



# Proposed Settlement for Superfund Cleanup Process

Tittabawassee River, Saginaw River & Bay Site

Saginaw Valley State University  
November 5, 2009

# Welcome/Introductions

Richard Karl

Superfund Division Director  
U.S. EPA Region 5

# Tonight's Agenda

- Overview of the proposed settlement
  - Highlights from the proposed settlement
  - How the Superfund process fits with the RCRA license
  - Next steps in the settlement process
- Questions & Answers
- Oral Comments

# Opening Remarks On The Proposed Settlement

Robert Kaplan

Regional Counsel  
U.S. EPA Region 5

# The Settlement Process...

- How we got here
- Where we are
- May 26, 2009 EPA Administrator's Letter

# Achieves Goals And Objectives Of EPA Administrator's Letter...

- Proposed settlement is based on the well-established tools of CERCLA
- Covers the Tittabawassee River and Saginaw River, their floodplains, and Saginaw Bay
- Includes Remedial Investigation, Feasibility Study and Remedial Design

## **Achieves Goals And Objectives Of EPA Administrator's Letter...**

- Continues efforts to evaluate areas presenting acute or near-term exposure or transport risks
- EPA can list the site on the NPL, if necessary
- Future oversight costs will be paid

# **Achieves Goals And Objectives Of EPA Administrator's Letter...**

- Public comment opportunity provided
- Proposed settlement does not terminate RCRA corrective action obligations

# Topics Not Negotiated Include...

- Cleanup options
- Cleanup levels

# What Negotiations Did Include...

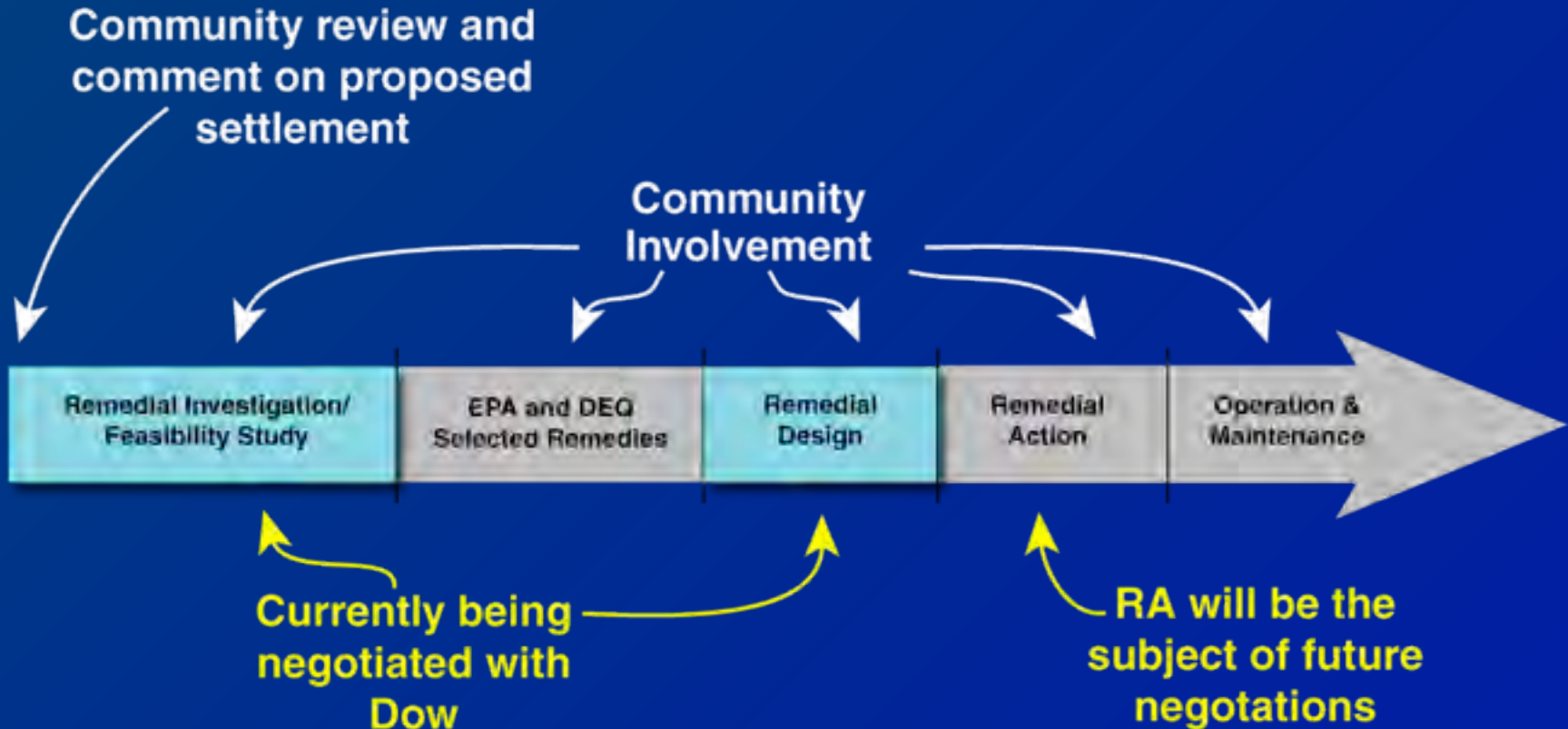
- General provisions, including defining the types of investigations that need to be done
- How to use the existing information
- EPA and MDEQ coordination
- How to foster consistency in meeting RCRA license and CERCLA obligations
- Recovery of costs
- Legal provisions (including dispute resolution, etc.)
- Enforcement issues (such as stipulated penalty amounts, work takeover provisions, etc.)

# **Overview Of The Proposed Settlement**

Wendy Carney

Superfund Program Manager  
U.S. EPA Region 5

# Superfund Process



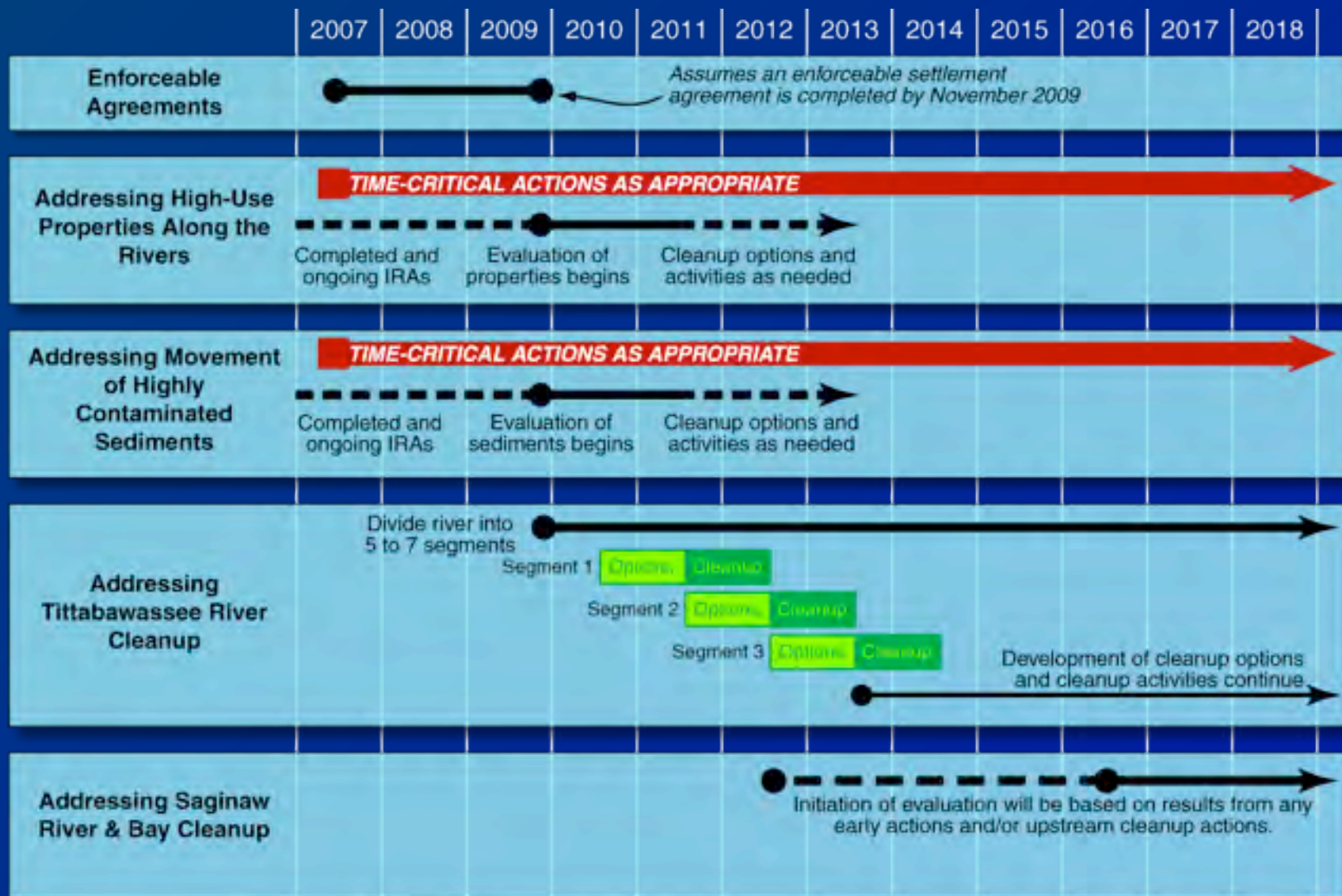
# What Does The Settlement Cover

- Not restarting the clock ... building on existing data as well as prior and ongoing cleanup activities
- The Tittabawassee and Saginaw rivers, their floodplains and Saginaw Bay
- Remedial investigation and feasibility study work, as well as design

# Work Required In The Settlement

- Critical work includes:
  - Addressing high-use properties along the river
  - Addressing movement of highly contaminated bank soil and sediments
  - Developing comprehensive cleanup options upstream to downstream

# Proposed Timeline



# **How The Superfund Process Fits With The RCRA License**

Frank Ruswick

Senior Policy Advisor

Michigan Department of Environmental Quality

# RCRA Corrective Action Obligations

- Dow retains obligations under license to address contamination
- AOC describes means of integrating federal CERCLA and state RCRA (license) obligations
- Proposal to modify state license accordingly

# Integration

- Work will be conducted under CERCLA process with EPA in lead role and DEQ in support role
- Expected to fulfill RCRA (license) obligations via DEQ review and comment

# Integration (cont.)

- Coordination mechanisms
- Decision-making responsibilities
  - EPA regional administrator for CERCLA
  - DEQ director for RCRA

# RCRA License Modification

- Commitment to propose for public comment and make reasonable efforts to approve (Appendix E)
- Specifies license obligations that can be met through CERCLA process (Appendix H)
- Incorporates AOC integration process into license

# RCRA License Modification (cont.)

- Specifies process for invoking Dow's license obligations
- Approved Saginaw River and Bay SOW is withdrawn

# Additional Provisions

- Specific attention to transition from RCRA to CERCLA oversight (SOW Exhibit A)
- DEQ retains IRA authority subject to integration provisions
- DEQ and EPA roles further described in SMOA (Appendix B)
- DEQ retains ability to directly respond to “new” releases from Dow plant site

# **Other Highlights Of The Proposed Settlement**

Wendy Carney and Frank Ruswick

EPA and MDEQ

# Other Settlement Highlights

- The community will be able to obtain technical assistance
- The Natural Resource Trustees will be engaged
- Dow can be required to pay monetary fines
- Dow needs to provide financial assurance

# Other Settlement Highlights

- There are defined processes for resolving disagreements
- EPA and MDEQ will be reimbursed for costs

# **Next Steps In The Settlement Process**

Richard Karl

Superfund Division Director  
U.S. EPA Region 5

# What Happens Next...

- Public Comment Encouraged
  - Accepting oral comments tonight
  - Accepting written comments from October 19th through December 17th
- EPA and MDEQ will consider comments received
- EPA and MDEQ will decide whether to sign the proposed settlement as is or if negotiations need to be reopened

# How To Comment

- This evening
  - Orally
  - Drop off comment forms at the sign-in table
- By December 17
  - Web site — [www.epa.gov/region5/](http://www.epa.gov/region5/)
  - Email — [krause.patricia@epa.gov](mailto:krause.patricia@epa.gov)
  - Fax — 312-697-2568
  - Mail — Patricia Krause, U.S. EPA Region 5,  
77 W Jackson Blvd. (SI-7J), Chicago, IL 60604

# For More Information...

- The proposed settlement is online at [www.epa.gov/region5/sites/dowchemical/](http://www.epa.gov/region5/sites/dowchemical/)
- Site repositories at libraries in Midland, Bay City and Saginaw
- Visit our community information office in Saginaw

# Questions & Answers

Don de Blasio

Community Involvement Coordinator  
U.S. EPA Region 5

# Oral Comments

Don de Blasio

Community Involvement Coordinator  
U.S. EPA Region 5

# How This Will Work...

- First come, first served
- Sign up if you haven't done so already
- Limited to 3 minutes
- EPA and DEQ will not respond
- Court reporter will record everything
- State your name and affiliation (if you are commenting on behalf of an organization)

# 10-Minute Break

# To Give The Most People A Chance...

- You must be registered to make oral comments.
- You will be called on in the order in which you registered.
- Comments are limited to 3 minutes at a time.
- You may get in line to speak again.

