

This document summarizes information received at a meeting on the Framework for an Agreement between the Michigan Department of Environmental Quality and The Dow Chemical Company held April 7, 2005. The DEQ will compile and respond to the questions after all meetings have been completed so that one document can group and effectively respond to the issues raised. The notes and responses to questions from all meetings will be posted in the DEQ website as the documents become available.

COMPILED NOTES SUMMARY
Saginaw Dioxin Community Focus Group Meeting
Department of Environmental Quality (DEQ)/The Dow Chemical Company
(Dow)
Horizon Center, Saginaw

April 7, 2005

Chuck Nelson, Facilitator

Invited participants at table. Approximately 100 public observers seated in audience. Minutes taken to capture comments, but comments not attributed to participants.

DEQ Director Steve Chester noted that this was one of four convening meetings. The last convening meeting will be held on April 14 in Bay City. The purpose of these meetings is to brainstorm on tools; e.g., DEQ and Dow have been advised to take a tiered approach, from small to larger groups, in communicating about the issues and the process for addressing them.

The meetings are looking at how to implement the hazardous waste operating license issued to Dow in 2003.

The process of consulting stakeholders on the Framework for an Agreement Between the State of Michigan and Dow (Framework) for the remediation of dioxin contamination in Midland, along the Tittabawassee River, the Saginaw River, and Saginaw Bay took longer than ideal; because it was started in the summer when it is difficult to reach people and get them out to meetings. So the process was not really underway until the fall.

Dow Vice President and Director, Michigan Dioxin Initiative, Susan Carrington thanked participants for their time and effort in coming to the meeting. She noted that many competing interests need to be heard. The meeting is to address how those competing interests can be brought together to build an effective process for addressing the issues.

Chester: The Framework is an outline only. Now the process is back in the public domain, and we want your input. The three affected areas are:

Midland

Tittabawassee Flood Plain and Upper Saginaw River

Lower Saginaw River and Saginaw Bay

Under State law, 90 parts per trillion (ppt) of dioxin triggers a cleanup. But the intervention level for Interim Remedial Actions (IRAs) is 1,000 ppt. IRAs have been underway since late 2003.

The bioavailability study is to determine if assumptions made about the availability of dioxin in ingested soil for soil contamination are correct. It could be a higher or lower number than the 50 percent assumed in the algorithm used to calculate the cleanup criteria.

Questions and Comments

Q: Is there funding available for additional soil sampling?

Chester and DEQ Deputy Director, Jim Sygo: Yes. If the process for addressing the dioxin issue is going to succeed, we have to have effective public involvement and community acceptance, which is why we are here. The federal government also has a stake; and federal agencies need to be involved. Some floodplain soil sampling was recently conducted in partnership with the Great Lakes National Program Office (GLNPO) under a grant to the DEQ.

Q: Why not reinstate the DEQ Community Advisory Panel (CAP) and open it up to more people?

Q: I am not clear on the difference between the generic residential criteria of 90 ppt and 1,000 ppt as triggers.

Chester: The ATSDR set a trigger of 1,000 ppt for certain actions. 90 ppt is the cleanup trigger under Michigan's Part 201¹ regulations. 90 ppt was calculated using an algorithm that is similar to the Federal government (U.S. Environmental Protection Agency) algorithm and that of other states.

The facilitator noted that the meeting was being recorded by TV news stations. Participants applauded. The facilitator asked if there were any objections to the presence of TV cameras. There were no objections.

Q: The ppt numbers are based on theoretical studies. Will the results of the bioavailability study influence the standards?

¹ Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

Chester: The algorithms are not based on theoretical studies. There have been thousands of studies. The bioavailability study is intended to indicate whether assumptions in the algorithm are accurate (e.g., percent soil ingestion).

Q: We are here to study the real world.

Chester: The University of Michigan (UM) blood study will provide valuable information, but is not intended to change the algorithms. There are other ways to look at assumptions. Dow has an opportunity to pursue site-specific criteria.

Q: The Framework is a huge deviation from the Scopes of Work/IRAs Dow has done in the past. Why did you go behind closed doors in June of last year?

Chester: I disagree that it is hugely different. In June of last year, there was a lot of noise. There was no opportunity for DEQ and Dow to have an honest discussion. It was necessary to go behind closed doors to do this. But the process is now back in the public domain. I agree that the process has been slow. The Framework was never intended to be a comprehensive consent order or a detailed schedule, but an outline for a process for going forward.

Q: Is the hazardous waste operating license still a guiding document? It provided a schedule of what Dow is supposed to do. This nebulous Framework is a huge deviation. The November press release by the DEQ and Dow stated that before there is any agreement on a cleanup, there has to be public comment. There has to be trust between DEQ, Dow, and the public. That trust is not there.

Chester: That is a fine point. We need to build trust among all stakeholders. How do we do outreach to the public?

Q: I take the opposite view. I want to thank the Lieutenant Governor and Steve Chester for moving forward in this way vs. having a large emotional audience. The most vocal people do not speak for all the residents on the river.

Q: Who is really complaining? Who has been harmed?

Q: (Invited Stakeholder) I have, but I do not want to discuss it here. I will take it up with Dow in court.

Q: (To another invited stakeholder) Who do you represent?

Q: Myself. People cannot eat fish from the river, it is contaminated with dioxin. The tributaries, the Great Lakes, they belong to the State of Michigan, to all of us.

Q: Personally, I think this is another cynical breast implant situation. Dow is very important to business in Michigan and the community. I think (those raising the

dioxin issue) are trying to destroy a corporation that provides a lot to Michigan. My business group is willing to buy every house on the river.

Q: What is the process for testing and disposal of any soil found to be contaminated? So far you are telling me this material will be going in my backyard. A clay lined pit is not good enough. That material does seep out. I represent a tiny township and want to protect the next generation and the one after that.

Sygo: Soil disposal is a broader issue.

Q: I have already lost one wife to Hodgkins Disease. How do we take care this does not happen to the next generation?

Sygo: Once the bioavailability study is completed, we will be able to determine what the acceptable concentration level is for residential properties as a result of this site-specific evaluation. The number would be used to set an alternate cleanup criteria. Setting a number that is acceptable for disposal in the dredge management disposal facility will be determined based upon the U.S. Army Corps of Engineers completion of a hydrological study to evaluate whether that material could leach out into groundwater and the Saginaw River.

Q: Is there going to be a select group of contractors to do the cleanup, or just anybody with a truck and a backhoe.

Chester: It will not be just anybody with a truck and backhoe.

Q: Is there a list of (qualified) contractors? Will standards be set up? Would flood sediment need to be tested to see if it meets criteria?

Sygo: The cleanup would have to be conducted by a contractor responsible to Dow. Then it would have to be verified, with subsequent testing under the Remedial Investigation (RI), whether that land is OK for a particular use e.g., recreational. The IRAs are intended to reduce exposure at or greater than 1,000 ppt. If an IRA has been done for land that was flooded and there is another flood, Dow has to go back in and do the same thing.

Q: Imerman Park floods all the time. What about flood event sediment?

Sygo: Dow has to go back in and do an IRA annually, or whenever a flood happens. In the case of a roadway, they remove the material. Soil barrier controls would have to be replaced until the final remedy.

Suggestions:

P = Invited Panelist

O = Public Observer

P: DEQ is not coming to us (at the township or county levels) on a regular basis. There should be links at all levels, from the local up to the federal level. The more you tell us, the easier it is for me as a (township) supervisor to tell my neighbor. Send information by mail or email, so I get it directly. Information is not coming down to us at our level. It is very difficult for me, or my clerk, to answer questions about what is going on out there in the river. I don't operate a computer, but spend 37 cents and mail it to me.

Facilitator: Would a web site be useful or attending township board meetings, for example?

P: There is a number of ways. You could sit and chat with me in my backyard. I do not use a computer.

The facilitator indicated to panelists and public observers that if they do not want to raise a question or comment here at the meeting, they can write it on a card.

P: I am not in favor of a CAP in its previous form. We need a neutral moderator. The best CAP meetings were when somebody came to ask a specific question or had a specific thing to inform us about (results of studies or specific actions). A neutral facilitator and a specific agenda.

Chester: Should there be final reports and presentations to community meetings?

P: Absolutely. But the first group reported to should be those with houses on the River (contaminated property). Also, you should consider letting people know through local units of government.

P: I would like to see the DEQ CAP come back with an independent facilitator and would like to see Dow participate without specifying what will or will not be on the agenda. I fault the Governor for not bringing the Framework back to the CAP. We need to build on the CAP and include those other stakeholders.

Chester: One CAP for all three areas, or several CAPs?

P: One CAP with representation from the Tri-Cities. Open up meetings to the public for specific issues; like was done for the General Motors PCB Middlegrounds landfill process; these would be town hall meetings. Regarding other stakeholders, Sue [Carrington] knows the list of people you have already talked to. Native American tribes, chambers of commerce, farm bureaus are missing from the CAP. Put an ad in the paper or use public service announcements to invite stakeholders to join the CAP.

Chester: Actually, we do not know all the stakeholders, as we learned at the Midland meeting, e.g., church congregations, local Rotaries, Kiwanis clubs, etc.

P: There was controversy on whether the CAP should allow cameras or not. Some UM CAP statements from the audience were reported widely, then retracted. The original CAP rules were no media inside the meeting room. I heard several misstatements tonight. This kind of statement gets out and then has to be corrected.

P: That is democracy. It happens. The process has to be open and public to cover people who cannot be there.

Facilitator: The point has been made about the need for free and frank discussion of issues. Who else should be here?

P: You are just addressing organizations, but everybody who uses the resources is a stakeholder. (Regarding media presence at meetings) I have nothing to hide myself.

Chester: In the Bay area, recreational users and fishermen are stakeholders. Are there any particular organizations?

P: Field and Stream (club) in Saginaw.

P: Michigan Duck Hunters Association, Saginaw Walleye Club, Michigan Fishing Association and hunting/fishing associations in Carrollton, Zilwaukee, Sebewaing and Linwood.

Facilitator: Would additional town hall meetings be helpful?

P: Yes, additional town hall meetings would be good.

P: A lot of effort has been put forward to contact groups to bring people out to meetings. Finding key individuals to participate is difficult. There are many stakeholders with a strong lack of interest. It is important to select people who would attend consistently. But folks could be interested in a longer-term process. I note that Field and Stream is not here.

Facilitator: I will check to see if they were invited.

P: I am more concerned with the direction the Framework is going in. If you set a precedent of 1,000 ppt as an intervention level for certain actions, does it become an acceptable benchmark for cleanup in general (replacing the 90 ppt level)? And what is the impact if legislative action blows up the whole Framework? I am concerned that you may be doing things that are not in the best interests of the community and future generations.

O: I am one of the great unwashed; those are the people you have to reach. There are about 43,000 people in the Saginaw area. Most know nothing about this topic; those are the people to reach. You will not reach them through clubs. Twenty-five people at large should be invited to each of these meetings. Each township should put together such a group to come to these meetings and report back to their community.

Facilitator: You mean a cross-section of citizens vs. opinion leaders?

O: A cross-section, right. The worse thing is people saying I heard this, I heard that (rumors and misunderstandings spreading). That is the last thing Saginaw County needs.

O: Send the information to the people most directly affected; and the people that are hurt (by exposure to dioxin) ought to be on record and write (about how they were affected) to DEQ and Dow. They should put it down on paper so it is specific, not emotional.

Facilitator: Communication is a two-way street.

O: Put meeting announcements in the Township Times.

Facilitator: Announcements in public venues, such as parks or the wildlife refuge?

P: We have sent letters to all our hunters on specific issues to address concerns related to the consumption advisory, e.g., on what eating does and the potential exposure to dioxin. We got quite a few questions about what eating fish does, and so we sent out the letter as outreach for hunters along the river.

P: A lot of people do not know what to believe. They are becoming comfortable with the 1,000 ppt threshold. But I participate in the monthly ASTDR call and the ASTDR said they are going to drop the cleanup trigger to 50 ppt. Why is that not being brought up?

P: What is the difference between 90 and 1000 ppt as action levels? I do not think people are always clear on the finer points. I think there is some misunderstanding.

P: Questions with frank answers should be posted on websites, but somebody will need to scrutinize what is put there.

Facilitator: An independent reviewer?

Chester: Toxicology Excellence in Risk Assessment (TERA) is an independent reviewer for the bioavailability study.

P: After three years nobody is seeing any action. You need to dredge the river first. You cannot just cover old soil with new.

O: How about the people here who are not allowed to speak?

P: In getting information out, use newsletters with web links. High school, county, and township web sites should be linked to the Framework site, so people do not have to remember the name of the site.

O: I've got 2000 signatures of sportsmen on a petition [he did not specify what the petition said].

Facilitator: I would encourage you to submit those signatures to the DEQ.

P: Send information to realtors' associations and home builders' associations.

P: And to organizations that sell fishing licenses.

P: Media may be willing to run some public service announcements in leftover space. A lot of the people behind me who have made the effort to come and cannot speak feel alienated. It is not fair.

Chester: That was my idea. We could have jumped to the town hall meeting first. I do not know how to do that in an effective manner. So I said let's begin by contacting the people we do know. We (at DEQ) are not the font of all knowledge. We have heard new ideas from the invited stakeholders, e.g., taking a tiered approach in our outreach, new information resources; a lot of good has come out of the approach we have taken. This is not the end of public consultation, but the beginning.

P: The invitation list included four representatives from Saginaw City; you do not need four representatives from one city, but I am glad to see Commissioner Doyle.

P: County Commissioner involvement is important.

Facilitator: Is it OK to open up the discussion to include audience participation?

(All invited participants agreed.)

P: The former CAP had enormous diversity already in place. Meetings were open and well advertised.

P: But new stakeholders were not attending the CAP. The CAP may have provided good value, but you have to reach beyond it, if you want to broaden the

public understanding. The Framework needs to be understood by people other than attorneys.

P: Use TV and newspapers more (to announce meetings and communicate information).

O: I am a cancer survivor. Regarding the point about the people affected writing their experience down, it takes 20 or 30 years before exposure effects are evident.

P: School awareness is needed.

O: Dow is being blamed for all the dioxin. What about all these people using plastic siding, burning wood, the slaughterhouse kilns and other sources of dioxin?

P: Dow did a good job of cleaning up our park (Imerman Park). I was on the CAP for two years. We got good information from the DEQ. Why are we now starting back at square one?

Chester: We are not starting at square one. But to move forward from this point, we want public input into proposing remedial actions. Cleanup under corrective action is sequential.

P: How much more time before starting these actions?

Chester: The operating license does not have firm dates. It calls for review and comments on work plans. The schedule will vary among Midland, the Tittabawassee River (a long-term project), and Saginaw Bay.

P: It would be great to have a time frame.

P: Is it 10, 20, 30 years? The river is polluted and has to be cleaned up. How much more research do we need?

Chester: Corrective action is a process. There may not be as much data as you believe. The operating license of 2003 laid out a reasonable process for moving forward for the three areas, but we cannot put a time frame on it.

P: Regarding the CAP, I hear it was valued. But now we are dealing with different issues; we need three, perhaps four CAPs, and perhaps an umbrella CAP. Stakeholders have a divergence of issues.

P: Does the license require Dow to provide scopes of work and a detailed schedule?

Sygo: Under the Framework, the scopes of work have been broadened for the Saginaw River. IRAs, for which there are time frames, have been issued. It also requires a remedial investigation work plan by the end of this year and has a schedule for the Current Conditions Report. There will also be studies not identified in the license that will feed into the remedial investigation.

P: With multiple scopes of work and IRAs, do not your (DEQ) staff have to review them? This is as much a challenge to your staff as anything else. Dow, you have all the people and money needed to do this? This makes it difficult to set short timelines.

Sygo: That is absolutely correct. Contributions have occurred over many years. A cleanup will take many years. The Rouge project took five years for a smaller project. There is not only the Dow plant to be looked at, but other sources of dioxin as well. This is a long, laborious task that will not be completed in five years. But significant first steps have been taken. The IRAs are very important in moving forward. We are concentrating principally on interim actions to protect mostly residential areas.

P: Where is the Michigan Department of Community Health in all this? The warning signs in parks are not big enough. I am glad the wildlife refuge sent information to hunters. How will the Stroebel Road be addressed?

P: Our quarterly newsletter to hunters talked about dioxin. We are going to put signs on our parking lots and are using newsletters to go beyond the hunters.

P: But Joe Blow is probably not on the (Wildlife Refuge) mailing list. Every time the Refuge is flooded a lot of area is under water (there is potential contamination). Are there wash stations in the refuge?

P: No. I am not sure it is the (Wildlife Refuge's) place to issue a news release on this issue.

Sygo: We have now resolved the language on signs. The signs will be paid for out of an escrow account set up by Dow. The making of the signs is in progress and, as soon as they are available, we will put them up at parks and boat launch areas. The signs talk about soil contamination and the game affected. These are larger signs.

O: Are there wash stations in the Wildlife Refuge like in Imerman Park?

Carrington: I will find out and get back to you.

O: You are trying to establish who stakeholders are. But anybody can be a stakeholder. It is impossible to define stakeholders. But thank you for holding this forum.

O: I compliment you on progress to date. Maybe you should concentrate more on the Tittabawassee area and finish the Tittabawassee River studies before the Saginaw River. Saginaw River people want Tittabawassee River progress - they are busy taking care of the Confined Disposal Facility issues right now. Why not wait until 2006? Tittabawassee people would come out more if they thought it would make a difference in their area. Residents are up-in-arms. Why not start dredging now?

P: You need to reach every sport group in the State. Fishing/Hunting Digest would be one vehicle.

P: The river has been dredged since people first came to this area. Why not put dredge spoils in the same spot? Information on these decisions is needed.

O: Outdoor grills, etc. are sources of dioxin. Trying to blame Dow for all the dioxin is crazy.

P: Both Dow and DEQ need a reality check on the timeline for a cleanup. And the public needs a reality check to understand that this is a lengthy process. People are saying you cannot trust a Dow study. Lack of trust is not any good in the long run.

P: The new signs will be a lot better than the ones there now. The Department of Community Health is developing a specific fish advisory for the Tittabawassee River/Saginaw Bay watershed that will be available at license outlets.

The Michigan Department of Community Health and the Watershed Information Network have four teams of students interviewing fishermen.

Facilitator: I want to express appreciation to everyone for coming out to this meeting, and for being civil. DEQ and Dow want to find ways to reach out to all the stakeholders here and the many stakeholders who are not here. They will work diligently to get more information out.

Compiled from notes taken by Francis Gillis (Dow Contractor), Terri Johnson (Dow), Terry Walkington (DEQ), and Cheryl Howe (DEQ).

Comments/Questions to be answered from the April 7, 2005 Meeting

1. Not filling the seats on the invitation table is wrong and goes to show that DEQ does not really want public input. Better selection for public input. The public has lost all trust in DEQ. Falsified numbers are a major part and taking Dow's side.
2. Wide range of representatives; townships – residents from CAP Panel! Three years involved - county – parks commission members have a stake in this – not always the politicians. Residents, residents, residents – communications works best; gain Trust. Not including the CAP Panel – Residents – makes them have distrust in whole process.
3. Who would administer so called trust fund? Hopefully not politicians ideas conservative (Clerical note: not sure if this is what the writer meant) groups etc.
4. Crying about public input. Well why not take willing people out of this room. There are individuals on the board tonight. Lady sitting on the end that was invited by the gentleman next to her. Why is that?

**Submitted April 7, 2005 to DEQ (C. Howe) Horizons Conference Center
Questions on the Framework**

Why did the State and Dow go behind closed doors to the exclusion of everyone else?

We were told Dow's consultants do not like the DEQ CAP. Is this influencing your decision to not reconvene the DEQ CAP?

Why was the framework not brought to the public and the DEQ CAP before it was signed? The Lt Governor stated in his November 4th Press Release that he would do this. Why didn't it happen?

We have been told the Framework is a better alternative than going to court with Dow. We have been told that Dow threatened to sue the state. On what grounds?

Pursuant to Dow's License, Dow is required to submit Scopes of Work and a detailed Compliance Schedule. Where are they in the Framework?

How does the Framework address the EPA's RCRA Corrective Action Environmental Indicator goal of "no significant human exposures"?

Director Chester stated in January 2002 that the Dow Corrective Action License was the mechanism by which Dow was legally bound to address their contamination. Yet the Scopes of Work are in limbo and the aggressive timelines established have been derailed. Why? Section XI 3(b) states, The SOW must describe the proposed phasing and prioritization of work in a schedule based on consideration of potential risk to human health and the environment. Dow's license was issued almost two years ago? Where is the schedule?

In December of 2003 Dow was issued of NOD on their Scopes of Work. In February 2004 Dow resubmitted their SOWs and DEQ has yet to respond. Why? The Scopes of Work are part of the license.

The Scopes of Work are mandatory pursuant to Dow's license. Is DEQ going to require them? If so when. If not isn't that a modification of the license, subject to public hearings?

The Dow License states that the IRA'S will be issued in a timely manner. What is a timely manner?

The Framework identifies signs to be posted at parks in Saginaw County but not in Midland. Why?