

The Tittabawassee River Conservation Program Program Manual

The Dow Chemical Company (Dow), working with the U.S. Environmental Protection Agency (EPA), under the terms of an administrative order, is evaluating and cleaning up soil in certain frequently flooded areas along the Tittabawassee River. In conjunction with that cleanup effort, Dow has developed and is offering the **Tittabawassee River Conservation Program** to land owners. The intent of the Conservation Program is to facilitate clean-up activities where required and to preserve the natural features of the river and floodplain. The Conservation Program offers payment to qualifying land owners who choose to participate.

The Tittabawassee River Conservation Program

The Tittabawassee River Conservation Program works with and in addition to the cleanup activities Dow is conducting under the oversight of EPA and the State of Michigan along the river. The Program offers payment to qualifying land owners who agree to enter into a **Conservation Covenant**, which is explained below, for their property. The Conservation Program pays participating property owners \$10,000, plus an additional \$1,000 for every acre or portion of an acre of property owned in the river's eight year floodplain.

Eligibility

The Conservation Program is being offered to property owners (individuals, trusts or businesses) of land in the eight-year floodplain of the Tittabawassee River which will be evaluated for cleanup under the EPA's Cleanup Program. Properties that were previously remediated by Dow or that are located in the Saginaw River floodplain are not included in the Conservation Program.

What is a Conservation Covenant?

A Conservation Covenant is a legal agreement between Dow and the property owner that is recorded in the title records for the owner's property, similar to an easement agreement. The Conservation Covenant will preserve the natural features of your property. By entering into the Conservation Covenant, the property owner agrees to:

- Conserve currently unmaintained areas by keeping those areas permanently in an unmaintained or natural state. For example, if a portion of your property in the floodplain is currently wooded, then you would agree to keep that area wooded and unmaintained in the future. These protected areas are designated as "Conservation Areas" in the Covenant. Protecting these areas will help

preserve and promote the environment and natural beauty of the river and floodplain.

- Provide property access to Dow and EPA to: investigate soil in the floodplain; conduct cleanup activities that are required by EPA or the State of Michigan for the property; and monitor the cleanup or compliance with the Covenant.
- Avoid certain activities such as moving soil out of the eight-year floodplain, or allowing poultry or livestock to feed or graze there.

The Conservation Covenant will be recorded in the property's title records at the County Register of Deeds and will apply to future owners of the property.

Conservation Covenant Facts

- The Conservation Covenant does not change the location, size or use of your yard. You can keep the location and size of your yard exactly as it is today, and except for raising poultry or livestock, you may use your yard anyway that you want. You can also make changes to your yard, so long as those changes do not turn designated Conservation Areas into maintained areas, such as replacing a natural area with an expanded lawn or garden.
- The Conservation Covenant does not place any restrictions outside the eight year floodplain. The property owner may use areas outside the eight year floodplain in any way the property owner chooses as allowed by law.
- The Conservation Covenant allows you to continue to enjoy your designated Conservation Area. You may walk, hunt and fish in the Conservation Area; keep a pathway to the river; use all-terrain vehicles; have a dock; trim or harvest trees and downed wood; or plant trees, grasses or other plants in order to supplement or restore the natural landscape (the use of plants that are native to Michigan is encouraged, see <http://nativeplants.msu.edu/> for guidance). Just follow the few requirements set forth in the Conservation Covenant – all other activities are allowed.

Today, the Tittabawassee River floodplain is protected by federal, state and local laws that strictly limit development. For example, buildings within the floodplain are generally prohibited, and the floodway must be kept free from structures that could interfere with floodwater flow. The Conservation Covenant builds on these laws and adds a layer of protection to encourage the preservation of natural areas and to help ensure that the cleanup remains in place.

Participation in the Conservation Program is Voluntary

The Conservation Program is voluntary. However, if you decline to participate in the Program, you will not:

- Receive the participation payment.
- Be eligible for the property **Value Assurance Program**

The Conservation Program will be offered for a limited time, and Dow reserves the right to revoke the Program offer at any time.

If you agree to participate in the Conservation Program, then you agree to have cleanup work conducted on your property if EPA or the State of Michigan requires it. More information about the cleanup process can be found in the EPA document entitled **EPA's Cleanup Plan for the Tittabawassee River Floodplain Soil**, which is included in your property packet.

Other Program Information Included in Your Property Packet

Conservation Covenant. This is the legal agreement between Dow and the property owner described above.

Conservation Covenant Attachment 1. This is the legal description for the entire property based on public records. Depending on the property, the description may be a survey, a metes and bounds description, or a lot number from a recorded plat. Note that your property may include more than one parcel of land. Please let us know if you believe that the description is incorrect.

Conservation Covenant Attachment 2. This is a property drawing showing the eight year floodplain (based on the flood of 2004) and other property features. If the owner chooses to participate, Dow will meet with the property owner to mark on the drawing the location of unmaintained "Conservation Areas" as of May 23, 2015 (the roll-out date for the Conservation Program). Note that the property lines shown on the drawing are approximate and are for general reference only. Signing and recording the Conservation Covenant does not affect or change the location of any property lines or the size of your property.

How We Calculated Your Payment. This document shows how we calculated your participation payment. Every participating property owner receives the same base payment plus the same per acre payment for every acre in the eight-year floodplain. The number of acres is rounded up (for example, if you own one and one-third acres in the eight year floodplain, you will be paid for two).

Please Let Us Know If. Please review this document in your packet and let us know if any of the items listed apply to you or your property. This information will help us ensure that you are eligible to participate and that we have filled out the Conservation Covenant and other documents properly.

What to Expect at Your Appointment. If you decide to participate in the Conservation Program, an appointment will be set up with you to review and sign the necessary paperwork. This document summarizes what to bring along and what to expect at your appointment.

Owner's Affidavit / Certificate of Non-Foreign Status. You will be asked to review and sign these real estate transaction documents at your appointment. The Owner's Affidavit tells us that you are legally able to sign as the property owner and that there are no legal issues involving the property. The IRS requires Dow to keep in its records a Certificate of Non-Foreign Status signed by the property owner.

For More Information, to schedule an appointment, or to arrange for a property visit leave a message on our information line at (989) 638-6100 or visit our website:

www.triverconservation.com