



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

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2007 NOV -8 AM 10:01

ENVIR. APPEALS BOARD

November 7, 2007

REPLY TO THE ATTENTION OF:

C-14J

VIA FEDERAL EXPRESS

Ms. Eurika Durr, Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1341 G Street N.W., Suite 600
Washington, D.C. 20005

Re: The Dow Chemical Company, Hanging Rock Plant
U.S. EPA Identification Number: OHD 039 128 913
Appeal Number: RCRA 06-01

Dear Ms. Durr:

Enclosed please find an original (signed in blue ink) and five copies of a Status Report, Request to Cancel Status Conference, and Request for Time to Modify Permit in the above-referenced matter.

Please feel free to contact me at (312) 353-6181 with any questions.

Sincerely,

Kevin C. Chow
Associate Regional Counsel

Enclosures

cc: Robert J. Schmidt, Esq.
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, OH 43215

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**BEFORE THE ENVIRONMENTAL APPEALS BOARD,
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

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ENVIR. APPEALS BOARD

IN RE:)

THE DOW CHEMICAL COMPANY,)
HANGING ROCK PLANT)

Resource Conservation and Recovery Act (RCRA))
U.S. EPA ID No. OHD 039 128 913)

Appeal No. RCRA 06-01

**STATUS REPORT, REQUEST TO CANCEL STATUS CONFERENCE,
AND REQUEST FOR TIME TO MODIFY PERMIT**

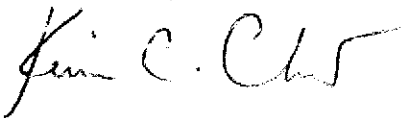
U.S. EPA Region 5 ("the Region") hereby provides the Environmental Appeals Board ("the Board") with the status report required by the Board's Order Granting Motion for Extension and Scheduling Status Conference ("Order"). That Order, dated July 26, 2007, required the Region to provide a status report by November 10, 2007, describing the current status and progress the parties have made toward resolution of the issues raised by The Dow Chemical Company ("Dow") in its appeal of the above-captioned permit.

The parties report that after much additional information exchange, discussion, and analysis, they have reached an agreement in principle on all remaining substantive issues raised in Dow's appeal. Specifically, the parties have reached agreement on the feed rates for mercury, chlorine, and particulate matter to be included in a revised permit, as well as the final list of Solid Waste Management Units and Areas of Concern to be addressed through the corrective action provisions of the revised permit. The parties have also exchanged proposals for modifying the permit to reflect the substantive changes, and have settled upon permit language.

The Board has scheduled a status conference for December 4, 2007, in the event the parties have not settled. The parties have resolved all disputed issues. Thus, the parties believe the conference is unnecessary and respectfully request the Board to cancel the status conference.

The Board's Order granted EPA until November 27, 2007, to provide its response to Dow's appeal. The parties' only remaining task for full resolution of the appeal is the purely procedural matter of modifying the permit. The parties are still discussing the most appropriate modification process. Several options are available, such as a permit withdrawal and re-issuance process, or a modification process either conducted by Dow or initiated by the Region. Each will require a sixty-day public notice and comment period, public meetings, the Region's responses to comments, and procurement requests by the Region in potentially restricted budget circumstances. It will not be possible to complete any permit modification by November 27th. The parties believe that six (6) more months will be sufficient to follow all procedures and provide for an appropriate effective date for new permit terms. Hence, the parties respectfully request that the Region's formal response be extended to **May 27, 2008**. Once the modification is complete, Dow expects that it will formally withdraw its appeal. Counsel for Dow has reviewed this report and concurs.

Respectfully submitted,



Kevin C. Chow (*Authorized to Receive Service*)
Associate Regional Counsel
United States Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
Phone: (312) 353-6181; Facsimile: (312) 886-0747

Dated: November 7, 2007

CERTIFICATE OF SERVICE

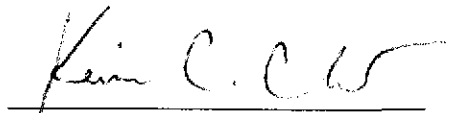
I hereby certify that the foregoing Status Report was sent on this the 7th day of November, 2007, in the following manner to the below addressees:

By Federal Express:

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board
1341 G Street N.W., Suite 600
Washington, D.C. 20005

By fax and first class mail:

Robert J. Schmidt, Esq.
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Facsimile: 614-227-2100



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