



Rose & Westra
A Division of GZA

GEOTECHNICAL

ENVIRONMENTAL

ECOLOGICAL

WATER

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April 30, 2020
File No. 16.0062961.xx

Ms. Karen Vorce, Project Manager
Grand Rapids District Office
Remediation and Redevelopment Division
Michigan Department of Environment, Great Lakes, and Energy
350 Ottawa Avenue NW, Unit 10
Grand Rapids, MI 49503
vorcek@michigan.gov

Re: Wolverine World Wide, Inc. Consent Decree No. 1:18-cv-00039 (CD)
2020 First Quarter Progress Report

Dear Ms. Vorce:

On behalf of Wolverine World Wide, Inc. (Wolverine), Rose & Westra, a Division of GZA GeoEnvironmental, Inc. (R&W/GZA), is submitting this 2020 First Quarter Progress Report under the referenced CD, effective February 19, 2020.

This submittal is completed pursuant to Section 7.15(a)-(d). The first quarter reporting period ends March 30, 2020. As described in Section 7.15(b), this progress report summarizes response activities conducted pursuant to paragraphs 7.5, 7.6, 7.7, 7.8, 7.9, and 7.10 of the CD.

Section 7.5: Filters

During the first quarter reporting period, Wolverine continued operation and maintenance of applicable point-of-entry treatment (POET) and point-of-use (POU) filters in accordance with the CD.

R&W/GZA implemented logistics for the CD-defined changes to the POET monitoring schedule and procedure. This included beginning to provide notifications to residents about the changes to their individual POET, as applicable, as well as coordination of the routine granular activated carbon (GAC) column exchanges.

R&W/GZA also began drafting the documents for submittal under Section 7.4(b), Response Activity Plan (RAP) for filters. This document was submitted when due on April 6, 2020 (during the second quarter).

Section 7.6: Residential Well Sampling

R&W/GZA began drafting the RAP for submittal under Section 7.4(c) which defines the scope of implementation for Section 7.6, Residential Well Sampling. This RAP is due May 4, 2020.



Section 7.7: Tannery Site

Under Section 7.7(b), R&W/GZA submitted the conceptual design summary and schematic for the planned interceptor system and treatment system in a technical memorandum on March 20, 2020.

Section 7.8: House Street Site

R&W/GZA began the feasibility study for the House Street site described in Section 7.8. The feasibility study is due April 21, 2021.

Section 7.9: Groundwater Monitoring Obligations/Requirements

Section 7.9 includes the groundwater monitoring obligations/requirements for the perimeter wells and groundwater investigation/monitoring wells (in Areas 5, 6, 11, 12, and Area R-1[19]) as defined in the CD.

During the first quarter reporting period, R&W/GZA began drafting the RAPs associated with implementation of Section 7.9. The RAPs for Areas 5, 6, 11 and 12, and R-1(19) are due June 18, 2020. The RAP for the perimeter wells is due August 17, 2020.

No drilling was conducted in the first quarter (Section 7.15(c)(vii)(A)) .

Section 7.15(c)(vii)(B) requires submittal of location maps for all sample results, groundwater elevation data and contour maps, boring logs, and cross sections. No such information was generated during the first quarter.

Section 7.10: GSI Investigation

R&W/GZA began drafting the RAP for submittal under Section 7.4(a) which defines the scope of implementation for Section 7.10, GSI Investigation. This document was submitted when due on April 20, 2020 (during the second quarter).

Additional Submittals

Section 7.15(c)(i)-(viii) of the CD outlines several items that are required in the quarterly progress reports.

7.15(c)(i) – No sampling data was obtained during the reporting period.

7.15(c)(ii) – No access issues were identified during the first quarter.

7.15(c)(iii) – A schedule using a Gantt chart or other visual project tracking mechanism is required. As no implementation of RAPs are currently underway or anticipated in the next reporting period, this item is limited to reporting deliverables. See **Enclosure 1**. The filter operation and maintenance as well as performance monitoring schedule is included in the quarterly filter report.

7.15(c)(iv) – This section requires a table of outstanding deliverables and tasks; including the name of the outstanding item, scheduled completion date, anticipated completion date, the reason for any completion date changes, and the project manager for a scheduled item. The currently established deliverables, are summarized on the following table (as well as generically summarized in Enclosure 1, Gantt Chart).



RAP / Deliverable	Days	EGLE Due Date	R&W/GZA PM
Tannery IR	30	3/20/2020	M. Westra
O&M of Filters	45	4/6/2020	L. Powers
GSI Investigation	60	4/20/2020	L. Powers
Quarter 1 Summary Eff Date - End March		4/30/2020	
Residential Well Sampling	75	5/4/2020	L. Powers
Area 5	120	6/18/2020	L. Powers
Area 6	120	6/18/2020	L. Powers
Areas 11/12	120	6/18/2020	L. Powers
Area R-1/19	120	6/18/2020	L. Nelson
Quarter 2 Summary April 1 to End June		7/31/2020	
Perimeter wells	180	8/17/2020	L. Nelson
Quarter 3 Summary July 1 to End September		11/2/2020	
Tannery Interceptor RAP*	365	2/18/2021	M. Westra
HS Feasibility**	365	2/18/2021	M. Westra
Quarter 4/Yearly Summary through End December		3/1/2021	

*Two years after installation, a demonstration of performance documentation is due

** RAP for final remedy due 180 days after selection

***Within 90 days of GSI workplan completion, submit a WP for GSI well installations; note the completion report for this RAP is due 180 days after completion of the investigation

Additionally, under Section 7.12, completion reports are due for the RAPs, and those schedules are primarily determined by the completion of certain tasks. Dates for those deliverables will be included as they approach and/or are established.

7.15(c)(v) – No waste materials were generated during the reporting period.

7.15(c)(vi) – No data validation was performed under the CD during the first quarter.

Requirements of Sections 7.15(c)(vii)(A) and 7.15(c)(vii)(B) were previously discussed.

Section 7.15(c)(viii) indicates a summary should be provided of any other relevant information regarding other activities or matters that affect or may affect the implementation of the requirements of the CD. A notice of force majeure event (Section 12.3 of the CD) was submitted on April 2, 2020 (just after the end of the reporting period). This notification outlines the force majeure and possible necessary changes to the schedule outlined in the CD. A copy is included as **Enclosure 2**.

Per Section 7.15(e), the filter monitoring data is submitted separately, also on a quarterly basis.



If you have any questions, please contact us.

Very truly yours,

Rose & Westra, a Division of GZA GeoEnvironmental, Inc.

Loretta J. Powers
Senior Project Manager

Leslie M. Nelson, P.E.
Senior Project Manager

Mark A. Westra
Principal

Enclosures: Gantt Chart Project Schedule
Force Majeure Event Letter

c: Mr. Dave Latchana–Wolverine Worldwide, Inc. *via email David.Latchana@wwwinc.com*
Mr. John V. Byl–Warner Norcross & Judd LLP *via email jbyl@wnj.com*
Ms. Polly Synk–Michigan Department of Attorney General *via email SynkP@michigan.gov*
Ms. Danielle Allison-Yokom–Michigan Department of Attorney General *via email AllisonYokomD@michigan.gov*

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Warner Norcross + Judd LLP

April 2, 2020

Via Email (vorcek@michigan.gov)

Karen Vorce
Project Manager
Grand Rapids District Office
Remediation and Redevelopment Division
Michigan Department of Environment, Great Lakes, and Energy
350 Ottawa Avenue NW, Unit 10
Grand Rapids, Michigan 49503

Re: **Notice of Force Majeure Event**
Paragraph 12.3 of the Wolverine World Wide, Inc. Consent Decree
Case No. 1:18-cv-00039 (W.D. Mich.)

Dear Ms. Vorce:

I write to notify you of a force majeure event under paragraph 12.3 of the Consent Decree. On March 11, 2020, the World Health Organization characterized the global outbreak of coronavirus disease 2019 (“**COVID-19**”) as a pandemic. In response, on March 23, 2020, Governor Whitmer issued Executive Order No. 2020-21, *Temporary requirement to suspend activities that are not necessary to sustain or protect life* (the “**Order**”).

As you know, the Order “may require some regulated entities to deviate from normal business operations” and those deviations from normal business operations “may create challenges for regulated entities to meet some legal obligations.”¹ That is the case for Wolverine with respect to certain obligations and response activities under the Consent Decree.

The Order became effective on March 24, 2020, and on March 25, 2020, Wolverine notified you by telephone that the Order constitutes a force majeure event under Section XII of the Consent Decree. Wolverine obviously did not cause the COVID-19 pandemic; Wolverine did not cause Governor Whitmer to issue the Order; and Wolverine does not know or control when the pandemic will abate or when Governor Whitmer will allow Michigan residents to return to work. Despite Wolverine’s best efforts, the COVID-19 pandemic and the Order’s directive that all Michigan residents must stay in their homes may delay Wolverine’s performance of certain items under the Consent Decree for some period of time that we currently can’t predict.

¹ Michigan Department of Environment, Great Lakes, and Energy, *EGLE Establishes Process for Handling Enforcement Discretion Due to COVID-19*, <https://www.michigan.gov/egle/0,9429,7-135--523592--00.html> (last visited March 31, 2020).

Scott M. Watson | Partner

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Wolverine does not anticipate that all of its work under the Consent Decree will be delayed. Some of Wolverine's work under the Consent Decree could be deemed to be exempt as "necessary to sustain or protect life" under the Order. In particular, Wolverine's operation and maintenance of filters as provided in Paragraph 7.5 of the Consent Decree ensures that residents have continued access to suitable drinking water. So Wolverine does not anticipate that the Order will impact Wolverine's performance of the work in Paragraph 7.5 of the Consent Decree, unless a home is under quarantine or a resident does not wish to have the work performed because of the pandemic.

Nor does Wolverine anticipate that the Order will impact its ability to submit Response Activity Plans in accordance with Paragraph 7.4 of the Consent Decree. Preparation of Response Activity Plans under Paragraph 7.4 of the Consent Decree can currently be completed by Wolverine and its service providers from home and in compliance with the Order.

But other obligations, such as the response activities to be detailed in those Response Activity Plans, cannot be completed from home. They are necessarily in-person, on-site activities that may result (directly or indirectly) in worker exposure to COVID-19. Yet they are not necessary to sustain or protect life.

In addition, Wolverine believes that the personal protective equipment that may be used by some of its contractors in performing response activities under the Consent Decree would be better utilized by health care workers in need of such equipment. And Wolverine has already encountered circumstances where its subcontractors and suppliers do not agree that all work related to environmental response activity qualifies for an exception to the stay-at-home mandate in the Order.

In sum, to ensure compliance with the Order and to protect the health and safety of workers and those they come in contact with, Wolverine currently anticipates that the response activities to be detailed in the Response Activity Plans under Paragraph 7.4 of the Consent Decree may not start until late 2020 or 2021 and will ultimately be delayed until the COVID-19 pandemic is abated. Depending on the circumstances as they evolve over the coming months, Wolverine anticipates that this could have a cascading effect on its ability meet deadlines in the Consent Decree.

For example, a delay in performance of work under a Response Activity Plan may mean that Wolverine will not be able to meet the deadlines for submission of completion reports in Paragraph 7.12(a)(ii)-(viii). To the extent possible, Wolverine will provide a more detailed report of the impact of the COVID-19 pandemic and the anticipated schedule in each of the Response Activity Plans as they are submitted in accordance with the schedule in Appendix K to the Consent Decree.

Very truly yours,

Scott M. Watson