



United States Department of the Interior
FISH AND WILDLIFE SERVICE

2651 Coolidge Road, Suite 101
East Lansing, Michigan 48823-6360



August 25, 2021

Mr. Todd Konechne
Project Coordinator
The Dow Chemical Company
Midland, MI 48674

RE: Dow Chemical – Consent Decree No: 1-19-ev-13292
Appendix D – Eagle Ridge Nature Area
Final Design and Implementation Plan
Submittal Documents - NRD2021.11

Dear Mr. Konechne:

On behalf of the Trustees for Natural Resources in the referenced Consent Decree, I am responding to your submittal of the Eagle Ridge Nature Area Final Design and Implementation Plan (Submittal Document NRD2021.11) on July 2, 2021.

The Trustees approve the Final Design and Implementation Plan and offer the attached suggestions for additional discussion as we move forward on this project. These suggestions include important information on best management practices related to erosion control fabrics, including silt curtains, to include in work specifications to avoid adversely affecting the Eastern Massasauga Rattlesnake (*Sistrurus catenatus*), listed as threatened under the Endangered Species Act of 1973.

If you have any questions, please feel free to contact me at lisa_williams@fws.gov or 517-256-0231 (cell/teleworking). It is unclear at this time when I will return to regular work in the office, but for future reference that phone number is 517-351-8324.

Sincerely,

Lisa L. Williams, Ph.D.
Lead Administrative Trustee

cc:

As to the United States:
U.S. Department of Justice by email: eescdcopy.enrd@usdoj.gov
Steve Willey, on behalf DOJ EES
Kimberly Gilmore, DOI Office of the Solicitor

As to the State:

Polly A. Synk, MDAG, Environment, Natural Resources, and Agriculture Division

Art Ostaszewski, EGLE

Jessica Mistak, MDNR

As to the Saginaw Chippewa Indian Tribe of Michigan:

Paul Mooney, Associate General Counsel

Sally Kniffen, Environmental Planning Department

Trustee Comments on Eagle Ridge Final Design and Implementation Plan

Dow Submittal Number: NRD2021.11

Submitted July 2, 2021

Comments and Suggestions:

1. Section 3.4. Plywood is not as durable as cedar. If used, exterior grade plywood is recommended and will last longer if coated with water based exterior latex paint (<https://www.fws.gov/birds/bird-enthusiasts/backyard/homes-for-birds.php#4>).
2. Section 3.6. Silt fence material should not contain plastic or metal mesh reinforcement to avoid risks of wildlife entanglement (more information silt fences and other erosion control materials is at <https://fws.gov/midwest/eastlansing/ecp.html>, including a presentation with additional details). Please ensure that the construction task list includes going back to remove silt fencing when no longer needed. This project is within the range of the Eastern Massasauga Rattlesnake (*Sistrurus catenatus*), listed as threatened under the Endangered Species Act of 1973, so these best management practices are necessary to avoid adversely affecting this species, which has been documented as being found dead, entangled in erosion control mesh.
3. Section 3.7 refers to Figures 12 and 13 for the gravel road and equalization culvert, but the only place we are seeing the culvert illustrated in on Figure 11. Figure 12 appears to show the overview platform at approximately the same location as the culvert is shown on Figure 11. For clarification, we suggest that the culvert approximate location and invert elevation be shown on Figure 14. The Trustees appreciate Dow recently providing a revised Figure 11 that includes specifications and the invert elevation of the culvert.
4. Section 3.7. These seeding rates seem high to us, so we recommend confirming these rates before ordering and planting.
5. Section 3.9. Invasive species can be brought into the site by seeds or vegetative parts of some plants, not just fruits, so equipment brought to the site should be inspected and cleaned as needed before use regardless of what time of year it is brought on site.
6. The Trustees recommend placing a sign at the driving entrance to the discretionary parking lot by Northern Wetland Trail that directs people to the additional parking at the main parking lot to help reduce the temptation to use the accessible spaces.
7. Figure 4 – For the as-built drawings, if using this figure with the pink area in Northern Wetland Area, please label this area.
8. Appendix A – the Eagle Ridge main entry sign:
 - a. Missing logos for two trustees: the Michigan DNR and the Michigan Department of Attorney General
 - b. The red circle symbols: We would like to see a symbol for pets on leash OK or no pets off leash and the language “please keep them under your control at all times” strengthened to “please keep them on leashes in the Nature Area”. This applies to the secondary entry, internal map, and optional reminder signs also.
 - c. For the Habitat Diversity and Unique Area Features sections, the intro text should include something about being on the lookout for signs that talk more about the topics

below. Or maybe the “Be on the lookout for signs” concept can be overarching the three sections on Habitat Diversity, Unique Area Features, and Wildlife Diversity.

d. In the plant section, delete “and pollinators” as they are not a type of plant.

9. Appendix A - Signage category and list: We are still hoping that “Pets under control” can be “Please leash pets in Nature Area” to reduce disturbance to wildlife and allow everyone the opportunity to observe wildlife.
10. Appendix A – Nature Trail Map. We would like to discuss the location of the map sign on the Bird Box Trail. We are wondering if it should be at the first intersection with the loop trail instead of by the discovery trail.
11. Secondary entrance and internal map signs. We assume that each of these maps will just have one of the red “You Are Here” symbols.
12. Appendix E – Plant lists. We appreciate the inclusion of several milkweed species along with a variety of forb species that provide nectar and pollen sources throughout the growing season. This will benefit monarch butterflies, now a candidate species for listing under the Endangered Species Act of 1973. We also support the “0” quantity for evening primrose listed in the mix as this species is extremely likely to arrive on its own.