

TAYLOR, PORTER, BROOKS & PHILLIPS

L.L.P.

ATTORNEYS AT LAW

Founded 1912

POST OFFICE BOX 2471
BATON ROUGE, LOUISIANA 70821
8TH FLOOR BANK ONE CENTRE
451 FLORIDA STREET (70801)

TELEPHONE (225) 387-3221
FACSIMILE (225) 346-8049

www.taylorporter.com

WILLIAM SHELBY McKENZIE
JOHN S. CAMPBELL, JR.
W. LUTHER WILSON
GERALD L. WALTER, JR.
J. CLAYTON JOHNSON
G. MICHAEL PHARIS
EUGENE R. GROVES
A. MICHAEL DUFILHO
W. ARTHUR ABERCROMBIE, JR.
FREDRICK R. TULLEY
VERNON P. MIDDLETON
JAMES LEEPER ELLIS
JOHN MICHAEL PARKER
NANCY C. DOUGHERTY
MARY E. THARP
JOHN ASHLEY MOORE
EDWIN W. FLESHMAN
VICKI M. CROCHET
HARRY J. PHILLIPS, JR.

LLOYD J. LUNCEFORD
THOMAS R. PEAK
C. MICHAEL HART
JOHN F. McDERMOTT ^{1,2}
BRETT P. FURR
M. LENORE FEENEY
MARC S. WHITFIELD ^{1,7}
JOHN H. RUNNELS ⁴
GREGORY E. BODIN
JAMES C. CARVER
MARGARET L. TOOKE
DEBORAH E. LAMB
T. MacDOUGALL WOMACK
DAVID M. BIENVENU, JR.
DAVID J. SHELBY II
ERICK Y. MIYAGI
ANNE J. CROCHET
ROBERT W. BARTON

PRESTON J. CASTILLE, JR.
JOHN STEWART THARP ⁶
JOHN S. CAMPBELL, III
JOHN P. MURRILL
BONNIE J. DAVIS ⁴
MARY L. DOUGHERTY ^{2,3}
ANDRÉE MATHERNE CULLENS
BRANDON K. BLACK
AMY GROVES LOWE
TIMOTHY J. POCHÉ
MICHAEL A. CRAWFORD
JOHN B. NOLAND, JR.
PHILLIP E. FOCO
TODD S. MANUEL
JOHN ALLAIN VIATOR
TRACY AVERETT MORGANTI
ANDRÉ J. PORTER ^{4,5}
JENNIFER M. SIGLER
RYAN N. OURS

ELISABETH QUINN ZELDEN
EDWARD J. LAPEROUSE II ⁷
EDYTHE L. KOONCE
ERINN W. NEYREY
LESLIE E. AYRES ⁷
VALERIE LEGÉ MAYHALL
RUSSELL L. MOSELY
JASON M. DeCUIR ¹
KATHLEEN G. TRASCHER
EDWARD D. HUGHES

SPECIAL COUNSEL
H. EVANS SCOBEE

OF COUNSEL
TOM F. PHILLIPS
FRANK M. COATES, JR.
WILLIAM H. McCLENDON III
WILLIAM A. NORFOLK
ROBERT H. HODGES
JOHN L. GLOVER
JOHN R. THARP

¹ LL.M. IN TAXATION
² BOARD CERTIFIED TAX SPECIALIST
³ BOARD CERTIFIED ESTATE SPECIALIST
⁴ REGISTERED PATENT ATTORNEY
⁵ LL.M. IN INTELLECTUAL PROPERTY
⁶ LICENSED IN MISSISSIPPI
⁷ LICENSED IN TEXAS

January 3, 2005

WRITER'S DIRECT DIAL NUMBER: 225-381-0249
e-mail address: anne.crochet@taylorporter.com

VIA ELECTRONIC MAIL AND U.S. MAIL

Information Quality Guidelines Staff
United States Environmental Protection Agency
Mail Code 2811R
1200 Pennsylvania Avenue, N.W.
Washington D.C. 20460

RE: Request for Reconsideration re Combined Quality Assurance Project Plan and
General Work Plan Potential Ground-Water Flow Directions and Contaminant
Fate and Transport in the Plaquemine Aquifer of Iberville Parish and West Baton
Rogue Parish, Louisiana

Dear Sir or Madam:

On behalf of our client, The Dow Chemical Company, we hereby submit for filing a
Request for Reconsideration in accordance with EPA's Information Quality Act Guidelines. We
appreciate your timely review of this Request for Reconsideration and look forward to your
response within the 90-day delay established by EPA guidelines.

Sincerely,

TAYLOR, PORTER, BROOKS & PHILLIPS L.L.P.


Anne J. Crochet

AJC:
Enclosure

ENVIRONMENTAL PROTECTION AGENCY
INFORMATION QUALITY ACT GUIDELINES

REQUEST FOR RECONSIDERATION

OF THE

COMBINED QUALITY ASSURANCE PROJECT PLAN AND GENERAL WORK PLAN:
POTENTIAL GROUND-WATER FLOW DIRECTIONS AND CONTAMINANT FATE
AND TRANSPORT IN THE PLAQUEMINE AQUIFER OF IBERVILLE PARISH AND
WEST BATON ROUGE PARISH, LOUISIANA

Comes now, THE DOW CHEMICAL COMPANY (“Dow”) appearing before the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (“EPA”) for the purpose of requesting that a reconsideration be made regarding the Combined Quality Assurance Project Plan and General Work Plan, referenced above, as follows:

INTRODUCTION

1.

In a letter dated October 6, 2004, EPA denied Dow’s Request for Correction dated June 14, 2004 and designated with EPA tracking #04021. (See, Attachment 1, October 6, 2004 EPA Response to Request for Correction.) Dow respectfully disagrees with the denial and seeks reconsideration of the EPA decision denying Dow’s Request for Correction.

2.

The June 14, 2004 Request for Correction (#04021) is attached and incorporated herein by reference. (See, Attachment 1.)

REASONS IN SUPPORT OF RECONSIDERATION

3.

In its Response, EPA asserts that the Combined Quality Assurance Project Plan and General Work Plan: Potential Ground-Water Flow Directions and Contaminant Fate and Transport in the Plaquemine Aquifer of Iberville Parish and West Baton Rouge Parish, Louisiana (“QAPP”) is not subject to EPA’s Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency. Specifically, EPA states that “EPA does not consider this material to be an official agency **dissemination** under the Agency’s Information Quality Guidelines.” (Emphasis added.) (See, Attachment 2.)

4.

The denial of Dow’s Request for Correction is an arbitrary and capricious exercise of discretion by the agency. Stated differently, the assertions made by EPA do not flow rationally from the facts of the situation. The QAPP, as acknowledged by EPA in its October 6, 2004 letter, was disseminated outside of the agency and interagency sharing described in EPA’s denial. Specifically, in the October 6, 2004 Response EPA acknowledges,

. . . A Dow representative and one other person orally requested copies of the document. . . A final version of the QA Project Plan was provided to the Louisiana Department of Environmental Quality (LDEQ) for review and comment. . . .

Dow and other persons are members of the public. LDEQ is a public agency whose records are subject to review under the Public Records Act. (La. R.S. 44:1 *et seq.*) The QAPP is not related to basic agency operations, such as management, personnel and organization information.

Instead, it relates to an agency investigation of significant public interest. (See, Paragraph 7 of Attachment 1.) Though EPA may have intended that the QAPP be an internal EPA planning document, it nonetheless distributed it to members of the public.

CONCLUSION

5.

The October 6, 2004 EPA denial of Dow's Request for Correction should be overturned for the reasons set forth herein. Therefore, Dow respectfully requests EPA's timely and serious consideration of this Request for Reconsideration.

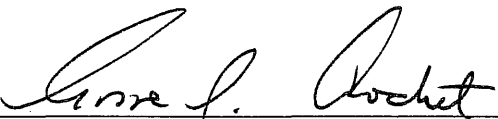
CONTACT INFORMATION

6.

Dow may be contacted through undersigned counsel, Anne J. Crochet, Taylor Porter Brooks & Phillips, L.L.P., Post Office Box 2471, Baton Rouge, Louisiana 70821 or 451 Florida Street, 8th Floor, Baton Rouge, Louisiana 70801. Phone number: (225) 387-3221. Facsimile number: (225) 214-0461. E-mail: anne.crochet@taylorporter.com.

Respectfully Submitted,

TAYLOR, PORTER, BROOKS & PHILLIPS, L.L.P.

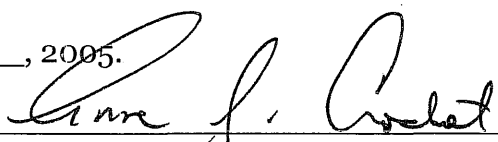
By: 

Anne J. Crochet, Bar Roll No. 2010
Deborah Lamb, Bar Roll No.
451 Florida Street, 8th Floor (70801)
Post Office Box 2471
Baton Rouge, Louisiana 70821
Telephone: (225) 387-3221
Facsimile: (225) 346-8049
E-mail: anne.crochet@taylorporter.com

– CERTIFICATE –

I hereby certify that this Request for Correction was submitted to the United States Environmental Protection Agency on this date by e-mail to quality@epa.gov and by mail to Information Quality Guidelines Staff (Mail Code 281 1R), U. S. EPA, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460.

This 3 day of January, 2005.


Anne J. Crochet