Michigan House Government Operations Committee
May 24th 2005

Dear Chairman Drolet and members of the committee:

I am here today on behalf of many of my neighbors living in the contaminated floodplain of the Tittabawassee River in Saginaw County.

We oppose HB 4617 and the removal of the "facility designation" label for residential properties contaminated with toxic compounds.

In our situation, our yards and homes are contaminated with dioxin, often referred to as "the most toxic substance ever known". It has been proven that Dow Chemical in Midland is the responsible party for this extensive contamination. Levels of dioxin of up to 7200 parts per trillion have been found in the flood plain of the Tittabawassee River, where safe residential contact by the state has been set at 90 ppt. It is our contention that this legislation is being done for the benefit of Dow Chemical and residents in Midland, who care little or nothing about the contamination of the down river communities.

The facility designation in this instance, defines a geographic area which under Dow's license is subject to interim response, remedial investigation and cleanup. We believe HB 4617 is designed to make it difficult for the State of Michigan to: 1. enforce Dow Chemical's license 2. Access property 3. Protect public health and resources 4. Delay cleanup.

In addition, it buys into ever increasing efforts to blur and confuse the issue thereby creating additional delays.

While we understand the impact of facility designation on property values, it is our belief that the real impact comes from the presence of Dow's dioxin contaminating our property, parks and communities. We are much more concerned about the dioxin on our property and in our community then we are about being labeled a facility. This is compounded by the failure, year after year, of the state to deal with this issue in a timely manner. This issue has become more about politics than about science and public health protection.

We do not oppose the use of facility designation because this label will ultimately be instrumental in restoring our yards to a safe environment. Soil sampling by the Michigan Department of Environmental Quality (DEQ) has demonstrated consistent and pervasive high levels of dioxin the entire length of the Tittabawassee River and floodplain. The dynamic movement of this river and its frequent flooding constantly deposits contaminated sediments from the river, its banks and people's yards to new locations. Therefore, is it really necessary that every single property be tested to confirm that it is contaminated? The DEQ has collected data from three rounds of sampling, and though more is needed, we are confident in their (DEQ) **assessment that frequently flooded areas of the floodplain** are contaminated and warrant being a facility subject to corrective action in accordance with the laws of Michigan and Dow's license.

The floodplain we call home is so contaminated that the Michigan Department of Community Health, MDEQ, MDNR , Michigan Department of Agriculture and most recently the Agency for Toxic Substances and Disease Registry issued a consumption advisory for wild game along the Tittabawassee River and floodplain. This is only the second such advisory in the state's history. Dow's dioxin is hurting our property values, economic development, tourism and ability to raise our families in a safe environment. You need to know indoor sampling has found dioxin in excess of 90ppt in the house dust of our family rooms and living

spaces.

The facility designation is appropriate because it would require Dow Chemical to take actions along the entire river to mitigate exposure to their dioxin and to eventually give us back the unrestricted use of our property and our homes.

Dioxin moves freely along this dynamic river system. Without the facility status for this area, contaminated soils will be transported and re-distributed over and over along the river. After last years flooding event depositional sampling showed areas contaminated anywhere from 500 to 2,000ppt; some in the parks some samples were in parking lots. This legislation does nothing to assist in getting a handle on cleanup let alone interim response activities.

HB 4617 is an attempt to give Dow Chemical what they could not achieve in the 2002 consent order where they would have no responsibility for their contamination down river. You need to know that Dow signed their corrective action license in June of 2003. Dow did not contest the license or the use of the "facility" designation and neither did Mr. Moolenaar. Why now? Why two years later?

Representative Moolenaar has a history of doing Dow's bidding. Last year, commensurate with their license Dow was to begin soil sampling for dioxin in Midland. Something Dow did not want to do, nor did the City Fathers of Midland. A huge town hall meeting attacking the DEQ was orchestrated by economic groups in Midland. Representative Moolenaar accused the DEQ of being out of control but we believe the DEQ is doing its job and enforcing the law. Last year in an attempt to stop the testing in Midland, Mr. Moolenaar threatened to eliminate the hazardous waste division of the DEQ, gut their budget, stop all dioxin testing in the state and raise the standard from 90 ppt to 1,000ppt. Worth noting is that there are no residential areas in Midland that are known to exceed 1000ppt. HB 4617 is "designer" legislation intended to make the dioxin contamination go away with the sweep of a pen. This legislative detoxification is an injustice to every living thing in the watershed and disrespectful to the hard working homeowners whose lives have been turned upside down by Dow Chemical.

How did Dow Chemicals' contamination of a watershed get twisted into being the fault of the DEQ for enforcing laws already in existence to protect the environment and hold the responsibility party accountable?

The facility label is not an unfair label to property owners. If anything, this committee should be holding hearings on how Dow should be cleaning up their contamination, not on how to try and legislate the problem away. Our entire river community is contaminated with Dow's dioxin, we have all kinds of restrictions on the use of our property, not because of the facility designation but because it's contaminated. The presences of dioxin on our property constitute a "takings" by Dow. We cannot use our properties as we choose or intended at the time of purchase.

In closing it is our contention that:

- This bill jeopardizes public health by encouraging the sale of contaminated property to unknowing buyers. This is not ethical or moral
- This bill prevents the MDEQ from protecting public health by prohibiting access to properties

- This bill violates the Michigan Constitution Article IV sec. 52 that requires you, the legislature to protect the natural resources of " this state from pollution impairment and destruction"

- The only way to protect property rights in Michigan is to require the responsible party to cleanup contamination.

- There should be no special rules for dioxin as defined in this bill. (page 18 line 25 and page 24 line 19)

- This legislation will increase the cost of the testing. Blur the lines of cleanup and further delay resolution of this dioxin contamination of Michigan's largest watershed.

- The use of an exposure investigation (page 19 lines 1) further treats dioxin differently. We do not rely on exposure investigations to protect children from mercury, lead or arsenic. Why would you do this for dioxin?

- This " designer legislation" with all its trappings lays the blame for devalued property on the phrase" facility designation" when the real culprit is dioxin.

Thank you for the opportunity to speak to you today. We would also like to extend an invitation to any of you to come visit our yards and our homes.

Gary Henry
Kathy Henry
John Taylor
Gloria Taylor
Amy Taylor
Jim Brasseur
Joy Brasseur
Marcia Woodman
Vito Damore
Betty Damore
Paul Damore
Richard Stimpson
Marti Stimpson
Greg Whitney
Mary Whitney
Shaun Whitney
Howard Steinmetz
Barb Steinmetz
Bill Hard
Jan Hard
Roz Berlin
Carol Chisholm
Russell Kubik
Laura Burtt
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