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November 15, 2010

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VIA FEDERAL EXPRESS

The Honorable Donald E. Shelton
Washtenaw County Circuit Court
101 E. Huron
P.O. Box 8645
Ann Arbor, Michigan 48107-8645

ATTENTION: Clerk

Re: Attorney General for the State of Michigan v Gelman Sciences, Inc.
Case No. 88-34734-CE
Our File No. 471-1

Dear Sir/Madam:

Enclosed for filing please find original and Judge's copy of Notice of Tentative Agreement on Proposed Modifications to Remedial Objectives for Gelman Site, Notice of Hearing, Praecipe, and Proof of Service in reference to the above matter.

Please feel free to contact me should you have any questions or concerns. Thank you for your cooperation in this regard.

Very truly yours,

ZAUSMER, KAUFMAN, AUGUST,
CALDWELL & TAYLER, P.C.


Michael L. Caldwell

MLC:hlr

Enclosures

cc: Celeste R. Gill, Esq. (w/enclosures)
Alan D. Wasserman, Esq. (w/enclosures)

STATE OF MICHIGAN 22ND CIRCUIT COURT WASHTENAW COUNTY	REQUEST FOR HEARING ON A MOTION (PRAECIPE) ORDER/JUDGMENT	CASE NO. 88-34734-CE
PLAINTIFF NAME(S) Attorney General for the State of Michigan, et al.	VS.	DEFENDANT NAME(S) GELMAN SCIENCES INC. , a Michigan corporation
PLAINTIFF'S ATTORNEY, BAR NO., ADDRESS, AND TELEPHONE NO. Celeste R. Gill (P52484) Assistant Attorney General Attorney for Plaintiffs 525 W. Allegan Street, Floor 5 Lansing, MI 48909 (517) 373-7540		DEFENDANT'S ATTORNEY, BAR NO., ADDRESS AND TELEPHONE NO. Zausmer, Kaufman, August & Caldwell, P.C. Michael L. Caldwell (P40554) Attorneys for Defendants 31700 Middlebelt Road, Suite 150 Farmington Hills, MI 48334 (248) 851-411

(List additional attorneys on other side)

1. Motion Title: Notice of Tentative Agreement on Proposed Modifications to Remedial Objectives for Gelman Site
2. Moving Party: Defendant

3. Please place on the motion calendar for:

Judge Donald E. Shelton	Bar No. P23920	WEDNESDAY, NOVEMBER 24, 2010	Time 3 p.m.
----------------------------	-------------------	--------------------------------------------------	--------------------

Adj. to: _____

Adj. to: _____

Adj. to: _____

4. I certify that I have made personal contact with Celeste R. Gill on November ____, 2010 regarding concurrence in relief sought in this Motion and that concurrence has been denied or that I have made reasonable and diligent attempts to contact counsel requesting concurrence with Motion.

Date November 15, 2010

Attorney


 Michael L. Caldwell

Bar No. 40554

ORDER/JUDGMENT

DATED: _____

IT IS ORDERED THAT THIS MOTION IS:

- DENIED GRANTED IN PART/DENIED IN PART TAKEN UNDER ADVISEMENT DISMISSED
- GRANTED AND IT IS FURTHER ORDERED AND ADJUDGED:

CIRCUIT JUDGE

Approved as to form and substance by Counsel for:

Plaintiff _____

Defendant _____

Date _____

FILE EITHER IN PERSON OR BY MAIL
 WITH: WASHTENAW COUNTY CLERK
 101 E. Huron
 Ann Arbor, Michigan 48107

REVISED APR., 1989

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

ATTORNEY GENERAL FOR THE STATE OF MICHIGAN, ex rel,
MICHIGAN DEPARTMENT OF NATURAL
RESOURCES AND ENVIRONMENT,

Plaintiffs,

File No. 88-34734-CE

v

Hon. Donald E. Shelton

GELMAN SCIENCES INC.,
a Michigan corporation,

Defendant.

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Assistant Attorney General
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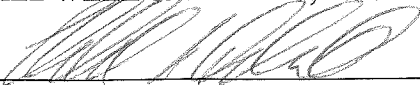
NOTICE OF HEARING

TO: Counsel of Record

PLEASE TAKE NOTICE that the Notice of Tentative Agreement on Proposed Modifications To Remedial Objectives for Gelman Site will be brought on for hearing before the Honorable Donald E. Shelton on WEDNESDAY, NOVEMBER 24, 2010 at 3 p.m. or at a date and time to be determined by the Court.

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Co-Counsel for Pall Life Sciences, Inc.
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(313) 963-3873

Dated: November 15, 2010

PROOF OF SERVICE

The undersigned certified that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on **NOVEMBER _____, 2010**

By: U.S. Mail FAX
 Hand Delivered Overnight Courier
 Federal Express Other:

Signature: _____
 HALINA LINDA ROMANSKI

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

ATTORNEY GENERAL FOR THE STATE OF MICHIGAN, ex rel,
MICHIGAN DEPARTMENT OF NATURAL
RESOURCES AND ENVIRONMENT,

Plaintiffs,

File No. 88-34734-CE

v

Hon. Donald E. Shelton

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**NOTICE OF TENTATIVE AGREEMENT ON PROPOSED
MODIFICATIONS TO REMEDIAL OBJECTIVES FOR GELMAN SITE**

Plaintiffs and Defendant, through their respective counsel, jointly notify this Court that the Parties have reached a tentative agreement as described below:

1. The current remedial objectives for the Gelman Sciences Inc. Site ("Gelman Site") are set forth in the October 26, 1992 Consent Judgment ("Consent Judgment") and the various Remediation Orders this Court has entered (Opinion and Remediation Enforcement

Zausmer, Kaufman, August, Caldwell & Taylor, P.C.,
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Order dated July 17, 2000 (“REO”); Opinion And Order Regarding Remediation Of The Contamination Of the “Unit E” Aquifer dated December 17, 2004 (“Unit E Order”); and the Order Prohibiting Groundwater Use, dated May 17, 2005)).

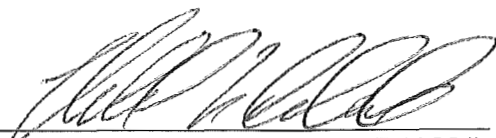
2. In August of last year, the Parties filed a series of Motions regarding the cleanup program for the Gelman Site. Plaintiffs filed a Motion to enforce the requirements of the existing Consent Judgment and to require Defendant to undertake additional response activities. Defendant filed a number of Motions seeking, among other things, approval of certain modifications to the existing cleanup program.

3. At the Court’s direction, the Parties have engaged in confidential settlement discussions in an attempt to resolve the disputed issues raised in these pleadings.

4. These settlement discussions have yielded a tentative agreement to modify the remedial objectives for the Gelman Site, as described in the Term Sheet attached as Exhibit 1. Plaintiffs’ approval of these modifications is subject to final approval of modified consent judgment language reflecting the agreed-upon modifications to the cleanup program.

5. The Parties will submit the modified Consent Judgment by December 15, 2010, that has final approval of all the Parties. In the event that the Parties have not been able to negotiate a mutually acceptable Consent Judgment modification by that time, Defendant will file a Motion seeking approval of its proposed language and identifying the remaining disputed issues.


CELESTE R. GILL (P52484)
Attorney for Plaintiffs


MICHAEL L. CALDWELL (P40554)
Attorney for Defendant

Dated: November 15, 2010

MODIFIED CLEANUP PROGRAM TERM SHEET

Pall Life Sciences, Inc. (PLS), the Michigan Department of Natural Resources and Environment (DNRE) and the Michigan Department of Attorney General (collectively, the Parties) have agreed to simplify the structure of the cleanup program for the Gelman Sciences Site, located at 600 South Wagner Road in Ann Arbor, Michigan (the "Site"), by reducing the number of remedial systems and cleanup objectives. The underlying goals of the proposed modifications are to provide greater consistency in the remedial approach used at the Site while maintaining compliance with Part 201 of the Natural Resources and Environmental Protection Act, MCL 324.20101 et seq. Under the proposed modifications, there will be only two remedial systems, which will be defined by geography and the presence/absence of an institutional control:

- A. The area east of Wagner Road, including the Evergreen Subdivision and the area encompassed by the current Prohibition Zone (the "Eastern Area"); and
- B. The area west of Wagner Road where no property or use restrictions are currently in place (the "Western Area").

As set forth below, each Area will have straight-forward cleanup objectives that the Parties expect will increase the sustainability and effectiveness of the overall program, while protecting the public health, welfare, safety, and the environment.

A. EASTERN AREA

The Parties are proposing a modified cleanup program for the Eastern Area that includes the following elements:

1. Expansion of the Prohibition Zone to Include the Evergreen Plume. To the Parties' knowledge, the Prohibition Zone has been a reliable means of preventing unacceptable drinking water exposures to the Unit E contamination. Under the proposed modifications the Prohibition Zone would be expanded to encompass all of the groundwater contamination in the Eastern Area, including the plume in the Evergreen Subdivision area. The proposed new boundary of the Prohibition Zone is shown on Figure A. The Court's May 17, 2005 Order Prohibiting Groundwater Use's requirement that PLS properly plug and replace any private drinking water wells by connecting those properties to municipal water would apply to the expanded Prohibition Zone. PLS will properly plug non-drinking water wells in the expanded area unless PLS asks the Court to clarify whether its previous orders require PLS to plug such wells. PLS has identified six properties being serviced by private water wells in the expanded area that must be connected to municipal water. PLS' Well Identification Plan will also be supplemented to include examination of this area to determine if there are other private water wells needing connection and/or plugging. The DNRE has reviewed PLS' proposed Well Identification protocol for confirming the presence or absence of other

private water supply wells and has provided its response to PLS. The Parties will ask the Court to resolve any disputes regarding acceptability of the Well Identification Protocol prior to final approval of the agreed upon modifications.

The triangle piece of property along Dexter/M-14 (Triangle Property) will not initially be included in the PZ expansion. (See Figure A). The decision as to whether to include the Triangle Property will be made based on the data obtained from new monitoring wells that PLS has agreed to install in the area (Specifically, the Wagner Road and Ironwood/Henry wells, along with other nearby wells). If the chemical and hydraulic data does not support PLS' conceptual model regarding groundwater and contaminant flow in the area, the DNRE may request that the Triangle Property be included in the PZ. PLS would have the right to dispute that request. If the Triangle Property is later included in the PZ, any further expansion beyond the Triangle Property in this area would be subject to the same feasibility analysis requirement that is discussed in No. 3, below. PLS will monitor any water supply well(s) located or installed on that property on a schedule agreed to by the DNRE unless or until it is included in the PZ, at which time it shall be addressed as part of the well identification process.

2. Unified 2,800 ppb Containment Cleanup Objective. The cleanup objective of capturing the leading edge of the Evergreen plume above the drinking water criterion would be eliminated. The current Unit E objective of preventing contaminant concentrations above 2,800 parts per billion (ppb) from migrating east of Maple Road would apply to this area of the plume.¹
3. Prohibition Zone. The institutional control that currently prevents use of the groundwater in the Unit E in the current Prohibition Zone will be extended to the Evergreen Subdivision area. Use of groundwater in the expanded area will be prevented under the same terms regardless of the depth of the groundwater or contamination. The Parties have agreed to include the following additional response actions to insure the effectiveness of this institutional control:
 - Verification Plan. PLS will implement its June 2, 2009 Verification Plan ("Verification Plan"), as modified below, to insure that any potential migration of groundwater contamination outside of the expanded Prohibition Zone is detected before such migration occurs. PLS will install four additional monitoring well clusters in the Evergreen Subdivision area at the approximate locations indicated on the map attached as Figure B. If concentrations in one or more of the three new wells installed at the perimeter of the expanded Prohibition Zone (or the existing MW-120s, MW-120d, MW-121s, and MW-121d) exceed 20 ppb, PLS will conduct a hydrogeological investigation to determine the fate of

¹ Subject to approval of this agreement, including operation of TW-21, PLS will not be required to install an additional performance monitoring well in Veteran's Park. PLS will include the existing MW-84d monitoring point in its Performance Monitoring Plan for Maple Road.

any contamination in this area as described in the Verification Plan.² This investigation will be conducted pursuant to a DNRE-approved work plan. If concentrations in any of the perimeter wells exceed 85 ppb (subject to approval by the Court of the application of a new criteria) or if PLS' investigation indicates that the plume of groundwater contamination will migrate outside of the Prohibition Zone, PLS will conduct a feasibility study of available options for addressing the situation. This feasibility study will include options other than simply expanding the Prohibition Zone, although that option may be included in the analysis. This feasibility analysis will be conducted pursuant to a DNRE-approved format. It is the intent of the Parties that any further expansion of the Prohibition Zone to address migration of groundwater contamination outside of the expanded Prohibition Zone should be avoided unless there are compelling reasons to do so. PLS' feasibility analysis shall identify the preferred alternative. The DNRE shall approve PLS' preferred alternative or submit changes as provided in Section X of the Consent Judgment, however, if PLS' preferred alternative is a risk based cleanup, the DNRE's review time would be subject to the requirements in Part 201. PLS will implement the approved alternative, or any changes submitted by the DNRE unless PLS initiates dispute resolution under Section XVI of the Consent Judgment.

- Evergreen Monitoring Wells. It is anticipated that each of the new well clusters described above will include two or possibly three monitoring wells, but this determination will be based on the Parties' evaluation of the geologic conditions present at each location, consistent with past practice. The easternmost PZ boundary well will be installed last and the data obtained from the other newly installed wells and existing wells will be used to determine its exact location. This well will be installed approximately one year after the other wells are installed and after the Parties have been able to evaluate at least four quarters of data from the new wells (and likely other data as well), unless the Parties agree that it should be installed sooner.
- PLS understands that the DNRE will require that these wells be drilled to bedrock (unless a different depth is approved by DNRE staff) and PLS agrees to do so if conditions permit. The DNRE staff reserves the right to require alternate drilling techniques if conditions warrant their use. If PLS believes that drilling one or more of these wells to bedrock is not practical due to the geologic conditions encountered and/or that such conditions do not warrant the alternative drilling technique required by the DNRE, PLS is entitled to initiate dispute resolution under Section XVI of the Consent Judgment. The wells will be installed using PLS' current vertical profiling techniques, which are designed to minimize the amount of water introduced during drilling, unless the DNRE agrees to alternate techniques. The wells (other than the easternmost well) will be installed

² There will be no trigger level for the fourth new well cluster near Pamela Street because this well cluster is not being placed at the perimeter of the Prohibition Zone.

shortly after the expanded PZ is approved, subject to access issues, in accordance with a schedule that PLS will provide before the modifications are finalized.

- Monitoring Plan. The Parties have reached agreement on a mutually acceptable monitoring plan for the Eastern Area, subject to modification based on monitoring results.
- Downgradient Investigation. PLS will continue to implement its Downgradient Investigation Work Plan to track the groundwater contamination as it migrates to insure any potential migration of groundwater contamination outside of the Prohibition Zone is detected before such migration occurs.

4. Continued Evergreen Groundwater Extraction as Necessary. PLS will initially operate the LB wells in the Evergreen Subdivision area at a combined purge rate of 100 gpm. PLS will continue to operate the LB extraction wells (LB-1 and LB-3) in order to reduce the migration of 1,4-dioxane until such time as it determines that the Eastern Area cleanup objectives will be met at a reduced extraction rate or without the need to operate these wells. Before significantly reducing or terminating extraction from these wells, PLS will consult with the DNRE and share the analysis and data supporting its conclusion. PLS will not significantly reduce or terminate extraction from the LB wells until the DNRE has a reasonable opportunity to evaluate PLS' rationale and respond. If the DNRE disagrees with PLS' decision to reduce/terminate extraction, it may challenge the decision in Court. DNRE will have 30 days to petition the Court and PLS shall not significantly reduce or terminate extraction from the LB wells while DNRE is challenging PLS' determination as provided herein. DNRE will make all reasonable efforts to have the motion resolved in a reasonable timeframe. If extraction from the LB wells is terminated either by the agreement of the Parties or an order of the Court, PLS will continue to maintain the LB wells in an operable condition until such time as the Parties agree (or the Court decides) otherwise. Because the remedial objective of capturing the leading edge of the plume in the Evergreen Area has been eliminated, PLS will abandon the Allison Street extraction well operation upon approval of the Court.
5. Financial Assurance Mechanism (FAM)/Oversight Costs. PLS will provide an acceptable FAM to cover future costs of remediation/monitoring. PLS can satisfy this requirement by passing the Financial Test/Corporate Guarantee, as revised January 12, 2010, previously provided to PLS.³ PLS will not be required to reimburse the State for oversight costs, except as currently provided in the current version of the Consent Judgments in Kelley v. Gelman Sciences, Inc., File No.

³ If agreement is reached on the Eastern Area and Western Area modifications at the same time, the FAM must be in place before the final agreement is signed. If an agreement on the Eastern Area modifications is reached prior to and separately from the Western Area, any agreement on the Eastern Area would be subject to an adequate FAM being provided for the entire site and being in place before the final agreement is signed for the entire site. If, for any reason, the parties do not reach an agreement on the Western Area modifications, PLS shall immediately establish the FAM for the Eastern Area modifications.

88-34734 and State of Michigan v. Gelman Sciences, Inc., File No. 90-CV-72946-DT (ED Mich.).

6. Expanded Wagner Road Extraction. PLS has installed TW-21 near Wagner Road. The infrastructure connecting this extraction well to the plant includes a pipeline with sufficient capacity to serve as a transmission line if the southern portion of the deep transmission line fails. PLS began extraction from TW-21 in June, 2010 and will continue operating it as provided under paragraph B.3.
7. Contingency Plan for Transmission Line Failure/Inadequate Capacity. PLS has provided the DNRE with documentation regarding the life expectancy of the deep transmission line and a confidential document containing a list of options that are proposed to be included in the post-agreement options array discussed below. After receiving DNRE's comments on the confidential options array, and prior to finalization of the revised Consent Judgment, PLS will provide the options array describing the various options that may be available if the deep transmission line fails or the 200 gpm capacity of the deep transmission line proves to be insufficient to meet the Eastern Area cleanup objectives, including specific minimum capacity associated with each option (if known). The options array submittal (both the settlement-confidential draft version and the final version to be included as an attachment to the revised Consent Judgment will state that PLS believes that at least one of the proposed options is currently feasible and implementable (timing of the implementation may be subject to PLS' ability to obtain governmental approvals and court-ordered access, if necessary).
8. Public Notice. PLS will pay the fee for publishing the DNRE-approved legal notice of the proposed PZ expansion.
9. Termination Criteria.
 - a. 2800 ppb Containment Objective. PLS will operate TW-19 (Maple Road extraction well) as needed to meet this objective until all approved monitoring wells upgradient of Maple Road are below the groundwater surface water interface criterion *or* PLS can establish, to the satisfaction of DNRE, that additional purging is no longer necessary to satisfy the containment objective at this location. Post-termination monitoring will be required for a minimum of ten years after the earlier of these two dates with cessation subject to DNRE approval. The PZ monitoring wells are not subject to cessation of monitoring under this provision and must continue to be monitored so long as 1,4-dioxane continues to be detected in PZ monitoring wells above 85 ppb, (subject to approval by the Court of the application of a new criteria). PLS may initiate dispute resolution pursuant to Section XVI of the Consent Judgment if the DNRE refuses to approve PLS' termination request.

- b. Prohibition Zone Containment Objective. PLS will continue to monitor the plume above the drinking water criteria as it migrates to the Huron River until all approved monitoring wells upgradient of the Huron River are below 85 ppb or such other applicable criterion for 1,4-dioxane, *or* PLS can establish, to the satisfaction of DNRE that continued monitoring is not necessary to satisfy the Prohibition Zone containment objective. PLS may initiate dispute resolution pursuant to Section XVI of the Consent Judgment if the DNRE refuses to approve PLS' termination request.

B. WESTERN AREA

The proposed modified cleanup program for the Western Area includes the following elements:

1. Unified Non-Expansion Cleanup Objective. PLS will be required to prevent the horizontal extent of the Western Area groundwater contamination above 85 ppb (subject to approval by the Court of the application of a new criteria) from expanding. Continued migration of groundwater contamination into the Prohibition Zone shall not be considered expansion. Subject to PLS' commitments regarding extraction from the Wagner Road wells described below, there will be no independent mass removal requirement or a requirement that PLS operate any particular purge well(s) at any particular rate beyond what is necessary to prevent prohibited expansion.
2. Core Area. The current "Core Area" Consent Judgment objective of preventing the 500 ppb plume from expanding will be eliminated as part of a final agreement on the Western Area modifications.
3. Wagner Road Extraction. After approval of the modifications, PLS will initially operate the Wagner Road wells (TW-18 and TW-21) at a combined 200 gallons per minute (gpm) extraction rate (with a minimum extraction rate of 50 gpm for each of the wells). PLS will continue to operate its Wagner Road extraction wells (TW-18 and TW-21) in order to reduce the migration of 1,4-dioxane east of Wagner Road at this rate until such time as it determines that the Eastern Area cleanup objectives will be met with a lower combined extraction rate or without the need to operate these wells. Before significantly reducing or terminating the combined extraction from these wells, PLS will consult with the DNRE and share the basis and data supporting its conclusion. PLS will not significantly reduce or terminate the Wagner Road extraction until the DNRE has a reasonable opportunity to evaluate PLS' rationale and respond. If the DNRE disagrees with PLS' decision to reduce/terminate extraction, it may challenge the decision in Court. DNRE will have thirty (30) days to petition the Court and PLS shall not significantly reduce or terminate extraction while DNRE is challenging PLS'

determination, as provided herein. DNRE will take all reasonable steps to have the motion resolved in a reasonable timeframe. The current Unit E capture objective for Wagner Road will be eliminated and PLS will not be required to capture the plume or any specific contaminant concentration at this location.

4. Decommissioning Extraction Wells. Prior to finalization of the agreement, PLS will provide the DNRE with a list of Western Area extraction wells that it intends to decommission (take out-of-service) in 2010. The DNRE has the right to ask the Court to stop PLS from taking such well(s) out-of-service. PLS will maintain all other extraction wells, including TW-2 (Dolph Park) and TW-12, in operable condition even if it subsequently terminates extraction from the well(s) until such time as the Parties agree (or the Court decides) otherwise.

5. Compliance Monitoring Well Network/Performance Monitoring Plan. An acceptable Performance Monitoring Plan based on a compliance monitoring well network sufficient to monitor the Non-Expansion Cleanup Objective must be established. The DNRE has identified a number of locations where there may be gaps in the current definition of the plume and where additional wells need to be installed (described below). The Parties' technical staffs have agreed upon the installation of borings/monitoring wells as described below, however DNRE reserves the right to request the installation of additional borings/monitoring wells if the totality of the data from these wells indicate that the plume has not been completely defined. These boring/monitoring wells will provide further definition of the extent of groundwater contamination so that the Parties can identify compliance monitoring points for monitoring the revised performance objective for the Western Area⁴:
 - A boring south of Third Sister Lake, near the MWs named Saginaw Forest Cabin (SFC) #1&2, will be drilled to determine if there is any dioxane that needs to be monitored in the vertical interval between the screens at SFC #1&2. PLS will vertically profile every ten feet throughout the saturated interval. DNRE expects that the interval that corresponds to the screen in SFC#1 will be about 30 ppb, about the same as SFC#1. DNRE recommends that the use of water during the drilling be avoided during this boring, or that PLS installs a temporary well at the appropriate intermediate depth(s) to ensure that the vertical profile result accurately reflects the actual concentration. DNRE understands that PLS may not want to install another MW if it can confirm there is no need to monitor this depth; however, DNRE will require a permanent MW(s) screened at the appropriate intermediate depth(s) if it has a reasonable basis for questioning the vertical profiling results.

⁴ The locations and/or number of the compliance monitoring wells will be determined based on the data obtained from the additional wells that will be installed in these areas. The parties agree that they do not need to obtain the data from the above-described well installations before advising the Court that an agreement in principle has been reached if the other remaining issues have been resolved.

- A boring will be done about halfway between MW-39 and MW-59. If all vertical profile (VP) results are less than 85 ppb, as we expect, a MW cluster will be installed to monitor the Unit D2 and Unit E. If the VP results are significantly greater than 85 ppb, PLS believes that a MW cluster is not needed, as MW-59s & d could be used as compliance monitoring points. While DNRE generally agrees with this approach, if unexpectedly high concentrations are found, it may lead DNRE to question the aquifer conditions and DNRE reserves the right to request MWs at that, or some other nearby location.
 - A boring will be done at/near MW-20, with MWs screened to monitor the Unit D2 Unit E.
 - An additional MW near MW-36 may not be needed, depending on the results of the two MW clusters discussed above (between MW-39 & MW-59 and near MW-20. If, after all the agreed upon MWs west of Wagner Road are installed, the hydraulic head and data support PLS' conceptual flow model (that the contamination in the shallower units does not continue migrating to the west, but drops into the deeper unit and flows east into the Prohibition Zone) the DNRE will not require a MW near MW-36.
 - A monitoring well cluster will be installed just west of Wagner Road and South of I-94.
 - PLS will install the proposed Nancy Drive MW cluster, although the parties agree that it will be moved a bit east from the originally proposed location, closer to MW-14d. It was agreed that placement of the boring could be deferred until the MW proposed just west of Wagner and south of I-94 is installed, however DNRE wants PLS to provide a reasonable schedule for installation of this MW cluster.
6. Property Restrictions. PLS must have property use restrictions sufficient to prevent unacceptable exposures in place with regard to the affected properties before completely terminating extraction in the Western Area. PLS agrees not to sell or otherwise transfer title to any portion of the Gelman Property before it reaches agreement with the DNRE on an acceptable property restriction for the Gelman Property.
7. Penalty for Non-Compliance. The Parties agree that if prohibited expansion occurs, PLS will be required to undertake additional response actions to return the plume to its original boundaries (e.g., recommencement of purging at particular locations). Defendant is required to comply with all of the remedial objectives of the Consent Judgment, as amended or modified, and any failure by Defendant to do so shall be subject to the assessment of stipulated penalties as provided in Section XVII of the Consent Judgment. Without limiting the foregoing, Plaintiffs agree to modify the remedial objectives for the Western Area, to the performance objective of no further expansion of the 1,4-dioxane above 85 ppb, as provided in Section B.1 above, in reliance on Defendant's agreement to comply with this objective. To ensure compliance, Defendant shall be subject to the assessment of

stipulated penalties, as provided in Section XVII of the Consent Judgment, for violation of the no expansion objective (and acknowledgement of such shall be incorporated into Consent Judgment.) Nothing in this paragraph shall limit PLS' ability to contest the assessment of stipulated penalties as provided in the Consent Judgment.

8. Ann Arbor Cleaning Supply (Western System). The Parties agree that some type of active remediation of this area must continue until appropriate land use restrictions are placed on the affected property(ies). PLS will, however, resubmit its proposal to temporarily reduce the frequency of the batch purging of this well so that the effects of batch purging can be evaluated. PLS will also contact the Sunward Co-Housing Coop and inquire as to whether they will consider placing a groundwater use restriction on their property.
9. Internal Plume Characterization. The DNRE agrees that the additional definition within the plume and/or characterization of "source" areas sought in its motion is not necessary, based on the additional monitoring wells to be installed as discussed in paragraphs A.3 and B.5, however, DNRE reserves the right to ask the Court to require such work if there are unexpected findings that DNRE determines warrants additional characterization.
10. Reopener for Changed Criteria. DNRE is agreeable to the following modification to the reservation of rights (i.e. reopener) language of the Consent Judgment to address possible changes to the 1,4-dioxane criteria:

E. Notwithstanding any other provision in this Consent Judgment:

- (1) Plaintiffs reserve the right to institute proceedings in this action or in a new action seeking to require Defendant to perform any additional response activity at the Site; and
- (2) Plaintiffs reserve the right to institute proceedings in this action or in a new action seeking to reimburse Plaintiffs for response costs incurred by the State of Michigan relating to the Site. Plaintiffs' rights in E.1. and E.2. apply if the following conditions are met:

1. For proceedings prior to Plaintiffs' certification of completion of the Remedial Action concerning the Site,
 - a. (i) conditions at the Site, previously unknown to the Plaintiffs, are discovered after entry of this Consent

Judgment, (ii) new information previously unknown to Plaintiffs is received after entry of the Consent Judgment, or (iii) DNRE adopts one or more new, more restrictive cleanup criteria for 1,4-dioxane pursuant to [Part 201] after entry of the Consent Judgment; and

- b. these previously unknown conditions, new information, and/or change in criteria indicate that the Remedial Action is not protective of the public health, safety, welfare, and the environment; and

2. For proceedings subsequent to Plaintiffs' certification of completion of the Remedial Action concerning the Site,

- a. (i) conditions at the Site, previously unknown to the Plaintiffs, are discovered after certification of completion by Plaintiffs, (ii) new information previously unknown to Plaintiffs is received after certification of completion by Plaintiffs, or (iii) DNRE adopts one or more new, more restrictive cleanup criteria for 1,4-dioxane pursuant to [Part 201] after certification of completion by Plaintiffs; and
- b. these previously unknown conditions, new information, and/or change in criteria indicate that the Remedial Action is not protective of the public health, safety, welfare, and the environment.

If Plaintiffs adopt one of more new, more restrictive, cleanup criteria, Plaintiffs' rights in E.1. and E.2. shall also be subject to Defendant's right to seek another site specific criterion(ia) that is protective of public health, safety, welfare, and the environment and/or to argue that Plaintiffs' have not made the demonstration(s) required under this Section.

11. Other Consent Judgment Systems. The Marshy and Soil System requirements will be modified, as necessary, to require PLS to demonstrate to the satisfaction of DNRE prior to terminating extraction in the Western Area that any remaining 1,4-dioxane contamination in these systems would not cause any expansion of groundwater contamination in the Western area. PLS may initiate dispute resolution pursuant to Section XVI of the Consent Judgment if the DNRE refuses to approve PLS' demonstration.
12. Termination Criteria for Western Area Containment Objective. PLS will continue to operate the Western Area extraction wells deemed necessary to prevent the areas impacted by contaminant concentrations of above 85 ppb (subject to approval by the Court of the application of a new criteria) from expanding until PLS can establish to DNRE's satisfaction that groundwater extraction is no longer necessary to prevent such expansion. Post-termination monitoring will be required for a minimum of ten years after termination of extraction with cessation subject to DNRE approval. PLS may initiate dispute resolution pursuant to Section XVI of the Consent Judgment if the DNRE refuses to approve PLS' demonstration.

