

**MILLER, CANFIELD, PADDOCK AND STONE, PLC**

**EXHIBIT C – DOCUMENTS**

**PACKET #13**



## Briseno, Theresa

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**From:** Baker, Ben (BF) [bfbaker@dow.com]  
**Sent:** Thursday, August 10, 2006 7:43 PM  
**To:** Levine, Jaclyn Shoshana  
**Subject:** RE: Midland - QAPP for BSAP

**Expires:** Friday, August 10, 2007 12:00 AM



QAPP\_DowMOCA\_1  
-23-05\_em2\_DB.F.

Shoshie,

Attached is a copy of the QAPP referred to in the Midland work plan. It was part of the December 29, 2005 RIWP submittal to DEQ.

Ben

**From:** Levine, Jaclyn Shoshana [mailto:levine@MillerCanfield.com]  
**Sent:** Thursday, August 10, 2006 2:16 PM  
**To:** Baker, Ben (BF)  
**Subject:** Midland - QAPP for BSAP

Ben -

I was wondering whether it would be possible to get a copy of the QAPP mentioned in the BSAP - it is referenced in the revised sampling and analysis plan you sent Tom as "CH2M Hill 2005c." I haven't found it online, but if it is out there, I'd appreciate being pointed in the right direction.

Thanks,  
Shoshie

NOTICE TO PERSONS SUBJECT TO UNITED STATES TAXATION:  
DISCLOSURE UNDER TREASURY CIRCULAR 230: The United States Federal tax advice, if any, contained in this document and its attachments may not be used or referred to in the promoting, marketing or recommending of any entity, investment plan or arrangement, nor is such advice intended or written to be used, and may not be used, by a taxpayer for the purpose of avoiding Federal tax penalties.



**Briseno, Theresa**

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**From:** Levine, Jaclyn Shoshana  
**Sent:** Thursday, August 10, 2006 2:16 PM  
**To:** 'bfbaker@dow.com'  
**Subject:** Midland - QAPP for BSAP

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Thanks,  
Shoshie



## Briseno, Theresa

---

**From:** Phillips, Thomas C.  
**Sent:** Monday, July 17, 2006 10:02 AM  
**To:** Levine, Jaclyn Shoshana  
**Subject:** FW: Midland Township Sampling (Away)

-----Original Message-----

**From:** Postmaster@michigan.gov [mailto:Postmaster@michigan.gov] On Behalf Of George Bruchmann  
**Sent:** Friday, July 14, 2006 4:58 PM  
**To:** Phillips, Thomas C.  
**Subject:** RE: Midland Township Sampling (Away)

I will be out of the office July 17 - 21 and will return July 24. If you need immediate assistance, please contact Liane Shekter Smith, Assistant Division Chief, at 517.241.1709 or shekterl@michigan.gov.

>>> PhillipsT 07/14/06 16:57 >>>

Thank you.

-----Original Message-----

**From:** George Bruchmann [mailto:bruchmag@michigan.gov]  
**Sent:** Friday, July 14, 2006 10:35 AM  
**To:** Ben Baker  
**Cc:** Stephen Buda; Cheryl Howe; Deborah Mackenzie-Taylor; Liane Shekter Smith; Jim Sygo; Allan Taylor; adminsupport@sbcglobal.net  
**Subject:** Midland Township Sampling

Ben:

In followup to my July 10th note to you regarding the handling of samples collected from Midland Township locations, and in further consultation with Jim Sygo, Deputy Director, the department has concluded that such samples should be collected under the same sampling provisions as used for samples collected from the City of Midland.

Please note that I have copied the office of the Midland Township Supervisor, Mr. Terry Holt. We have been unsuccessful in our efforts to contact Mr Holt concerning this matter but hope to make that contact next week.

Since Jim Sygo and I will both be out of the office next week, please contact Liane Shekter Smith (517.241.1709) or Steve Buda (517.373.7924) if you have any questions. Thanks.

George Bruchmann, Chief  
Waste & Hazardous Materials Division  
Michigan Department of Environmental Quality  
tel.: 517.373.9523; fax: 517.373.4797;  
e-mail: bruchmag@michigan.gov

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## Briseno, Theresa

---

**From:** Phillips, Thomas C.  
**Sent:** Thursday, July 06, 2006 7:50 AM  
**To:** Levine, Jaclyn Shoshana  
**Subject:** FW: Follow-up to June 20th Conference Call regarding the Sampling and Analysis Plan in Support of Bi  
**Expires:** Wednesday, July 04, 2007 12:00 AM

-----Original Message-----

**From:** Baker, Ben (BF) [mailto:bf baker@dow.com]  
**Sent:** Tuesday, July 04, 2006 8:37 PM  
**To:** Phillips, Thomas C.  
**Cc:** Karl S. Tomion (ktomion@midland-mi.org)  
**Subject:** FW: Follow-up to June 20th Conference Call regarding the Sampling and Analysis Plan in Support of Bi

Tom,

When we talk later this week we can also discuss this respond from De sent late Monday, which I just saw.

Ben

-----Original Message-----

**From:** Delores Montgomery [mailto:montgomd@michigan.gov]  
**Sent:** Monday, July 03, 2006 4:52 PM  
**To:** Baker, Ben (BF)  
**Cc:** gdyke@ch2m.com; Gustafson, David (DW); George Bruchmann; Stephen Buda; Cheryl Howe; Deborah Mackenzie-Taylor; Liane Shekter Smith; Jim Sygo; Allan Taylor  
**Subject:** RE: Follow-up to June 20th Conference Call regarding the Sampling and Analysis Plan in Support of Bi

Ben,

We have reviewed Dow's responses and have the following acknowledgments/comments (**in RED**). Based on the modifications agreed to (the previous June 26th approval of the revised Section 3.5 and per approved revisions in this response) Dow should submit a revised version (or revised pages) that incorporates all the necessary changes by July 12, 2006, in order for us to approve a final BSAP submittal, without any modifications.

Please direct these revisions to the project manager, Cheryl Howe.

### MDEQ's original June 21st BSAP review comment to Dow

1. The List of Additional Chemicals - Table 2-3 may need to be revised due to on-site PCOI sampling and utilizing a similar comprehensive process for parameter selection that has been developed for the Tittabawassee River parameter list.
- A deadline to consider for submitting Table 2-3 replacement pages could be by August 1st.

### Dow's June 26th RESPONSE TO ADDITIONAL CONCERN #1

Dow agrees that an identification and selection process similar to what was used for the Tittabawassee River might be appropriate in the development of the TAL for the Midland RIWP. However, for this pre-RI work Dow believes there is neither the time nor the need for a similar selection process to develop the TAL for the BSAP. We agree that it is desirable to set a deadline to finalize the target analyte list in Table 2-3 in the BSAP. However, to set a deadline of August 1, 2006 as that deadline is something that we cannot agree to since we don't know when the DEQ and contract laboratory work will be completed. The addition of additional chemicals to the list proposed in the BSAP will be based upon the results of the on-site sampling conducted by the DEQ the week of June 5, 2006. The process to add additional chemicals were proposed in the BSAP in Section 2.2.2.1 and once the analytical results from the DEQ sampling event have been evaluated using that criteria Table 2-3 can be updated and finalized. If the DEQ wishes to have an internal deadline of August 1 to complete that evaluation, Dow is fully supportive of that goal, but Dow cannot commit to a date which is beyond its control.

### **MDEQ 7/5 Response - Understood.**

### MDEQ's original June 21st BSAP review comment to Dow

2. Under Section 2.1 of the sample Design, page 2-2, we would like to further discuss the merits of sampling the Michigan Cogeneration Venture cooling water ponds. As pointed out at one of the earlier meetings, we see this being a unique opportunity to evaluate this 'air depositional transport mechanism' in that the ponds were constructed in 1976. By sampling the sediments, this may give us all a better understanding or confirmation on when the major dioxin release time occurred - pre or

post 1976. This information does appear to be applicable to fate and transport analysis.

Dow's June 26th RESPONSE TO ADDITIONAL CONCERN #2

We have considered MDEQ's request to include sediment sampling in the MCV cooling water ponds in the BSAP. As noted in the BSAP, we do not feel that these data are necessary to meet the study objectives. These objectives are adequately addressed by the soil sampling that is proposed. MDEQ has suggested that the sampling might help inform our understanding of the timing of the major dioxin and furan releases to the atmosphere as either pre or post 1976. While sediment sampling may or may not help inform this issue, the timing of releases to the atmosphere is not an objective of the BSAP and does not appear to critical to any of the key decisions that need to be made.

**MDEQ 7/5 Response - the MDEQ continues to not understand Dow's reluctance and unwillingness to include this unique sampling circumstance for a possible time indexing of the air depositional transport mechanism. The Midland BSAP is intended to accomplish a few multiple RI steps in addition to the fundamental soil bioavailability study. With the air depositional time indexing opportunity, possibly some of the future IRA work or additional data gap sampling or final remedy actions may provide a basis to select/prioritize/negate work in areas that have had surficial soil/land features modified since 1976 (if sampling were to indicate this to be a low air depositional period). This pond sediment data compared with nearby radian sampling stations, may demonstrate that these qualified properties are of less concern. Possibly during the BSAP a descriptive qualifier (e.g. re-landscaped) could be included in the property sampling for this potential correlation.**

**Again, the MDEQ does see this sampling information to be applicable to 'fate and transport' analysis. Although the radian sampling design would likely result in 6 boxes for sampling, we could consider the cooling pond as one large property and go with as few as 3 randomly selected sediment samples.**

**If Dow continues to ignore requests for sampling of the Consumers Pond, the DEQ may choose to sample this area independent of the sampling plan.**

MDEQ's original June 21st BSAP review comment to Dow

3. At the end of Section 2.4.2 a paragraph should be added to lay out an option for review of the City of Midland data based on approval of site specific criteria.

Dow's June 26th RESPONSE TO ADDITIONAL CONCERN #3

We are providing proposed language to be added to Sections 2.4.1 and 2.4.2 to address your concern regarding review of the data following approval of the site-specific cleanup criterion. Additional text in capital letters is proposed to be inserted as follows:

Section 2.4.1, page 2-9: "Upon receipt of the analytical results, the Dow contractor will review the data and identify any samples in which dioxin and furan toxic equivalent (TEQ) concentrations exceed 1,000 parts per trillion (ppt). In cases where TEQ values exceed 1,000 ppt, Dow will notify MDEQ and the third party so that the appropriate landowner can be identified and notified of the property's eligibility for interim action. FOLLOWING APPROVAL OF SITE-SPECIFIC CLEANUP CRITERION (SSCC) FOR DIOXINS AND FURANS, THE DOW CONTRACTOR WILL REVIEW THE DATA AND IDENTIFY SAMPLES THAT EXCEED THE SSCC THE NEW CRITERIA AND NOTIFY MDEQ AND THE THIRD PARTY SO THE LANDOWNER CAN BE IDENTIFIED."

Section 2.4.2, page 2-9: "As with the residential property stations in the City of Midland, the Dow contractor will review the analytical results to identify any locations in which TEQ concentrations exceed 1,000 ppt. If exceedances are identified, Dow will notify the landowner and MDEQ of the property's eligibility for interim action. FOLLOWING APPROVAL OF SITE-SPECIFIC CLEANUP CRITERIA FOR DIOXINS AND FURANS, THE DOW CONTRACTOR WILL REVIEW THE DATA AND IDENTIFY PROPERTIES THAT EXCEED THE NEW CRITERIA AND NOTIFY MDEQ."

EXPLANATION - Although we are willing to add this language to address MDEQ's concern, we feel it is unnecessary. The sections for the requested clarification discuss notifications so that interim actions may be taken. The action level for interim action is specifically defined as 1,000 ppt TEQ as contained in the MDEQ approved Midland Area Soils Interim Response Activities Work Plan. Development of a site-specific criterion does not change the action level for interim action. The site-specific cleanup criterion will be used in the development of final corrective actions that will be established as part of the RI/FS process and all properties eligible for corrective are already required to be notified.

**MDEQ 7/5 Response - Understood, but MDEQ felt it appropriate to more clearly distinguish the IRA response level (1000 ppt) from the ultimate purpose of the BSAP which is for the determination of a site-specific criteria as part of the RI/FS process and final remediation. The additions that Dow has proposed above (in caps) are acceptable.**

-----Original Message-----

**From:** Delores Montgomery [mailto:montgomd@michigan.gov]

**Sent:** Monday, June 26, 2006 10:30 AM

**To:** Baker, Ben (BF)

**Cc:** gdyke@ch2m.com; Gustafson, David (DW); George Bruchmann; Stephen Buda; Cheryl Howe; Deborah Mackenzie-Taylor; Liane Shekter Smith; Jim Sygo; Allan Taylor

**Subject:** RE: Follow-up to June 20th Conference Call

Ben,

Our review of Dow's language for a new 'Section 3.5 Data Gaps' to the June 2006 Sampling and Analysis Plan in Support of Bioavailability Study, Midland Area Soils (BSAP), has found the proposal to be acceptable. This provides an adequate description for potential follow-up sampling that may be needed during the BSAP. It is also understood that the process is laid out for the bioavailability soil analysis and D&F analysis (for the bioavailability study) and any other potential Dow-related hazardous substances identified in Midland area soils will be evaluated through the RIWP process.

We look forward to receiving the responses being prepared to address MDEQ's additional comments provided in the June 21st e-mail.

De

DeLores (De) Montgomery, Unit Chief  
Technical Support Unit  
Hazardous Waste Section  
Waste and Hazardous Materials Division  
Michigan Dep't. of Environmental Quality  
[montgomd@michigan.gov](mailto:montgomd@michigan.gov)

517-373-7973

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517-373-7973

fax 517-373-4797

>>> "Baker, Ben (BF)" <bfbaker@dow.com> 6/22/2006 9:58 AM >>>

De,

We appreciate you organizing the conference call with TERA, MDEQ, and Dow on June 20th regarding the ISAP charge and your follow up e-mail summarizing the call and providing some additional comments from MDEQ on the June 2006 Sampling and Analysis Plan in Support of Bioavailability Study, Midland Area Soils (BSAP). We are pleased that Dow and MDEQ have reached agreement that it is appropriate for the ISAP to review questions concerning population/distribution/representation after the initial sampling is complete and data are available. It is our understanding that MDEQ and Dow will each be providing proposed of ISAP charge to TERA and that they will take the lead on preparing a charge that is acceptable to both MDEQ and Dow.

We have responded to MDEQ's request regarding the inclusion of text in a new Section 3.5 to indicate that sampling will be an "iterative process" and have included proposed text, along with an explanation of our approach below. Additionally, we are preparing our responses to MDEQ's additional comments provided in your June 21st e-mail and will provide them to you shortly.

Please let me know if the proposed additions to the BSAP are acceptable to MDEQ and we will proceed with updating the plan.

PROPOSED TEXT FOR NEW SECTION 3.5

"Section 3.5 Data Gaps

Following the collection of data and subsequent analysis it may be determined that data gaps exist that may need to be addressed prior to finalizing the Bioavailability Work Plan. Any data gaps identified that affect the ability to select representative soils for use in the Bioavailability Study will be communicated to the MDEQ prior to submission of the work plan in order to identify actions necessary to fill the data gaps. Actions that might be identified include: collecting additional samples

6/21/2007

or conducting additional or different laboratory analyses.

Samples collected to develop additional information on the nature and extent of dioxin and furans will be incorporated into the development of the Remedial Investigation Work Plan and any data gaps identified will be incorporated into sampling proposed as part of that plan. Similarly, sampling to determine whether additional Dow-related hazardous substances are present in Midland area surface soil will be incorporated into the development of the Remedial Investigation Work Plan."

EXPLANATION FOR SECTION 3.5 - We feel that MDEQ's concern can be best categorized as a data gap and that is important to tie analysis of data gaps directly to the study objectives listed in Section 1. The study objectives were agreed upon by MDEQ and Dow in our meeting on the sampling and analysis plan on April 20th and presented by mutual agreement at the community meeting on May 9th. We deliberately chose to not to use the term "iterative" in the proposed text because of sensitivity in the community surrounding multiple rounds of sampling and trust that the proposed language addresses your concern that the plan indicate that additional sampling might be necessary. We also wanted to clearly separate data necessary for preparing the Bioavailability Work Plan from data needs that will be captured under the RI Work Plan process.

Ben Baker

-----Original Message-----

**From:** Delores Montgomery [mailto:montgomd@michigan.gov]

**Sent:** Wednesday, June 21, 2006 1:02 PM

**To:** Baker, Ben (BF)

**Cc:** gdyke@ch2m.com; Gustafson, David (DW); George Bruchmann; Stephen Buda; Cheryl Howe; Deborah Mackenzie-Taylor; Jim Sygo; Allan Taylor

**Subject:** Follow-up to June 20th Conference Call

Ben,

In follow-up to yesterday's conference call, I wanted to thank you for your patience in clarifying the sample design and population analysis in relation to the review charge of the independent science review panel (TERA). As I tried to confirm during the call, the DEQ is very satisfied with the sampling design, but figured it was open for independent review. Your point to get the initial sampling data and then have the independent review of the sample population/distribution/representation makes very good sense and maintains time efficiency. The addition of a Section 3.5 addressing the iterative process will add to the clarification of this work plan.

As for other comments from the DEQ review, that do not need to go through the peer review process (at this time), we would like to present the following items which we can discuss further:

1. The List of Additional Chemicals - Table 2-3 may need to be revised due to on-site PCOI sampling and utilizing a similar comprehensive process for parameter selection that has been developed for the Tittabawassee River parameter list.

A deadline to consider for submitting Table 2-3 replacement pages could be by August 1st.

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3. At the end of Section 2.4.2 a paragraph should be added to lay out an option for review of the City of Midland data based on approval of site specific criteria.

Again, thank you for your time and let me know if you'd like to set up a meeting or conference call to discuss these issues.  
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517-373-7973  
fax 517-373-4797



## Briseno, Theresa

---

**From:** Phillips, Thomas C.  
**Sent:** Tuesday, June 27, 2006 8:12 AM  
**To:** Levine, Jaclyn Shoshana  
**Subject:** FW: Follow-up to June 20th Conference Call  
**Expires:** Tuesday, June 26, 2007 12:00 AM

FYI

-----Original Message-----

**From:** Baker, Ben (BF) [mailto:bfbaker@dow.com]  
**Sent:** Monday, June 26, 2006 1:13 PM  
**To:** Phillips, Thomas C.  
**Cc:** Karl S. Tomion (ktomion@midland-mi.org E.mail)  
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De

DeLores (De) Montgomery, Unit Chief  
Technical Support Unit  
Hazardous Waste Section  
Waste and Hazardous Materials Division  
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DeLores (De) Montgomery, Unit Chief

6/21/2007



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