way possible. So I
10 personally don't think it's possible in a wideopen town
11 hall setting.

12 MR. NELSON: Shirley, go ahead.

13 AUDIENCE MEMBER: Further on the fact that I
14 also took a few notes while you were talking, Jim, and
15 my concern was similar to what he said, whatever his
16 name is, and it appears to me that I didn't go into
17 the meeting in Bay City this past time, but I read
18 that there were a whole lot more of you guys, Dow,
19 DEQ, than there were us of residents. I'm not going
20 to be able to go tomorrow. The people that were
21 meeting at the so-called CAP meeting on the 28th did
22 not express an interest of having lots and lots of
23 meetings. That's something you get paid to do and you
24 don't even like it when you get paid to do it, you
25 know, that you have to go to them. So why do we keep

1 talking about having lots and lots of meetings? Is
2 there going to be a reason for these lots and lots of
3 meetings, Jim?

4 MR. SYGO: Well, again --

5 AUDIENCE MEMBER: Not just to have -- you
6 need to have a reason, not just to have meetings.

7 MR. SYGO: If we have a meeting with the CAC
8 or town hall meeting, we would identify what the
9 agenda for that meeting would be.

10 AUDIENCE MEMBER: But -- okay. One more
11 question while we're talking. I came well organized
12 with a list of questions that nobody wants to answer
13 in public. You want to answer them privately after
14 the meeting. I've been through that with that guy
15 over there. I forgot your name, too, Al, something
16 like that.

17 MR. RUSWICK: I'm not sure what you're
18 referring to. Go ahead.

19 AUDIENCE MEMBER: Not talking to me during
20 the meeting but after the meeting, I don't approve of
21 that sort of thing, we don't want to tell the whole
22 world this. You can read the questions and answer
23 them now.

24 MR. NELSON: I think what they said, if I
25 can paraphrase this, is they will respond in writing

1 which is very clear. So I think that's what they
2 said. They were going to do it on the record, just so
3 I understand, that's what they said.

4 MR. RUSWICK: And Chuck, if I could just
5 clarify, we will post those responses with the summary
6 of this meeting so everyone will see what we say.
7 We're not trying to keep everything secret.

8 MR. NELSON: And everybody will see your
9 questions, too, so that's the point.

10 AUDIENCE MEMBER: I read a list of people
11 who attended those first meetings. I wasn't on it. I
12 couldn't find my name, at least I did a search on this
13 page for it and I couldn't find it. So I didn't read
14 every single name to be honest with you, so I hope I'm
15 on it, but that's why I don't really expect to find
16 much in the way of posted responses.

17 MR. NELSON: I think people make an
18 extremely conscious effort to do that. I know Natalie
19 is working very diligently to do that. When you sign
20 up, that also helps.

21 AUDIENCE MEMBER: I signed up for that one.

22 MR. NELSON: Sir, go ahead.

23 AUDIENCE MEMBER: People notice me.

24 AUDIENCE MEMBER: Shirley, where you're
25 coming from, let me try to make it even more direct.

1 As a result of these meetings, will DEQ change
2 anything? I mean, is there anything in a meeting that
3 could happen that could affect the value of the DCC [direct contact
4 criteria] which I understand is put together by DEQ under
5 reasonable inferences but has never been reviewed by
6 any outside independent scientific panel? Is there --
7 are there any of the remediation techniques that would
8 actually be altered by something that took place in
9 one of these community meetings? If not, indeed, why
10 should we waste our time having the meetings?

11 MR. RUSWICK: Okay. Let me respond, first
12 of all, to how things could change in the context of
13 what's going on here, and that is, the proposal that
14 there be a Community Advisory Committee for use in
15 engaging the public, I think as John outlined, Dow has
16 been of the position and currently is of the position
17 that that would helpful in this process, and I think
18 it is fair to say that that's where the DEQ started
19 from, too. That's why it's in the proposal, but the
20 fact that we've gone through a number of meetings now
21 with the members of the public that basically has
22 indicated to us that there's not a lot, if any,
23 support of that component of what we propose is
24 leading us to rethink that proposal. We are
25 reconsidering that proposal, and so as a result of

1 these three meetings, something very well might
2 change. So, yes, in the general sense, things can
3 change as a result of engaging with the public, and I
4 think you're kind of seeing that happening right now.

5 You're seeing us think very hard about whether or
6 not that Community Advisory Committee where we started
7 from is really going to be very beneficial, because we
8 don't hear the community saying that they want it. So
9 that is a specific example. Now if your question was
10 referring to the more general concept as we go from
11 here on out, you know, three, four, five, ten years
12 down the road, as Jim outlined earlier, whether or not
13 things could change as a result of meeting with the
14 public, the answer is absolutely, yes. As Shirley
15 said, we don't like to come to these meetings just for
16 the sake of holding meetings. We come here because we
17 think the public has a role in what we do. We want to
18 get information to you. We want to make informed
19 choices. We want you to express your opinions to us.

20 Now we can't always use those -- that information
21 in ways that you think we should be able to. For
22 example, there are some things that are established by
23 law. The clean up criteria are established by law.
24 So if the public meeting says, everyone says we think
25 the clean up criteria should be 1,000 parts per

1 trillion, I'm sorry, we can't really use that
2 information in the way you would like us to. There
3 are some things that constrain our ability to change
4 our minds, but where we have discretion, what the
5 community thinks should be, and I think, will be very
6 important.

7 MR. CHESTER: And I'd like to add to that,
8 and clarify it. I'm not absolutely certain, but I do
9 believe that the algorithm is not the 90 parts per
10 trillion but the algorithm, the formula used to
11 derive that number, I believe was subject to the
12 Michigan Environmental Science Board's review, and
13 I'll get a clarification on that, but I have this
14 vague recollection that that did happen. If I'm --
15 whether I'm right or wrong, I'll get that
16 clarification.

17 AUDIENCE MEMBER: There are several
18 parameters that are chosen by the DEQ staff, you know,
19 and I'm pretty sure those have not been reviewed
20 because they have been changing rapidly over the years
21 to hold it to 90 parts per trillion.

22 MR. CHESTER: As Frank said, the algorithm
23 itself I think now is in the rules.

24 MR. RUSWICK: As well as the number derived.

25 MR. CHESTER: And that was the decision made

1 by the former administration. That was common
2 practice to do, because you do need a more fluid
3 process, but I will go back, and I will get a
4 clarification on that particular point.

5 MR. NELSON: Sir, you had a comment.

6 MR. MUSSER: Paul Williams from Midland. I
7 think -- I was at the Bay City last week. Getting
8 here tonight, I wasn't sure last week how I felt.
9 I'll let you know tonight. I think you do need a CAC
10 process and you need a town hall process. I support
11 the proposal that you put forward. You know, Shirley
12 came tonight, she's got questions here we'd like to
13 have answered, you know, that doesn't fit the agenda
14 process that was put forth for this evening.

15 AUDIENCE MEMBER: It was facility -- the
16 questions are about the facility period.

17 AUDIENCE MEMBER: The agenda was to describe
18 facility and then move on to this item. I'm not
19 saying your points aren't well taken. I agree with
20 your perspectives, ma'am. I agree with you
21 100 percent, but the point is, if you want to move
22 forward and you want to get meaningful input, I think
23 you need a process of some sort, whether it's CAC or
24 something similar, where you can stay on the agenda with
25 those issues with a recurring group and then have an

1 opportunity where you're moving from issue one to
2 issue two to issue three and be able to deal with
3 whether it's legislative issues or her issues on
4 facility and the rest. I think just the town hall
5 settings where it continues to, you know, whatever the
6 drum beat is of the minute, I think you're going to
7 have trouble getting that ongoing input. I support
8 the proposal. I think you need both. I'm not saying
9 it cuts out the town hall process at all. That's
10 extremely important as well, but I think you're going
11 to need something to have that continuity.

12 MR. NELSON: Other comments looking at the
13 two formats. Sir.

14 AUDIENCE MEMBER: A real simple one relative
15 to the others. The only official notice I got on this
16 meeting was two days ago from Cheryl [Howe], and I saw in the
17 newspaper earlier this summer, you know, Kathleen's [Kathie
18 Marchlewski's] article, I don't know which one. That's the only
19 notice I recall. I'm surprised it wasn't more
20 advertised. Did I miss something?

21 MR. CHESTER: Is Bob [McCann] here?

22 MR. NELSON: Bob was here.

23 MR. MUSSER: I can make one comment on that.
24 We did get some input at the last meeting I think to
25 suggest that, you know, when we're going to have

1 public meetings that we try to do something more
2 grandiose than relying on the newspapers to put a
3 notice in there, and I think, in fact, we can do
4 better with that, but with respect to this meeting,
5 Bill, I know there were at least three different times
6 in the newspaper locally where that was indicated in
7 the course of a news article about this issue. I
8 don't know that there was a specific notice.

9 AUDIENCE MEMBER: Last Tuesday the story
10 ran.

11 MR. MUSSER: About this meeting?

12 AUDIENCE MEMBER: Yes.

13 MR. MUSSER: But I mean, for public
14 meetings, you can't expect you're going to get a
15 personal invitation to the meeting. We don't know
16 who's coming.

17 AUDIENCE MEMBER: It was only in the Midland
18 Daily News the day before the Bay City -- I didn't
19 check Bay City because I wasn't there.

20 MR. MUSSER: There had been articles. It
21 had been communicated previously.

22 AUDIENCE MEMBER: But not the dates.

23 MR. MUSSER: Yes, the dates included,
24 Shirley.

25 AUDIENCE MEMBER: Was it? Where?

1 MR. MUSSER: In the newspaper.

2 AUDIENCE MEMBER: Which one?

3 MR. MUSSER: Bay City Times had it. The
4 Saginaw News had it.

5 AUDIENCE MEMBER: Not until the last minute
6 that they actually did come to the Saginaw News.

7 MR. MUSSER: Well, I mean, I don't want to
8 argue with you about that. I think it was
9 communicated to the public on a number of occasions in
10 those news articles, and on some occasions, there's
11 been notification.

12 AUDIENCE MEMBER: You know, that's for those
13 of us who are the regulars that read all this stuff.
14 If you really want to get to the general public, you
15 probably need --

16 MR. MUSSER: Point taken.

17 AUDIENCE MEMBER: You need to pay them some
18 money and take an ad out.

19 MR. MUSSER: We can do better, I grant you
20 that. We acknowledged that at the last meeting.

21 MR. CHESTER: The other thing, do we send a
22 press release or statement to the local radio stations
23 at all, Bob?

24 MR. MCCANN: All media in the Bay City area has got
25 notification of these meetings, press releases.

1 MR. CHESTER: I thought at the last meeting
2 we heard from a couple of people that heard it on the
3 radio. I don't know if there was any play here at
4 all, and that's a fair point.

5 AUDIENCE MEMBER: We don't all listen to the
6 radio.

7 AUDIENCE MEMBER: It's just this meeting.
8 Your other ones were fine.

9 MR. MUSSER: There was radio coverage on it,
10 at least one I'm aware of, and the websites around
11 here are fantastic. They cover this stuff by chapter
12 and verse, and I know it was on your [Shirley Salas's] site and it was
13 also on Lone Tree. So I know it's been communicated a
14 number of different ways.

15 AUDIENCE MEMBER: Are you saying Shirley can
16 speak on behalf of DEQ?

17 MR. MUSSER: I'm saying it gets
18 communicated.

19 AUDIENCE MEMBER: I got that information
20 from a secret source though. That's nobody in this
21 room.

22 MR. MUSSER: They're a good source.

23 AUDIENCE MEMBER: Yes, they are.

24 MR. CHESTER: It's an area we can work on to
25 improve.

1 MR. NELSON: Sir, go ahead.

2 AUDIENCE MEMBER: I've been kind of sitting
3 here kind of pondering about the CAC versus the town
4 hall, and I mean, I can see some advantages to both.
5 Although, I mean, I think some of the problems with
6 town hall -- and I agree that you probably need -- you
7 would need to have at least an occasional town hall
8 meeting because you want to hear these other voices,
9 but someone who just comes in to an occasional
10 meeting, you're going to lack the consistency of what
11 you're trying to accomplish. You're also -- I don't
12 know, they're just not going to, you know, be
13 consistent. There won't be enough structure, and so I
14 guess I'm leaning toward a CAC.

15 I mean, I know some of us were members of the CAP
16 and that started out pretty good and it's kind of lost
17 steam over time and we weren't really having any
18 regular meetings probably over the last year or so,
19 and unfortunately, I was gone the week that you had
20 the one in June, wasn't able to attend, and missed
21 some of that dialogue, but there was some opportunity
22 for that. I don't know if four people per community
23 is exactly the right number or not, but I know you
24 don't want it much bigger than that or otherwise it
25 would be just about as disorganized as the town hall.

1 So I guess I would support trying to do something that
2 has some structure and this CAC sounds as good as
3 anything at this point.

4 MR. NELSON: Terry, go ahead.

5 AUDIENCE MEMBER: I won't repeat myself.

6 Bill, in Bay City, I attended that meeting and
7 essentially echoing exactly what you said about the
8 June 28th meeting -- I thought we had some sort of
9 agreement, some movement towards the town hall
10 concept, and I think Jim summarized it very well. The
11 process is too cumbersome. 16 to 20 members may be
12 too limiting. It may not be representative concerning
13 about the selection. Town hall, maybe it's a
14 pejorative term now. Maybe it's got to be called
15 expanded CAP, but as long as it's well facilitated,
16 sometimes these things get a little messy, but I
17 thought that last meeting -- well, the CAP meeting was
18 very productive in the end -- well, perhaps not at the
19 end, but during the course of most of the meeting, and
20 I think it can be done well.

21 The last thing we need is a lot of meetings that
22 aren't attended well. So if we essentially do this
23 thing, call it an expanded CAP, maybe not call it a
24 town hall meeting, but include that large invited
25 list that formed the first CAP, plus the expanded

1 focus groups and maybe we can start moving on.

2 MR. NELSON: Go ahead, Shirley.

3 AUDIENCE MEMBER: He makes sense. It is
4 scary, isn't it? He makes sense, because some of the
5 people that were upset at the other one and felt the
6 meeting wasn't important is because it wasn't the old
7 CAP. Now hopefully a new CAP that included people
8 from the old CAP is what you're talking about?

9 AUDIENCE MEMBER: Yes.

10 AUDIENCE MEMBER: And expanding to include
11 other people that really didn't give a rip way back
12 then, I'm talking to people like me and Lynn and Bill,
13 you know, we didn't know -- I don't know about Bill,
14 but Lynn and I didn't know anything about it. Once we
15 got in it, we realized how important it was to our
16 personal homes, you know. We got involved. It's a
17 good idea.

18 MR. NELSON: Okay. Let me ask for any folks
19 who haven't expressed an opinion yet on the town hall
20 format versus the CAC format. Do you have any
21 opinions you'd like to suggest here, like to express?

22 AUDIENCE MEMBER: I think there should be
23 both a little bit of structure but you need to once in
24 a while get the public's opinion.

25 MR. NELSON: Who are you, sir?

1 AUDIENCE MEMBER: Steve Hofmeyer.

2 MR. NELSON: So you'd like to see a little
3 bit of both?

4 AUDIENCE MEMBER: Yeah.

5 MR. NELSON: I want to get into -- sir, do
6 you have anything you'd like to add?

7 AUDIENCE MEMBER: Well, the point on the
8 bureaucracy that was in Jim's notes are important. If
9 you have to have a committee to select the committee
10 and you go on through that, you maybe end up with six
11 months of trying to come to a conclusion on that. So
12 something would have to be done to streamline that
13 point.

14 MR. NELSON: Sir, do you have anything you'd
15 like to add? Okay. I don't want to leave anybody
16 out. So I'd like to move on to some specifics about
17 that, and I'll get right to you here. I want to make
18 sure that we talk about some of the specifics you've
19 brought up. Somebody brought up numbers of people.
20 Somebody else brought up the speed which things can
21 get done. So I'd like to get some comments on those.
22 Sir, you first.

23 AUDIENCE MEMBER: It is a specific. In the
24 discussion about the composition of any type of group,
25 what I hear most frequently is community leaders,

1 officials like Mike, and I believe some of those are
2 very appropriate, maybe even required. What I don't
3 hear as much about, and I think in any consideration
4 in going forward, you have to put heavy weight on this
5 is a resident with no other affiliation or authority
6 or designation. They're a property owner. I made
7 this point before, a key stakeholder. So any
8 consideration of any composition of any group I think
9 has to include somebody who just owns a home, which I
10 think is pretty important, but I see them getting
11 minimalized on this. The other important category
12 that I think is downright required on this is the
13 scientific community. It can be people like Dr. Reitz.
14 It can also be medical profession, but I think on this
15 type of topic you have to have the science involved.

16 MR. NELSON: Okay. Other comments on the kind
17 of specific composition, size of the group, how they
18 might be selected, some of the nuts and bolts things?
19 Also, if you have comments on how a town hall meeting
20 might be run that you think might be most effective,
21 that would be useful here also. I don't want to
22 neglect the opportunity to learn how to do those
23 things better at the same time here. Any specific
24 suggestions for us on how the actual CAC members would
25 be selected, if that's the direction things go if that

1 process were to move forward? Do you have any
2 specific suggestions on how to accomplish it? You
3 provided some good suggestions on perhaps members of
4 the CAC. Any suggestions on how to select them? Sir,
5 go ahead.

6 AUDIENCE MEMBER: I'll suggest a starting
7 point, but I don't know where it will go from there.
8 I think a starting point is simply Dow Chemical and
9 DEQ attempt a draft and bring it out to the community
10 for dialogue and debate. Obviously, DEQ and Dow have
11 to think through all this, and I know they would, but
12 rather than go out with a white board to the
13 communities, I think to save the people some time and
14 start with a draft.

15 MR. NELSON: Okay. Other comments or
16 thoughts on how we might do this?

17 MR. MUSSER: Let me just float one idea that
18 I've heard discussed that I've never heard anybody
19 from the community speak to, and that is, going with
20 the premise that people have elected people to be
21 their representatives, what would your feelings be
22 about having your elected officials serve in that
23 capacity from the various communities with others
24 perhaps?

25 MR. NELSON: Now, John, you're saying serve

1 to select the CAC or to be the CAC members?

2 MR. MUSSER: To be the CAC.

3 AUDIENCE MEMBER: I think that's counter to
4 what Bill was saying. I don't want just elected
5 officials. You want some residents that are directly
6 involved and that have no other particular axe to
7 grind.

8 AUDIENCE MEMBER: Not only that, but I know
9 in the case of Freeland, you know, Freeland is just a
10 little teeny tiny town, and we're the ones most
11 affected by this. When it all started out, I know
12 that -- well, I know the guys that made the decisions
13 pretty much, you know, just because they were the kids
14 in the neighborhood. Anyway, the whole town is a
15 neighborhood. It seemed that they just kind of said,
16 okay, we will pick this guy and that guy to go to the
17 community -- the CAP back then, and number one, the
18 Township supervisor is a member -- he's one of the
19 litigants in this thing that's going on over in
20 Saginaw right now, okay. So when he picked a person
21 to attend the CAP, well, shucks, he was going to pick
22 somebody that was, you know, like amenable to his way
23 of thinking, which he did, and it happens to be a
24 longwinded guy anyway that likes meetings apparently
25 because he never gets anywhere, and then the elected

1 guys went, and of course, then the other one that we
2 just hired to kind of advise the other guys what to do
3 and so -- but they don't like going to all of these
4 meetings all the time, but you know, I think some
5 regular people -- Leonard Heinzman, for instance,
6 volunteered to go to a CAP meeting as an official
7 member and he was pretty much turned out way back then
8 by the local people, because, well, my God, people
9 actually have a say in this, what are we going to do.

10 Well, anyway, Leonard and I are going to have a member
11 of that CAC or it ain't going to fly.

12 (Laughing from the audience)

13 MR. NELSON: Terry.

14 AUDIENCE MEMBER: I think we're seeing here
15 the problem with trying to put together an elected
16 order or a representative group. I mean, really, half
17 of our representatives will duck for cover, the other
18 half are working for one side or the other, so it's
19 really difficult. The only way I can see putting it
20 together is based --

21 AUDIENCE MEMBER: It wasn't put together the
22 way you think it was, Terry.

23 AUDIENCE MEMBER: But it was publicized.
24 You may not -- you may not have gotten the
25 notification. They were very expansive. I mean, we

1 had everybody from county health directors to
2 representatives to, I mean, representatives of
3 supervisors from townships to, you know, traditional
4 environmental groups. It was an expanded group and it
5 was based on interest.

6 MR. MUSSER: Let me float another one. I'm
7 not lobbying any of these things. These are things I
8 heard. How about if we said, Terry, Shirley, Bill,
9 and Leonard, you guys are the core. You guys pick
10 another 16 members of the community at large to
11 participate in a Community Advisory Panel. How would
12 you feel about that?

13 AUDIENCE MEMBER: I don't want that, no, no.
14 I would be accused of being bipartisan. They would be
15 accused of being partisan, and I don't know who's
16 out there that wouldn't bring to this group some very
17 positive impact. I mean, that's the benefits. It's
18 the problem but it's also the benefit of being
19 inclusive.

20 MR. MUSSER: How about if we said, Shirley
21 and Bill and Leonard then?

22 AUDIENCE MEMBER: Absolutely not.

23 AUDIENCE MEMBER: We'd be able to just pick
24 some honest people that don't want to be involved.

25 MR. NELSON: Let me follow up then and kind

1 of turn the tables on this though. What if we said,
2 all right, if you're going to go with primarily a town
3 hall meeting format, what might we do in those formats
4 to get structure and genuinely move forward rather
5 than answer questions for a considerable period of
6 time, because part of this process is things move
7 forward, we do things, things change.

8 AUDIENCE MEMBER: Well, Chuck, one thing you
9 can do is structure the meeting so that you've got the
10 agenda items on there. You've got the approximate
11 time for it. Either preserve the questions for the
12 end or preserve a period of time on the agenda item
13 for questions, and then simply move on, and have it
14 facilitated, and you know, forget the long speeches,
15 you know, keep it to the topic. If there are
16 questions to be answered, you know, let's try to move
17 it on and move on. If there's not enough time, put it
18 in a parking lot or parking space and come back at
19 the end of the meeting and deal with it, and allot
20 enough time to get through the agenda, and perhaps
21 minimize the agenda if there seems to be some
22 controversial issues on it so you have adequate time
23 to explore it.

24 MR. NELSON: One of the issues -- I'll get
25 right to you, sir -- that did come up earlier was that

1 folks -- there was some concern that folks who might
2 be not on polar extremes had a tougher time involving
3 themselves in town hall format discussions because
4 they would be suggesting compromises that people may
5 look at them, you're on this side or that side, when
6 they literally were somewhere in between two sides.
7 Do you feel that that's not -- that that's not
8 insurmountable, that you could deal with that in a
9 town hall format meeting?

10 AUDIENCE MEMBER: Certainly. You can
11 potentially have the same problem with the smaller
12 group depending on the personalities involved, but I
13 mean, you stopped here at this meeting after you heard
14 from some of the same voices and solicited opinions
15 from those who aren't speaking, and I think you could
16 do the same thing in a larger context.

17 MR. NELSON: Just making sure I follow up on
18 that, because that did come up at another meeting.
19 Sir, go ahead, you had your hand up.

20 AUDIENCE MEMBER: I'm back to the concept of
21 Dow and DEQ making their best good faith effort to
22 come to an agreement on a composition going forward
23 with that, knowing full well there's going to be
24 disagreement, maybe some agreement of other ideas, but
25 I think everybody could agree there's nothing that's

1 going to be perfect, and then if you start with that,
2 you allow enough time and consideration of format for
3 the more typical town hall portion added to that. I'm
4 not as concerned about this idea, you know. You want
5 people that are engaged enough that have enough
6 knowledge that you don't have to start from zero. I
7 mean, that's a legitimate point, but I don't think
8 that's going to happen. I mean, we're all here
9 voluntarily as this significant issue goes forward,
10 and I know Terry isn't going to drop out. You're
11 going to have people in a forum whether you plan for it
12 or not. So if you want to get off that center, I'd
13 say Dow and DEQ put their best foot forward, come out
14 and explain to the community why you composed it
15 the way you did, and those people that aren't going to
16 be happy are still going to have an opportunity to
17 voice their opinions in town hall meetings.

18 MR. NELSON: Any other comments?

19 AUDIENCE MEMBER: I have to, with all due
20 respect, Bill, we potentially in that scenario have a
21 meeting in Bay City, Saginaw, and Midland to flesh out
22 the draft that Dow and DEQ put together and who's
23 going to be part of this group. We already have an
24 extensive database of people who have been interested
25 in the past. Let's skip all that bureaucracy and just

1 go to the heart of the matter, whatever that heart is
2 going to be, and invite people to attend, because
3 that's another layer of effort that's going to have to
4 occur if they, in fact, pursue that, and we're
5 negating the spirit of agreement that came out of the
6 28th meeting and pretty much what came out of the Bay
7 City meeting and what initially started in this
8 meeting, too, that we just need to move forward and
9 get control of a much larger but more inclusive group.

10 AUDIENCE MEMBER: But I don't think we're
11 that far apart. People promoting Dow and DEQ
12 certainly going forward doesn't preclude your typical
13 publicly advertised, anybody can come after the
14 meeting, and is open to the public, and you and I
15 agreed, after the June 28th meeting, there was this
16 consensus to just go to town hall and that was the
17 consensus, but it wasn't the consensus of all of us in
18 the audience. We got a regulator and regulated party
19 that differ with us somewhat and want some more
20 structure.

21 AUDIENCE MEMBER: But that's what democracy
22 is. Can the citizens make a difference, that may be
23 their approach, but clearly, the bulk of the citizens
24 in three different meetings have suggested they want
25 to be included. They don't want in and outs of this

1 group.

2 AUDIENCE MEMBER: They will be included.

3 AUDIENCE MEMBER: But you created this insy
4 outsy thing like the focus group. Now these are
5 groups that may be able to talk after it's structured
6 so they can talk in their time and place, and I think
7 there's something inherently unfair and wrong about
8 that. That anybody that is interested needs to be
9 included.

10 MR. NELSON: One of the challenges from a
11 facilitator viewpoint with a large meeting where
12 everybody's always part of the group will be that it
13 will be challenging to give people a fair shake. Some
14 people are much more articulate and vocal than others,
15 and in the interest of fairness, you would want to
16 look around and say, you or you or you have had your
17 first say, I've got nine other people with their hand
18 up, you're not going to get to follow up, because in
19 the interest of fairness, those other nine should have
20 their say. Then if no one wants to speak, we'll come
21 back. I think one of the things, a small group might
22 give you a little more discussion opportunity. I'm
23 just speaking at it from a management viewpoint
24 because you talk about facilitating it. When you have
25 80 people and 30 of them want to speak on a topic, you

1 need to be very patient and walk through those folks,
2 and that's the challenge of kind of maintaining that
3 civil discourse and moving forward. It's a little
4 harder with a bigger group. I earn my money, whatever,
5 you understand what I'm saying. I'm not saying no or
6 yes. I'm saying from this standpoint it's difficult
7 to do it.

8 AUDIENCE MEMBER: That is a meaningful
9 meeting for you to get that kind of input, that kind
10 of involvement.

11 MR. NELSON: At the CAP meeting, you saw
12 that, about that level of involvement I think.

13 AUDIENCE MEMBER: Yes.

14 MR. NELSON: I think more than 30 people
15 spoke there.

16 AUDIENCE MEMBER: I think if you can
17 implement those rules I think it can be well
18 facilitated and intentionally a very good meeting.

19 MR. NELSON: Okay. Any other comments for
20 us tonight? Any other questions? Jim, you've got a
21 couple of slides I know to finish things up here.
22 We're down to 10, 15 minutes. So do you want to walk
23 those things through?

24 MR. SYGO: Basically, you know, again, we're
25 looking for a process that's going to provide again

1 the community information, a process that we're going
2 to receive information from the community, and I
3 think, as Frank mentioned when he was answering a
4 question, irrespective of what we put in place
5 immediately, it's going to evolve. I think as time
6 moves on and as the process moves on with corrective
7 action, it's going to evolve, and we'll have to
8 resolve whatever type of process we put into place.

9 So what's next is we need to take all the
10 comments that we've received tonight, along with on
11 the 17th, and what we'll receive tomorrow night, and
12 we've got to refine the document that we put together
13 that you all have copies of, and we need to
14 communicate that to the communities then. We're not
15 intending on having more meetings about how are we
16 going to meet and how are we going to communicate. I
17 think I've heard more than once, we're sick of this.
18 Let's get on with things.

19 So the way we'll try to communicate this is we'll
20 send out e-mails, but we'll probably also use some
21 sort of insert in the newspapers so that people can
22 read it broadly, and you know, those of you who are
23 regulars will probably receive something that might
24 come directly through on an e-mail, too, but we'll
25 communicate it in different ways. As you know, there

1 are a number of studies that are underway already.
2 Many of those studies are being developed by Dow.
3 Some of them are by DEQ, and we've tried to make all
4 of those available as we're going on. All of these
5 studies we've typically put on the Department's web
6 page. I don't think there are any that we haven't.
7 So if you have access to the website, you can get them
8 in that fashion. There will probably be a time when
9 we probably will try to get a larger distribution of
10 studies -- of certain types of studies when we're
11 getting people -- certain people involved in some of
12 these processes, but for the most part, we're going to
13 try to make studies readily available for people when
14 they were there.

15 And then, finally, one of the big items that we
16 see coming up in terms of a big milestone is the work
17 plan for the Remedial Investigation is due at the end
18 of the year. We expect that, you know, by the time we
19 get this it will be well into our public participation
20 process, but we'd expect also that we're going to see
21 some communication of that plan in some fashion, so
22 that people are aware of it, so that people can
23 comment on it, and we can get some feedback on that
24 plan as well, but this is one of the items that we're
25 doing some work on now. Dow is already doing some

1 work to scope that plan out in terms of what needs to
2 get done. There are some additional efforts that are
3 underway right now with establishing a trustees group
4 for natural resource damages. We are just in the
5 infancy of that process. We hope by the time the work
6 plan is ready to go that they may be able to have some
7 input into that process as well.

8 And I think with that, if you come up with other
9 ideas that weren't discussed at the meeting tonight or
10 if you read the materials we provided you and you have
11 an opportunity to think about this over the weekend
12 and you want to get some additional comments to us,
13 this is our way that you can get to us immediately,
14 either through hard writing, if you're going to mail
15 something, or you can use Cheryl Howe's e-mail
16 address, and Cheryl will make sure that we all get
17 copies of that then, so she'll be the central figure
18 on that.

19 The meeting transcripts from tonight will be
20 finished. We'll take a quick scan of those, but
21 essentially, we'll be putting those on the website as
22 well. If you look under the website under the
23 framework, I think that's where we're putting them.
24 If you want to see something that was discussed at
25 this meeting or one of the other meetings that we've

1 had, that will be available for everybody to look at,
2 too.

3 With that, I'd like to thank everybody for coming
4 tonight. We certainly appreciate your attendance and
5 your efforts and the dialogue tonight. I think it's
6 been very helpful for us. I agree with what some of
7 you said out here. We're not going to please
8 everybody all the time. We're just looking to please
9 some of you some of the time maybe, and hopefully,
10 we'll come up with a process here that most of us can
11 be pleased with.

12 MR. NELSON: Thank you for coming. I
13 appreciate it. Maybe we'll see some of you tomorrow.

14 (Meeting concluded at 8:30 p.m.)

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1 STATE OF MICHIGAN)
2)
3 COUNTY OF SAGINAW)

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6 I certify that this transcript, consisting of 81
7 pages, is a complete, true, and correct transcript of
8 the proceedings and testimony taken in this case on
9 August 24, 2005.

10

11 I also certify that I am not a relative or
12 employee of or an attorney for a party; or a relative
13 or employee of an attorney for a party; or financially
14 interested in the action.

15

16 August 30, 2005

17

Natalie A. Gilbert, CSR-4607, RPR

18

Notary Public, Saginaw County, MI

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My Commission Expires: 8-10-06

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