

**Lone Tree Council**  
**P.O. 1251, Bay City, Michigan 48706**  
*(Fighting for environmental justice since 1978)*

**FOR IMMEDIATE RELEASE**

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**Groups Charge EPA is Poised to Cut Deal With Dow Chemical In Waning Days of Bush Administration**

National and regional environmental organizations strongly objected today to closed door negotiations to reach an agreement on the largest dioxin contaminated site in the country. Dow Chemical, the world's largest chemical company, has contaminated more than 50 miles of river downstream from the company's global headquarters in Michigan. In a letter sent to EPA Administrator Stephen Johnson, groups including Waterkeeper Alliance, the Michigan Environmental Council, Michigan's Sierra Club, Clean Water Action and the League of Conservation Voters allege the proposed process could result in an agreement that reduces the protectiveness of the cleanup, weakens the government's hand in requiring timely action, curtails public input and reduces government transparency and accountability.

"Every single one of our nation's environmental laws was built on a foundation of transparency and public participation," stated Waterkeeper Alliance Chairman, Robert F. Kennedy, Jr. "EPA's attempt to circumvent that fundamental approach is an attack on the very cornerstone of our democracy."

The EPA and the Michigan Department of Environmental Quality (DEQ) launched the private negotiating session with Dow with the intent of negotiating an agreement under the non-regulatory Superfund Alternatives Sites (SAS) program. This would change the way the cleanup would be administered. Currently the site is administered through requirements in an existing State hazardous waste permit.

"The best disinfectant is always sunlight," said Lana Pollack, Director of the Michigan Environmental Council. "The best disinfectant is always sunlight," said Lana Pollack, Director of the Michigan Environmental Council. This is public health issue and the public has a right to be at the table.

More than a year ago, the EPA rejected an agreement negotiated using the same proposed framework. At the time, the EPA stepped away from those negotiations. The Agency said at the time, "EPA does not believe that the deal Dow is offering goes far enough," and "Key issues that are paramount for protecting human health and the environment remain unresolved. EPA simply will not accept any deal that is not

comprehensive." After rejection of the proposal by then Region V EPA Administrator Mary Gade and other actions related to the cleanup, Mary Gade was terminated from her job.

"We are concerned that an agreement negotiated behind closed doors, with an Administration who's regulatory philosophy has been notably pro-polluter, does not bode well for the protection of our the Great Lakes," said Michelle Hurd Riddick of the Lone Tree Council. "We fear they are picking up where they left off now that Mary Gade is gone."

The SAS is a non-regulatory program that has never gone through a public process of rulemaking, nor has the program been evaluated for effectiveness in achieving cleanup. Many SAS sites are languishing without action. The SAS process circumvents some of the requirements of the federal Administrative Procedures Act, and other public input provisions of the Superfund law, thereby essentially eliminating a public role in a major cleanup impacting the commons in the region.

This spring, EPA Region V and the Michigan Department of Environmental Quality lauded the accomplishments made in 2007 as the most progress made in 30 years. Yet the SAS proposal would derail the existing process, replacing it with yet another process. EPA has not made a compelling case for the SAS process. In their comments ( letter attached) to EPA Administrator Johnson, the signatories state: "*There is no need for this mid-stream switch from an existing, clean up process under a workable, enforceable RCRA corrective action permit to an unnecessary, potentially detrimental SAS approach that could lead to time delays and less extensive and less protective clean up*"

Dow Chemical's contamination site stretches more than 50 miles from the Company's global headquarters to Saginaw Bay, one of the largest watersheds in the Great Lakes. The contamination is dominated by dioxins, a family of chemicals that are toxic in tiny amounts, and have been found in every species tested in the watershed, including residents of the area. Fish consumption warnings stretch into Lake Huron, one of the Great Lakes. Dioxin can disrupt vital functions at infinitesimally small amounts, and has been linked to immune system suppression, diabetes, endometriosis, cancer, birth defects, and a host of other health problems.

### **Letter to Administrator Johnson US EPA Washington DC**

**Administrator Stephen Johnson  
US Environmental Protection Agency  
Washington DC**

December 17, 2008

Dear Administrator Johnson,

The Environmental Protection Agency has publicly announced it intends to negotiate a remedy to Dow Chemical's dioxin contamination in the Saginaw Bay, Michigan watershed using the Superfund

Alternative Site (SAS) agreement guidelines. The EPA has indicated these negotiations will be outside of public review. Given that one of the nation's premier natural resources is at stake, this is unacceptable. The undersigned are writing to strongly urge you against this action. We believe the proposed agreement is an unnecessary diversion that could reduce the protectiveness of the cleanup required, weaken the government's hand in requiring timely action, curtails public input and eliminate government transparency and accountability.

This will be the third time in three years that closed-door negotiations have been undertaken with Dow Chemical. Implementation of the SAS is contrary to the public statements and positions taken by EPA Region V and the Michigan Department of Environmental Quality (MDEQ) on numerous occasions lauding the tremendous progress made in 2007 as a result of enforcement and investigations done in tandem under CERCLA and RCRA.

In March 2008 a joint letter was sent to Dow Chemical from then-Regional Administrator Gade and MDEQ Director Chester voicing strong support for the agencies' collaborative efforts which they argued would lead to a "**final remedy**," one which is "**more likely to be final and durable**" as a result of the coordination between state and federal programs. At public meetings and in conversation EPA and MDEQ have admonished the public to recognize the progress made in 2007.

A compelling case for a new path has not been made. This cannot be stated enough. There is no need for this mid-stream switch from an existing, clean up process under a workable, enforceable RCRA corrective action permit to an unnecessary, potentially detrimental SAS approach that could lead to time delays and less extensive and less protective clean up. Further, the timing of this action, as the EPA is about to transition its leadership, is questionable.

Finally, the closed-door process raises questions about the real intent of again proposing a new course of action on the cleanup. We are further concerned that the SAS process does not have the same protections and public oversight outlined under Superfund and RCRA.

We request a fully transparent process that takes into account the public interest and the human health and ecological implications of any action on this site. This site remains one of the worst in the nation, and in the last two years saw soil removal based on a finding of imminent hazard to the health of residents.

EPA and the State of Michigan have now been engaged with Dow in various aspects of the dioxin contamination and cleanup for many years. Resolving an issue of this magnitude requires great care and public accountability and your management of it will be a key part of your legacy as Administrator. We ask for the opportunity to meet with you as soon as possible. We are most happy to travel to Washington DC for this meeting or to take you on a tour of our contaminated watershed.

We look forward to hearing from you. Please make Michelle Hurd Riddick or Terry Miller your point of contact.

Sincerely,

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