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### RESPONSE TO COMMENTS

#### THE DOW CHEMICAL COMPANY, PITTSBURG, CALIFORNIA HAZARDOUS WASTE FACILITY STORAGE PERMIT

June 29, 2006

#### BACKGROUND

The Dow Chemical Company (Dow) is a chemical manufacturing facility located at 901 Loveridge Road, Pittsburg, California. Dow conducts operations 24 hours a day, seven days a week. Dow manufactures and develops products for agricultural operations, pest control services, paper manufacturing, and carpet mills. During the manufacture of chemical products hazardous wastes are produced. These wastes are considered hazardous due to their toxicity or corrosivity. Dow submitted a Resource Conservation and Recovery Act (RCRA) permit renewal application to the Department of Toxic Substances Control (DTSC) for storage of waste over 90 days in a designated area known as Block 560 Drum Storage Area on July 1, 2005. Dow was previously issued a RCRA Hazardous Waste Facility Storage permit by DTSC on August 24, 1996. Dow requested to continue the same storage activities at the Block 560 Drum Storage Area as authorized by the 1996 permit. DTSC reviewed the permit application and determined that it was technically complete on February 17, 2006. DTSC prepared a draft Permit and a California Environmental Quality Act (CEQA) Initial Study / draft Negative Declaration. On February 24, 2006 DTSC informed the public of a 45-day public comment period on the draft permit and CEQA draft Negative Declaration. That comment period ran from February 24, 2006 through April 10, 2006. A public hearing was held on March 29, 2006 at the Pittsburg City Hall at 7:00pm. The public was informed of the public comment period by a display advertisement in the Contra Costa Times and radio advertisements aired on KBLX, an English language radio station, and KSTN, a Spanish language radio station. In addition, copies of a fact sheet which were mailed to the facility mailing list (approximately 1200 persons) during the week of February 24, 2006.

DTSC received comments from a community member via regular mail and from Dow via e-mail. There were no comments received during the public hearing held on March 29, 2006. All comments received during the public comment period are responded to in this Response To Comments (RTC) document. A copy of this RTC will be provided to all commenters. A copy will also be placed in information repositories for this project.

## **SPECIFIC COMMENTS**

**COMMENTS** 1 Mrs. Lloyd W. Hanson (comment received via mail)

### **COMMENT 1**

I strongly oppose the Dow Chemical Company's renewal of the permit to store hazardous waste containers at their Pittsburg Facility located at 901 Loveridge Road, Pittsburg, California. The pollution that is emitted from the Dow Plant is hazardous to all living creatures and plants. My husband, Lloyd W. Hanson who worked at the Dow plant suffered greatly from lung disease from the emissions set forth from the plant. He worked in the Caustic Department handling large containers of hazardous materials. He spent the last nine years of his retirement using oxygen in order to breathe, and finally passed away on September 23, 2004 from that lung disease..Please do not renew Dow's permit to store more hazardous waste material and protect our environment.

### **RESPONSE 1**

DTSC expresses sincere condolences on the loss of your husband. DTSC would like to clarify that the Block 560 drum storage area will not contribute to nor emit any hazardous constituents to the environment that could harm or put at risk human health or the environment. Liquid and solid hazardous wastes are placed in sealed containers prior to being stored in the Block 560 Drum Storage Area. This procedure assures that no hazardous constituents become airborne or that no vapors are emitted into the atmosphere. DTSC believes that the waste handling procedures utilized by Dow at this Block 560 Drum Storage Area ensure that there are no potential adverse health impacts to either onsite workers or to offsite community members. Therefore, DTSC believes it is the proper decision to renew this permit. The renewed permit would authorize Dow Chemical Company to store the same types and amount of hazardous wastes as authorized by the previously issued 1996 permit. Ability to store waste on-site prior to its shipment to off-site facilities for treatment or disposal allows Dow the opportunity to consolidate waste and reduce the overall truck trips that would otherwise result from more frequent shipments.

COMMENTER 2 – Greg Dubitsky, Dow Chemical Company (comments received through email)

**COMMENT 2-1**

On the Draft permit Part II, Item 4. I would like to change the fourth sentence to remove the word “satellite”. At the facility we have Accumulation Areas within the units but they are not all designated “Satellite Accumulation Areas” per the regulations.

**RESPONSE 2-1**

In accordance to the California Code of Regulations (CCR), title 22 and the Code of Federal Regulations (CFR), title 40 there is no formal definition for “Satellite Accumulation Areas”. However, in CCR, title 22, section 66262.34 and in CFR, title 40, section 262.34 there are different definitions for accumulation times depending on where the accumulation activity takes place.

CCR, title 22, section 66262.34(e)(1) states: “A generator may accumulate as much as 55 gallons of hazardous waste, one quart of acutely hazardous waste (listed in section 66261.33(e)) or one quart of extremely hazardous waste at or near any point of generation, without a permit or grant of interim status, without complying with subsections (a), (b) and (c) of this section, if all of the following requirements are met with respect to this waste: (A) the waste is accumulated in containers, other than tanks, at the initial accumulation point which is at or near the area where the waste is generated and which is under the control of the operator of the process generating the waste...”

CFR, title 40, section 262.34(c)(1) states: “A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 261.33(e) in containers at or any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) of this section provided ...”

DTSC acknowledges that these two provisions are commonly interpreted and informally called “Satellite Accumulation Areas” because of the requirements of proximity to the point of generation. That is, these areas are satellites to the points of generation.

This section part II, Item 4 of the draft permit was only intended to provide a brief overview of Dow’s operations. In consideration of the new information from Dow that

accumulation areas are not adjacent to or close to the points of generation, DTSC will revise Part II, Item 4 of the permit from "Satellite Accumulation Areas" to "Accumulation Areas" .

### **COMMENT 2-2**

On the Draft Permit, Part III, Item 4; first sentence Health and Safety Code Reference should be 25202.9

### **RESPONSE 2-2**

DTSC acknowledges this typographical error. Part III, Item 4, first sentence of the permit has been changed to reference Health and Safety Code section 25202.9 instead of section 25209.

### **COMMENT 2-3**

On the Draft Permit, Part IV, Physical Description, the fifth and sixth sentences refer to runon water. Because the storage area is bermed, there is no runon water. I would like to propose that the word "runon" be replaced with "rain" at both occurrences.

### **RESPONSE 2-3**

DTSC agrees that a more accurate description of the source of water that could enter the Block 560 Drum Storage Area is rain water from the air versus runon, that would flow along the ground from outside the Block 560 Drum Storage Area and then flow into the Area. Therefore, the fifth and sixth sentences of Part IV of the permit have been changed from "runon" to "rain" water.

### **COMMENT 2-4**

On the draft Permit, Part IV, Air Emission Standards for Containers. Should the Title 22 reference for the first bullet be 66264.1080(b)

### **RESPONSE 2-4**

DTSC agrees the correct Air Emissions Standard for the first bullet in Part IV should be 66264.1080(b). Therefore Part IV of the permit has been changed from 66264.1082(c) to 66264.1080(b).

### **COMMENT 2-5**

Part V, Item 5. The recurrence interval for re-certification of the secondary containment system is usually determined by the Professional Engineer performing the certification. Item 5, states the following: The Permittee shall recertify the integrity of the secondary containment coating within two years from the effective date of this permit and after that as specified by the Professional Engineer performing each recertification. The first recertification report shall be submitted on January 31, 2008. At some point, Dow will likely need to recoat the storage area after which, the PE will likely certify the containment area for a period longer than two years.

### **RESPONSE 2-5**

DTSC's Special Condition 5 in Part V for re-certification every two years of the integrity of the secondary containment coating was based on the secondary containment area coating manufacturer's data sheet. This data sheet was provided by Dow in the permit renewal application. The manufacturer's data sheet states that the shelf life of the coating (CIM Industries Inc. product CIM-1000) is two years. Data has not been provided by Dow regarding the life of the coating after application to the secondary containment area. DTSC will consider a possible revision to part V, Item 5 after DTSC reviews the January 31, 2008 recertification of the Block 560 drum storage area. The January 31, 2008 recertification shall include supporting documentation from the coating manufacturer stating the life of the coating as applied to the secondary containment area. Therefore, DTSC has decided to not change this Special Condition 5 at this time but will consider a possible revision in the future.