

EXHIBIT

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

CITY OF ANN ARBOR, a Michigan
municipal corporation,

Case Number: 04-513 CF
Hon. Donald E. Shelton

Plaintiff,

v.

GELMAN SCIENCES, INC. (d/b/a PALL
LIFE SCIENCES), a Michigan corporation,

Defendant.

BODMAN LLP

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**CITY OF ANN ARBOR'S RESPONSES TO DEFENDANT'S SECOND SET OF
DISCOVERY REQUESTS**

NOW COMES the City of Ann Arbor ("Ann Arbor") by and through its attorneys and
responds to Gelman Sciences, Inc.'s Second Set of Discovery Requests as follows:

General Objections

These objections shall apply to each of plaintiff's discovery requests:

A. Ann Arbor objects to defendant's discovery requests to the extent that they are so over inclusive as to be unduly burdensome, overbroad and neither relevant nor reasonably calculated to lead to the discovery of relevant or admissible evidence.

B. Ann Arbor objects to Defendant's discovery requests to the extent that they request information protected from disclosure by the attorney-client privilege, work product rule, and/or any other applicable privilege, rule or law.

C. The discovery requests, together with definitions and instructions, are beyond the scope of discovery permitted under MCR 2.301(B) or attempt to impose terms, conditions, obligations or limitations beyond those contained in the applicable Michigan Court Rules.

D. Ann Arbor's response are limited to those documents or information that it presently knows to be in its possession.

E. Ann Arbor has not yet completed its investigation and reserves the right to file supplemental or amended responses as appropriate.

Without waiving and subject to the above objections with respect to each discovery request below as well as any additional specific objection that it may raise, Ann Arbor answers as follows:

INTERROGATORIES

INTERROGATORY NO. 1:

Describe in detail all response costs incurred by Plaintiff as the result of the alleged release, threatened release and disposal of “hazardous substances” from Defendant’s property located at 600 South Wagner Road. Your description should identify the following:

- a. The amount and nature of each response cost allegedly incurred by Plaintiff and the date each response cost was incurred;
- b. All Documents that identify, describe, relate to, support, or contradict, any response cost incurred by Plaintiff;
- c. All persons with knowledge of Plaintiffs alleged response costs;
- d. All persons, including experts, Plaintiff may call as witnesses in support of its response cost claim.

RESPONSE TO INTERROGATORY NO. 1:

Objection. The request is overbroad and seeks information that is neither relevant to this litigation nor reasonably calculated to lead to admissible evidence. Furthermore, the term “response costs” is without legal meaning in this litigation, and Ann Arbor has insufficient direction from Defendant to set forth a meaningful answer to this request. Without waiving and subject to any objection that it may raise, Ann Arbor states that:

a.

RESPONSE ACTIVITY	COST
Staff time to investigate, monitor and recommend solutions to 1,4 dioxane contamination.	To Be Determined ("TBD")
Staff time to investigate temporary alternative water supply source.	TBD
Engineering Fees for proposed temporary alternative water supply source.	TBD
Wellhead protection study.	TBD
Temporary supplemental supply augmentation from Barton Pond and Steere Farms.	TBD
Investigation, Sampling and Analysis.	TBD
Other professional fees relating to studying 1,4 dioxane and recommending temporary alternative water supply source.	TBD
Due Care Plan for Veterans Park use.	TBD

RESPONSE ACTIVITY	COST
Preparation of Ann Arbor Water Treatment Facilities and Water Resources Master Plan (“Master Plan”), to be completed by CH2M Hill.	Approximately \$858,250 (not including Ann Arbor staff time).
Additional staff time, including but not limited to park staff time and staff time attributable to responding to PLS’s requests to install monitoring wells.	TBD
All other costs that Ann Arbor has taken that are necessary to protect public health, safety, welfare, the environment or natural resources or that may otherwise be considered “response activity costs” as defined under Part 201 of Michigan’s Natural Resources and Environmental Protection Act.	TBD

b. City of Ann Arbor Wellhead Protection Program Plan (“Wellhead Protection Plan”); Ann Arbor objects to the remainder of this discovery request to the extent it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Without waiving and subject to any objections that it may raise, Ann Arbor responds that the additional information sought by the discovery request can be derived from Ann Arbor's business records and that the burden of doing so is substantially the same for PLS as it is for Ann Arbor. Pursuant to MCR 2.309(E), Ann Arbor shall make such non-privileged records available for inspection and copying at a mutually agreeable time and date.

c. Without waiving and subject to any objection that it may raise, Ann Arbor states that the following individuals may have information relating to the request: Sue McCormick, Matthew Naud, Janice Skadsen, Sumedh Bahl, Larry Sanford; Homayoon Pirooz; Elizabeth Rolla; additional Ann Arbor staff yet to be identified.

d. All persons to be called to testify regarding the damages suffered by Ann Arbor will be identified at the time and in the manner provided by the Court. Persons that may be called include, but are not limited to: Sue McCormick, Matthew Naud, Janice Skadsen, Sumedh Bahl, Larry Sanford; Homayoon Pirooz; Elizabeth Rolla. Additional witnesses, including experts, will be designated by Ann Arbor.

INTERROGATORY NO. 2:

Describe in detail all damages suffered by Plaintiff as the result of the alleged release, threatened release and disposal of "hazardous substances" from Defendant's property located at 600 South Wagner Road. Your response should identify the following:

- a. The amount and nature of each item of damage allegedly suffered by Plaintiff and the date each item of damage was incurred;
- b. All Documents that identify, describe, relate to, support, or contradict, any damages suffered by Plaintiff;
- c. All persons with knowledge of Plaintiff's alleged damages;

- d. All persons, including experts, Plaintiff may call as witnesses in support of its damage claim

RESPONSE TO INTERROGATORY NO. 2:

Objection. The request is overbroad and seeks information that is neither relevant to this litigation nor reasonably calculated to lead to admissible evidence. Without waiving and subject to any objection that it may otherwise raise, in addition to the response activity costs included in Interrogatory No. 1, above, Ann Arbor states the following:

a.

ACTIVITY	COST
Staff and intern time to: Attend meetings with MDEQ and County Staff; to prepare for, facilitate or attend, and follow-up on public meetings; meet independently with citizens; city council meetings; respond to emails or phone calls from citizens; respond to emails or phone calls from real estate agents or prospective home purchasers; update the city website; attend meetings with TOSC; Attend IPC meetings; attend quarterly MDEQ meetings; attend Technical Workgroup meetings; respond to	TBD

PLS's well installation requests; develop GIS maps; maintain files; review PLS analytical reports; respond to newspaper requests for information	
Additional staff time, including but not limited to park staff time.	TBD

b. Ann Arbor objects to this discovery request to the extent it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving and subject to any objections that it may raise, Ann Arbor responds that the information sought by the discovery request can be derived from Ann Arbor's business records and that the burden of doing so is substantially the same for PLS as it is for Ann Arbor. Pursuant to MCR 2.309(E), Ann Arbor shall make such non-privileged records available for inspection and copying at a mutually agreeable time and date.

c. Without waiving and subject to any objection that it may raise, Ann Arbor states that the following individuals may have information relating to the request: Sue McCormick, Matthew Naud, Janice Skadsen, Sumedh Bahl, Larry Sanford; Homayoon Pirooz; Elizabeth Rolla; additional Ann Arbor staff yet to be determined.

d. All persons to be called to testify regarding the damages suffered by Ann Arbor will be identified at the time and in the manner provided by the Court. Persons that may be called include, but are not limited to: Sue McCormick, Matthew Naud, Janice Skadsen, Sumedh Bahl,

Larry Sanford; Homayoon Pirooz; Elizabeth Rolla. Additional witnesses, including experts, will be designated by Ann Arbor.

INTERROGATORY NO. 3:

Identify all “additional measures and costs” the City has undertaken “at its water treatment plant to analyze samples to detect additional Hazardous Substances, including 1,4 dioxane, at its intake point on the Huron River as well as from the Huron River itself” as alleged in Paragraph 26 of the Complaint.

RESPONSE TO INTERROGATORY NO. 3:

Ann Arbor objects to this discovery request because it is overbroad and vague. Without waiving and subject to any objection that it may otherwise assert, Ann Arbor states that both groundwater intake sources and the intakes at Barton pond are sampled for the presence of 1,4 dioxane, in addition to the other contaminants and water quality parameters. Additional measures include staff time to collect samples, laboratory analytical fees to assess the concentrations of 1,4 dioxane in the collected water samples and other measures.

INTERROGATORY NO. 4:

Describe in detail all response costs incurred by Plaintiff as the result of Plaintiff’s alleged inability to use the Northwest Supply Well. Your response should identify the following:

- a. The amount and nature of each response cost allegedly incurred by Plaintiff;
- b. All Documents that identify, describe, relate to, support, or contradict, any response costs incurred by Plaintiff;

- c. All persons with knowledge of Plaintiff's alleged damages;
- d. All persons, including experts, Plaintiff may call as witnesses in support of its response cost claim.

RESPONSE TO INTERROGATORY NO. 4:

Objection. The request is overbroad and seeks information that is neither relevant to this litigation nor reasonably calculated to lead to admissible evidence. Furthermore, the term "response costs" is without legal meaning in this litigation, and Ann Arbor has insufficient direction from Defendant to set forth a meaningful answer to this request. Without waiving and subject to any objection that it may otherwise raise, Ann Arbor states that it is in the process of categorizing, quantifying and tabulating the response activity costs incurred as a result of the inability to use the Northwest Supply Well, including but not limited to, response activity costs included Ann Arbor's response to Interrogatory 1, above. In addition, Ann Arbor is evaluating the response activity costs it will incur in the future to secure and integrate into its municipal supply system a temporary alternative groundwater supply source. To date, response activity costs include, but are not limited to, the following:

a.

RESPONSE ACTIVITY	COST
Staff time to investigate, monitor and recommend solutions to 1,4 dioxane contamination.	TBD

RESPONSE ACTIVITY	COST
Staff time to investigate temporary alternative water supply source.	TBD
Engineering Fees for proposed temporary alternative water supply source.	TBD
Wellhead protection study.	TBD
Temporary supplemental supply augmentation from Barton Pond and Steere Farms.	TBD
Investigation, Sampling and Analysis.	TBD
Other professional fees relating to studying 1,4 dioxane and recommending temporary alternative water supply source.	TBD
Preparation of Master Plan, to be completed by CH2M Hill.	Approximately \$250,000.
All other costs that Ann Arbor has taken that are necessary to protect public health, safety, welfare, the environment or natural resources.	TBD

b. Ann Arbor objects to this discovery request to the extent it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving and subject to any objections that it may raise, Ann Arbor responds that the information sought by the discovery request can be derived from Ann Arbor's business records and that the burden of doing so is substantially the same for PLS as it is for Ann Arbor. Pursuant to MCR 2.309(E), Ann Arbor shall make such non-privileged records available for inspection and copying at a mutually agreeable time and date.

c. Without waiving and subject to any objection that it may raise, Ann Arbor states that the following individuals may have information relating to the request: Sue McCormick, Matthew Naud, Janice Skadsen, Sumedh Bahl, Larry Sanford; Homayoon Pirooz; Elizabeth Rolla.

d. All persons to be called to testify regarding the damages suffered by Ann Arbor will be identified at the time and in the manner provided by the Court. Persons that may be called include, but are not limited to: Sue McCormick, Matthew Naud, Janice Skadsen, Sumedh Bahl, Larry Sanford; Homayoon Pirooz; Elizabeth Rolla.. Additional witnesses, including experts, will be designated by Ann Arbor.

INTERROGATORY NO. 5:

Identify all damages suffered by Plaintiff as the result of Plaintiffs alleged inability to use the Northwest Supply Well. Your response should identify the following:

- a. The amount and nature of each item of damage allegedly suffered by Plaintiff and the date each item of damage was incurred;

- b. All Documents that identify, describe, relate to, support, or contradict, any damages suffered by Plaintiff;
- c. All persons with knowledge of Plaintiff's alleged damages;
- d. All persons, including experts, Plaintiff may call as witnesses in support of its damage claim.

RESPONSE TO INTERROGATORY NO. 5:

Objection. The request is overbroad and seeks information that is neither relevant to this litigation nor reasonably calculated to lead to admissible evidence. Without waiving and subject to any objection that it may otherwise raise, and with respect to costs that are in addition to the costs included in its Responses to Interrogatories No. 1, 2 and 4, above, Ann Arbor states the following:

a.

ACTIVITY	COST
Staff and intern time to: Attend meetings with MDEQ and County Staff; to prepare for, facilitate or attend, and follow-up on public meetings; meet independently with citizens; city council meetings; respond to emails or phone calls from citizens; respond to emails or phone calls from real estate agents or prospective home purchasers; update the city website; attend meetings with TOSC; Attend IPC meetings; attend quarterly MDEQ meetings; attend Technical Workgroup meetings; respond to well installation requests; develop GIS maps; maintain files; review PLS analytical reports; respond to newspaper requests for information	To be determined.
Additional staff time, including but not limited to park staff time.	TBD

b. Ann Arbor objects to this discovery request to the extent it seeks information that is

c. Without waiving and subject to any objection that it may raise, Ann Arbor states that the following individuals may have information relating to the request: Sue McCormick, Janice Skadsen, Sumedh Bahl, Larry Sanford; Homayoon Pirooz.

d. All persons to be called to testify regarding water source replacement costs will be identified at the time and in the manner provided by the Court. Persons that may be called include, but are not limited to: Sue McCormick, Janice Skadsen, Sumedh Bahl, Larry Sanford Homayoon Pirooz. Additional witnesses, including experts, will be designated by Ann Arbor.

INTERROGATORY NO. 7:

Describe in detail the results of all water quality tests performed from 1996 to the present on water samples taken from (a) the Huron River; (b) the Northwest Supply Well (including any monitoring wells in the vicinity of that well); (c) the Steere Farm Well; and/or (d) the City's distribution system. Your response should identify the following:

- a. The parameters/contaminants for which each sample water was tested, the levels of each parameter/contaminant detected in each sample, the method detection and quantification limits, and the reason each sample was taken and analyzed;
- b. All actions taken by Plaintiff as a result of the sample results, including changes in the operation of the water treatment plant;
- c. All Documents that identify, describe, relate to, discuss, incorporate or otherwise relate to each sample taken and/or the sample results;
- d. All persons with knowledge of the samples taken and/or the sample results.

RESPONSE TO INTERROGATORY NO. 7:

Objection. The request is vague, ambiguous, overbroad and seeks information that is neither relevant to this litigation nor reasonably calculated to lead to admissible evidence. Furthermore,

alleged unavailability of water from the Northwest Supply Well. Your response should identify the following:

- a. Each such action, including any changes to the City's water treatment processes;
- b. An explanation of why the action was taken, the intended effect of each action, and the cost of each action;
- c. All Documents that identify, describe, or otherwise relate to such actions;
- d. All persons with knowledge of such actions.

RESPONSE TO INTERROGATORY NO. 11:

Objection. Ann Arbor objects on the grounds that the phrase "alleged unavailability of water from the Northwest Supply Well" is vague, ambiguous and has no legal meaning in the context of this matter. Furthermore, specific information relating to the operation of the Water Treatment Plant is privileged and not discoverable pursuant to MCR. 2.302(B)(1). Without waiving and subject to any objection that it may raise, Ann Arbor states that water is not, in terms of quantity, unavailable from the Northwest Supply Well. Instead, any withdrawals of water from the Northwest Supply Well made by Ann Arbor would result, in part, in Ann Arbor violating certain obligations imposed upon it by law due to certain properties being deemed "facilities" due to the presence of 1,4 dioxane in concentrations above 85 ppb. Furthermore, while no federal or state drinking water maximum contaminant level has been promulgated for 1,4 dioxane, it has been determined to be a potential carcinogen and Ann Arbor has a duty not to unnecessarily expose those who consume water from its public water supply to any level of such carcinogens, particularly those that are attributable to hazardous substances that are not naturally occurring. Ann Arbor further states in response to this interrogatory:

- a. Objection. Specific information relating to the operation of the Water

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

CITY OF ANN ARBOR, a Michigan
municipal corporation,

Plaintiff,

Case No. 04-513-CF
Hon. Donald E. Shelton

-v-

GELMAN SCIENCES, INC. (d/b/a PALL
LIFE SCIENCES), a Michigan corporation,
Defendant.

DEPOSITION OF SUE MCCORMICK

Taken by the Defendant on the 7th day of March, 2005,
at 110 Miller Avenue, Ann Arbor, Michigan at 1:17 p.m.

APPEARANCES:

For the Plaintiff: MR. FREDERICK J. DINDOFFER (P31398)
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313-393-7595

For the Defendant: MR. MICHAEL L. CALDWELL (P40554)
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Defendant: MR. ALAN D. WASSERMAN (P39509)
2430 First National Building
Detroit, Michigan 48226
313-963-3873

REPORTED BY: Amy Bertin, CER 3871
Certified Electronic Recorder
586-783-0060

<p style="text-align: center;">Page 38</p> <p>1 supplier such as the city prepare a master plan every</p> <p>2 so often?</p> <p>3 A Every five years.</p> <p>4 Q Every five years.</p> <p>5 And where are those requirements?</p> <p>6 A Act 399.</p> <p>7 Q And has the city prepared the five year update during</p> <p>8 the time that you've been with the city?</p> <p>9 A I believe just before I arrived at the city they had</p> <p>10 completed an update on the distribution master plan.</p> <p>11 Q Is the distribution master plan, would that be</p> <p>12 considered the facilities aspect of that or would that</p> <p>13 be part of the water resources supply?</p> <p>14 A It would be the facilities part of that.</p> <p>15 Q Okay. When's the last time the city prepared a five</p> <p>16 year update regarding the supply side?</p> <p>17 A No such plan is required. I couldn't tell you when it</p> <p>18 was done.</p> <p>19 Q So, there is a requirement for the facilities master</p> <p>20 plan to be updated every five years under Act 399?</p> <p>21 A Act 399 will specify various items that have to be</p> <p>22 reviewed. Typically there is a review for the</p> <p>23 sufficiency of the system. So for established systems</p> <p>24 source water is, you know, unless there is some known</p> <p>25 impact, source water is -- we have adequate source</p>	<p style="text-align: center;">Page 40</p> <p>1 (Brief pause.)</p> <p>2 BY MR. CALDWELL:</p> <p>3 Q How often do you evaluate your current and future</p> <p>4 projected demand for water?</p> <p>5 A It's done as a part of the review of the master plan.</p> <p>6 Our growth has been pretty stagnate for a number of</p> <p>7 years so there is certainly no need to review it more</p> <p>8 frequently than that. We do it for a matter of</p> <p>9 primarily for sales projections each year as we're</p> <p>10 budgeting because that's important to our rate</p> <p>11 development process. So if we were to observe anything</p> <p>12 unusual that might flag a study but otherwise no more</p> <p>13 often than that.</p> <p>14 Q So you look at your sales/demand on an annual basis as</p> <p>15 part of the process of setting appropriate rates?</p> <p>16 A Correct.</p> <p>17 Q And if you detected a spike in demand as part of that</p> <p>18 process that might trigger a five year update?</p> <p>19 A A forecasting.</p> <p>20 Not a five year update. It would identify the</p> <p>21 need for a forecasting evaluation. That would be done</p> <p>22 by systems planning.</p> <p>23 Q And, is it your testimony that that -- the need for</p> <p>24 that forecasting has not been triggered by this annual</p> <p>25 review since you've worked there?</p>
<p style="text-align: center;">Page 39</p> <p>1 water to meet our maximum day requirement. So, looking</p> <p>2 for new sources would not be a typical thing done in a</p> <p>3 five year review.</p> <p>4 Q What if your demand increased?</p> <p>5 A We've had no projected demands that exceed the fifty</p> <p>6 million gallons a day of installed treatment and/or</p> <p>7 supply that the city had available to it.</p> <p>8 Q And what is -- I'm sorry, what is the capacity of the</p> <p>9 current system, is that fifty million?</p> <p>10 A Fifty million gallons a day.</p> <p>11 Q And approximately how much of that is from the Huron</p> <p>12 River?</p> <p>13 A Forty million gallons a day.</p> <p>14 Q And the rest?</p> <p>15 A Between Steere Farm and Montgomery.</p> <p>16 Q Do you know approximately how that breaks down?</p> <p>17 A Eight million at Steere Farm and two million at</p> <p>18 Montgomery.</p> <p>19 MR. CALDWELL: If we could get a copy of the five</p> <p>20 year update facilities master plan. That may be --</p> <p>21 MR. DINDOFFER: It's in process.</p> <p>22 MR. CALDWELL: -- what's over at the plant.</p> <p>23 MR. DINDOFFER: Is that what you mean?</p> <p>24 MR. CALDWELL: Do you want to go off the record?</p> <p>25 MR. DINDOFFER: Yeah.</p>	<p style="text-align: center;">Page 41</p> <p>1 A No. We're showing relatively stagnate growth, maybe a</p> <p>2 half percent a year.</p> <p>3 Q Who is part of that sales review/demand, annual demand</p> <p>4 analysis?</p> <p>5 A Karen Fletcher.</p> <p>6 Q Okay. So, Ms. Fletcher does this herself or is she</p> <p>7 part of a team that looks at this issue?</p> <p>8 A She will collaborate with the plant for data, and she</p> <p>9 will collaborate with systems planning.</p> <p>10 Q And who at the plant would she be talking to on this</p> <p>11 issue?</p> <p>12 A She's the best person to answer that question.</p> <p>13 Q Now, on the response to interrogatory one, on the top</p> <p>14 of page five there's, unlike the other categories,</p> <p>15 there's actually a specific amount or approximately</p> <p>16 eight hundred and fifty-eight thousand two hundred and</p> <p>17 fifty dollars not including Ann Arbor staff time</p> <p>18 associated with the preparation of the facilities and</p> <p>19 water resources master plan. Do you see that there?</p> <p>20 A Yes, I do.</p> <p>21 Q Do you know where that amount came from?</p> <p>22 A I believe that was the bid that we received from CH2M</p> <p>23 Hill in response to our request for proposals.</p> <p>24 Q And that is to do both the facilities and water</p> <p>25 resources master plan?</p>

<p style="text-align: center;">Page 94</p> <p>1 city's position be regarding operating the well?</p> <p>2 MR. DINDOFFER: Pardon me. Objection. You're</p> <p>3 asking the witness to speculate on something that as</p> <p>4 far as we know doesn't exist here or unless you're</p> <p>5 willing to say you're going to clean it all up to</p> <p>6 eighty-five.</p> <p>7 MR. CALDWELL: I'm asking the witness at what</p> <p>8 point would the city operate -- strike that.</p> <p>9 BY MR. CALDWELL:</p> <p>10 Q Are you saying that if there was no possibility that</p> <p>11 operation of the Montgomery well would result in levels</p> <p>12 in the well above eighty-five that you would go ahead</p> <p>13 and use it?</p> <p>14 Let me rephrase that. I think I got myself</p> <p>15 confused.</p> <p>16 Are you saying that the city would use the well as</p> <p>17 a regular water supply well if operation of the well</p> <p>18 would not draw in contamination above eighty-five parts</p> <p>19 per billion?</p> <p>20 A No, I haven't said that.</p> <p>21 Q Would the city operate the well if operation of the</p> <p>22 well would not draw in contamination, 1,4 dioxane</p> <p>23 contaminations above eighty-five parts per billion?</p> <p>24 MR. DINDOFFER: I'm going to object at this point</p> <p>25 to the form because the discussion earlier about the</p>	<p style="text-align: center;">Page 96</p> <p>1 guess, my question there is, does the city have a</p> <p>2 contingency plan that's in place that identifies under</p> <p>3 what conditions the Montgomery well could be operated?</p> <p>4 A We have had discussions about operating protocol. I</p> <p>5 don't know that you -- that I would call it reduced to</p> <p>6 a written contingency plan.</p> <p>7 Q Can you describe what that operating protocol would be?</p> <p>8 A The well has been electrically disconnected, it cannot</p> <p>9 be operated inadvertently. It cannot be operated</p> <p>10 unless it is specifically authorized by the plant</p> <p>11 manager who will not authorize its use unless I</p> <p>12 authorize it. So it will be a decision based on the</p> <p>13 circumstance at the time.</p> <p>14 The discussions that we've had basically if we</p> <p>15 have an interruption in service at Steere Farm, which</p> <p>16 could happen in the event that we have a gas line</p> <p>17 interruption there, that's our sole source of power to</p> <p>18 operate those wells or in the event that we have a</p> <p>19 transmission line interruption which, again, is our</p> <p>20 only means by which we can transport water from that</p> <p>21 well field to the plant. If we have either of those</p> <p>22 circumstances that extend for a period of time that</p> <p>23 would interrupt treatment and/or service to the public,</p> <p>24 at that point and at that point only would I authorize</p> <p>25 Montgomery to be put in service.</p>
<p style="text-align: center;">Page 95</p> <p>1 studies that are underway contemplated and were</p> <p>2 specifically aimed at considering treatment options</p> <p>3 that might be applied if Montgomery was used.</p> <p>4 MR. CALDWELL: Mr. Dindoffer, if you have an</p> <p>5 objection state the objection but don't tell the</p> <p>6 witness what to say.</p> <p>7 Is it form?</p> <p>8 MR. DINDOFFER: I objected to form.</p> <p>9 MR. CALDWELL: I'll rephrase the question.</p> <p>10 BY MR. CALDWELL:</p> <p>11 Q Under what conditions would the city operate the</p> <p>12 Montgomery well if it had detectable levels of 1,4</p> <p>13 dioxane, other than in an emergency situation?</p> <p>14 A 1,4 dioxane is a probable human carcinogen. Without</p> <p>15 treatment it would not be my recommendation that the</p> <p>16 well be operated with detectable levels on a regular</p> <p>17 basis.</p> <p>18 Q So except in an emergency situation, it would not be</p> <p>19 your recommendation that the city operate the</p> <p>20 Montgomery well as long as it has detectable levels of</p> <p>21 1,4 dioxane?</p> <p>22 A Not as long as we have other alternatives available to</p> <p>23 us.</p> <p>24 Q And -- strike that.</p> <p>25 You mentioned the emergency situations and, I</p>	<p style="text-align: center;">Page 97</p> <p>1 Q Okay.</p> <p>2 (Document marked for identification as Defendant's</p> <p>3 Deposition Exhibit Number 3.)</p> <p>4 BY MR. CALDWELL:</p> <p>5 Q This may or may not have anything to do with what we're</p> <p>6 just talking about but I show you what's being marked,</p> <p>7 a memo. It's Exhibit, I think it's 3.</p> <p>8 A Okay.</p> <p>9 Q Have you had a chance to look at what we've marked as</p> <p>10 Exhibit 3?</p> <p>11 A M'hm.</p> <p>12 Q This is a memo from Brian Rice to the MDEQ water</p> <p>13 division, is it not?</p> <p>14 A M'hm.</p> <p>15 THE COURT REPORTER: I'm sorry. Did you say yes?</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. CALDWELL:</p> <p>18 Q And Brian Rice is apparently an engineer with Fleis and</p> <p>19 VandenBrink?</p> <p>20 A Apparently.</p> <p>21 Q Is this a discussion of the city contingency plan for a</p> <p>22 water supply emergency contingency plan? Let me back</p> <p>23 up.</p> <p>24 This was I believe, and it's a little unclear</p> <p>25 given the document production, but I believe it was an</p>

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1 A Again, because if we lose -- if we lose Steere Farm
2 either through an interruption of the power supply
3 there, which is a single gas main or through the
4 interruption of the main that transports water from
5 Steere Farm to the treatment plant we have no ability
6 to effect proper plant operation.

7 Q And, would it be fair to say that the only reason that
8 you currently need the Montgomery well capacity is to
9 provide flexibility in the circumstances that you've
10 just described that would prevent you from using the
11 Steere Farm well field? Let me rephrase that.

12 Is it fair to say that the only reason you need
13 the Montgomery well field capacity is if for some
14 reason you were prevented from using the Steere well
15 field water?

16 A I would say that that is mostly true today.

17 Q And you're not projecting huge increases -- or strike
18 that.

19 You're not projecting significant increases in
20 demand going out into the future are you, I believe you
21 testified to that earlier?

22 A Again, I guess it depends on what you mean by a time
23 frame in the future. But currently based on the
24 customer base that we serve today and our contractual
25 obligations, the last study that I saw we were at least

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1 fifteen years out and we were still within our
2 capacity.

3 Q So there is no currently identified capacity need that
4 you're reasonably certain to incur that would require
5 you to actually need the capacity from the Montgomery
6 well field?

7 A We need capacity today.

8 Q As long as you could use the Steere well field water?

9 A Assuming no interruption of Steere Farm today, yes.

10 Q And into the future as far as you've projected? Strike
11 that. Let me ask that question differently.

12 There's no future capacity need that is reasonably
13 certain to occur that assuming the Steere well field,
14 the Steere Farm well field is available that would
15 require you to use the Montgomery well?

16 A I couldn't answer that. I would have to take a look at
17 the calculation of firm capacity because given the
18 limitations that we have and the infrastructure to get
19 Montgomery capacity to the plant and with Monty out of
20 the equation from a capacity standpoint we might be
21 short capacity. So I really couldn't -- I couldn't
22 answer that without a more detailed look at the
23 calculations.

24 Q So, I guess the short answer is you don't know with
25 regard to future needs?

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1 A Right.

2 Q Is future capacity requirements, is that part of the
3 analysis that goes into the master plan that's
4 currently being prepared?

5 A It will look at both system reliability as well as
6 capacity.

7 Q And when is that scheduled to be completed?

8 A I don't know what the report dates are.

9 Q Do you know who would?

10 A Within this calendar year.

11 Yes. Janice or Brian Steglitz would know that.

12 Q And within the calendar year, what will happen within
13 that time? Will the master plan itself be completed?

14 A The master plan itself should be completed. Whether or
15 not we will have all final reports, I don't know.

16 MR. CALDWELL: Off the record.

17 (Brief pause.)

18 (Document marked for identification as Defendant's
19 Deposition Exhibit Number 9.)

20 BY MR. CALDWELL:

21 Q Ms. McCormick, have you had a chance to review what
22 we've marked as Exhibit 9?

23 A Nearly.

24 Q Okay. Sorry.

25 A Okay.

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1 Q You're quoted in a couple places in this newspaper
2 article that's dated April 3rd, 2001.

3 A M'hm.

4 Q The first quote is on the bottom lefthand side of the
5 page where you're quoted as saying, "We do know that
6 ... (dioxane) is a product of a manufacturing process
7 for filter production, and it's a breakdown product
8 from landfills. At this very low level, it could have
9 traveled a great distance." And then the paragraph
10 ends, or have traveled for a long time.

11 Do you see that in the newspaper article?

12 A Yes, I do.

13 Q Do you remember talking to Tracy Davis or somebody else
14 from the Ann Arbor News?

15 A I do remember having a conversation, yes.

16 Q Do you have any reason to believe that that quote is
17 not accurate?

18 A I have every reason to believe that there are bits and
19 pieces of it here given the way that it's written, but
20 I would say in general it's probably a reflection of
21 what I said.

22 Q Okay. And is there anything in that quote that's given
23 that is either inaccurate or because it's been edited,
24 perhaps, misleading or something that is inaccurate in
25 any way?