

January 3, 1997

Mr. Larry Giebelhaus  
Project Manager  
Dow Chemical- Michigan Division  
Environmental Services  
1261 Building  
Midland, MI 48667

SUBJECT: NOTICE OF VIOLATION DATED DECEMBER 13, 1996

Dear Mr. Giebelhaus:

This acknowledges receipt of your letter dated December 23, 1996, in response to our letter dated December 13, 1996, transmitting a Notice of Violation.

We accept your characterization of the respective events and will inspect the effects of your corrective and preventive actions when we have had a chance to review your final survey data and conduct our confirmatory survey of your facility. This should take place in either late January or early February, 1997.

Sincerely,

Original Signed by

Cynthia D. Pederson, Director  
Division of Nuclear Materials Safety

License No.: STB-00527  
Docket No.: 040-00017

bcc w/ltr dtd 12/23/96: PUBLIC IE07  
B. Burgess, EICS

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DATE	01/2/97	01/2/97	01/3/97		

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MICHIGAN DIVISION

December 23, 1996

The Dow Chemical Company  
2000 Dow Center  
Midland, TX 79701

Cynthia D. Pederson, Director  
U.S. Nuclear Regulatory Commission, Region III  
Division of Nuclear Materials Safety  
801 Warrenville Road  
Lisle, Illinois 60532-4351

Dear Cynthia,

We received your December 13, 1996, letter summarizing the results of your confirmatory survey and inspection of our sites, License No. STB-00527, on November 19-20, 1996. In this letter you state that a (repeat) Level IV violation occurred, consisting of finding (buried) contamination in the soil in the Clean Zone outside of the restricted Contamination Zone. You also request a written response, to contain corrective actions that are expected to be more successful in preventing future or similar violations than the corrective actions taken in the past. This letter is that response.

I think it is important to review the two violations, and to document for the record our (The Dow Chemical Company's) interpretation of, and position on, the current (second) violation.

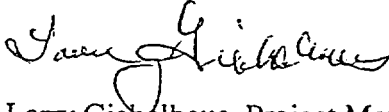
The first violation, received from the August 5-8, 1996 inspection (September 12, 1996 C. Pederson letter), cited Dow for (paraphrasing) "failure to prevent the spread of contamination from a 'Contamination Zone' to a 'Clean Zone'". Just preceding the inspection we had received 4" of rain in a very few hours, and as your report stated, "this contamination was washed into the clean zone...". At that time we were stockpiling material in a mound in preparation for shipping while awaiting the NRC going through their comprehensive process for granting Dow the amendment for shipping. A small amount of material had indeed washed undetected from the pile to the Clean Zone. This situation was immediately corrected (contamination removed).

In the current violation, as per your description, the material in the clean zone was found to be "buried". We want to document that since this "hot spot" was approx. 40' from where we had any current project activities, and the material was "buried", rather than on the surface, this occurrence was not as a result of loss of material from current or negligent operations, but was a historical remnant, and a new finding. We immediately expanded our "Affected Zone" and removed the material.

The future actions we will take to assure we will not have material in the Clean Zone will consist of doing a much more comprehensive survey of the Clean Zone subsequent to project completion to assure no contamination, historical remnants or otherwise, exists. We will implement this survey in a fashion similar to what the NRC does when they investigate the site – scanning by walking personnel shoulder to shoulder (approximately 2-3' intervals) and holding the detector less than 6" off the ground. We will complete the survey a minimum of two (10 meter by 10 meter) grids outside of the Contamination Zone perimeter. Any contamination that is found will be removed and the area re-surveyed. The results of the survey will be fully documented.

Please call me with questions or comments.

Respectfully,



Larry Giebelhaus, Project Manager  
Dow Chemical – Michigan Division  
Environmental Services  
1261 Building  
Midland, MI 48667  
(517-636-5977)

lpg::thorium-USNRC