

## MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

Dowell Schlumberger  
1220 S. Mission Rd., Mt. Pleasant, Michigan

MDEQ Reference No. AOC-RRD-17-001

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### ADMINISTRATIVE ORDER BY CONSENT FOR PAYMENT OF PAST COSTS

A. This Administrative Order by Consent for Payment of Past Costs (Order) is entered into voluntarily by and between the Michigan Department of Environmental Quality (MDEQ); the Michigan Department of Attorney General (MDAG) (collectively, the "State"); and The Dow Chemical Company (Respondent) pursuant to the authority vested in the MDEQ and the MDAG by Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101, *et seq.* All terms used in this Order, which are defined in Part 201 of the NREPA, shall have the same meaning in this Order as in Part 201 of the NREPA.

B. This Order concerns the settlement between the State and the Respondent for the State's past response activity costs, which were incurred by the State in responding to the release or threat of release of hazardous substances at and emanating from the Dowell Schlumberger property, located at 1220 S. Mission Road, Mt. Pleasant, Isabella County, Michigan, Site ID No. 37000137, (the Property). The Property as identified in Attachment A, and any area, place, parcel or parcels of property, or portion of a parcel of property where a hazardous substance in excess of the concentrations that satisfy the cleanup criteria for unrestricted residential use, has been released, deposited, disposed of, or otherwise comes to be located is the "Facility" for purposes of this Order and is subject to regulation under Part 201.

C. Pursuant to Part 201, the State incurred costs in responding to the release or threat of a release of hazardous substances at the Facility. Pursuant to MCL 324.20126a(1)(a), a person who is liable under MCL 324.20126 is liable for all response activity costs lawfully incurred by the State relating to the selection or implementation of response activity. The Respondent to this Order desires to resolve all claims for all past response activity costs that the State has incurred. Settlement of this claim is in the public interest and will minimize litigation.

D. The execution of this Order by the Respondent is neither an admission of liability with respect to any issue covered under this Order nor an admission or denial of any findings of fact or legal determinations stated or implied herein.

E. This Order shall apply to and be binding upon the State and Respondent and their successors. No change or changes in the ownership or corporate status of the Respondent shall alter in any way the Respondent's obligations under this Order. The signatories to this Order certify that they are authorized to execute this Order and legally bind the parties they represent.

BASED UPON THE FOREGOING FACTS AND DETERMINATIONS, THE MDEQ AND THE MDAG HEREBY ORDER, AND THE RESPONDENT HEREBY AGREES, TO THE FOLLOWING:

1. Within sixty (60) days of the effective date of this Order, the Respondent shall pay to the MDEQ the sum of sixty-nine thousand (\$69,000) to resolve all State claims for all past response activity costs for or related to the Facility. For the purposes of this Order, the term "past response activity costs" means all costs that the State has incurred taking or conducting response activities at the Facility, including enforcement costs, prior to the effective date of this Order.

Payment is to be made by certified check payable to the "State of Michigan - Environmental Response Fund" and shall be sent to:

By first class mail:  
Michigan Department of Environmental Quality  
Cashier's Office  
P.O. Box 30657  
Lansing, Michigan 48909-8157

Via courier:  
MDOT Accounting Services Division  
Cashier's Office for MDEQ  
Van Wagoner Building, 1<sup>st</sup> Floor West  
425 W. Ottawa Street  
Lansing, Michigan 48933-2125

To ensure proper credit, payments made pursuant to this Order must reference the Dowell Schlumberger Site, the MDEQ Reference No. AOC-RRD-17-001 and the RRD Account Number

RRD50092. A copy of the transmittal letter and the certified check shall be provided simultaneously to:

As to the MDEQ:

Jeremy Boothroyd, Project Manager  
Saginaw Bay District  
Remediation and Redevelopment Division  
Michigan Department of Environmental Quality  
401 Ketchum Street  
Suite B  
Bay City, Michigan 48708  
Phone: 989894-6249  
Fax: 989894-6259  
E-mail Address: boothroydj@michigan.gov

and to MDAG at:

Assistant in Charge  
Environment, Natural Resources, and Agriculture Division  
Michigan Department of Attorney General  
G. Mennen Williams Building, 6th Floor  
P.O. Box 30755  
Lansing, Michigan 48909  
Phone: 517-373-7540  
Fax: 517-373-1610

Costs recovered pursuant to this Order shall be deposited in the Environmental Response Fund in accordance with the provisions of MCL 324.20108(3).

2. If the Respondent fails to make full payment to the MDEQ as specified in Paragraph 1, the Respondent shall also pay interest, at the rate specified in MCL 324.20126a(3). If the Respondent's payment is more than thirty (30) days past due, the Respondent shall also pay the MDEQ stipulated penalties of Five Hundred Dollars (\$500.00) per day for every day of its noncompliance with Paragraph 1.

3. In consideration of the payment to be made by the Respondent under the terms of this Order, except as otherwise provided in this Order, the State covenants not to sue or to take further administrative or judicial action of any kind against the Respondent under any law for the past response activity costs described and addressed in Paragraph 1. With respect to the Respondent's liability for past response activity costs, the covenant not to sue shall take effect upon the MDEQ's receipt of full payment from the Respondent for the amount specified in Paragraph 1 and any associated interest and penalties that may have accrued pursuant to

Paragraph 2 of this Order. The covenant not to sue applies only to past response activity costs and shall not be construed as a covenant not to sue for any other liability that the Respondent may have to the State for the Facility. The covenant not to sue shall extend only to the Respondent and does not extend to any other person.

4. The State reserves all of its rights under state and federal law to perform response activities and to take enforcement action, including action to seek injunctive relief, the recovery of response activity costs not addressed by this Order, the recovery of natural resource damages and costs incurred to assess natural resource damages, monetary penalties, punitive damages for any violation of law or this Order, and liability for criminal acts.

5. The State expressly reserves all of its rights and defenses pursuant to any available legal authority to enforce this Order.

6. In addition to, and not as a limitation of any other provision of this Order, the MDEQ retains all of its authority and reserves all of its rights to perform, or contract to have performed, any response activities that the MDEQ determines are necessary.

7. In addition to, and not as a limitation of any provision of this Order, the State retains all of its information-gathering, inspection, access and enforcement authorities and rights under Part 201 and any other applicable statute or regulation.

8. Respondent reserves all of its rights and defenses with respect to the State's authorities, rights and defenses described in the paragraphs above.

9. Nothing in this Order shall be construed as releasing or discharging any liability of any person to the Respondent and the Respondent specifically reserves its rights against such persons.

10. The Respondent agrees that all applicable statutes of limitation are tolled until the Respondent has complied with the terms of this Order.

11. Nothing in this Order shall limit the power and authority of the MDEQ or the State of Michigan, pursuant to MCL 324.20119 and MCL 324.20137, as provided for under MCL 324.20132(8), to direct or order all appropriate action to protect the public health, safety, or

welfare, or the environment; or to prevent, abate, or minimize a release or threatened release of hazardous substances, pollutants, or contaminants on, at, or from the Facility.


12. Pursuant to MCL 324.20129(5) and 42 USC 9613(f)(2), to the extent allowable by law and to the extent provided in Paragraph 3, the Respondent shall not be liable for claims for contribution for the matters addressed in this Order. Entry of this Order does not discharge the liability of any other person that may be liable under MCL 324.20126, or Sections 107 and 113 of the CERCLA, 42 USC Sections 9607 and 9613, to the extent allowable by law. Pursuant to MCL 324.20129(9), any action by the Respondent for contribution from any person not a party to this Order shall be subordinate to the rights of the State if the State files an action pursuant to Part 201 or other applicable federal or state laws.

13. This Order shall become effective on the date that the RRD Director signs this Order. All dates for the performance of obligations under this Order shall be calculated from the effective date of this Order. For the purposes of this Order, the term "day" shall mean a calendar day unless otherwise noted.

IT IS SO AGREED TO AND ORDERED BY:

  
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Susan Leeming, Director  
Remediation and Redevelopment Division  
Michigan Department of Environmental Quality

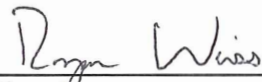
7 May 2019  
Date

  
\_\_\_\_\_  
Laura R. LaMore (P79943)  
Assistant Attorney General  
Environment, Natural Resources, and Agriculture Division  
Michigan Department of Attorney General

5/2/2019  
Date

IT IS SO AGREED BY:

The Dow Chemical Company  
2211 H. H. Dow Way, Midland, MI 48674

  
\_\_\_\_\_  
Signature

4/23/2019  
Date

Ryan Weiss, Counsel EHS  
\_\_\_\_\_  
Print Name

WNJ: 18071945v4

Attachment A

Property Address:  
1220 S. Mission Rd.  
Mount Pleasant, MI, 48859

Legal Description

Parcel 14-010-20-007-00

T14N R4W, SEC 10, COM N 1D 12M W, 1270.2 FT FROM E 1/4 COR SEC 10; TH W, 330 FT; TH N, 74D 09M W, 167.4 FT; TH S 50D 32M W, 272.8 FT; TH S 39D 55M E, 334.6 FT, TH E, 166.4 FT; TH N 1D 12M W 30FT; TH E, 330 FT TO E SEC LN; TH N, 355.2, ALG SEC LN TO POB; EXC E 60 FT FOR ROW; AND EXC COM N 01D 12M W, 1083.11 FT, FROM E 1/4 COR, TH N 1D 12M W, 187.09 FT; TH W, 199.92 FT; TH S 4D 46M 45S W, 95.88 FT; TH S 37D 36M 30S E, 118.32 FT; TH N 89D 5M E, 139.64 FT TO POB

And

Parcel 14-010-20-009-06

COM AT NE COR SEC 10 T14N R4W TH S 00D 47M 10S E 1060 FT TH CONTINUING S 00D 47M 10S E 335.67 FT TH N 89D 35M 10S W 299.2 FT TO POB TH N 89D 35M 10S W 30.80 FT TH N 73D 44M 10S W 167.29 FT TH S 50D 53M 35S W 272.83 FT TH N 39D 30M 10S W 122.36 FT TO A TRAVERSE LINE ALONG THE SLY BANK OF CHIPPEWA RIVER TH N 46D 58M 29S E 344.46 FT TH N 38D 4M 53S E 210.21 FT ALONG SAID TRAVERSE LINE TH N 35D 55M 18S E 66.14 FT TH S 75D 47M 10S E 130.22 FT TH S 47D 26M 06S W 166.26 FT TH S 11D 31M 22S E 284.75 FT TO POB 2.37 A M/L . SPLIT FOR 2018 FROM 20-009-03 TO 20-009-05 & 20-009-06 ALSO 20-009-04 COMBINED FOR 2018 TO 20-009-06