



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
GRAND RAPIDS DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

September 2, 2020

VIA E-MAIL AND U.S. MAIL

Mr. Dave Latchana
Associate General Counsel
Wolverine World Wide, Inc.
9341 Courtland Drive, NE
Rockford, Michigan 49351

Dear Mr. Latchana:

SUBJECT: Resolution of Disputes Pertaining to the Filter Operation and Maintenance Response Activity Plan as Required by the Wolverine World Wide, Inc. Consent Decree Court Case No. 1:18-cv-00039

Wolverine World Wide, Inc. (Wolverine) provided a Notice of Dispute to the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on August 13, 2020, under Section 18.5(c) of the Consent Decree (W.D. Mich. Case No. 1:18-cv-39) pertaining to EGLE's comments on the Filter Operation and Maintenance (O&M) Response Activity Plan.

After EGLE received the Notice, EGLE and Wolverine have discussed Wolverine's objections to certain conditions identified in EGLE's August 3, 2020, Notice of Approval with Conditions of the Filter O&M Response Activity Plan, specifically for the Alternate Water Supply Management Plan – Point of Entry Treatment (POET) Systems – Revised April 6, 2020.

Based on those discussions between EGLE and Wolverine, this letter documents the mutually agreed upon solutions and clarifications to EGLE's August 3, 2020, conditions which address and resolve Wolverine's objections brought forth in their August 13, 2020, letter:

1.

EGLE's Condition: Section 3.0 Communication with Affected Properties:

- *Wolverine shall set up a process to notify current property owners/occupants that they need to disclose the Wolverine maintained filtration system to any future property owners. Per Michigan's Seller Disclosure Act, Act 92 of 1993, a seller is required by law to notify any prospective buyer about the property's physical condition, which would include the filtration systems Wolverine installed to address the presence of hazardous substances. In addition, Section 20116 of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended,*

requires that a person who has knowledge that their real property is a “facility” shall provide written notice to the purchaser or other person to which the property is transferred disclosing the known general nature and extent of the hazardous substance release and any land or resource use restrictions (i.e., the Plainfield Charter Township or Algoma Township “Groundwater Use” ordinances) that are known by the person to apply. Wolverine should communicate this requirement to current homeowners, so that homeowners who sell their home understand their obligation to share this information with purchasers.

Wolverine’s Objection: *Wolverine has regularly provided well test and filter operation test results to residents, and will continue to supply that information so that residents have all the information they need to comply with any notification or disclosure obligations they may have to future property owners, but Wolverine objects to this Condition to the extent that it suggests that Wolverine has an obligation to educate homeowners of their legal obligations or ensure that they comply with whatever those obligations may be.*

Resolution: Wolverine will update Section 3.0 (Communication with Affected Properties) to identify the various ways homeowners who have a filtration system maintained by Wolverine have been notified and provided testing results and filtration information by Wolverine. This will include references to the letters to homeowners and the filter contact sheet provided.

2.

EGLE’s Condition: Section 5.5 GAC Vessel Change Out:

- *First paragraph after the table, 35 parts-per-trillion (ppt) should be changed to 10 ppt, and additional per- and polyfluoroalkyl substances (PFAS) compounds need to be addressed. The sentence should state: “...a carbon change out will be completed when total perfluorooctanesulfonic acid (PFOS) + perfluorooctanoic acid (PFOA) concentrations in a sample from the mid-point port (after the lead Granular Activated Carbon [GAC] vessel but prior to the lag GAC vessel) are greater than 10 nanogram per liter (ng/L) (or applicable cleanup criteria), or when concentrations of any other PFAS compound (as defined in the Consent Decree) are greater than applicable cleanup criteria.”*

Wolverine’s Objection: *There is no reason to make this change to the already well-established filter protocol, for all the reasons set forth below:*

- *The POET Statement of Work was already approved in the Consent Decree and relied on the 35 ppt mid-point sample threshold.*
- *The mid-point trigger of 35 ppt was set early in the POET O&M process. It has been more than sufficient in serving as a threshold for GAC change-outs. The mid-point monitoring is not completed to demonstrate compliance with Part 201 (or other applicable criteria), but rather as a function of*

monitoring system performance and implementation of the GAC change out schedule.

- *Past data shows that the newly implemented routine, preemptive GAC change out schedule will drive the GAC change outs, not the mid-point monitoring.*
- *The sampled water at the mid-point is still treated in the lag carbon vessel(s) and, is again, not a compliance point.*

This objection applies to all Conditions and locations in the POET O&M where the mid-point trigger is contemplated, including Section 6.10.1 of the Conditions.

Resolution: In order to keep using the 35ppt mid-point trigger concentration, Wolverine will:

- Collect a sample from the effluent sample port if a detection of PFAS are identified in the mid-point sample above applicable Part 201 clean-up criteria, but below the 35ppt PFOA + PFOS trigger threshold (if an effluent sample was not collected at the same time as the mid-point sample). The homeowner would be notified as soon as possible (within 72 hours of receipt of the mid-point lab result) and an effluent sample would then be collected by Wolverine at the earliest convenience of the homeowner in order to document the water entering the home after the filtration system is below the effluent trigger levels discussed in Section 5.5 of the plan; OR
- If carbon change out is scheduled to occur soon, Wolverine may elect to perform the carbon change out early, rather than the above-described sampling. This decision will be documented and discussed with EGLE.

3.

EGLE's Condition: Section 7.0 Cessation:

- *First bullet needs to clarify that Wolverine will also offer to remove the POET system at Wolverine's expense (per Section 7.59(g) of the Consent Decree).*

Wolverine's Objection: *As EGLE knows, Wolverine already contacts each affected resident and provides them with their options, consistent with section 7.5(g) of the Consent Decree. The Response Activity Plan (RAP) will be clear that Wolverine will continue to provide letters, like the one attached, to each affected resident.*

Resolution: Wolverine will update the plan to reference and attach a copy of the template filter letter(s) which are provided to homeowners to notify them of their options regarding the filter system, consistent with Section 7.5(g) of the Consent Decree.

4.

EGLE's Condition: Table 1: *Change the approximate reporting limit from 4 ppt to 2 ppt, consistent with drinking water reporting for the statewide PFAS sampling conducted by EGLE.*

Wolverine's Objection: *Dropping the reporting limit from 4 ppt to 2 ppt would have no benefit from a compliance or regulatory standpoint. The 4 ppt reporting limit is already half of the lowest applicable Part 201 PFAS criterion, and is more than sufficient for detections of criteria exceedance. In any event, EGLE already approved Wolverine's project-specific Quality Assurance Project Plan (QAPP), which utilizes a 4 ppt reporting limit. The EGLE guidance emailed on August 6, 2020, regarding PFAS Drinking Water Generic Cleanup Criteria Revision indicates that the target detection limit for PFOS and PFOA are 5 ppt; and the 2018 PFAS Sampling of Drinking Water Supplies in Michigan summary (AECOM project 60570309) indicates on pages 8 and 9 that even when EGLE performed sampling in the North Kent Study Area the reporting limits used were 2 ppt and 4 ppt, not consistently 2 ppt.*

Resolution: The approximate reporting limit can remain at 4 ppt to be consistent with the current project QAPP. This reporting limit level will be evaluated and verified that it remains consistent with and in accordance with the project's current Environmental Protection Agency (EPA) approved drinking water method, as sampling methodologies are revised and updated over time.

EGLE and Wolverine have agreed that the above resolutions, and the remaining items outlined within EGLE's August 3, 2020, Conditional Approval Letter will be incorporated in the Filter Operation and Maintenance Response Activity Plan and the final report will be submitted to EGLE within 2 weeks (14 days) of receipt of this letter.

If you should have further questions or concerns, please contact Karen Vorce, Remediation and Redevelopment Division, Grand Rapids District Office, at 616-439-8008.

Sincerely,



Abigail Hendershott
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cc: Ms. Polly Synk, Department of Attorney General
Ms. Danielle Allison-Yokom, Department of Attorney General
Mr. John Byl, Warner Norcross & Judd LLP
Ms. Karen Vorce, EGLE