

# 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](http://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  
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W. ARTHUR ABERCROMBIE, JR.  
FREDRICK R. TULLEY  
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HARRY J. PHILIPS, JR.

LLOYD J. LUNCEFORD  
THOMAS R. PEAK  
C. MICHAEL HART  
JOHN F. McDERMOTT <sup>1,2</sup>  
BRETT P. FURR  
M. LENORE FEENEY  
MARC S. WHITFIELD <sup>1,7</sup>  
JOHN H. RUNNELS <sup>4</sup>  
GREGORY E. BODIN  
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MARGARET L. TOOKE  
DEBORAH E. LAMB  
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DAVID J. SHELBY II  
ERICK Y. MIYAGI  
ANNE J. CROCHET  
ROBERT W. BARTON

PRESTON J. CASTILLE, JR.  
JOHN STEWART THARP <sup>6</sup>  
JOHN S. CAMPBELL, III  
JOHN P. MURRILL  
BONNIE J. DAVIS <sup>4</sup>  
MARY L. DOUGHERTY <sup>2,3</sup>  
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 <sup>4,5</sup>  
JENNIFER M. SIGLER  
RYAN N. OURS

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

**SPECIAL COUNSEL**  
H. EVANS SCOBEE

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

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

January 3, 2005

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

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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.

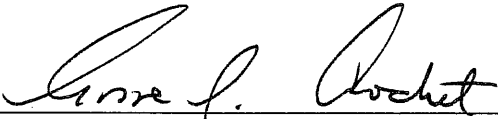
#### CONTACT INFORMATION

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](mailto:anne.crochet@taylorporter.com).

Respectfully Submitted,

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

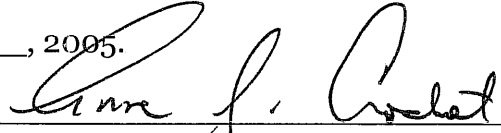
By: 

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](mailto: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](mailto: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