

STATE OF MICHIGAN
IN THE SUPREME COURT

ATTORNEY GENERAL FOR THE
STATE OF MICHIGAN *ex rel.*
MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES
AND ENERGY,

Plaintiffs-Appellees,

and

THE CITY OF ANN ARBOR,
WASHTENAW COUNTY, THE
WASHTENAW COUNTY HEALTH
DEPARTMENT, WASHTENAW COUNTY
HEALTH OFFICER JIMENA LOVELUCK,
THE HURON RIVER WATERSHED
COUNCIL, AND SCIO TOWNSHIP

Intervenors-Appellees,

v

GELMAN SCIENCES, INC., a Michigan
Corporation,

Defendant-Appellant.

Supreme Court Docket No. _____

Court of Appeals Docket No. 357598

Washtenaw County Circuit
Court Case No. 88-034734-CE

DEFENDANT-APPELLANT'S
APPENDIX

VOLUME III

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DEFENDANT-APPELLANT'S APPENDIX.

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DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENT,

Plaintiff,

and

THE CITY OF ANN ARBOR,

Intervenor,

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WASHTENAW COUNTY,

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THE WASHTENAW COUNTY HEALTH
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WASHTENAW COUNTY HEALTH OFFICER,
JIMENA LOVELUCK,

Intervenor,

and

THE HURON RIVER WATERSHED COUNCIL,

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and

SCIO TOWNSHIP,

Intervenor,

v

GELMAN SCIENCES, INC., a Michigan
Corporation,

Defendant.

Case No. 88-34734-CE
Hon. Timothy P. Connors

**GELMAN SCIENCES, INC.'S
MOTION FOR PARTIAL STAY OF
ORDER TO CONDUCT RESPONSE
ACTIVITIES TO IMPLEMENT
AND COMPLY WITH REVISED
CLEANUP CRITERIA**

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**GELMAN SCIENCES, INC.'S MOTION FOR PARTIAL STAY
OF ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT AND
COMPLY WITH REVISED CLEANUP CRITERIA**

Defendant Gelman Sciences, Inc. ("Gelman") hereby respectfully moves the Court pursuant to MCR 2.614(D) and MCR 7.209(A) to partially stay its June 1, 2021 Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria ("Response Activity

Order”). Gelman seeks this partial stay pending a decision on Gelman’s forthcoming Claim of Appeal and Application for Leave to Appeal to the Michigan Court of Appeals from the Response Activity Order and, if either the Claim of Appeal or the Application is accepted/granted, until all appellate proceedings are complete. In support of this Motion, Gelman relies on the accompanying Brief.

**BRIEF IN SUPPORT OF MOTION FOR PARTIAL STAY
OF ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT
AND COMPLY WITH REVISED CLEANUP CRITERIA**

Defendant Gelman Sciences, Inc. (“Gelman”) respectfully seeks a partial stay of the Court’s June 1, 2021 Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria (“Response Activity Order”). Exhibit A. Under MCR 7.209(A)(1), “an appeal does not stay the effect or enforceability of a judgment or order of a trial court unless the trial court or the Court of Appeals otherwise orders.” This Court has authority to grant such a stay under MCR 2.614(D) and MCR 7.209(A).

To be clear, Gelman opposes the Response Activity Order in its entirety because the order and the Court-ordered process from which it resulted are wholly improper and without legal basis. Nevertheless, after consultation with the State and in the interest of proceeding with the long-delayed remedial work that Gelman first agreed to in 2017, Gelman seeks only a partial stay of certain portions of the Response Activity Order and Proposed Fourth Amended and Restated Consent Judgment (“Fourth Amended CJ”) that go beyond the remedial actions required to protect the public health or the environment. The purpose of Gelman’s request for a partial stay is to preserve the status quo while Gelman is seeking review of the Response Activity Order by the Michigan Court of Appeals. If Gelman’s position is upheld by the Michigan Court of Appeals, the Response Activity Order is void and unenforceable, leaving Gelman and EGLE with the

opportunity to pursue entry of a bilateral amended consent judgment memorializing the agreed-upon response actions—consistent with how this site has been managed for decades.

Gelman seeks only a partial stay of the Response Activity Order so that Gelman and EGLE may proceed with the response activities that EGLE and Gelman agree are necessary to protect the public health and environment.¹ Gelman seeks to stay those response activities that are not required to protect the public health and environment and which were added only to achieve a global settlement with Intervenor, so that in the event the Response Activity Order is vacated, Gelman will not be prejudiced by having been required to implement the additional response activities. Specifically, Gelman seeks to stay only those portions of the Response Activity Order that would: a) require Gelman to immediately implement certain additional response activities that go beyond the terms of the bilateral agreement Gelman and the State reached in 2017; and b) broaden the purpose of the Court's quarterly hearings to include consideration of additional or modified response activities. No prejudice will result to any party by entry of the partial stay, because Gelman will undertake the response activities needed to provide a protective remedy, as it has been prepared to do since the intervention delayed entry of an amended consent judgment in 2017.

Gelman's proposed Order Granting Partial Stay is attached as Exhibit B ("Stay Order"). Attached to Gelman's proposed Stay Order is a redlined version of the Proposed Fourth Amended and Restated Consent Judgment that strikes the provisions that Gelman seeks to stay during the pendency of its forthcoming appeal. If the Court enters the Stay Order, Gelman will proceed to implement the remaining provisions of the Proposed Fourth Amended and Restated Consent

¹ Gelman's continued implementation of the remedial work required by Third Amended Consent Judgment has and will continue to protect public health and the environment even under the revised cleanup standards. However, Gelman agrees with EGLE that Gelman's implementation of the response activities that Gelman does not seek to stay is appropriate.

Judgment that are incorporated into the Response Activity Order even while its forthcoming appeal of the Response Activity Order is pending before the Court of Appeals.

ARGUMENT

The Response Activity Order requires Gelman to immediately implement the “requirements and activities stated in the [Fourth Amended CJ]”). Response Activity Order, ¶ 1. The “requirements and activities” identified in the Fourth Amended CJ include extensive additional onsite “source control” measures and the installation of the Parklake extraction/treatment/disposal system—measures that Gelman was willing to add to the response actions EGLE previously agreed would be sufficient to provide a protective cleanup solely in order to reach the settlement the Intervenors later rejected. As is clear from the public record,² however, the Fourth Amended CJ was only one of three integrated components of the since-rejected settlement package. The settlement package also included settlement agreements with each of the local units of government (“LUGs”) and an order that would have dismissed the interventions with prejudice. Gelman agreed to offer the onsite and Parklake remedial measures, not because the work was needed to provide a protective remedy, but rather in exchange for the significant additional consideration the other components of the settlement package provided, including dismissal of the intervention, broad releases from the LUGs, and the LUGs’ agreement to cooperate with the State-led cleanup and not to pursue federal Superfund listing and an USEPA takeover of the site.

² See, e.g., City of Ann Arbor, “Gelman Proposed Settlement Documents,” <https://www.a2gov.org/Pages/Gelman-Proposed-Settlement-Documents.aspx> (last visited June 2, 2021) (listing “repository of proposed settlement documents” under consideration, including Proposed Fourth Amended and Restated Consent Judgment, Stipulated Order, and Proposed Settlement Agreements); Fred Dindoffer, “Legal Issues in Public Comments/Questions” Presentation (Sept. 24, 2020), <https://www.a2gov.org/departments/water-treatment/PublishingImages/Pages/Gelman-1,4-Dioxane-Litigation/DindofferGelmanPresentation09242020.pdf> at 2 (listing “three proposed documents” as comprising settlement and stating “[t]hese documents should not be viewed in isolation”).

Gelman will argue on appeal, *inter alia*, that it is manifestly unfair to require Gelman to “immediately implement” the extra measures that Gelman only offered as part of a good-faith effort to reach a settlement in exchange for the benefits and consideration the integrated settlement package provided—particularly in the absence of any evidence offered or admitted during the May 3, 2021 “evidentiary hearing” supporting any need for such work. Gelman asks this Court to stay the requirement that Gelman implement these extra activities during the pendency of Gelman’s appeal of the Response Activity Order, as they are not necessary to protect the public health or environment.

The Response Activity Order also provides that the Court will hold quarterly hearings to, among other things, “consider the implementation of additional or modified Response Activities and other actions.” (*Id.*, ¶ 2). Gelman asks this Court to stay the Response Activity Order to the extent that it would allow the imposition of additional or modified response activities beyond what the Court has already ordered via the Response Activity Order while Gelman’s forthcoming appeal is pending.

Gelman will be significantly prejudiced if it is required to implement the additional onsite work and the Parklake extraction system while its appeal is pending. If the Court of Appeals agrees with Gelman that there was no legal basis for the recent evidentiary hearing or the ensuing Response Activity Order, then Gelman would have expended significant resources to partially implement response activities which are not necessary to protect the public health or environment and which Gelman only offered as part of its good-faith effort to reach a settlement with Intervenorors—a settlement the LUGs ultimately rejected after public opposition. That prejudice and detrimental economic impact will be magnified if this Court considers or orders the

implementation of additional remediation efforts before the Court of Appeals has determined whether the procedures and orders under review may withstand appellate scrutiny.

Moreover, as counsel for the State has observed, these additional measures were the subject of the vast majority of the public criticism of the proposed settlement. EGLE February 1, 2021 Response to Motion for Stay, p 3. The Parklake extraction in particular was and remains controversial and will require the State to issue a NPDES permit that will itself likely face opposition and potential administrative challenges. Pursuing authorization for the Parklake extraction system while Gelman's appeal is pending would not only prejudice Gelman, but also require the unnecessary expenditure of State resources and invite further opposition from the local community.³

On the other hand, staying the requirement that Gelman begin implementing this work while its appeal is pending will not prejudice Intervenors, the State, or the community, in part, because Gelman is only seeking a partial stay of the Court's Response Activity Order. Under Gelman's proposed partial stay, Gelman will still be required to implement the remaining response activities included in the Fourth Amended CJ while its appeal is pending. The "un-stayed" response activities that Gelman will immediately begin to implement while its appeal is pending go beyond what EGLE and Gelman agreed was sufficient to protect human health and the environment before that 2017 bilateral agreement was sidelined by the intervention.

Similarly, Gelman should not be forced to defend the sufficiency of the Court-ordered response activities on a quarterly basis during the pendency of its appeal. Staying the Response

³ As made clear at the May 3 hearing, members of the public are in opposition to the proposed Parklake extraction system. *See, e.g.*, Hr'g Tr. at 87:10-13 (comments of Kathy Griswold, Ann Arbor City Council) ("I think that there are two deal breakers that we cannot go back to our constituents about; one is the EPA, and the second one is the discharge into the First Sister Lake" from the Parklake system). Exhibit C. Moreover, the passage of time and declining contaminant concentrations in the Parklake area have also rendered the Parklake extraction system technically unsupportable. *See* Brode Technical Report, pp 31-35. Exhibit D.

Activity Order provision that provides that the Court will consider additional or modified response activities during the quarterly hearings will not prejudice any party or the public because Gelman will already be in the process of implementing the significant Court-ordered response activities. Continuing to litigate the Intervenor's evidentiary hearing wish list of response activities every quarter will only interfere with the Gelman's efforts to implement this Court's Response Activity Order. Any such requests for additional/modified response activities will require the expenditure of significant governmental, private, and judicial resources and would likely result in additional appeals if granted. Staying such a costly and distracting process while Gelman's appeal is pending would serve the interests of judicial economy and conserve the parties' resources, as well as provide needed clarity and certainty for the community as the un-stayed portions of the Response Activity Order is carried out.

Entry of the partial stay will not significantly slow or alter the overall cleanup timeframe. As this Court is aware and as all parties have acknowledged, the process of implementing even those uncontested aspects of the Fourth Amended CJ is by its nature time-consuming and cannot be accomplished overnight. Granting the partial stay will allow Gelman to focus its immediate attention on those aspects of the Fourth Amended CJ that it and EGLE agreed were necessary and sufficient to protect the public's health and welfare, likely speeding implementation of those portions of the overall cleanup regimen. If Gelman's appeal is denied, significant progress will have been made on the uncontested aspects of the Fourth Amended CJ, and Gelman will be able to then focus attention to the previously-contested aspects of the Order without further delay.

Gelman therefore asks the Court to enter the attached Order Granting Motion for Partial Stay and partially stay the Response Activity Order pursuant to MCR 2.614(D) and MCR 7.209(A)

pending the Court of Appeals' decision on Gelman's Claim of Appeal and Application for Leave to Appeal, and, if either is accepted/granted, until all appellate proceedings are complete.

Finally, Gelman respectfully submits that enforcement of the Response Activity Order should be stayed without bond. The purpose of a stay bond is to protect the appellee from financial consequences resulting from the appellee's inability to enforce the judgment while the judgment is being reviewed on appeal. *See* MCR 7.209(B)(1) (providing that the trial court must order a stay bond "in an amount adequate to protect the opposite party").

The Response Activity Order is not a money judgment, and Intervenors will not be prejudiced or sustain any adverse financial consequences resulting from their inability to enforce the Order while it is undergoing appellate review. The stay requested is a partial stay of proceedings to enforce the Response Activity Order and permits enforcement of those response activities which EGLE and Gelman agree are necessary and desirable to protect the public and environment. Moreover, the court should not overlook the fact that Gelman has – without any finding by this court or admission of liability on its part – agreed to implement and pay for one of the State's most comprehensive remedial programs, which has successfully protected the public since the Consent Judgment was first entered in 1992. Gelman will continue to implement the required remedial work during the pendency of the appeal, and the court is able to enforce those response activities which are not stayed during the pendency of appellate proceedings. Indeed, because Gelman seeks only a partial stay, it will be proceeding immediately with the remedial work that EGLE agreed was necessary to protect the public. There is no risk of harm to the public, EGLE, or the Intervenors that would require the posting of an appeal bond.⁴

⁴ Indeed, as noted above, if Gelman's appeal is successful, permitting the partial stay will actually save Intervenors from significant additional costs that would be incurred if there was no stay and the parties had to litigate the issues related to the Parklake NPDES permit.

CONCLUSION

Gelman remains committed to carrying out those remedial actions that are necessary as determined in coordination with EGLE to protect the public from risk to exposure to 1,4-dioxane in the groundwater. Consequently, it is not asking this Court to stay enforcement of the entire Response Activity Order, pursuant to which the Fourth Amended CJ was imposed on the parties, despite opposing that order in its entirety. Rather, it seeks only to stay those portions that were added to the contract through negotiations with the Intervenors (without requiring the Intervenors to live up to those terms and conditions that they agreed to in exchange for those concessions by Gelman)—and only until the Court of Appeals determines whether that ruling was appropriate.

Gelman does not object if this Court concludes that a hearing on Gelman's motion and oral argument is not necessary and that scheduling such a hearing will only delay entry of an appropriate order. Should this Court decide to deny the instant motion, Gelman has attached a proposed Order Denying Motion for Partial Stay as Exhibit E for the Court's consideration.

Respectfully submitted,

ZAUSMER, P.C.

/s/ Michael L. Caldwell

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Dated: June 8, 2021

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses as directed on the pleadings on June 8, 2021 by:

☒ E-FILE ☐ US MAIL ☐ HAND DELIVERY ☐ UPS
☐ FEDERAL EXPRESS ☐ OTHER

/s/Brenda Ann Smith
Brenda Ann Smith

EXHIBIT A

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,

-and-

Case No. 88-34734-CE
Hon. Timothy P. Connors

CITY OF ANN ARBOR; WASHTENAW COUNTY;
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WASHTENAW COUNTY HEALTH OFFICER
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**ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT AND COMPLY
WITH REVISED CLEANUP CRITERIA**

This matter having come before the court for hearing on Response Activities necessary to implement and comply with revised cleanup criteria, all parties having filed briefs and technical reports, the court having heard argument of counsel and being otherwise fully advised in the premises;

IT IS HEREBY ORDERED:

1. Gelman Sciences shall immediately implement and conduct all requirements and activities stated in the Proposed "Fourth Amended and Restated Consent Judgment" which is attached to this Order and incorporated by reference.
2. The court retains continuing jurisdiction and will hold further hearings on a quarterly basis to review the progress of Response Activities and other actions required by this order related to releases of 1,4 dioxane at and emanating from the Gelman site and consider the implementation of additional or modified Response Activities and other actions.
3. The first quarterly hearing is scheduled for September 1, 2021 at 9 a.m.

4. Intervening Plaintiffs shall retain their status as Intervenor in this action.
5. This is not a final order and does not close the case.

SO ORDERED.

Dated: 6/1/2021

/s/ Timothy Connors 6/1/2021



Drafted/Presented By:

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Dated: May 27, 2021

EXHIBIT B

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

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**ORDER GRANTING MOTION FOR PARTIAL STAY OF ORDER
TO ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT
AND COMPLY WITH REVISED CLEANUP CRITERIA**

This matter having come before the Court on Defendant Gelman Sciences, Inc.'s ("Gelman") Motion for Partial Stay of Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED:

1. Upon Gelman's filing of a Claim of Appeal and/or Application for Leave to Appeal to the Michigan Court of Appeals from this Court's June 1, 2021 Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria ("Response Activity Order"), the Response Activity Order shall be partially stayed until all appellate proceedings are complete, as set forth below:

A. Gelman shall not be required to implement the requirements and activities identified in the portions of the “Fourth Amended and Restated Consent Judgment” attached to the Response Activity Order that are struck in the attached redlined version; and

B. Neither Intervenors nor members of the public shall be permitted to seek an order requiring Gelman to implement additional or modified response activities during the pendency of Gelman’s appeal, including during the quarterly hearings set by the Response Activity Order.

2. Except as set forth above, the Court’s Response Activity Order remains in effect during the pendency of the above-described appellate proceedings and absent an order or instructions from the Court of Appeals to the contrary, the partial stay established by this Order shall expire upon completion of the appellate proceedings without further order of the Court.

3. This order does not close the case.

SO ORDERED.

Dated: _____

Timothy P. Connors
Circuit Court Judge

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

ATTORNEY GENERAL FOR THE STATE OF
MICHIGAN *ex rel.* MICHIGAN DEPARTMENT
OF ENVIRONMENT, GREAT LAKES, AND
ENERGY,

Plaintiffs,

-v-

File No. 88-34734-CE
Honorable Timothy P. Connors

GELMAN SCIENCES INC.,
a Michigan Corporation,

Defendant.

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FOURTH AMENDED AND RESTATED CONSENT JUDGMENT

The Parties enter this Fourth Amended and Restated Consent Judgment (“Consent Judgment” or “Fourth Amended Consent Judgment”) in recognition of, and with the intention of, furtherance of the public interest by (1) addressing environmental concerns raised in Plaintiffs’ Complaint; (2) expediting Remedial Action at the Site; and (3) avoiding further litigation concerning matters covered by this Consent Judgment. Among other things, the Parties enter this Consent Judgment to reflect EGLE’s revision of the generic state-wide residential and non-residential generic drinking water cleanup criteria for 1,4-dioxane in groundwater to 7.2 micrograms per liter (“ug/L”) and 350 ug/L, respectively, and of the generic groundwater-surface

water interface cleanup criterion for 1,4-dioxane in groundwater to 280 ug/L. The Parties agree to be bound by the terms of this Consent Judgment and stipulate to its entry by the Court.

The Parties recognize that this Consent Judgment is a compromise of disputed claims. By entering into this Consent Judgment, Defendant does not admit any of the allegations of the Complaint, does not admit any fault or liability under any statutory or common law, and does not waive any rights, claims, or defenses with respect to any person, including the State of Michigan, its agencies, and employees, except as otherwise provided herein. By entering into this Consent Judgment, Plaintiffs do not admit the validity or factual basis of any of the defenses asserted by Defendant, do not admit the validity of any factual or legal determinations previously made by the Court in this matter, and do not waive any rights with respect to any person, including Defendant, except as otherwise provided herein. The Parties agree, and the Court by entering this Consent Judgment finds, that the terms and conditions of the Consent Judgment are reasonable, adequately resolve the environmental issues covered by the Consent Judgment, and properly protect the public interest.

NOW, THEREFORE, upon the consent of the Parties, by their attorneys, it is hereby ORDERED and ADJUDGED:

I. JURISDICTION

A. This Court has jurisdiction over the subject matter of this action. This Court also has personal jurisdiction over the Defendant.

B. This Court shall retain jurisdiction over the Parties and the subject matter of this action to enforce this Consent Judgment and to resolve disputes arising under the Consent Judgment.

II. PARTIES BOUND

This Consent Judgment applies to, is binding upon, and inures to the benefit of Plaintiffs, Defendant, and their successors and assigns.

III. DEFINITIONS

Whenever the terms listed below are used in this Consent Judgment or the Attachments that are appended hereto, the following definitions shall apply:

A. “Consent Judgment” or “Fourth Amended Consent Judgment” shall mean this Fourth Amended and Restated Consent Judgment and all Attachments appended hereto. All Attachments to this Consent Judgment are incorporated herein and made enforceable parts of this Consent Judgment.

B. “Day” shall mean a calendar day unless expressly stated to be a working day. “Working Day” shall mean a day other than a Saturday, Sunday, or a State legal holiday. In computing any period of time under this Consent Judgment, where the last day would fall on a Saturday, Sunday, or State legal holiday, the period shall run until the end of the next working day.

C. “Defendant” shall mean Gelman Sciences Inc.

D. “1,4-dioxane” shall mean 1,4-dioxane released to or migrating from the Gelman Property. This term as it is used in this Consent Judgment shall not include any 1,4-dioxane that Defendant establishes by a preponderance of the evidence to have originated from a release for which Defendant is not legally responsible, except to the extent that such 1,4-dioxane is commingled with 1,4-dioxane released to or migrating from the Gelman Property. Nothing in this Consent Judgment shall preclude Defendant’s right to seek contribution or cost recovery

from other parties responsible for such commingled 1,4-dioxane.

E. “Eastern Area” shall mean the part of the Site that is located east of Wagner Road, including the areas encompassed by the Prohibition Zone.

F. “EGLE” shall mean the Michigan Department of Environment, Great Lakes, and Energy, the successor to the Michigan Department of Environmental Quality, the Michigan Department of Natural Resources and Environment, the Michigan Department of Natural Resources, and the Water Resources Commission. Pursuant to Executive Order 2019-06, effective April 22, 2019, the Michigan Department of Environmental Quality was renamed the Michigan Department of Environment, Great Lakes, and Energy.

G. “Evergreen Subdivision Area” shall mean the residential subdivision generally located north of I-94 and between Wagner and Maple Roads, bounded on the west by Rose Street, on the north by Dexter Road, and on the south and east by Valley Drive.

H. “Gelman” shall mean Gelman Sciences Inc.

I. “Gelman Property” shall mean the real property described in Attachment A, where Defendant formerly operated a manufacturing facility in Scio Township, Michigan. The Defendant sold portions of the property and retains one parcel only for purposes of operating a water treatment system (the “Wagner Road Treatment Facility”).

J. “Generic GSI Criterion” shall mean the generic groundwater-surface water interface (“GSI”) cleanup criterion for 1,4-dioxane of 280 ug/L established pursuant to MCL 324.20120e(1)(a).

K. “Groundwater Contamination” shall mean the 1,4-dioxane in the groundwater at a concentration in excess of 7.2 ug/L, as determined by the analytical method(s) described in Attachment B to this Consent Judgment, subject to review and approval by EGLE.

L. “Municipal Water Connection Contingency Plan” or “MWCCP” shall mean a contingency plan developed to identify the steps necessary to connect properties that rely on a private drinking water well to municipal water in the event those wells are threatened by 1,4-dioxane concentrations in excess of the applicable drinking water cleanup criterion and the estimated time necessary to implement each step of the water connection process.

M. “Part 201” shall mean Part 201 of the Natural Resources and Environmental Protection Act, MCL 324.20101, *et seq.*

N. “Parties” shall mean Plaintiffs and Defendant.

O. “Plaintiffs” shall mean the Attorney General of the State of Michigan *ex rel.* EGLE.

P. “Prohibition Zone” or “PZ” shall mean the area that is subject to the institutional control established by the Prohibition Zone Order and this Consent Judgment. A map depicting the Prohibition Zone established by this Fourth Amended Consent Judgment is attached as Attachment C.

Q. “Prohibition Zone Order” shall collectively mean the Court’s Order Prohibiting Groundwater Use, dated May 17, 2005, which established a judicial institutional control, and the March 8, 2011 Stipulated Order Amending Previous Remediation Orders, which incorporated the Prohibition Zone Order into this Consent Judgment and applied the institutional control to the Expanded Prohibition Zone, as defined in the Third Amendment to Consent Judgment.

R. “PZ Boundary Wells” shall mean those wells on or near the boundary of the Prohibition Zone and designated in Section V.A.3.b herein, whose purpose is to detect movement of 1,4-dioxane near the Prohibition Zone boundary.

S. “Remedial Action” or “Remediation” shall mean removal, treatment, and proper disposal of Groundwater and Soil Contamination, land use or resource restrictions, and institutional controls, pursuant to the terms and conditions of this Consent Judgment and work plans approved by EGLE under this Consent Judgment.

T. “Response Activity” or “Response Activities” shall have the same meaning as that term is defined in Part 201, MCL 324.20101(vv).

U. “Sentinel Wells” shall mean those wells designated in Section V.A.3.a herein, whose purpose is to detect movement of 1,4-dioxane toward the Prohibition Zone boundary.

V. “Site” shall mean the Gelman Property and other areas affected by the migration of 1,4-dioxane emanating from the Gelman Property.

W. “Soil Contamination” or “Soil Contaminant” shall mean 1,4-dioxane in soil at a concentration in excess of 500 micrograms per kilogram (“ug/kg”), as determined by the analytical method(s) described in Attachment D or another higher concentration limit derived by means consistent with Mich Admin Code R 299.18 or MCL 324.20120a.

X. “Verification Process” shall mean the process through which Defendant shall test for and verify concentrations of 1,4-dioxane in excess of the applicable threshold at the relevant monitoring and drinking water wells, using the sampling and analytical method(s) described in Attachment B to this Consent Judgment. Specifically, Defendant shall sample the wells on a quarterly basis unless an alternative schedule is agreed upon with EGLE. Groundwater samples

will be analyzed for 1,4-dioxane, either by Defendant's laboratory or a third-party laboratory retained by Defendant. In the event that 1,4-dioxane concentrations in groundwater sampled from any well exceed the applicable threshold, Defendant shall notify EGLE by phone or electronic mail within 48 hours of completion of the data verification and validation specified in the Quality Assurance Project Plan ("QAPP") described in Section V.E. Defendant will resample the same well within five days after the data verification and validation of the original result or at a time agreed upon with EGLE, if EGLE opts to take split samples. If a second sample analyzed by Defendant's laboratory or a third-party laboratory retained by Defendant has contaminant concentrations exceeding the applicable threshold, the exceedance will be considered verified and Defendant shall undertake the required Response Activities.

In the event that EGLE opts to take split samples, Defendant shall also collect an additional split sample for potential analysis within the applicable holding time by a mutually agreed-upon third-party laboratory at Defendant's expense. If the results from one sample, but not both, confirm a verified exceedance, the third sample analyzed by the mutually agreed-upon third-party laboratory, using the sampling and analytical method(s) described in Attachment B to this Consent Judgment, shall serve as the relevant result for verification purposes.

Y. "Western Area" shall mean that part of the Site located west of Wagner Road.

IV. IMPLEMENTATION OF REMEDIAL ACTION BY DEFENDANT

Defendant shall implement the Remedial Action to address Groundwater and Soil Contamination at, and emanating from, the Gelman Property in accordance with (1) the terms and conditions of this Consent Judgment; and (2) work plans approved by EGLE pursuant to this Consent Judgment. Notwithstanding any requirements set forth in this Consent Judgment

obligating Defendant to operate remedial systems on a continuous basis, at a minimum rate, or until certain circumstances occur, Defendant may temporarily reduce or shut-down such remedial systems for reasonably necessary maintenance according to EGLE-approved operation and maintenance plans.

V. GROUNDWATER REMEDIATION

Defendant shall design, install, operate, and maintain the systems described below to satisfy the objectives described below. Defendant also shall implement a monitoring program to verify the effectiveness of these systems.

A. Eastern Area

1. Objectives. The remedial objectives of the Eastern Area (“Eastern Area Objectives”) shall be the following:

a. Prohibition Zone Containment Objective. Defendant shall prevent Groundwater Contamination, regardless of the aquifer designation or the depth of the groundwater or Groundwater Contamination, from migrating beyond the boundaries of the Prohibition Zone as may be amended pursuant to Section V.A.2.f. Compliance with the Prohibition Zone Containment Objective shall be determined as provided in Section V.A.4.b, below.

b. Groundwater-Surface Water Interface Objective. Defendant shall prevent 1,4-dioxane from venting into surface waters in the Eastern Area at concentrations above the Generic GSI Cleanup Criterion, except in compliance with Part 201, including MCL 324.20120e (“Groundwater-Surface Water Interface Objective” for the Eastern Area).

2. Prohibition Zone Institutional Control. Pursuant to MCL 324.20121(8)

and the Prohibition Zone Order, the following land and resource use restrictions shall apply to the Prohibition Zone depicted on the map attached hereto as Attachment C:

a. The installation by any person of a new water supply well in the Prohibition Zone for drinking, irrigation, commercial, or industrial use is prohibited.

b. The Washtenaw County Health Officer or any other entity authorized to issue well construction permits shall not issue a well construction permit for any well in the Prohibition Zone.

c. The consumption or use by any person of groundwater from the Prohibition Zone is prohibited.

d. The prohibitions listed in Subsections V.A.2.a–c do not apply to the installation and use of:

i. Groundwater extraction and monitoring wells as part of Response Activities approved by EGLE or otherwise authorized under Parts 201 or 213 of the Natural Resources and Environmental Protection Act (“NREPA”), or other legal authority;

ii. Dewatering wells for lawful construction or maintenance activities, provided that appropriate measures are taken to prevent unacceptable human or environmental exposures to hazardous substances and comply with MCL 324.20107a;

iii. Wells supplying heat pump systems that either operate in a closed loop system or if not, are demonstrated to operate in a manner sufficient to prevent unacceptable human or environmental exposures to hazardous substances and comply with MCL 324.20107a;

iv. Emergency measures necessary to protect public health,

safety, welfare or the environment;

v. Any existing water supply well that has been demonstrated, on a case-by-case basis and with the written approval of EGLE, to draw water from a formation that is not likely to become contaminated with 1,4-dioxane emanating from the Gelman Property. Such wells shall be monitored for 1,4-dioxane by Defendant at a frequency determined by EGLE; and

vi. The City of Ann Arbor's Northwest Supply Well, provided that the City of Ann Arbor operates the Northwest Supply Well in a manner that does not prevent its municipal water supply system from complying with all applicable state and federal laws and regulations.

e. Attachment E (consisting of the map depicting the Prohibition Zone and the above list of prohibitions/exceptions) shall be published and maintained in the same manner as a zoning ordinance at Defendant's sole expense, which may be accomplished by the City of Ann Arbor maintaining a hyperlink on its public webpage that includes the City of Ann Arbor zoning maps, or another appropriate webpage, that directs the visitor to the portion of EGLE's Gelman Sciences website that identifies the extent of the Prohibition Zone and the Summary of Restrictions. EGLE-approved legal notice of the Prohibition Zone expansion reflected in Attachment F shall be provided at Defendant's sole expense.

f. The Prohibition Zone Institutional Control shall remain in effect in this form until such time as it is modified through amendment of this Consent Judgment, with a minimum of 30 days' prior notice to all Parties. The Defendant or EGLE may move to amend this Consent Judgment to modify the boundaries of the Prohibition Zone to reflect material

changes in the boundaries or fate and transport of the Groundwater Contamination as determined by future hydrogeological investigations or EGLE-approved monitoring of the fate and transport of the Groundwater Contamination. The dispute resolution procedures of Section XVI shall not apply to such motion. Rather, the Prohibition Zone boundary may not be expanded unless the moving Party demonstrates by clear and convincing evidence that there are compelling reasons that the proposed expansion is needed to prevent an unacceptable risk to human health. The above-described showing shall not apply to a motion if the Prohibition Zone expansion being sought arises from or is related to: (1) inclusion of the Triangle Property under the following subsection; (2) the incorporation of a more restrictive definition of Groundwater Contamination (i.e., a criterion less than 7.2 ug/L) into this Consent Judgment; or (3) expansion under V.A.6.c up to and including back to the boundary established by this Fourth Amended Consent Judgment.

g. Future Inclusion of Triangle Property in the Prohibition Zone. The triangular piece of property located along Dexter Road/M-14 ("Triangle Property"), depicted in Attachment C, will be included in the Prohibition Zone if the data obtained from monitoring wells MW-121s and MW-121d and other nearby wells, including any water supply well installed on the property, as validated by the Verification Process, indicate that the Groundwater Contamination has migrated to the Triangle Property.

h. Well Identification. To identify any wells newly included in the Prohibition Zone as a result of this modification or any future modification to the Prohibition Zone, pursuant to an EGLE-approved schedule, Defendant shall implement a well identification plan for the affected area that is consistent with the Expanded Prohibition Zone Well

Identification Work Plan approved by EGLE on February 4, 2011.

i. Plugging of Private Water Wells. Defendant shall plug and replace any private drinking water wells identified in any areas newly included in the Prohibition Zone by connecting those properties to the municipal water supply. Unless otherwise approved by EGLE, Defendant shall also properly plug non-drinking water wells in any areas newly included in the Prohibition Zone.

j. Municipal Water Connection Contingency Plan (“MWCCP”). Defendant shall develop a MWCCP addressing the potential provision of municipal water to properties using private drinking water wells in the Calvin Street, Wagner Road, and Lakeview Avenue areas. The MWCCP will be developed according to a schedule to be approved by EGLE.

3. Monitoring and Extraction Well Installation and Operation. Defendant shall install the following additional wells in the Eastern Area according to a schedule approved by EGLE and subject to access and receipt of any required approvals pursuant to Section VII.D:

a. Sentinel Well Installation. Defendant shall install the following three monitoring well clusters to monitor movement of 1,4-dioxane south of the northern Prohibition Zone boundary, in addition to MW-120, MW-123, and MW-129 that are already in place (collectively referred to herein as “Sentinel Wells”):

- i. Residential area in the general vicinity of Ravenwood and Barber Avenues (Location “A” on map attached as Attachment G);
- ii. Residential area in the general vicinity of Sequoia Parkway and Archwood Avenues between Delwood and Center (Location “B” on map attached as Attachment G); and
- iii. Residential area in the general vicinity of Maple Road and North Circle Drive (Location “C” on the map attached as

Attachment G).

b. PZ Boundary Well Installation. Defendant shall install the following two monitoring well clusters to monitor the movement of 1,4-dioxane near the PZ Boundary (collectively referred to herein as “PZ Boundary Wells”):

- i. Residential, commercial, and vacant area east of South Wagner Road, north of West Liberty Road, west of Lakeview Avenue, and south of Second Sister Lake (Location “D” on map attached as Attachment G); and
- ii. Residential area south/southeast of the MW-112 cluster (Location “E” on map attached as Attachment G).

c. Sentinel and PZ Boundary Well Installation and Sampling. Defendant shall install the new well clusters according to a schedule to be approved by EGLE. Each new Sentinel or PZ Boundary Well cluster will include two to three monitoring wells, and the determination of the number of wells shall be based on EGLE’s and the Defendant’s evaluation of the geologic conditions present at each location, consistent with past practice. The frequency of sampling these monitoring wells and the analytical methodology for sample analysis will be included in the Eastern Area System Monitoring Plan, as amended.

d. Drilling Techniques. Borings for new wells installed pursuant to Section V.A.3 shall be drilled to bedrock unless a different depth is approved by EGLE or if conditions make such installation impracticable. EGLE reserves the right to require alternate drilling techniques to reach bedrock if standard methods are not able to do so. If the Defendant 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 EGLE, Defendant may initiate dispute resolution under Section XVI of this Consent Judgment. The wells shall be installed using Defendant’s current vertical profiling

techniques, which are designed to minimize the amount of water introduced during drilling, unless EGLE agrees to alternate techniques. Any material excavated as the result of well installation shall be properly characterized and disposed of or transferred to an appropriate facility for preservation and future scientific investigation, at Defendant's discretion.

e. ~~Installation of Additional Groundwater Extraction Wells.~~

~~———i.———~~ Well. Defendant shall install an additional groundwater extraction well (the "Rose Well") and associated infrastructure in the general area bounded by Rose Street and Pinewood Street as designated on Attachment G or convert former injection well IW-2 to a groundwater extraction well, or both. The decision to install the Rose Well or to convert IW-2 to an extraction well (or to do both) and exact location of the Rose Well if installed will be based on an evaluation of relevant geologic conditions, water quality, and other relevant factors, including access.

~~———ii.———~~ Subject to V.A.3.g., below, Defendant shall install an additional groundwater extraction well (the "Parklake Well") and associated infrastructure in the parcel owned by the City of Ann Arbor bounded by Parklake Avenue and Jackson Road as designated on Attachment G (the "City of Ann Arbor owned parcel"). The exact location of the Parklake Well within the City of Ann Arbor owned parcel will be based on an evaluation of relevant geologic conditions, water quality, and other relevant factors, including access. Terms of access to the City of Ann Arbor owned parcel shall be governed by an access or license agreement between Defendant and the City of Ann Arbor and Defendant's obligation to install and operate the Parklake Well shall be conditioned on negotiation of a mutually acceptable agreement with the City of Ann Arbor.

f. Eastern Area Groundwater Extraction.

i. The Defendant shall operate the Evergreen Subdivision Area extraction wells, LB-4 and either the Rose Well or IW-2, or both (including EGLE-approved replacement well(s)) (collectively, the “Evergreen Wells”), and TW-19 and TW-23 (or EGLE-approved replacement well(s)) (the “Maple Road Wells”), at a combined minimum purge rate of approximately 200 gallons per minute (“gpm”) or the maximum capacity of the existing deep transmission pipeline, whichever is less provided Defendant properly maintains the pipeline, in order to reduce the mass of 1,4-dioxane migrating through the Evergreen Subdivision Area and the mass of 1,4-dioxane migrating east of Maple Road, until such time as the Eastern Area Objectives will be met at a reduced extraction rate or without the need to operate these extraction wells. In the event the maximum capacity of the existing deep transmission pipeline is ever reduced to below 180 gpm, Defendant shall repair and/or reconfigure the pipeline and related infrastructure, or take other action, including potentially replacing the pipeline or treating and disposing of some portion of the extracted groundwater at a different location, as needed to once again achieve a capacity of 190 – 200 gpm. Defendant shall have the discretion to adjust the individual well purge rates in order to optimize mass removal and compliance with the Eastern Area Objectives, provided that it shall operate the Evergreen Wells at a combined minimum purge rate of approximately 100 gpm, until such time as the Eastern Area Objectives will be met at a reduced extraction rate without the need to operate these wells. Before significantly reducing extraction below the minimum purge rates described above or permanently terminating extraction from either the Evergreen Wells or the Maple Road Wells, Defendant shall consult with EGLE and provide a written analysis, together with the data that

supports its conclusion that the Eastern Area Objectives can be met at a reduced extraction rate or without the need to operate these extraction wells. EGLE will review the analysis and data and provide a written response to Defendant within 56 days after receiving Defendant's written analysis and data. If Defendant disagrees with the EGLE's conclusion, Defendant may initiate dispute resolution under Section XVI of this Consent Judgment. The Defendant shall not significantly reduce or terminate extraction from the Evergreen Wells or the Maple Road Wells during the 56-day review period or while Defendant is disputing EGLE's conclusion.

ii. ~~Defendant shall operate the Parklake Well, at a purge rate of approximately 200 gpm, subject to the yield of the aquifer in that area and discharge volume restrictions imposed in connection with the method of water disposal including discharge restrictions during wet weather events, in order to reduce the mass of 1,4-dioxane migrating from that area. Purged groundwater from the Parklake Well shall be treated with ozone/hydrogen peroxide or ultraviolet light and oxidizing agents at the City of Ann Arbor-owned parcel. Defendant shall operate this extraction and treatment system until the 1,4-dioxane concentration in the groundwater extracted from the Parklake Well has been reduced below 500 ug/L. Once concentrations have been reduced below 500 ug/L, Defendant shall cycle the Parklake Well off and on for several periods of time approved by EGLE to demonstrate that significant concentration rebound is not occurring. Defendant shall not permanently terminate extraction and treatment of water from the Parklake Well before the second anniversary of the date extraction was commenced. Before significantly reducing or terminating extraction from the Parklake Well (beyond the discharge volume restrictions/variations arising from the approved discharge option/above-described cycling), Defendant shall consult with EGLE and provide a~~

~~written analysis, together with the data that supports its conclusion that the foregoing conditions have been satisfied. EGLE will review the analysis and data and provide a written response to Defendant within 56 days after receiving Defendant's written analysis and data. If Defendant disagrees with EGLE's conclusion, Defendant may initiate dispute resolution under Section XVI of this Consent Judgment. The Defendant shall not significantly reduce or terminate extraction from the Parklake Well during the 56-day review period or while Defendant is disputing EGLE's conclusion.~~

~~_____g. Prerequisites for Parklake Well. Notwithstanding anything else in this Consent Judgment, Defendant shall not be obligated to install and operate the Parklake Well unless and until EGLE issues Defendant an NPDES permit with effluent limitations, discharge limits (other than volume) and other conditions no more restrictive than those included in Defendant's NPDES Permit No. MI-0048453 dated October 1, 2014 ("2014 NPDES Permit") that authorizes discharge of groundwater extracted by the Parklake Well to First Sister Lake following treatment with ozone/hydrogen peroxide technology.~~

4. Verification Monitoring. Defendant shall amend its Eastern Area System Monitoring Plan dated December 22, 2011 to include the monitoring wells installed under Section V.A.3 within 60 days of their installation. The Eastern Area System Monitoring Plan, as amended (hereinafter the "Verification Plan"), shall be sufficient to meet the objectives of this Section.

a. Objectives of Verification Plan. The Verification Plan shall include the collection of data sufficient to measure the effectiveness of the Remediation and to:

(i) ensure that any potential migration of Groundwater Contamination outside of the Prohibition

Zone is detected before such migration occurs and with sufficient time to allow Defendant to maintain compliance with the Prohibition Zone Containment Objective; (ii) verify that the Groundwater-Surface Water Interface Objective is satisfied; (iii) track the migration of the Groundwater Contamination to determine the need for additional investigation and monitoring points to meet the objectives in Section V.A.1, including the determination of the fate and transport of Groundwater Contamination when and if it reaches the Allen Creek Drain (including its branches) and the portion of the Huron River that is the easternmost extent of the Prohibition Zone; and (iv) evaluate potential changes in groundwater flow resulting from adjustments in extraction rates at different extraction well locations. The Verification Plan shall be continued until terminated pursuant to Section V.D.

b. Compliance Determination. The Verification Plan shall include the following steps for verifying sampling results and confirming compliance or noncompliance with the Eastern Area Objectives.

i. Verification Process for Sentinel Wells. Defendant shall conduct the Verification Process as defined in Section III.X for each Sentinel Well to verify any exceedance of 7.2 ug/L. A verified detection above 7.2 ug/L will be considered a “Verified Sentinel Well Exceedance” and Defendant shall take the Response Activities set forth in Section V.A.5.a.

ii. Verification Process for PZ Boundary Wells. Defendant shall conduct the Verification Process as defined in Section III.X for each PZ Boundary Well to verify any exceedance of 4.6 ug/L and/or 7.2 ug/L. A verified detection above 4.6 ug/L will be considered a “Verified PZ Boundary Well Exceedance” and Defendant shall take the Response

Activities set forth in Section V.5.b. A verified detection above 7.2 ug/L will be considered a “Confirmed PZ Boundary Well Noncompliance” and Defendant shall take the Response Activities set forth in Section V.5.c.

5. Eastern Area Response Activities. Defendant shall take the following Response Activities:

a. Verified Sentinel Well Exceedance. In the event of a Verified Sentinel Well Exceedance, Defendant shall sample that Sentinel Well monthly. If the concentrations of 1,4-dioxane are less than 7.2 ug/L in samples from any two successive monthly sampling events, Defendant shall return to sampling that Sentinel Well quarterly. If, however, the concentrations of 1,4-dioxane exceed 7.2 ug/L in samples collected from the same Sentinel Well in any three successive monthly sampling events, Defendant shall take the following actions:

i. If involving a Sentinel Well in the north, installation of up to two additional well clusters near the Prohibition Zone boundary (the location of which shall be determined based on the location of the initial exceedance). If more than one Sentinel Well in the north exceeds the trigger level, Defendant and EGLE will mutually agree on the number of PZ Boundary Wells to be installed. Defendant shall sample the new PZ Boundary Wells monthly until Defendant completes the hydrogeological assessment described in Section V.A.5.a.ii below.

ii. Completion of a focused hydrogeological assessment of the applicable area that analyzes the likelihood that 1,4-dioxane at levels above 7.2 ug/L will migrate outside the Prohibition Zone. The assessment shall also opine on the mechanism causing the

exceedances and the potential risk of impact to private drinking water wells. Defendant shall provide this assessment to EGLE within 60 days after installation of the new PZ Boundary Well(s). If the focused hydrogeological assessment determines that there is a low potential for the Groundwater Contamination to migrate beyond the Prohibition Zone boundary, normal quarterly monitoring of the Sentinel Well and applicable PZ Boundary Wells will resume. If the focused hydrogeological assessment determines that there is a reasonable likelihood for 1,4-dioxane greater than 7.2 ug/L to migrate beyond the Prohibition Zone boundary, the Defendant shall initiate the following Response Activities:

(A) Defendant shall continue to monitor the affected Sentinel Well(s) and the Prohibition Zone Boundary Wells on a monthly basis.

(B) If the Verified Sentinel Well Exceedance occurs in a Sentinel Well to be installed near the northern boundary of the Prohibition Zone, Defendant shall develop a "Remedial Contingency Plan" that identifies the Response Activities that could be implemented to prevent Groundwater Contamination from migrating beyond the Prohibition Zone Boundary. The Remedial Contingency Plan may identify expansion of the Prohibition Zone as an option, subject to Section V.A.2.f. Defendant shall submit the Remedial Contingency Plan to EGLE within 45 days after the focused hydrogeological assessment is completed.

(C) Defendant will review the Municipal Water Connection Contingency Plan, if applicable, and initiate preliminary activities related to provision of municipal water to potentially impacted private drinking water wells. The amount of work to be completed will be based on the anticipated time frame for water extension and the projected time of migration to potential receptors.

b. Verified PZ Boundary Well Exceedance. In the event of a Verified PZ Boundary Well Exceedance, Defendant shall sample that PZ Boundary Well monthly. If the concentrations of 1,4-dioxane are less than 4.6 ug/L in samples from any two successive monthly sampling events, Defendant shall return to sampling that PZ Boundary Well quarterly. If, however, the concentrations of 1,4-dioxane exceed 4.6 ug/L in samples collected from the same PZ Boundary Well in any three successive monthly sampling events, Defendant shall take the following actions:

i. Defendant, in consultation with EGLE, shall sample select private drinking water wells in the immediate vicinity of the impacted PZ Boundary Well.

ii. Defendant will review the Municipal Water Connection Contingency Plan, and initiate further activities related to potential provision of municipal water to potentially impacted private drinking water wells as appropriate. The amount of work to be completed will be based on the anticipated time frames for water extension and the projected time of migration to potential receptors.

iii. Subject to Section V.A.2.f, Defendant shall implement the Remedial Contingency Plan as necessary to prevent contaminant levels above 7.2 ug/L from migrating beyond the Prohibition Zone Boundary.

c. Confirmed PZ Boundary Well Noncompliance. In the event of a Confirmed PZ Boundary Well Noncompliance, Defendant shall sample that PZ Boundary Well monthly. If the concentrations of 1,4-dioxane are less than 7.2 ug/L in samples from any two successive monthly sampling events, Defendant shall return to sampling that PZ Boundary Well quarterly. If, however, the concentrations of 1,4-dioxane exceed 7.2 ug/L in samples collected

from the same PZ Boundary Well in any four successive monthly sampling events, Defendant shall take the following actions:

i. Defendant shall sample any active drinking water wells in the immediate vicinity of the impacted PZ Boundary Well on a monthly basis.

ii. Defendant will review the Municipal Water Connection Contingency Plan and implement the remaining activities necessary to provide municipal water to properties serviced by private drinking water wells potentially impacted by 1,4-dioxane concentrations above the applicable drinking water cleanup criterion.

iii. Defendant shall connect any such properties to municipal water on a case-by-case basis as determined by EGLE or if requested by the property owner.

iv. Subject to Section V.A.2.f, Defendant shall undertake Response Actions as necessary to reduce concentrations in the affected PZ Boundary Well(s) to less than 7.2 ug/L.

d. Bottled Water. At any time, Defendant shall supply the occupants of any property with a threatened drinking water well with bottled water if, prior to connection to municipal water, 1,4-dioxane concentrations in the drinking water well servicing the property exceed 3.0 ug/L. This obligation shall terminate if either (i) the 1,4-dioxane concentration in the well drops below 3.0 ug/L during two consecutive sampling events or (ii) the property is connected to an alternative water supply.

e. Triangle Property. If a drinking water well is installed on the Triangle Property in the future, Defendant shall take the necessary steps to obtain permission to sample the well on a schedule approved by EGLE. Defendant shall monitor such well(s) on

EGLE-approved schedule unless or until that property is included in the Prohibition Zone, at which time, any water well(s) shall be addressed as part of the well identification process described in Section V.A.2.h.

f. Downgradient Investigation. The Defendant shall continue to implement its Downgradient Investigation Work Plan as approved by EGLE on February 4, 2005, as may be amended, to track the Groundwater Contamination as it migrates to ensure any potential migration of Groundwater Contamination outside of the Prohibition Zone is detected before such migration occurs with sufficient time to allow Defendant to maintain compliance with the Prohibition Zone Containment Objective and to ensure compliance with the Groundwater-Surface Water Interface Objective. Defendant shall, as the next phase of this iterative investigation process investigate the area depicted on the map attached as Attachment G, including the installation of monitoring wells at the following locations subject to access and receipt of any required approvals pursuant to Section VII.D:

- i. A monitoring well nest in the residential area in the general vicinity of intersection of Washington and 7th Streets (Location "F" on Attachment G);
- ii. A shallow well in the residential area in the general vicinity of current monitoring well nest MW-98 (Location "G" on Attachment G); and
- iii. A monitoring well nest in the residential area in the general vicinity of Brierwood and Linwood Streets (Location "H" on Attachment G).

The data from these wells will be used to guide additional downgradient investigations as necessary to ensure compliance with the Eastern Area Objectives.

6. Prohibition Zone Boundary Review.

a. Five years after entry of this Fourth Amended Consent Judgment and then every five years thereafter, Defendant and EGLE shall confer and determine whether

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the boundary of the Prohibition Zone can be contracted without either: (i) posing a current or future risk to the public health and welfare, including maintaining an adequate distance between the Groundwater Contamination and the Prohibition Zone boundary; or (ii) requiring Defendant to undertake additional Response Activities to contain the Groundwater Contamination within the contracted Prohibition Zone boundary beyond those Response Activities otherwise required immediately before the proposed contraction. This determination will be based on consideration of the totality of all data from existing Eastern Area monitoring wells.

b. If EGLE and Defendant jointly agree that the Prohibition Zone boundary may be contracted under these conditions, the Parties shall move to amend Attachments C and E of this Consent Judgment for the sole purpose of establishing a revised boundary for the Prohibition Zone. If only one Party concludes that the Prohibition Zone boundary may be contracted under these conditions, that Party may move to amend Attachments C and E of this Consent Judgment for the sole purpose of establishing a revised boundary for the Prohibition Zone, but must demonstrate by clear and convincing evidence that the above conditions are satisfied. The non-moving Party may oppose or otherwise respond to such motion and the showing required under Section XVI shall not apply to the Court's resolution of the motion.

c. If the Prohibition Zone boundary is contracted under Section V.A.6 and the Parties, either jointly or independently, subsequently determine that based on the totality of the data, the Prohibition Zone boundary should be expanded up to and including back to the boundary established by this Fourth Amended Consent Judgment in order to protect the public health and welfare, the Party(ies) may move to amend Attachments C and E of this

Consent Judgment for the sole purpose of establishing a revised boundary for the Prohibition Zone. Neither Section XVI nor the showing required under Section V.A.2.f shall apply to the Court's resolution of the motion, provided that the expansion sought does not extend beyond the boundary established by this Fourth Amended Consent Judgment.

d. To the extent the Prohibition Zone boundary is contracted under Section V.A.6.a, Defendant shall not be required to undertake Response Activities to contain the Groundwater Contamination within the contracted boundary beyond those Response Activities required immediately before the Prohibition Zone was contracted.

7. Operation and Maintenance. Subject to Sections V.A.3.f, V.A.9, and reasonably necessary maintenance according to EGLE-approved operation and maintenance plans, Defendant shall operate and maintain the Eastern Area System as necessary to meet the Prohibition Zone Containment Objective until Defendant is authorized to terminate extraction well operations pursuant to Section V.C.1.

8. Treatment and Disposal. Groundwater extracted by the extraction well(s) in the Eastern Area System shall be treated (as necessary depending on the disposal method(s) utilized) with ozone/hydrogen peroxide or ultraviolet light and oxidizing agent(s), or such other method approved by EGLE to reduce 1,4-dioxane concentrations to the required level and disposed of using methods approved by EGLE, including, but not limited to, the following options:

a. Groundwater Discharge. The purged groundwater shall be treated to reduce 1,4-dioxane concentrations to the level required by EGLE, and discharged to groundwater at locations approved by EGLE in compliance with a permit or exemption

authorizing such discharge.

b. Sanitary Sewer Discharge. Use of the sanitary sewer leading to the Ann Arbor Wastewater Treatment Plant is conditioned upon approval of the City of Ann Arbor. If discharge is made to the sanitary sewer, the Evergreen and Maple Road Wells shall be operated and monitored in compliance with the terms and conditions of an Industrial User's Permit from the City of Ann Arbor, and any subsequent written amendment of that permit made by the City of Ann Arbor. The terms and conditions of any such permit and any subsequent amendment shall be directly enforceable by EGLE against Defendant as requirements of this Consent Judgment.

c. Storm Sewer Discharge. Use of the storm drain or sewer is conditioned upon issuance of an NPDES permit and approval of the appropriate regulatory authority(ies). Discharge to the Huron River via a storm water system shall be in accordance with the relevant NPDES permit and conditions required by the relevant regulatory authority(ies). If a storm drain or sewer is to be used for disposal of purged groundwater, Defendant shall submit to EGLE and the appropriate local regulatory authority(ies) for their review and approval, a protocol under which the purge system shall be temporarily shut down: (i) for maintenance of the storm drain or sewer and (ii) during storm events to assure that the storm water system retains adequate capacity to handle run-off created during such events. Defendant shall not be permitted or be under any obligation under this subsection to discharge purged groundwater to the storm drain or sewer unless the protocol for temporary shutdown is approved by all necessary authorities. Following approval of the protocol, the purge system shall be operated in accordance with the approved protocol.

d. Existing or Additional/Replacement Pipeline to Wagner Road Treatment Facility.

i. The existing deep transmission pipeline, an additional pipeline, or a pipeline replacing the existing deep transmission pipeline may be used to convey purged groundwater from the existing Evergreen Area infrastructure to the Wagner Road Treatment Facility where the purged groundwater shall be treated to reduce 1,4-dioxane concentrations to the level required by NPDES Permit No. MI-0048453, as amended or reissued.

ii. Installation of an additional pipeline or a replacement pipeline from the existing Evergreen Area to the Wagner Road Treatment Facility is conditioned upon approval of such installation by EGLE. If the pipeline is proposed to be installed on public property, the pipeline installation is conditioned upon approval of such installation by the appropriate local authority(ies), if required by statute or ordinance, or by Order of the Court pursuant to the authority under MCL 324.20135a. Defendant shall design and install the pipeline in compliance with all state requirements and install the pipeline with monitoring devices to detect any leaks. If leaks are detected, the system will automatically shut down and notify an operator of the condition. In the event that any leakage is detected, Defendant shall take any measures necessary to repair any leaks and perform any remediation that may be necessary. To reduce the possibility of accidental damage to the pipeline during any future construction, Defendant shall participate in the notification system provided by MISS DIG Systems, Inc., or its successor ("MISS DIG"), and shall comply with the provisions of MCL 460.721, *et seq.*, as may be amended and with the regulations promulgated thereunder. Defendant shall properly mark its facilities upon notice from MISS DIG.

e. Existing, Replacement, or Additional Pipeline from Maple Road Extraction Well(s). Defendant may operate the existing pipeline or install and operate a replacement pipeline or an additional pipeline from the Maple Road Extraction Well(s) to the existing Evergreen area infrastructure to convey groundwater extracted from the Maple Road Extraction Wells to the Wagner Road Treatment Facility, where the purged groundwater shall be treated to reduce 1,4-dioxane concentrations to the level required by NPDES Permit No. MI-0048453, as amended or reissued. Installation and operation of an additional or replacement pipeline from the Maple Road area to Evergreen area is conditioned upon approval of such installation and operation by EGLE. If the pipeline is proposed to be installed on public property, the pipeline installation is conditioned upon approval of such installation by the appropriate local authorities, if required by statute or ordinance, or Order of the Court pursuant to the authority under MCL 324.20135a. Defendant shall design any such pipeline in compliance with all state requirements and install it with monitoring devices to detect any leaks. In the event any leakage is detected, Defendant shall take any measures necessary to repair any leaks and perform any remediation that may be necessary. To reduce the possibility of accidental damage to the pipeline, Defendant shall participate in the notification system provided by MISS DIG and shall comply with the provisions of MCL 460.721, *et seq.*, as may be amended, and with the regulations promulgated thereunder. Defendant shall properly mark its facilities upon notice from MISS DIG.

f. Pipeline from Rose Well. Installation and operation of a proposed pipeline from the Rose Well to the existing Evergreen area infrastructure is conditioned upon approval of such installation and operation by EGLE. If the pipeline is proposed to be installed

on public property, the pipeline installation is conditioned upon approval of such installation by the appropriate local authorities, if required by statute or ordinance, or Order of the Court pursuant to the authority under MCL 324.20135a. Defendant shall design and install any such pipeline in compliance with all state requirements and install it with monitoring devices to detect any leaks. In the event any leakage is detected, Defendant shall take any measures necessary to repair any leaks and perform any remediation that may be necessary. To reduce the possibility of accidental damage to the pipeline, Defendant shall participate in the notification system provided by MISS DIG and shall comply with the provisions of MCL 460.721, *et seq.*, as may be amended, and with the regulations promulgated thereunder. Defendant shall properly mark its facilities upon notice from MISS DIG. Defendant may operate such pipeline to, among other things, convey groundwater extracted from the Rose Well to the existing Evergreen Area infrastructure and then to the Wagner Road Treatment Facility, where the purged groundwater shall be treated to reduce 1,4-dioxane concentrations to the level required by NPDES Permit No. MI-0048453, as amended or reissued.

~~g. Surface Water Discharge to First Sister Lake. Groundwater extracted from the Parklake Well may be discharged to First Sister Lake, conditioned on EGLE's issuance of an NPDES permit with effluent limitations, discharge limits (other than volume), and other conditions no more restrictive than those included in Defendant's 2014 NPDES Permit that authorizes discharge of groundwater to First Sister Lake following treatment with ozone/hydrogen peroxide technology. Defendant shall submit a protocol to EGLE and the appropriate local authority(ies) for their review and approval, a protocol under which the Parklake Well shall be temporarily shut down during storm events or high water levels in First~~

~~Sister Lake as necessary to avoid flooding. Defendant shall not be under any obligation to operate the Parklake Well unless the protocol for temporary shutdown is approved by all necessary authorities. Following approval of the protocol, Defendant shall operate the Parklake Well in accordance with the approved protocol.~~

9. Wagner Road Extraction. The extraction wells currently or in the future located just west of Wagner Road (the “Wagner Road Wells”) shall be considered part of the Eastern Area System even though they are located west of Wagner Road. The Defendant shall initially operate the Wagner Road Wells at a combined 200 gpm extraction rate. The Defendant shall continue to operate the Wagner Road Wells 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 Objectives will be met with a lower combined extraction rate or without the need to operate these wells or that reduction of the Wagner Road extraction rate would enhance 1,4-dioxane mass removal from the Parklake Well and/or the Rose Well/IW-2 and Defendant’s efforts to reduce the mass of 1,4-dioxane migrating east of Maple Road and/or through the Evergreen Subdivision Area. Before significantly reducing or terminating extraction from the Wagner Road Wells, Defendant shall consult with EGLE and provide a written analysis, together with the data that supports its conclusion that the above-objectives can be met at a reduced extraction rate or without the need to operate these extraction wells. EGLE will review the analysis and data and provide a written response to Defendants within 56 days after receiving Defendant’s written analysis and data. If Defendant disagrees with EGLE’s conclusion, Defendant may initiate dispute resolution under Section XVI of this Consent Judgment. The Defendant shall not significantly reduce or terminate the Wagner Road extraction during the 56-day review period or while Defendant is

disputing EGLE's conclusion.

10. Options Array for Transmission Line Failure/Inadequate Capacity. The Defendant has provided EGLE with documentation regarding the life expectancy of the deep transmission line and an Options Array (attached as Attachment H). The Options Array describes the various options that may be available if the deep transmission line fails or the 200 gpm capacity of the existing deep transmission line that transports groundwater from the Eastern Area System to the treatment system located on the Gelman Property proves to be insufficient to meet the Prohibition Zone Containment Objective.

B. Western Area

1. Western Area Non-Expansion Cleanup Objective. The Defendant shall prevent the horizontal extent of the Groundwater Contamination in the Western Area, regardless of the depth (as established under Section V.B.3.b and c), from expanding. Compliance with this objective shall be determined as set forth in Section V.B.4, below. Continued migration of Groundwater Contamination into the Prohibition Zone, as may be modified, shall not be considered expansion and is allowed. A change in the horizontal extent of Groundwater Contamination resulting solely from the Court's application of a new cleanup criterion shall not constitute expansion. Nothing in this Section prohibits EGLE from seeking additional response activities pursuant to Section XVIII.E of this Consent Judgment. Compliance with the Non-Expansion Cleanup Objective shall be established and verified by the network of monitoring wells in the Western Area to be selected and/or installed by the Defendant as provided in Sections V.B.3.b and c, below ("Western Area Compliance Well Network") and the Compliance Process set forth in Section V.B.4 ("Western Area Compliance Process"). ~~Except as provided in~~

~~Section VI.C.1, there~~ There is no independent mass removal requirement or a requirement that Defendant operate any particular Western Area extraction well(s) at any particular rate beyond what is necessary to prevent the prohibited expansion, provided that Defendant's ability to terminate all groundwater extraction in the Western Area is subject to Section V.C.1.c and the establishment of property use restrictions as required by Section V.B.3.a. If prohibited expansion occurs, as determined by the Western Area Compliance Well Network and the Western Area Compliance Process, Defendant shall undertake additional response activities to return the Groundwater Contamination to the boundary established by the Western Area Compliance Well Network (such response activities may include groundwater extraction at particular locations).

As part of the Third Amendment to Consent Judgment, EGLE agreed to modify the remedial objective for the Western Area as provided herein to a no expansion performance objective in reliance on Defendant's agreement to comply with a no expansion performance objective for the Western Area. To ensure compliance with this objective, Defendant acknowledges that in addition to taking further response action to return the horizontal extent of Groundwater Contamination to the boundary established by the Compliance Well Network, Defendant shall be subject to stipulated penalties for violation of the objective as provided in Section XVII. Nothing in this Section shall limit Defendant's ability to contest the assessment of such stipulated penalties as provided in this Consent Judgment.

2. Western Area Groundwater-Surface Water Interface Objective.

a. Defendant shall prevent 1,4-dioxane from venting into surface waters in the Western Area at concentrations above the Generic GSI Cleanup Criterion, except in

compliance with Part 201, including MCL 324.20120e (“Groundwater-Surface Water Interface Objective” for the Western Area).

b. GSI Investigation Work Plan. Within 90 days of entry of this Consent Judgment, Defendant shall submit to EGLE for its review and approval a work plan for investigation of the groundwater-surface water interface in the Western Area and a schedule for implementing the work plan. Defendant’s work plan shall include:

i. An evaluation of the Western Area and identification of any areas where the GSI pathway is relevant, i.e., any areas where 1,4-dioxane in groundwater is reasonably expected to vent to surface water in concentrations that exceed the Generic GSI Criterion based on evaluation of the factors listed in MCL 324.20120e(3); and

ii. A description of the Response Activities Defendant will take to determine whether 1,4-dioxane in groundwater is venting to surface water in any such areas in concentrations that exceed the Generic GSI Criterion.

c. GSI Response Activity Work Plan. With respect to any areas where the above-described GSI investigation demonstrates that 1,4-dioxane in groundwater is venting to surface water in any such areas in concentrations that exceed the Generic GSI Criterion, Defendant shall submit for EGLE review and approval a work plan and a schedule for implementing the work plan that describes the Response Activities, including any evaluations under MCL 324.20120e, Defendant will undertake to ensure compliance with Groundwater-Surface Water Interface Objective within a reasonable timeframe.

d. Compliance with Groundwater-Surface Water Interface Objective. Defendant shall undertake such Response Activities and/or evaluations as necessary to achieve

compliance with the Groundwater-Surface Water Interface Objective. It shall not be a violation of this Consent Judgment nor shall Defendant be subject to stipulated penalties unless and until Defendant fails to achieve compliance with the Groundwater-Surface Water Interface Objective within a reasonable timeframe established by EGLE and then only from that point forward. EGLE's determination of a reasonable timeframe for compliance with the Groundwater-Surface Water Interface Objective is subject to dispute resolution under Section XVI.

3. Western Area Response Activities. Defendant shall implement the following response activities:

a. Groundwater Extraction. The Western Area Response Activities shall include the operation of groundwater extraction wells as necessary to meet the objectives described in Section V.B.1 and 2, including operation of the Marshy Area groundwater extraction system described in Defendant's May 5, 2000 Final Design and Effectiveness Monitoring Plan, as subsequently modified and approved by EGLE. ~~Defendant shall also install and operate additional groundwater extraction wells at the Gelman Property as described in Section VI, below, in order to reduce the mass of 1,4-dioxane in the groundwater. Purged groundwater from the Western Area shall be treated with ozone/hydrogen peroxide or ultraviolet light and oxidizing agent(s), or such other method approved by EGLE to reduce 1,4-dioxane concentrations to the level required by NPDES Permit No. MI-0048453, as amended or reissued. Discharge to the Honey Creek tributary shall be in accordance with NPDES Permit No. MI-0048453, as amended or reissued. The Defendant shall have property use restrictions that are sufficient to prevent unacceptable exposures in place for any properties affected by Soil Contamination or Groundwater Contamination before completely terminating extraction in the~~

Western Area.

b. Western Area Delineation Investigation. Defendant shall install the following additional groundwater monitoring wells pursuant to a schedule approved by EGLE and subject to the accessibility of the locations and obtaining access and any required approvals under Section VII.D at the approximate locations described below and on the map attached as Attachment G to address gaps in the current definition of the Groundwater Contamination and to further define the horizontal extent of Groundwater Contamination in the Western Area:

- i. Commercial area north of Jackson Road (across from April Drive) and south of US-Highway I-94, near MW-40s&d. (Deep well only) (Location "T" on Attachment G);
- ii. Commercial area north of Jackson Road (across from Nancy Drive) and south of US-Highway I-94, east of MW-40s&d and west of the MW-133 cluster (Location "J" on Attachment G);
- iii. Residential area west of West Delhi, north of Jackson Road and south of US-Highway I-94 (Location "K" on Attachment G);
- iv. Residential area southwest of the MW-141 cluster in the vicinity of Kilkenny and Birkdale (Location "L" on Attachment G);
- v. Residential area along Myrtle between Jackson Road and Park Road (Shallow Well only) (Location "M" on Attachment G); and
- vi. Residential and vacant area within approximately 250 feet of Honey Creek southwest of Dexter Road (Location "N" on Attachment G).

This investigation may be amended by agreement of EGLE and the Defendant to reflect data obtained during the investigation. Defendant shall promptly provide the data/results from the investigation to EGLE so that EGLE receives them prior to Defendant's submission of the Compliance Monitoring Plan described in Subsection V.B.3.c, below. Based on the data obtained from the wells described above, Defendant may propose to install additional monitoring

wells to potentially serve as Compliance Wells rather than one or more of the wells identified above. EGLE reserves the right to request the installation of additional borings/monitoring wells, if the totality of the data indicate that the horizontal extent of Groundwater Contamination has not been completely defined.

c. Compliance Well Network and Compliance Monitoring Plan.

Within 30 days of completing the investigation described in Subsection V.B.3.b, above, Defendant shall amend its Western Area Monitoring Plan dated April 18, 2011, including Defendant's analysis of the data obtained during the investigation for review and approval by EGLE, to identify the network of compliance wells that will be used to confirm compliance with the Western Area Non-Expansion Cleanup Objective (hereinafter referred to as the "Compliance Monitoring Plan"). The Compliance Monitoring Plan shall include the collection of data from a compliance well network sufficient to verify the effectiveness of the Western Area System in meeting the Western Area Non-Expansion Cleanup Objective. The locations and/or number of the Compliance Wells for the Compliance Monitoring Plan will be determined based on the data obtained from the investigation Defendant shall conduct pursuant to Section V.B.3.b, and shall be made up of existing monitoring wells. EGLE shall approve the Compliance Monitoring Plan, submit to Defendant changes in the Compliance Monitoring Plan that would result in approval, or deny the Compliance Monitoring Plan within 35 days of receiving the Compliance Monitoring Plan. Defendant shall either implement the EGLE-approved Compliance Monitoring Plan, including any changes required by EGLE, or initiate dispute resolution pursuant to Section XVI of this Consent Judgment. Defendant shall implement the EGLE- (or Court)-approved Compliance Monitoring Plan to verify the effectiveness of the Western Area System in meeting

the Western Area Non-Expansion Cleanup Objective. Defendant shall continue to implement the current EGLE-approved monitoring plan(s) until EGLE approves the Compliance Monitoring Plan required by this Section. The monitoring program shall be continued until terminated pursuant to Section V.D.

d. Municipal Water Connection Contingency Plan (“MWCCP”). Defendant shall develop a MWCCP addressing the potential provision of township water to properties using private drinking water wells on Elizabeth Road. The MWCCP will be developed according to a schedule to be approved by EGLE.

4. Compliance Determination for Non-Expansion Objective. The Compliance Monitoring Plan shall include the following steps for verifying sampling results and confirming compliance or noncompliance with the Western Area Non-Expansion Cleanup Objective.

a. Monitoring Frequency/Analytical Method. Defendant will sample groundwater from the Compliance Wells on a quarterly basis unless an alternative schedule is agreed upon with EGLE. Groundwater samples will be submitted to a laboratory owned, operated or contracted by Defendant for 1,4-dioxane analysis.

b. Verification Process. Defendant shall conduct the Verification Process as defined in Section III.X for each Compliance Well to verify any exceedance of 7.2 ug/L. A verified detection above 7.2 ug/L will be considered a “Verified Compliance Well Exceedance.” If a second sample does not exceed 7.2 ug/L, monitoring of the well will increase to monthly until the pattern of exceedances is broken by two successive sampling events below 7.2 ug/L. At that point, a quarterly monitoring frequency will resume.

c. Response Activities. In the event of a Verified Compliance Well Exceedance, Defendant shall take the following Response Activities:

i. Sample selected nearby private drinking water wells.

Defendant shall sample select private drinking water wells unless otherwise the Parties otherwise agree. Prior to sampling the selected wells, Defendant shall submit a list of the wells to be sampled and other sampling details to EGLE for approval. In selecting wells to be sampled, Defendant shall consider data collected from monitoring and private drinking water wells within 1,000 feet of the Compliance Well(s) that exceeded 7.2 ug/L, groundwater flow, hydrogeology and well depth. EGLE shall respond within seven days after receipt of Defendant's list of select private drinking water wells and shall either approve the list or propose alternate or additional wells to be sampled.

ii. If a Verified Compliance Well Exceedance occurs in the same Compliance Well in any two successive monthly sampling events, Defendant shall take the following Response Activities:

(A) Continue to sample the previously selected private drinking water well(s) on a monthly basis unless otherwise agreed upon with EGLE.

(B) Conduct focused hydrogeological investigation to determine whether the Verified Compliance Well Exceedance is a temporary fluctuation or evidence of plume expansion. The investigation shall include the measurement of groundwater levels in relevant monitoring wells in the vicinity of the Compliance Well with the Verified Compliance Well Exceedance. Defendant shall report its findings to EGLE within 30 days of completing the hydrogeological investigation.

(C) Conduct Statistical Analysis. During the eight month period after the second consecutive Verified Compliance Well Exceedance, Defendant shall complete a statistical analysis of the data using a Mann-Kendall Trend Test or other statistical technique approved by EGLE.

(D) Interim Measures Feasibility Study. During the eight month period after the second consecutive Verified Compliance Well Exceedance, Defendant shall evaluate affirmative measures to control expansion of the Groundwater Contamination as necessary to reduce the concentration of 1,4-dioxane in the relevant Compliance Well to below 7.2 ug/L, including adjustments in groundwater extraction rates, the installation of additional groundwater extraction wells or other remedial technologies. Defendant shall submit to EGLE a feasibility study within 240 days of the Verified Compliance Well Exceedance. The feasibility study shall include an evaluation of the feasibility and effectiveness of all applicable measures to control expansion of the Groundwater Contamination as necessary to reduce the concentration of 1,4-dioxane in the relevant Compliance Well to below 7.2 ug/L in light of the geology and current understanding of the fate and transport of the Groundwater Contamination.

iii. If, after conducting the focused hydrogeological investigation and statistical analysis, the totality of the data evidences a reasonable likelihood that the Western Area Non-Expansion Cleanup Objective is not being met, Defendant shall evaluate and, subject to EGLE approval, implement one or more of the potential response activities identified in the feasibility study, or other response activities, as necessary to achieve compliance with the Western Area Non-Expansion Cleanup Objective. Nothing in this Section

shall prevent Defendant from implementing response activities as necessary to achieve the Western Area Non-Expansion Cleanup Objective at an earlier time.

d. Stipulated Penalties/Exacerbation. Defendant shall not be subject to stipulated penalties until concentrations in at least four consecutive monthly samples from a given Compliance Well exceed 7.2 ug/L, at which point Defendant shall be subject to stipulated penalties for violation of the Western Area Non-Expansion Cleanup Objective as provided in Section XVII, provided, however, that Defendant shall not be subject to stipulated penalties with respect to prohibited expansion of the horizontal extent of the Groundwater Contamination if Defendant can demonstrate by a preponderance of the evidence that the migration of the Groundwater Contamination is caused in whole or in part by the actions of an unrelated third party that have contributed to or exacerbated the Groundwater Contamination. In such event, although Defendant is not subject to stipulated penalties, Defendant shall remain responsible for mitigating the migration of the Groundwater Contamination. Nothing in this Consent Judgment shall preclude Defendant from seeking contribution or cost recovery from other parties responsible for or contributing to exacerbation of the Groundwater Contamination.

e. Private Drinking Water Well Response Activities. If, after conducting the focused hydrogeological investigation and statistical analysis, the totality of the data evidences a reasonable likelihood that 1,4-dioxane will be present at concentrations above 7.2 ug/L in a residential drinking water well and/or at concentrations above 350 ug/L in an active non-residential drinking water well, Defendant shall evaluate and, if appropriate, implement response activities, including, without limitation, the following:

i. Sampling of at risk drinking water well(s) on a monthly

basis;

ii. Implementation of affirmative interim measures to mitigate the expansion of 1,4-dioxane at concentrations above the applicable drinking water standard toward the drinking water well(s) as determined in the feasibility study described in Section V.B.4.c.ii.(D);

iii. Evaluation of land use restrictions and/or institutional controls to eliminate drinking water exposures to 1,4-dioxane in the groundwater at concentrations above the applicable drinking water standard; and

iv. Evaluation of water supply alternatives including, but not limited to, providing bottled water, a township water connection, installation of a new drinking water well completed in an uncontaminated portion of the subsurface, and point-of-use treatment systems.

v. If at any time 1,4-dioxane is detected in an active private drinking water well above 3.0 ug/L, Defendant shall promptly at its expense, offer the occupants of the property the option of receiving bottled water and shall sample the well monthly. These obligations shall terminate if either (i) the 1,4-dioxane concentration in the well drops below 3.0 ug/L during two consecutive sampling events or (ii) the property is connected to a permanent alternative water supply. Furthermore, Defendant shall work with EGLE and municipal authorities to evaluate long-term and economically reasonable water supply options. -

vi. If 1,4-dioxane is detected at concentrations above 7.2 ug/L in an active residential drinking water well and/or at concentrations above 350 ug/L in an active non-residential drinking water well, Defendant shall conduct the Verification Process as defined

in Section III.X for each such private drinking water well. If the detection above 7.2 ug/L is verified, Defendant shall monitor each such private drinking water well on a monthly basis if not already doing so and shall continue monthly monitoring until the well is no longer considered at risk under Section V.B.4.e.i. If 1,4-dioxane is detected at concentrations above 7.2 ug/L in four consecutive monthly samples or any seven monthly samples in any 12 month period, Defendant shall provide at its expense a long-term alternative water supply to the property serviced by the affected well. Such long-term alternative water supply may be in the form of a township water connection, installation of a new drinking water well completed in an uncontaminated portion of the subsurface, or a point-of-use treatment system, or other long-term drinking water supply option approved by EGLE. Defendant shall also provide at its expense bottled water to the property owner until the property is serviced by a long-term alternative water supply.

5. Groundwater Contamination Delineation. Additional delineation of the extent of Groundwater Contamination, including within the plume boundary, and/or characterization of source areas shall not be required except as provided in Section V.B.3.c. EGLE reserves the right to petition the Court to require additional work if there are findings that EGLE determines warrant additional Groundwater Contamination delineation.

C. Termination of Groundwater Extraction Systems

1. Defendant may only terminate the Groundwater Extraction Systems listed below as provided below:

a. Termination Criteria for Evergreen Wells/Maple Road Wells/Wagner Road Wells. Except as otherwise provided pursuant to Section V.C.2, Defendant may only reduce (below the stated minimum purge rates) or terminate operation of the Evergreen

Wells/Maple Road Wells as provided in Section V.A.3.f.i. and of the Wagner Road Wells as provided in Section V.A.98.

b. ~~Termination Criteria for Parklake Well. Except as otherwise provided pursuant to Section V.C.2, Defendant may reduce or terminate operation of the Parklake Well as provided in Section V.A.3.f.ii.~~

e. ~~Termination Criteria for Western Area. Defendant may terminate the groundwater extraction described in Section VI.C.1 as provided in that Section.~~ Except as otherwise provided pursuant to Section V.C.2, and subject to Section V.B.1., Defendant shall not terminate all groundwater extraction in the Western Area until all of the following are established:

i. Defendant can establish to EGLE's satisfaction that groundwater extraction is no longer necessary to prevent the expansion of Groundwater Contamination prohibited under Section V.B.1;

ii. Defendant's demonstration shall also establish that groundwater extraction is no longer necessary to satisfy the Groundwater-Surface Water Interface Objective under Section V.B.2; and

iii. Defendant has the land use or resource use restrictions described in Section V.B.3.a in place.

Defendant's request to terminate extraction in the Western Area must be made in writing for review and approval pursuant to Section X of this Consent Judgment. The request must include all supporting documentation demonstrating compliance with the termination criteria. Defendant may initiate dispute resolution pursuant to Section XVI of this Consent Judgment if

EGLE does not approve the Defendant's request/demonstration. Defendant may terminate Western Area groundwater extraction upon: (i) receipt of notice of approval from EGLE; or (ii) receipt of notice of a final decision approving termination pursuant to dispute resolution procedures of Section XVI of this Consent Judgment.

2. Modification of Termination Criteria/Cleanup Criteria. The termination criteria provided in Section V.C.1. and/or the definition of "Groundwater Contamination" or "Soil Contamination" may be modified as follows:

a. After entry of this Fourth Amended Consent Judgment, Defendant may propose to EGLE that the termination criteria be modified based upon either or both of the following:

i. a change in legally applicable or relevant and appropriate regulatory criteria since the entry of this Fourth Amended Consent Judgment; for purposes for this Subsection, "regulatory criteria" shall mean any promulgated standard criterion or limitation under federal or state environmental law specifically applicable to 1,4-dioxane; or

ii. scientific evidence newly released since the date of the United States Environmental Protection Agency's IRIS risk assessment for 1,4-dioxane (August 11, 2010), which, in combination with the existing scientific evidence, establishes that different termination criteria/definitions for 1,4-dioxane are appropriate and will assure protection of public health, safety, welfare, the environment, and natural resources.

b. Defendant shall submit any such proposal in writing, together with supporting documentation, to EGLE for review.

c. If the Defendant and EGLE agree to a proposed modification, the

agreement shall be made by written Stipulation filed with the Court pursuant to Section XXIV of this Consent Judgment.

d. If EGLE disapproves the proposed modification, Defendant may invoke the dispute resolution procedures contained in Section XVI of this Consent Judgment. Alternatively, if EGLE disapproves a proposed modification, Defendant may seek to have the dispute resolved pursuant to Subsection V.C.3.

3. If the Defendant invokes the procedures of this Subsection, Defendant and EGLE shall prepare a list of the items of difference to be submitted to a scientific advisory panel for review and recommendations. The scientific advisory panel shall be comprised of three persons with scientific expertise in the discipline(s) relevant to the items of difference. No member of the panel may be a person who has been employed or retained by either Party, except persons compensated solely for providing peer review of the Hartung Report, in connection with the subject of this litigation.

a. If this procedure is invoked, each Party shall, within 14 days, select one member of the panel. Those two members of the panel shall select the third member. Defendant shall, within 28 days after this procedure is invoked, establish a fund of at least \$10,000.00, from which each member of the panel shall be paid reasonable compensation for their services, including actual and necessary expenses. If EGLE and Defendant do not agree concerning the qualifications, eligibility, or compensation of panel members, they may invoke the dispute resolution procedures contained in Section XVI of this Consent Judgment.

b. Within a reasonable period of time after selection of all panel members, the panel shall confer and establish a schedule for acceptance of submissions from

EGLE and the Defendant completing review and making recommendations on the items of difference.

c. The scientific advisory panel shall make its recommendations concerning resolution of the items of difference to EGLE and the Defendant. If both EGLE and Defendant accept those recommendations, the termination criteria shall be modified in accordance with such recommendations. If EGLE and the Defendant disagree with the recommendations, EGLE's proposed resolution of the dispute shall be final unless Defendant invokes the procedures for judicial dispute resolution as provided in Section XVI of this Consent Judgment. The recommendation of the scientific advisory panel and any related documents shall be submitted to the Court as part of the record to be considered by the Court in resolving the dispute.

D. Post-Termination Monitoring

1. Eastern Area

a. Prohibition Zone Containment Objective. Except as otherwise provided pursuant to Section V.C.2, Defendant shall continue to monitor the Groundwater Contamination as it migrates within the Prohibition Zone until all approved monitoring wells are below 7.2 ug/L or such other applicable criterion for 1,4-dioxane for six consecutive months, or Defendant can establish to EGLE's satisfaction that continued monitoring is not necessary to satisfy the Prohibition Zone Containment Objective. Defendant's request to terminate monitoring must be made in writing for review and approval pursuant to Section X of this Consent Judgment. Defendant may initiate dispute resolution pursuant to Section XVI of this Consent Judgment if EGLE does not approve its termination request.

b. Groundwater-Surface Water Interface Objective. Except as provided in Section V.D.1.a, for Prohibition Zone monitoring wells, post-termination monitoring is required for Eastern Area wells for a minimum of ten years after purging is terminated under Section V.C.1.ab, with cessation subject to EGLE approval. Defendant's request to terminate monitoring must be made in writing for review and approval pursuant to Section X of this Consent Judgment. Defendant may initiate dispute resolution pursuant to Section XVI of this Consent Judgment if EGLE does not approve its termination request.

2. Western Area. Post-termination monitoring will be required for a minimum of ten years after termination of extraction with cessation subject to EGLE approval. Except as otherwise provided pursuant to Section V.C.2, Defendant shall continue to monitor the groundwater in accordance with approved monitoring plan(s), to verify that it remains in compliance with the Non-Expansion Cleanup Objective set forth in Section V.B.1 and the Groundwater-Surface Water Interface Objective set forth in Section V.B.2. If any exceedance is detected, Defendant shall immediately notify EGLE and take whatever steps are necessary to comply with the requirements of Section V.B.1, or V.B.2, as applicable.

E. Quality Assurance Project Plan (QAPP). Defendant previously voluntarily submitted to EGLE for review and approval a QAPP, which is intended to describe the quality control, quality assurance, sampling protocol, and chain of custody procedures that will be used in carrying out the tasks required by this Consent Judgment. EGLE shall review, and Defendant shall revise accordingly, the QAPP to ensure that it is in general accordance with the United States Environmental Protection Agency's ("U.S. EPA" or "EPA") "Guidance for Quality Assurance Project Plans," EPA QA/G-5, December 2002; and American National Standard

ANSI/ASQC E4-2004, "Quality Systems For Environmental Data And Technology Programs – Requirements With Guidance For Use."

VI. GELMAN PROPERTY RESPONSE ACTIVITIES

A. Gelman Property Objectives. The objectives for the Gelman Property shall be to prevent the migration of 1,4-dioxane from contaminated soils on the Gelman Property into any aquifer at concentrations or locations that cause non-compliance with the Western Area objectives set forth in Sections V.B.1 and V.B.2.

B. Response Activities.

1. Remedial Systems. Defendant shall design and implement remedial systems at the Gelman Property as necessary to achieve the Gelman Property Objectives.

2. Monitoring. Defendant shall implement an EGLE-approved Compliance Monitoring Plan to verify that the Gelman Property Soil Contamination does not cause or contribute to non-compliance with the Western Area objectives set forth in Sections V.B.1 and V.B.2, and to verify the effectiveness of any implemented remedial system.

~~C. Additional Source Control. Defendant shall implement the following Response Activities to reduce the mass of and/or exposure to 1,4-dioxane present in the soils and/or shallow groundwater on the Gelman Property subject to receipt of any required approvals pursuant to Section VII.D:~~

~~1. Additional Groundwater Extraction. Defendant shall install and operate three "Phase I" extraction wells (one of which was previously installed) at the general locations depicted in the attached Attachment I to enhance control and mass removal of 1,4-dioxane from this area of shallow groundwater contamination. Defendant shall operate these extraction wells~~

~~at a combined purge rate of approximately 75 gpm, subject to aquifer yield. Defendant shall have the discretion to adjust the individual well purge rates in order to optimize mass removal. Subject to Defendant's ability to adjust individual well purge rates, Defendant shall continue to extract a combined purge rate of approximately 75 gpm, subject to aquifer yield, from this system until the 1,4-dioxane concentration in the groundwater extracted from each of these extraction wells has been reduced below 500 ug/L and, once the concentrations in all three of the wells have been reduced below 500 ug/L, Defendant shall cycle those wells off and on for several periods of time approved by EGLE to demonstrate that significant concentration rebound is not occurring. Before otherwise significantly reducing or terminating extraction from this system, Defendant shall consult with EGLE and provide a written analysis, together with the data that supports its conclusion that the concentration of 1,4-dioxane in the groundwater extracted from each of these wells has been reduced below 500 ug/L, as stated above. EGLE will review the analysis and data and provide a written response to Defendants within 56 days after receiving Defendant's written analysis and data. If Defendant disagrees with EGLE's conclusion, Defendant may initiate dispute resolution under Section XVI of this Consent Judgment. The Defendant shall not significantly reduce or terminate the extraction from this system during the 56-day review period or while Defendant is disputing EGLE's conclusion.~~

~~Based on the performance achieved from these extraction wells, the Parties shall evaluate whether installation of up to three additional extraction wells at the general locations indicated on Attachment I would accelerate mass removal to a degree that meaningfully benefits the Remediation. If EGLE determines that additional mass removal from these locations would be beneficial, Defendant shall, subject to its right to invoke Dispute Resolution under Section XVI,~~

~~install and operate these additional wells pursuant to a work plan approved by EGLE.~~

~~Groundwater extracted from the extraction wells described in this subparagraph will be conveyed to the Wagner Road Treatment Facility for treatment and disposal pursuant to Defendant's NPDES Permit No. MI-0048453, as amended or re-issued.~~

~~2. Phytoremediation Former Pond 1 and 2 Area. Defendant shall apply phytoremediation techniques in the treatment area depicted on Attachment I to reduce the potential mass flux of 1,4-dioxane from vadose zone soils in this area to the groundwater aquifers. Defendant shall plant and maintain trees in the treatment area in order to: (i) remove 1,4-dioxane mass by via biodegradation and transpiration; and (ii) extract and reduce the volume of shallow perched groundwater in this area. Defendant shall install and maintain the trees in a healthy state and replace trees as necessary to assure continued success of the phytoremediation system. Defendant shall continue to operate the phytoremediation system as set forth above until it determines that the further reduction of the mass flux of 1,4-dioxane from the vadose zone soils to the groundwater aquifers is not necessary to achieve compliance with the Gelman Property Objectives. Before significantly reducing or terminating phytoremediation in the Former Pond 1 and 2 area, Defendant shall consult with EGLE and provide a written analysis, together with the data that supports its conclusions. EGLE will review the analysis and data and provide a written response to Defendants within 56 days after receiving Defendant's written analysis and data. If Defendant disagrees with EGLE's conclusion, Defendant may initiate dispute resolution under Section XVI of this Consent Judgment. The Defendant shall not significantly reduce or terminate the phytoremediation during the 56-day review period or while Defendant is disputing EGLE's conclusion.~~

3. ~~Phytoremediation Marshy Area.~~ Defendant will undertake actions to reduce the percolation/infiltration of 1,4-dioxane from Marshy Area to the underlying groundwater through the application of phytoremediation techniques in the area depicted in Attachment I. The initial phase of these Response Activities may include further investigation of the Marshy Area as needed to complete the phytoremediation design regarding methods of enabling roots from trees grown in the Marshy Area to extend into deeper soils containing elevated concentrations of 1,4-dioxane. Defendant shall install and maintain the trees in a healthy state as necessary to assure continued success of the phytoremediation system. Defendant shall continue to operate the phytoremediation system as set forth above until it determines that the further reduction of the percolation/infiltration of 1,4-dioxane from the Marshy Area to the underlying groundwater is not necessary to achieve compliance with the Gelman Property Objectives. Before significantly reducing or terminating phytoremediation in the Marshy Area, Defendant shall consult with EGLE and provide a written analysis, together with the data that supports its conclusions. EGLE will review the analysis and data and provide a written response to Defendants within 56 days after receiving Defendant's written analysis and data. If Defendant disagrees with EGLE's decision to reduce or terminate the phytoremediation in the Marshy Area, Defendant may initiate dispute resolution under Section XVI of this Consent Judgment. The Defendant shall not significantly reduce or terminate the phytoremediation in the Marshy Area during the 56-day review period or while Defendant is disputing EGLE's conclusion.

4. ~~Former Burn Pit Area.~~ Defendant shall undertake the following Response Activities with respect to the former Burn Pit area depicted on Attachments I and J:

a. ~~Install, operate, and maintain a Heated Soil Vapor Extraction System (“HSVE System”). The HSVE System shall be designed to reduce the mass of 1,4-dioxane present in the soils in the portion of the former Burn Pit area identified as “Heated Soil Vapor Extraction” on Attachment J. Defendant shall operate the HSVE system until 1,4-dioxane concentrations in the HSVE System’s effluent/exhaust has been reduced to levels that indicate that continued operation of the HSVE system will no longer contribute to meaningful reduction of 1,4-dioxane mass in the Former Burn Pit Area Soils or the Soil Contamination in the treatment area is eliminated, whichever occurs first. Before significantly reducing or terminating operation of the HSVE system, Defendant shall consult with EGLE and provide a written analysis, together with the data that supports its conclusion, that one or both of the above conditions has been satisfied. EGLE will review the analysis and data and provide a written response to Defendant within 56 days after receiving Defendant’s written analysis and data. If Defendant disagrees with EGLE’s conclusion, Defendant may initiate dispute resolution under Section XVI of this Consent Judgment. The Defendant shall not significantly reduce or terminate operation of the HSVE system during the 56-day review period or while Defendant is disputing EGLE’s conclusion.~~

Following completion of the HSVE treatment, Defendant shall install an impervious barrier over the HSVE Treatment Area to inhibit water from percolating through the soils in the former Burn Pit Area, except with regard to any areas where Defendant can demonstrate to EGLE’s satisfaction that Soil Contamination does not exist. Defendant shall maintain the impervious barrier in place until Soil Contamination is no longer present in the underlying soils.

b. ~~Cap the portion of the former Burn Pit area identified as “Capped-~~

Area” on Attachment J with an impervious barrier to inhibit water from percolating through the soils in the former Burn Pit area. Defendant shall maintain the impervious barrier in place until Soil Contamination is no longer present in the underlying soils.

5. After completing installation of the Response Activity systems listed in Sections VI.C.2, VI.C.3 and VI.C.4, the Defendant shall submit a separate installation report (i.e., as-built report) for each of the systems. The reports shall describe the systems as installed including, but not limited to, components of a system, location of components within the specific areas, depths of components of a system, and operational specifications of components of a system.

6. Required Approvals. Notwithstanding the above, Defendant’s obligation to implement any of the additional source control Response Activities described in Section VI.C is conditioned upon receipt of any required approvals pursuant to Section VII.D.

VII. COMPLIANCE WITH OTHER LAWS AND PERMITS

A. Defendant shall undertake all activities pursuant to this Consent Judgment in accordance with the requirements of all applicable laws, regulations, and permits.

B. Defendant shall apply for all permits necessary for implementation of this Consent Judgment including, without limitation, surface water discharge permit(s) and air discharge permit(s).

C. Defendant shall include in all contracts entered into by the Defendant for Remedial Action required under this Consent Judgment (and shall require that any contractor include in all subcontracts), a provision stating that such contractors and subcontractors, including their agents and employees, shall perform all activities required by such contracts or

subcontracts in compliance with and all applicable laws, regulations, and permits. Defendant shall provide a copy of relevant approved work plans to any such contractor or subcontractor.

D. The Plaintiffs agree to provide reasonable cooperation and assistance to the Defendant in obtaining necessary approvals and permits for Remedial Action. Plaintiffs shall not unreasonably withhold or delay any required approvals or permits for Defendant's performance of Remedial Action. Plaintiffs expressly acknowledge that one or more of the following permits and approvals may be a necessary prerequisite for one or more of the Response Activities set forth in this Consent Judgment:

1. Renewal of NPDES Permit No. MI-0048453 with respect to the discharge of treated groundwater to the unnamed tributary of Honey Creek.

~~2. An NPDES Permit that authorizes the discharge of groundwater to First Sister Lake in connection with operation of the Parklake Well following treatment with ozone/hydrogen peroxide technology that has effluent limitations, discharge limits (other than volume), and other conditions no more restrictive than those included in Defendant's 2014 NPDES Permit.~~

~~3. Negotiation and execution of an access agreement between Defendant and the City of Ann Arbor providing reasonable and necessary access to the City-owned parcel at Parklake Avenue and Jackson Road with respect to installation and operation of an extraction well, operation and maintenance of a groundwater treatment unit, and disposal of treated groundwater.~~

4. An Air Permit for discharges of contaminants to the atmosphere for vapor extraction systems, including the HSVE system described in Subsection VI.C.4, under terms

reasonably acceptable to Defendant and as necessary if such systems are part of the remedial design.

~~5. — 3. A Wetlands Permit(s) from EGLE and/or Seio Township if necessary for the response activities described in Section VI.C.3 with terms reasonably acceptable to Defendant.~~ construction of the Marshy Area system or the construction of facilities as part of the Western Systems;

64. An Industrial User's Permit to be issued by the City of Ann Arbor for use of the sewer to dispose of treated or untreated purged groundwater from the Evergreen and/or Maple Road Wells. Plaintiffs have no objection to receipt by the Ann Arbor Wastewater Treatment Plant of the purged groundwater extracted pursuant to the terms and conditions of this Consent Judgment, and acknowledge that receipt of the purged groundwater would not necessitate any change in current and proposed residual management programs of the Ann Arbor Wastewater Treatment Plant.

75. Permit(s) or permit exemptions to be issued by EGLE to authorize the reinjection of purged and treated groundwater in the Eastern Area and Western Area.

86. Surface water discharge permit(s) for discharge into surface waters in the area of Little Lake, if necessary.

97. Approval of the City of Ann Arbor and the Washtenaw County Drain Commissioner to use storm drains or sewers for the remedial programs.

108. Washtenaw County permits as necessary for the installation of extraction wells, monitoring wells, and borings.

VIII. SAMPLING AND ANALYSIS

Defendant shall make available to EGLE the results of all sampling, tests, and/or other data generated in the performance or monitoring of any requirement under this Consent Judgment. Sampling data generated consistent with this Consent Judgment shall be admissible in evidence in any proceeding related to enforcement of this Consent Judgment without waiver by any Party of any objection as to weight or relevance. EGLE and/or their authorized representatives, at their discretion, may take split or duplicate samples and observe the sampling event. EGLE shall make available to Defendant the results of all sampling, tests, and/or other data generated in the performance or monitoring of any requirement under this Consent Judgment. Defendant will provide EGLE with reasonable notice of changes in the schedule of data collection activities included in the progress reports submitted pursuant to Section XII.

IX. ACCESS

A. From the effective date of this Consent Judgment, EGLE, its authorized employees, agents, representatives, contractors, and consultants, upon presentation of proper identification, shall have the right at all reasonable times to enter the Site and any property to which access is required for the implementation of this Consent Judgment, to the extent access to the property is owned, controlled by, or available to the Defendant, for the purpose of conducting any activity authorized by this Consent Judgment, including, but not limited to:

1. Monitoring of the Remedial Action or any other activities taking place pursuant to this Consent Judgment on the property;
2. Verification of any data or information submitted to EGLE;
3. Conduct of investigations related to 1,4-dioxane concentrations at the Site;

4. Collection of samples;
5. Assessment of the need for, or planning and implementing of, Response Activities at the Site; and
6. Inspection and copying of non-privileged documents including records, operating logs, contracts, or other documents required to assess Defendant's compliance with this Consent Judgment.

All Parties with access to the Site or other property pursuant to this Section shall comply with all applicable health and safety laws and regulations.

B. To the extent that the Site or any other area where Remedial Action is to be performed by the Defendant under this Consent Judgment is owned or controlled by persons other than the Defendant, Defendant shall use its best efforts to secure from such persons access for Defendant, EGLE, and their authorized employees, agents, representatives, contractors, and consultants. Defendant shall provide EGLE with a copy of each access agreement secured pursuant to this Section. For purposes of this Section, "best efforts" includes, but is not limited to, seeking judicial assistance to secure such access pursuant to MCL 324.20135a.

X. APPROVALS OF SUBMISSIONS

Upon receipt of any plan, report, or other item that is required to be submitted for approval pursuant to this Consent Judgment, as soon as practicable, but in no event later than 56 days after receipt of such submission, EGLE will: (1) approve the submission or (2) submit to Defendant changes in the submission that would result in approval of the submission. EGLE will (1) approve a feasibility study or plan that proposes a risk based cleanup or a remedy that requires public comment, or (2) submit to Defendant changes in such submittal that would result

in approval in the time provided under Part 201. If EGLE does not respond within 56 days, Defendant may submit the matter to dispute resolution pursuant to Section XVI. Upon receipt of a notice of approval or changes from EGLE, Defendant shall proceed to take any action required by the plan, report, or other item, as approved or as may be modified to address the deficiencies identified by EGLE. If Defendant does not accept the changes proposed by EGLE, Defendant may submit the matter to dispute resolution pursuant to Section XVI.

XI. PROJECT COORDINATORS

A. Plaintiffs designate Daniel Hamel as EGLE's Project Coordinator. Defendant designates Lawrence Gelb as Defendant's Project Coordinator. Defendant's Project Coordinator shall have primary responsibility for implementation of the Remedial Action at the Site. EGLE's Project Coordinator will be the primary designated representative for Plaintiffs with respect to implementation of the Remedial Action at the Site. All communication between Defendant and EGLE, including all documents, reports, approvals, other submissions, and correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Judgment, shall be directed through the Project Coordinators. If any Party changes its designated Project Coordinator, that Party shall provide the name, address, email address and telephone number of the successor in writing to the other Party seven days prior to the date on which the change is to be effective. This Section does not relieve Defendant from other reporting obligations under the law.

B. EGLE may designate other authorized representatives, employees, contractors, and consultants to observe and monitor the progress of any activity undertaken pursuant to this Consent Judgment. EGLE's Project Coordinator shall provide Defendant's Project Coordinator

with the names, addresses, telephone numbers, positions, and responsibilities of any person designated pursuant to this Section.

XII. PROGRESS REPORTS

Defendant shall provide to EGLE written quarterly progress reports that shall: (1) describe the actions which have been taken toward achieving compliance with this Consent Judgment during the previous three months; (2) describe data collection and activities scheduled for the next three months; and (3) include all results of sampling and tests and other data received by Defendant, its consultants, engineers, or agents during the previous three months relating to Remedial Action performed pursuant to this Consent Judgment. Defendant shall submit the first quarterly report to EGLE within 120 days after entry of this Consent Judgment, and by the 30th day of the month following each quarterly period thereafter, as feasible, until termination of this Consent Judgment as provided in Section XXV.

XIII. RESTRICTIONS ON ALIENATION

A. Defendant shall not sell, lease, or alienate the Gelman Property until: (1) it places an EGLE-approved land use or resource use restrictions on the affected portion(s) of the Gelman Property; and (2) any purchaser, lessee, or grantee provides to EGLE its written agreement providing that the purchaser, lessee, or grantee will not interfere with any term or condition of this Consent Judgment. Notwithstanding any purchase, lease, or grant, Defendant shall remain obligated to comply with all terms and conditions of this Consent Judgment.

B. Any deed, title, or other instrument of conveyance regarding the Gelman Property shall contain a notice that Defendant's Property is the subject of this Consent Judgment, setting

forth the caption of the case, the case number, and the court having jurisdiction herein.

XIV. FORCE MAJEURE

Any delay attributable to a Force Majeure shall not be deemed a violation of Defendant's obligations under this Consent Judgment.

A. "Force Majeure" is defined as an occurrence or nonoccurrence arising from causes beyond the control of Defendant or of any entity controlled by the Defendant performing Remedial Action, such as Defendant's employees, contractors, and subcontractors. Such occurrence or nonoccurrence includes, but is not limited to: (1) an Act of God; (2) untimely review of permit applications or submissions; (3) acts or omissions of third parties for which Defendant is not responsible; (4) insolvency of any vendor, contractor, or subcontractor retained by Defendant as part of implementation of this Consent Judgment; and (5) delay in obtaining necessary access agreements under Section IX that could not have been avoided or overcome by due diligence. "Force Majeure" does not include unanticipated or increased costs, changed financial circumstances, or nonattainment of the treatment and termination standards set forth in Sections V and VI.

B. When circumstances occur that Defendant believes constitute Force Majeure, Defendant shall notify EGLE by telephone of the circumstances within 48 hours after Defendant first believes those circumstances to apply. Within 14 working days after Defendant first believes those circumstances to apply, Defendant shall supply to EGLE, in writing, an explanation of the cause(s) of any actual or expected delay, the anticipated duration of the delay, the measures taken and the measures to be taken by Defendant to avoid, minimize, or overcome the delay, and the timetable for implementation of such measures. Failure of Defendant to

comply with the written notice provisions of this Section shall constitute a waiver of Defendant's right to assert a claim of Force Majeure with respect to the circumstances in question.

C. A determination by EGLE that an event does not constitute Force Majeure, that a delay was not caused by Force Majeure, or that the period of delay was not necessary to compensate for Force Majeure may be subject to dispute resolution under Section XVI of this Consent Judgment.

D. EGLE shall respond, in writing, to any request by Defendant for a Force Majeure extension within 30 days of receipt of the Defendant's request. If EGLE does not respond within that time period, Defendant's request shall be deemed granted. If EGLE agrees that a delay is or was caused by Force Majeure, Defendant's delays shall be excused, stipulated penalties shall not accrue, and EGLE shall provide Defendant such additional time as may be necessary to compensate for the Force Majeure event.

E. Delay in achievement of any obligation established by this Consent Judgment shall not automatically justify or excuse delay in achievement of any subsequent obligation unless the subsequent obligation automatically follows from the delayed obligation.

XV. REVOCATION OR MODIFICATION OF LICENSES OR PERMITS

Any delay attributable to the revocation or modification of licenses or permits obtained by Defendant to implement remediation actions as set forth in this Consent Judgment shall not be deemed a violation of Defendant's obligations under this Consent Judgment, provided that such revocation or modification arises from causes beyond the control of Defendant or of any entity controlled by the Defendant performing Remedial Action, such as Defendant's employees, contractors, and subcontractors.

A. Licenses or permits that may need to be obtained or modified by Defendant to implement the Remedial Actions are those specified in Section VII.D. and licenses, easements, and other agreements for access to property or rights of way on property necessary for the installation of remedial systems required by this Consent Judgment.

B. A revocation or modification of a license or permit within the meaning of this Section means withdrawal of permission, denial of permission, a limitation or a change in license or permit conditions that delays the implementation of all or part of a remedial system. Revocation or modification due to Defendant's violation of a license or permit (or any conditions of a license or permit) shall not constitute a revocation or modification covered by this Section.

C. When circumstances occur that Defendant believes constitute revocation or modification of a license or permit, Defendant shall notify EGLE by telephone of the circumstances within 48 hours after Defendant first believes those circumstances to apply. Within 14 working days after Defendant first believes those circumstances to apply, Defendant shall supply to EGLE, in writing, an explanation of the cause(s) of any actual or expected delay, the anticipated duration of the delay, the measures taken and the measures to be taken by Defendant to avoid, minimize, or overcome the delay, and the timetable for implementation of such measures. Failure of Defendant to comply with the written notice provisions of this Section shall constitute a waiver of Defendant's right to assert a claim of revocation or modification of a license or permit with respect to the circumstances in question.

D. A determination by EGLE that an event does not constitute revocation or modification of a license or permit, that a delay was not caused by revocation or modification of a license or permit, or that the period of delay was not necessary to compensate for revocation or

modification of a license or permit may be subject to dispute resolution under Section XVI of this Consent Judgment.

E. EGLE shall respond, in writing, to any request by Defendant for a revocation or modification of a license or permit extension within 30 days of receipt of the Defendant's request. If EGLE does not respond within that time period, Defendant's request shall be deemed granted. If EGLE agrees that a delay is or was caused by revocation or modification of a license or permit, Defendant's delays shall be excused, stipulated penalties shall not accrue, and EGLE shall provide Defendant such additional time as may be necessary to compensate for the revocation or modification of a license or permit.

F. Delay in achievement of any obligation established by this Consent Judgment shall not automatically justify or excuse delay in achievement of any subsequent obligation unless the subsequent obligation automatically follows from the delayed obligation.

XVI. DISPUTE RESOLUTION

A. The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under this Consent Judgment and shall apply to all provisions of this Consent Judgment except for disputes related to Prohibition Zone boundary modification under Sections V.A.2.f and V.A.6, whether or not particular provisions of this Consent Judgment in question make reference to the dispute resolution provisions of this Section. Any dispute that arises under this Consent Judgment initially shall be the subject of informal negotiations between the Parties. The period of negotiations shall not exceed ten working days from the date of written notice by EGLE or the Defendant that a dispute has arisen. This period may be extended or shortened by agreement of EGLE or the Defendant.

B. Immediately upon expiration of the informal negotiation period (or sooner if upon agreement of the parties), EGLE shall provide to Defendant a written statement setting forth EGLE's proposed resolution of the dispute. Such resolution shall be final unless, within 15 days after receipt of EGLE's proposed resolution (clearly identified as such under this Section), Defendant files a petition for resolution with the Washtenaw County Circuit Court setting forth the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Judgment.

C. Within ten days of the filing of the petition, EGLE may file a response to the petition, and unless a dispute arises from the alleged failure of EGLE to timely make a decision, EGLE will submit to the Court all documents containing information related to the matters in dispute, including documents provided to EGLE by Defendant. In the event of a dispute arising from the alleged failure of EGLE to timely make a decision, within ten days of filing of the petition, each party shall submit to the Court correspondence, reports, affidavits, maps, diagrams, and other documents setting forth facts pertaining to the matters in dispute. Those documents and this Consent Judgment shall comprise the record upon which the Court shall resolve the dispute. Additional evidence may be taken by the Court on its own motion or at the request of either party if the Court finds that the record is incomplete or inadequate. Review of the petition shall be conducted by the Court and shall be confined to the record. The review shall be independent of any factual or legal conclusions made by the Court prior to the date of entry of this Consent Judgment.

D. The Court shall uphold the decision of EGLE on the issue in dispute unless the

Court determines that the decision is any of the following:

1. Inconsistent with this Consent Judgment;
2. Not supported by competent, material, and substantial evidence on the whole record;
3. Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion; or
4. Affected by other substantial and material error of law.

E. The filing of a petition for resolution of a dispute shall not by itself extend or postpone any obligation of Defendant under this Consent Judgment, provided, however, that payment of stipulated penalties with respect to the disputed matter shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue as provided in Section XVII. Stipulated penalties that have accrued with respect to the matter in dispute shall not be assessed by the Court and shall be dissolved if Defendant prevails on the matter. The Court may also direct that stipulated penalties shall not be assessed and paid as provided in Section XVII upon a determination that there was a substantial basis for Defendant's position on the disputed matter.

XVII. STIPULATED PENALTIES

A. Except as otherwise provided, if Defendant fails or refuses to comply with any term or condition in Sections IV, V, VI, VII, or VIII, or with any plan, requirement, or schedule established pursuant to those Sections, then Defendant shall pay stipulated penalties in the following amounts for each working day for every failure or refusal to comply or conform:

Period of Delay

Penalty Per Violation Per Day

1st through 15th Day	\$ 1,000
15th through 30th Day	\$ 1,500
Beyond 30 Days	\$ 2,000

B. Except as otherwise provided if Defendant fails or refuses to comply with any other term or condition of this Consent Judgment, Defendant shall pay to EGLE stipulated penalties of \$500.00 per working day for each and every failure to comply.

C. If Defendant is in violation of this Consent Judgment, Defendant shall notify EGLE of any violation no later than five working days after first becoming aware of such violation, and shall describe the violation.

D. Stipulated penalties shall begin to accrue upon the next day after performance was due or other failure or refusal to comply occurred. Penalties shall continue to accrue until the final day of correction of the noncompliance. Separate penalties shall accrue for each separate failure or refusal to comply with the terms and conditions of this Consent Judgment. Penalties may be waived in whole or in part by EGLE or may be dissolved by the Court pursuant to Section XVII.

E. Stipulated penalties shall be paid no later than 14 working days after receipt by Defendant of a written demand from EGLE. Defendant shall make payment by transmitting a check in the amount due, payable to the "State of Michigan," addressed to the Revenue Control Unit; Finance Section, Administration Division; Michigan Department of Environment, Great Lakes, and Energy; P.O. Box 30657; Lansing, MI 48909-8157. The check shall be transmitted via Courier to the Revenue Control Unit; Finance Section, Administration Division; Michigan Department of Environment, Great Lakes, and Energy; Constitution Hall, 5th Floor South Tower; 525 West Allegan Street; Lansing, MI 48933-2125. To ensure proper credit, Defendant

shall include the settlement ID - ERD1902 on the payment.

F. Plaintiffs agree that, in the event that an act or omission of Defendant constitutes a violation of this Consent Judgment subject to stipulated penalties and a violation of other applicable law, Plaintiffs will not impose upon Defendant for that violation both the stipulated penalties provided under this Consent Judgment and the civil penalties permitted under other applicable laws. EGLE reserves the right to pursue any other remedy or remedies to which they may be entitled under this Consent Judgment or any applicable law for any failure or refusal of the Defendant to comply with the requirements of this Consent Judgment.

XVIII. PLAINTIFFS' COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

A. Except as otherwise provided in this Consent Judgment, Plaintiffs covenant not to sue or take administrative action for Covered Matters against Defendant, its officers, employees, agents, directors, and any persons acting on its behalf or under its control.

B. "Covered Matters" shall mean any and all claims available to Plaintiffs under federal and state law arising out of the subject matter of the Plaintiffs' Complaint with respect to the following:

1. Claims for injunctive relief to address soil, groundwater, and surface water contamination at or emanating from the Gelman Property;
2. Claims for civil penalties and costs;
3. Claims for natural resource damages;
4. Claims for reimbursement of response costs incurred prior to entry of this Consent Judgment or incurred by Plaintiffs for provision of alternative water supplies in the Evergreen Subdivision; and

5. Claims for reimbursement of costs incurred by Plaintiffs for overseeing the implementation of this Consent Judgment.

C. “Covered Matters” does not include:

1. Claims based upon a failure by Defendant to comply with the requirements of this Consent Judgment;
2. Liability for violations of federal or state law which occur during implementation of the Remedial Action; and
3. Liability arising from the disposal, treatment, or handling of any hazardous substance removed from the Site.

D. With respect to liability for alleged past violations of law, this covenant not to sue shall take effect on the effective date of this Consent Judgment. With respect to future liability for performance of response activities required to be performed under this Consent Judgment, the covenant not to sue shall take effect upon issuance by EGLE of the Certificate of Completion in accordance with Section XXV.

E. Notwithstanding any other provision in this Consent Judgment: (1) EGLE reserves 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) EGLE reserves the right to institute proceedings in this action or in a new action seeking to reimburse EGLE for response costs incurred by the State of Michigan relating to the Site. EGLE’s rights in Sections XVIII.E.1 and E.2 apply if the following conditions are met:

1. For proceedings prior to EGLE’s certification of completion of the Remedial Action concerning the Site,

a. (i) conditions at the Site, previously unknown to EGLE, are discovered after entry of this Consent Judgment, (ii) new information previously unknown to EGLE is received after entry of this Consent Judgment, or (iii) EGLE adopts one or more new, more restrictive cleanup criteria for 1,4-dioxane pursuant to Part 201 after entry of this 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 EGLE's certification of completion of the Remedial Action concerning the Site,

a. (i) conditions at the Site, previously unknown to EGLE, are discovered after certification of completion by EGLE, (ii) new information previously unknown to EGLE is received after certification of completion by EGLE, or (iii) EGLE adopts one or more new, more restrictive cleanup criteria for 1,4-dioxane pursuant to Part 201, after certification of completion by EGLE; 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 EGLE adopts one or more new, more restrictive, cleanup criteria, EGLE's rights in Sections XVIII.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 EGLE has not made the demonstration(s) required under this Section.

F. Nothing in this Consent Judgment shall in any manner restrict or limit the nature or scope of Response Activities that may be taken by EGLE in fulfilling its responsibilities under federal and state law, and this Consent Judgment does not release, waive, limit, or impair in any manner the claims, rights, remedies, or defenses of EGLE against a person or entity not a party to this Consent Judgment.

G. Except as expressly provided in this Consent Judgment, EGLE reserves all other rights and defenses that they may have, and this Consent Judgment is without prejudice, and shall not be construed to waive, estop, or otherwise diminish EGLE's right to seek other relief with respect to all matters other than Covered Matters.

XIX. DEFENDANT'S COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

A. Defendant hereby covenants not to sue and agrees not to assert any claim or cause of action against EGLE or any other agency of the State of Michigan with respect to environmental contamination at the Site or response activities relating to the Site arising from this Consent Judgment.

B. Notwithstanding any other provision in this Consent Judgment, for matters that are not Covered Matters as defined in Section XVIII.B, or in the event that Plaintiffs institute proceedings as allowed under Section XVIII.E., Defendant reserves all other rights, defenses, or counterclaims that it may have with respect to such matters and this Consent Judgment is without prejudice, and shall not be construed to waive, estop, or otherwise diminish Defendant's right to seek other relief and to assert any other rights and defenses with respect to such other matters.

C. Nothing in this Consent Judgment shall in any way impair Defendant's rights, claims, or defenses with respect to any person not a party to this Consent Judgment.

XX. INDEMNIFICATION, INSURANCE, AND FINANCIAL ASSURANCE

A. Defendant shall indemnify and save and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives from any and all claims or causes of action arising from, or on account of, acts or omissions of Defendant, its officers, employees, agents, and any persons acting on its behalf or under its control in carrying out Remedial Action pursuant to this Consent Judgment. EGLE shall not be held out as a party to any contract entered into by or on behalf of Defendant in carrying out activities pursuant to this Consent Judgment. Neither the Defendant nor any contractor shall be considered an agent of EGLE. Defendant shall not indemnify or save and hold harmless Plaintiffs from their own negligence pursuant to this Section.

B. Prior to commencing any Remedial Action on the Gelman Property, Defendant shall secure, and shall maintain for the duration of the Remedial Action, comprehensive general liability insurance with limits of \$1,000,000.00, combined single limit, naming as an additional insured the State of Michigan. If Defendant demonstrates by evidence satisfactory to EGLE that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then with respect to that contractor or subcontractor, Defendant need provide only that portion, if any, of the insurance described above that is not maintained by the contractor or subcontractor.

C. Financial Assurance

1. Defendant shall be responsible for providing and maintaining financial assurance in a mechanism approved by EGLE in an amount sufficient to cover the estimated cost to assure performance of the response activities required to meet the remedial objectives of this Consent Judgment including, but not limited to, investigation, monitoring, operation and maintenance, and other costs (collectively referred to as “Long-Term Remedial Action Costs”). Defendant shall continuously maintain a financial assurance mechanism (“FAM”) until EGLE’s Remediation and Redevelopment Division (“RRD”) Chief or his or her authorized representative notifies it in writing that it is no longer required to maintain a FAM.

2. The Letter of Credit provided in Attachment K is the initial FAM approved by EGLE. Defendant shall be responsible for providing and maintaining financial assurance in a mechanism acceptable to EGLE to assure the performance of the Long Term Remedial Action Costs required by Defendant’s selected remedial action.

3. The FAM shall remain in an amount sufficient to cover Long Term Remedial Action Costs for a 30-year period. Unless Defendant opts to use and satisfies the Financial Test or Financial Test/Corporate Guarantee as provided in Section XX.C.8, the FAM shall remain in a form that allows EGLE to immediately contract for the response activities for which financial assurance is required in the event Defendant fails to implement the required tasks, subject to Defendant’s rights under Sections XIV and XVI.

4. Within 120 days of the Effective Date of this Fourth Amended Consent Judgment, Defendant shall provide EGLE with an estimate of the amount of funds necessary to assure Long Term Remedial Action Costs for the following 30-year period based upon an annual

estimate of costs for the response activities required by this Fourth Amended Consent Judgment as if they were to be conducted by a person under contract to EGLE (the “Updated Long Term Remedial Action Cost Estimate”). The Updated Long Term Remedial Action Cost Estimate shall include all assumptions and calculations used in preparing the cost estimate and shall be signed by an authorized representative of Defendant who shall confirm the validity of the data. Defendant may only use a present worth analysis if an interest accruing FAM is selected. Within 60 days after Defendant’s submittal of the Updated Long Term Remedial Action Cost Estimate, Defendant shall capitalize or revise the FAM in a manner acceptable to EGLE to address Long Term Remedial Action Costs unless otherwise notified by EGLE. If EGLE disagrees with the conclusions of the Updated Long Term Remedial Action Cost Estimate, Defendant shall capitalize the FAM to a level acceptable to EGLE within 30 days of EGLE notification, subject to Dispute Resolution under Section XVI.

5. Sixty days prior to the 5-year anniversary of the Effective Date of this Fourth Amended Consent Judgment and each subsequent 5-year anniversary, Defendant shall provide to EGLE a report containing the actual Long Term Remedial Action Costs for the previous 5-year period and an estimate of the amount of funds necessary to assure Long Term Remedial Action Costs for the following 30-year period given the financial trends in existence at the time of preparation of the report (“Long Term Remedial Action Cost Report”). The cost estimate shall be based upon an annual estimate of maximum costs for the response activities required by this Fourth Amended Consent Judgment as if they were to be conducted by a person under contract to EGLE, provided that, if Defendant is using the Financial Test or Corporate Guarantee/Financial Test under Section XX.C.8, below, Defendant may use an estimate on its

internal costs to satisfy the Financial Test. The Long Term Remedial Action Cost Report shall also include all assumptions and calculations used in preparing the necessary cost estimate and shall be signed by an authorized representative of Defendant who shall confirm the validity of the data. Defendant may only use a present worth analysis if an interest accruing FAM is selected.

6. Within 60 days after Defendant's submittal of the Long Term Remedial Action Cost Report to EGLE, Defendant shall capitalize or revise the FAM in a manner acceptable to EGLE to address Long Term Remedial Action Costs consistent with the conclusions of the Long Term Remedial Action Cost Report unless otherwise notified by EGLE. If EGLE disagrees with the conclusions of the Long Term Remedial Action Cost Report, Defendant shall capitalize the FAM to a level acceptable to EGLE within 30 days of EGLE notification, subject to dispute resolution under Section XVI. If, at any time, EGLE determines that the FAM does not secure sufficient funds to address Long Term Remedial Action Costs, Defendant shall capitalize the FAM or provide an alternate FAM to secure any additional costs within 30 days of request by EGLE, subject to dispute resolution under Section XVI.

7. If, pursuant to the Long Term Remedial Action Cost Report, Defendant can demonstrate that the FAM provides funds in excess of those needed for Long Term Remedial Action Costs, Defendant may request a modification in the amount. Any requested FAM modifications must be accompanied by a demonstration that the proposed FAM provides adequate funds to address future Long Term Remedial Action Costs. Upon EGLE approval of the request, Defendant may modify the FAM as approved by EGLE. Modifications to the FAM

pursuant to this Section shall be approved by EGLE RRD Chief or his or her authorized representative, subject to dispute resolution under Section XVI.

8. If Defendant chooses to use the Financial Test or Corporate Guarantee/Financial Test attached as Attachment L (hereinafter, the term “Financial Test” refers to both an independent financial test or a financial test utilized in conjunction with a corporate guarantee), Defendant shall, within 90 days after the end of Defendant’s next fiscal year and the end of each succeeding fiscal year, submit to EGLE the necessary forms and supporting documents to demonstrate to the satisfaction of EGLE that Defendant can continue to meet the Financial Test requirements. If Defendant can no longer meet the financial test requirements, Defendant shall submit a proposal for an alternate FAM to satisfy its financial obligations with respect to this Consent Judgment.

9. If the Financial Test is being used as the FAM, EGLE, based on a reasonable belief that Defendant may no longer meet the requirements for the Financial Test, may require reports of financial condition at any time from Defendant, and/or require Defendant to submit updated Financial Test information to determine whether it meets the Financial Test criteria. Defendant shall provide, with reasonable promptness to EGLE, any other data and information that may reasonably be expected to materially adversely affect Defendant’s ability to meet the Financial Test requirements. If EGLE finds that Defendant no longer meets the Financial Test requirements, Defendant shall, within 30 days after notification from EGLE, submit a proposal for an alternate FAM to satisfy its financial obligations with respect to this Consent Judgment, subject to dispute resolution under Section XVI.

10. If the Financial Test/Corporate Guarantee is used as the FAM, Defendant shall comply with the terms of the Corporate Guarantee. The Corporate Guarantee shall remain in place until Long-Term Remedial Action Costs are no longer required or Defendant establishes an alternate FAM acceptable to EGLE.

11. If Defendant wishes to change the type of FAM or establish a new FAM, Defendant shall submit a request to EGLE for approval. Upon EGLE approval of the request, Defendant may change the type of FAM or establish the new FAM as approved by EGLE. Modifications to the FAM pursuant to this Section shall be approved by EGLE RRD Chief or his or her authorized representative, subject to dispute resolution under Section XVI.

12. If Defendant dissolves or otherwise ceases to conduct business and fails to make arrangements acceptable to EGLE for the continued implementation of all activities required by this Consent Judgment, all rights under this Consent Judgment regarding the FAM shall immediately and automatically vest in EGLE in accordance with the FAM.

XXI. RECORD RETENTION

Defendant, Plaintiffs, and their representatives, consultants, and contractors shall preserve and retain, during the pendency of this Consent Judgment and for a period of ten years after its termination, all records, sampling or test results, charts, and other documents that are maintained or generated pursuant to any requirement of this Consent Judgment, including, but not limited to, documents reflecting the results of any sampling or tests or other data or information generated or acquired by Plaintiffs or Defendant, or on their behalf, with respect to the implementation of this Consent Judgment. After the ten-year period of document retention, the Defendant and its successors shall notify EGLE, in writing, at least 90 days prior to the

destruction of such documents or records, and upon request, the Defendant and/or its successor shall relinquish custody of all records and documents to EGLE.

XXII. ACCESS TO INFORMATION

Upon request, EGLE and Defendant shall provide to each other copies of or access to all non-privileged documents and information within their possession and/or control or that of their employees, contractors, agents, or representatives, relating to activities at the Site or to the implementation of this Consent Judgment, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Remedial Action. Upon request, Defendant shall also make available to EGLE, their employees, contractors, agents, or representatives with knowledge or relevant facts concerning the performance of the Remedial Action. The Plaintiffs shall treat as confidential all documents provided to Plaintiffs by the Defendant marked “confidential” or “proprietary.”

XXIII. NOTICES

Whenever under the terms of this Consent Judgment notice is required to be given or a report, sampling data, analysis, or other document is required to be forwarded by one Party to the other, such notice or document shall be directed to the following individuals at the specified addresses or at such other address as may subsequently be designated in writing:

For Plaintiffs:

Daniel Hamel
Project Coordinator
Michigan Department
of Environment, Great
Lakes, and Energy,
Remediation and Redevelopment

For Defendants:

Lawrence Gelb
Gelman Sciences Inc.
642 South Wagner Road
Ann Arbor, MI 48106

Division
301 East Louis Glick Highway
Jackson, MI 49201

and

Michael L. Caldwell
Zausmer, P.C.
32255 Northwestern Hwy., Ste. 225
Farmington Hills, MI 48334

Any party may substitute for those designated to receive such notices by providing prior written notice to the other parties.

XXIV. MODIFICATION

This Consent Judgment may not be modified unless such modification is in writing, signed by the Plaintiffs and the Defendant, and approved and entered by the Court. Remedial Plans, work plans, or other submissions made pursuant to this Consent Judgment may be modified by mutual agreement of the Defendant and EGLE.

XXV. CERTIFICATION AND TERMINATION

A. When Defendant determines that it has completed all Remedial Action required by this Consent Judgment, Defendant shall submit to EGLE a Notification of Completion and a draft final report. The draft final report must summarize all Remedial Action performed under this Consent Judgment and the performance levels achieved. The draft final report shall include or refer to any supporting documentation.

B. Upon receipt of the Notification of Completion, EGLE will review the Notification of Completion and the accompanying draft final report, any supporting documentation, and the actual Remedial Action performed pursuant to this Consent Judgment. After conducting this review, and not later than three months after receipt of the Notification of Completion, EGLE shall issue a Certificate of Completion upon a determination by EGLE that

Defendant has completed satisfactorily all requirements of this Consent Decree, including, but not limited to, completion of all Remedial Action, achievement of all termination and treatment standards required by this Consent Judgment, compliance with all terms and conditions of this Consent Judgment, and payment of any and all stipulated penalties owed to EGLE. If EGLE does not respond to the Notification of Completion within three months after receipt of the Notification of Completion, Defendant may submit the matter to dispute resolution pursuant to Section XVI. This Consent Judgment shall terminate upon motion and order of this Court after issuance of the Certificate of Completion. Upon issuance, the Certificate of Completion may be recorded.

XXVI. EFFECTIVE DATE

The effective date of this Consent Judgment shall be the date upon which this Consent Judgment is entered by the Court.

XXVII. SEVERABILITY

The provisions of this Consent Judgment shall be severable. Should any provision be declared by a court of competent jurisdiction to be inconsistent with federal or state law, and therefore unenforceable, the remaining provisions of this Consent Judgment shall remain in full force and effect.

XXVIII. SIGNATORIES

Each undersigned representatives of a Party to this Consent Judgment certifies that he or she is fully authorized by the Party to enter into this Consent Judgment and to legally bind such Party to the respective terms and conditions of this Consent Judgment.

EXHIBIT C

STATE OF MICHIGAN

IN THE 22nd CIRCUIT COURT (WASHTENAW COUNTY)

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

Case No. 88-34734-CE

And

THE CITY OF ANN ARBOR,
Intervenor,

And

WASHTENAW COUNTY,
Intervenor,

And

WASHTENAW COUNTY HEALTH
DEPARTMENT,
Intervenor,

And

WASHTENAW COUNTY HEALTH OFFICER
JIMENA LOVELUCK,
Intervenor,

And

THE HURON RIVER WATERSHED COUNCIL,
Intervenor,

And

SCIO TOWNSHIP,
Intervenor,

V.

GELMAN SCIENCES, INC., a Michigan
Corporation,
Defendant.

-----./

EVIDENTIARY HEARING HELD VIA ZOOM VIDEOCONFERENCE

BEFORE THE HONORABLE TIMOTHY P. CONNORS

Ann Arbor, Michigan - Monday, May 3, 2021

APPEARANCES:

FOR THE PLAINTIFF:

BRIAN J. NEGELE (P41846)
Michigan Department of Attorney General
525 West Ottawa Street
P.O. Box 30212
Lansing, Michigan 48909-7712
(517) 373-7540

INTERVENING PLAINTIFFS:

For the City of Ann Arbor:

FREDERICK J. DINDOFFER (P31398)
NATHAN D. DUPES (P75454)
Bodman PLC
1901 St. Antoine, 6th Floor
Detroit, Michigan 48226
(313) 259-7777

AND:

STEPHEN K. POSTEMA (P38871)
ABIGAIL ELIAS (P34941)
Ann Arbor City Attorney's Office
301 East Huron, Third Floor
Ann Arbor, Michigan 48107
(734) 794-6170

For Washtenaw County, Washtenaw County
Health Department, and Washtenaw Health Officer:

ROBERT CHARLES DAVIS (P40155)
Davis Burket Savage Listman Taylor
10 South Main Street, Suite 401
Mt. Clements, Michigan 48043
(586) 469-4300

(Appearances continued)

1 Griswold and she's been involved, and I appreciate that,
2 and we'll come back to you Commissioner, okay?

3 MS. GRISWOLD: Kathy Griswold from City Council.
4 I'm a member of CARD. I've been a very strong advocate of
5 bringing in the EPA, especially because they have stronger
6 polluter pay laws. I did not want to discredit the good
7 work of EGLE in any way, but EGLE is bound by our state
8 polluter pay laws, and so that's the big distinction.

9 I really appreciate this hearing. I appreciate
10 your solution-oriented approach. There are, I think that
11 there are two deal breakers that we cannot go back to our
12 constituents about; one is the EPA, and the second one is
13 the discharge into the First Sister Lake. I cannot -- I
14 don't represent all of Council, but as one of the two
15 Council members who has been most involved in this, I can
16 tell you that I would appreciate some type of solution
17 where we can immediately start applying the stricter
18 standards.

19 So, thank you. I'll answer any questions you
20 have.

21 THE COURT: No, no. Council person, first of
22 all, are you my Council person?

23 MS. GRISWOLD: I'm sorry?

24 THE COURT: Are you in -- are you the one I
25 report to?

EXHIBIT D

Technical Report on the Gelman Sciences Site Remediation

Scio Township, Washtenaw County, Michigan

**Prepared for the Washtenaw County
Circuit Court**

April 30, 2021

SECTION 3 – AN EVALUATION OF RESPONSE ACTIVITIES INCLUDED IN THE INTERVENOR 4TH AMENDED CJ

As disclosed in the proposed settlement documentation made public in August 2020, which was ultimately rejected by the Intervenor, Gelman offered some additional remedial actions/CJ Amendments during its negotiations with the Intervenor. These proposed CJ amendments were in addition to those amendments negotiated with EGLE. Although Gelman was willing to offer these amendments in good faith, the additional amendments were not and are not necessary to be protective of human health and the environment or to comply with Part 201. Given the Intervenor's rejection of the 4th Amended CJ, Gelman is no longer offering many of these amendments. Technical justification for why these CJ amendments are not required for compliance with Part 201 or for the protection of human health and the environment is provided below.

Proposed Parklake Extraction System – Eastern Area

Gelman had previously proposed to extract groundwater from the area near Parklake Avenue and Jackson Road. This is an area that has been interpreted to feed 1,4-dioxane migrating to the northeast (toward the Evergreen Subdivision) and to a limited extent, east toward Maple Village. 1,4-Dioxane concentrations in the Parklake area are shown on Attachment 2. Gelman is no longer offering this proposed extraction for these reasons.

Gelman's initial plan was to position a treatment system the City sewer lift station at the corner of Parklake and Jackson with the plan of discharging treated water to the sanitary sewer. It is our understanding that discharge into the sanitary sewer has been rejected.

Alternatives to discharging to the sewer include after treatment discharge into First Sister Lake, transporting the water in a pipeline to the Gelman Wagner Road treatment facility for treatment/discharge, and after treatment re-injection of the water into the subsurface.

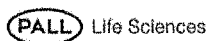
The treated groundwater could be discharged into First Sister Lake under a NPDES permit. Water discharged into First Sister Lake eventually flows into the unnamed tributary on the west side of the lake near Wagner Road, and continues downstream where it merges with Gelman's current outfall (Outfall-001). This discharge would require approval by EGLE. The NPDES permitting process for the proposed Parklake treatment system discharge would take into account the ability of the receiving waters (both the lake and wetlands) to handle the proposed rate of discharge and level of contaminants. We anticipate that EGLE would approve the discharge because the discharge is not expected to cause water quality issues in the receiving water or cause hydrological issues such as flooding. That said, there has been significant opposition to this proposed disposal method and it is anticipated that there would be considerable opposition to issuance of a permit from the public, perhaps including an administrative challenge to the permit.

A pipeline back to the Gelman Site is a possibility, but the installation of a pipeline will cause considerable disruption and also raise citizen concerns as the pipeline would go through Dolph Park or portions of the Westover Subdivision. A pipeline is a solution more appropriate for a permanent remedial activity. This proposed extraction was not intended to be a long-term remedial approach that is needed to meet cleanup objectives rather a short-term "hot-spot" extraction. As discussed below, 1,4-dioxane concentrations in this area have already significantly declined and will decline even further before the multiple approvals for this project would be granted and infrastructure installed, significantly reducing the effectiveness of this extraction.

Extracting/treating and injecting the water is possible but not at all practical. Installing the infrastructure would also result in considerable disruption. Additionally, injection wells are prone to fouling (primarily due to high iron levels typical in the plume areas) and would require considerable maintenance which results in further disruption. A permit would also be required from EGLE which would likely be difficult to obtain due to concerns of displacing the plume.

The dilemmas of what to do with the water at the formally proposed Parklake extraction system are examples of the difficulties Gelman faces when managing the 1,4-dioxane plumes and underscores some of the difficult logistical issues facing this cleanup. Extracting and treating a recalcitrant chemical like 1,4-dioxane is not easy as it requires significant infrastructure and the use of hazardous chemicals (strong oxidants and sodium bisulfite). To date, Gelman has faced significant opposition to implementing these alternatives, despite the general community desire that Gelman should be required to do more.

Overcoming these types of challenges would be appropriate if the remedial benefit to be gained required it. However, 1,4-dioxane concentrations in the Parklake area have been on a general decline to the point where the disruption and risks associated with this proposed work are no longer justified. These declines are evident on the 1,4-dioxane trend graphs for two wells positioned in the general vicinity of the proposed Parklake extraction (see MW-108s and MW-108d graphs below). Due to the continued delays in implementing this remedial action, 1,4-dioxane concentrations in the vicinity of the proposed Parklake extraction area have declined even further, thus lessening the effectiveness of this proposed remedial action. MW-108s had a peak concentration of 2,946 ug/L and is now at 280 ug/L, a 10-fold decrease. MW-108d had a peak concentration of 4,054 ug/L and is now at 670 ug/L, a 6-fold decrease. These declines reflect the effectiveness of Gelman's Wagner Road extraction. The Wagner Road extraction has resulted in less 1,4-dioxane migrating toward the Parklake area which is why 1,4-dioxane concentrations of 1,4-dioxane have been decreasing in this area. By the time Gelman were to gain its approvals to install the infrastructure for this system from all the parties that will be involved, and work through the significant local opposition to this plan, these trend data suggest the 1,4-dioxane concentrations in this area will be even less and the value of installing this system will diminish even further.



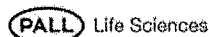
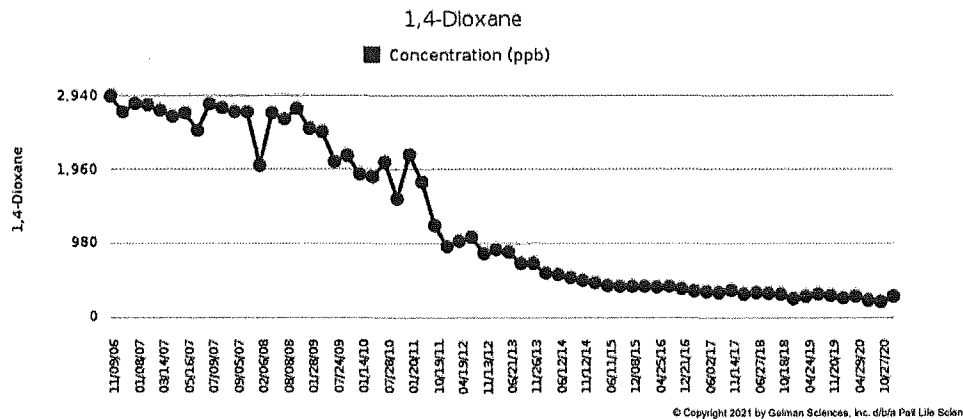
Gelman Sciences, Inc. d/b/a
Pall Life Sciences
642 South Wagner Road
Ann Arbor, MI 48103-9019 US
www.pall.com

Analytical Data Graph

Printed: 04/07/2021

Well Name: MW-108s

Aquifer:	E	Date Installed:	10/24/2006	Boring Depth:	155.00 Feet bgl	Screen 1:	155.00 to 150.00 Feet
Map Location:	K-21	Well Driller:	Steams	Ground Elevation:	Unknown Feet	Screen Length:	5.00
X Coordinate:	13278563.99	Well Type:	Monitoring Wells	TOC Elevation:	910.38 Feet	Screen 2:	Unknown to Unknown Feet
Y Coordinate:	285774.15	Sampling Interval:	Quarterly	TOC to screen bottom:	155.00 Feet		
Comments:							



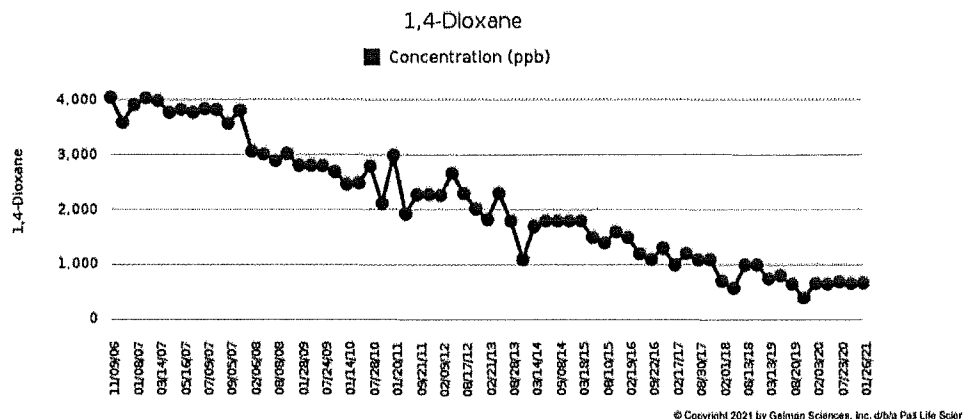
Gelman Sciences, Inc. d/b/a
Pall Life Sciences
642 South Wagner Road
Ann Arbor, MI 48103-9019 US
www.pall.com

Analytical Data Graph

Printed: 04/07/2021

Well Name: MW-108d

Aquifer:	E	Date Installed:	10/23/2006	Boring Depth:	226.00 Feet bgl	Screen 1:	182.00 to 177.00 Feet
Map Location:	K-21	Well Driller:	Steams	Ground Elevation:	Unknown Feet	Screen Length:	5.00
X Coordinate:	13278564.36	Well Type:	Monitoring Wells	TOC Elevation:	910.84 Feet	Screen 2:	Unknown to Unknown Feet
Y Coordinate:	285780.94	Sampling Interval:	Quarterly	TOC to screen bottom:	182.00 Feet		
Comments:							



{03575414}
806500



Our data indicate 1,4-dioxane mass from the Parklake area will migrate either toward the proposed Rose extraction area, or to a limited degree, east toward Maple Village. 1,4-Dioxane concentrations in the plume core to the east of the Parklake lake area have been declining. For example, the next key downgradient indicator well to the east is the MW-72 cluster. Concentrations at this location have been on a steady decline since their peak. MW-72s had a peak concentration of 168 ug/L and is now at 1 ug/L. MW-72d had a peak concentration of 3,788 ug/L and is now at 610 ug/L. 1,4-Dioxane trends at these locations suggest continued declines. These declines are related to Gelman's remedial efforts both upgradient (Wagner Road and onsite) as well as downgradient at Maple Village. It's important to note that Gelman has operated a long-term extraction along Wagner Road since 2005.

In sum, the highest concentrations from the Parklake area peaked in 2006 and have long-since migrated away from the area of the previously proposed Parklake extraction. There is no reason that the continued migration of 1,4-dioxane from the Parklake area at the current much lower concentrations toward either the MW-72/Maple Village area or the Evergreen Subdivision will cause any compliance issues.

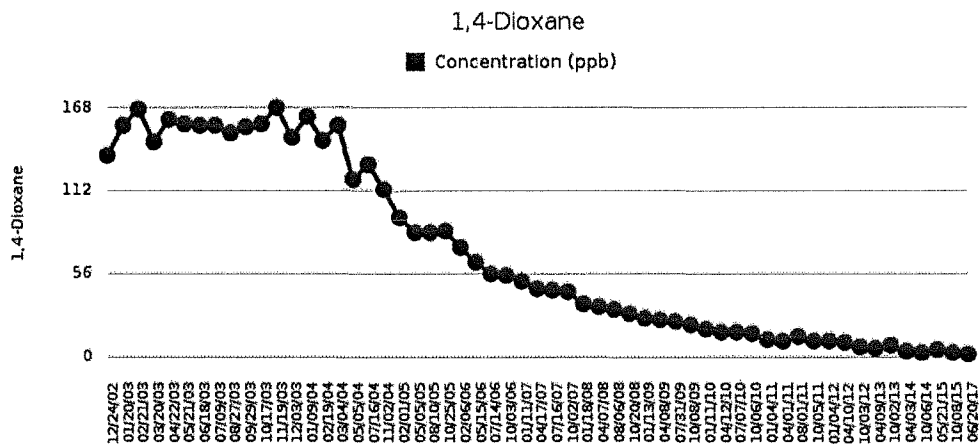
Analytical Data Graph

Printed: 04/08/2021

www.pall.com

Well Name: MW-72s

Aquifer:	E	Date Installed:	12/18/2002	Boring Depth:	123.50 Feet bgl	Screen 1:	123.50 to 118.50 Feet
Map Location:	K-25	Well Driller:	Stearns	Ground Elevation:	943.00 Feet	Screen Length:	5.00
X Coordinate:	13280450.66	Well Type:	Monitoring Wells	TOC Elevation:	942.93 Feet	Screen 2:	NA to NA Feet
Y Coordinate:	286914.03	Sampling Interval:	Semi-Annual	TOC to screen bottom:	123.50 Feet		
Comments:							



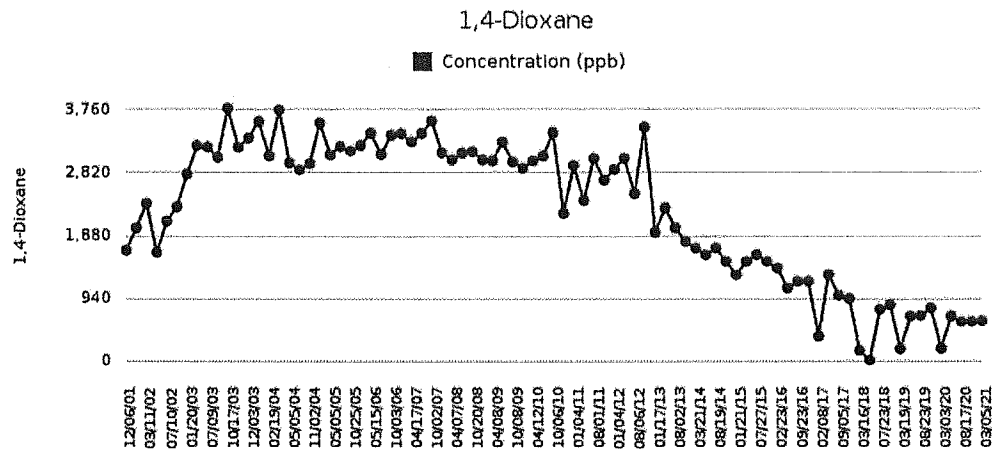
Analytical Data Graph

Printed: 04/08/2021

www.pall.com

Well Name: MW-72d

Aquifer:	E	Date Installed:	11/28/2001	Boring Depth:	280.00 Feet bgl	Screen 1:	200.00 to 150.00 Feet
Map Location:	K-25	Well Driller:	Stearns	Ground Elevation:	943.00 Feet	Screen Length:	10.00
X Coordinate:	13280561.00	Well Type:	Monitoring Wells	TOC Elevation:	942.49 Feet	Screen 2:	NA to NA Feet
Y Coordinate:	285943.00	Sampling Interval:	Quarterly	TOC to screen bottom:	200.00 Feet		
Comments:							



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Available data support that most of the mass migrating from the Parklake area is, and has been, moving toward the Evergreen Area, more specifically toward the proposed Rose extraction area. The peak concentrations that have already migrated past the Parklake area have either migrated through the Evergreen Subdivision or are working their way through the Rose extraction area and towards the LB4 extraction well. These higher concentrations have not caused dispersion/diffusion of 1,4-dioxane beyond the existing PZ boundary at levels above 7.2 pbb, but extraction in the Rose area where higher concentrations are present to be used in concert with the existing Evergreen system is considered to be an important extra layer of protection in this area. Capturing the mass between Parklake and the Rose extraction area is not practical considering the presence of Jackson Road (a boulevard in this area), I-94 and a hotel.

On/Off-Site Extraction – Western Area

Gelman had previously offered additional, voluntary on and offsite extraction in the Western Area. This extraction is no longer part of Gelman's proposed 4th CJ amendments, with the exception of one new extraction well to be identified as TW-24. This well is in the area south of former Pond II (between former Pond II and the Green Pond). This well has been installed by Gelman and will be operated at a flow rate of 50 gpm.

Gelman has been extracting groundwater in on-site areas for nearly three decades. This work has resulted in the removal of a significant amount of 1,4-dioxane (see Figure 9). While there are remaining limited areas of higher concentrations of 1,4-dioxane, the voluntary extraction program from these localized zones is not required in order to meet Gelman's non-expansion objective or be protective of human health or the environment.

{03575414}
806500

EXHIBIT E

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,

-and-

Case No. 88-34734-CE
Hon. Timothy P. Connors

CITY OF ANN ARBOR; WASHTENAW COUNTY;
WASHTENAW COUNTY HEALTH DEPARTMENT;
WASHTENAW COUNTY HEALTH OFFICER
JIMENA LOVELUCK, in her official capacity;
HURON RIVER WATERSHED COUNCIL; and
SCIO TOWNSHIP,

Intervening Plaintiffs,

vs.

GELMAN SCIENCES, INC., a Michigan corporation,

Defendant.

BRIAN J. NEGELE (P41846)
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**ORDER DENYING MOTION FOR PARTIAL STAY OF ORDER
TO ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT
AND COMPLY WITH REVISED CLEANUP CRITERIA**

This matter having come before the Court on Defendant Gelman Sciences, Inc.'s ("Gelman") Motion for Partial Stay of Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED that Gelman's Motion for Partial Stay of Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria is denied.

IT IS FURTHER ORDERED that this order does not close the case.

Dated: _____

Timothy P. Connors
Circuit Court Judge

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,

Case No. 88-034734-CE
Hon. Timothy P. Connors

Plaintiff,

and

CITY OF ANN ARBOR, WASHTENAW COUNTY,
WASHTENAW COUNTY HEALTH
DEPARTMENT, WASHTENAW COUNTY
HEALTH OFFICER ELLEN RABINOWITZ, in her
official capacity, the HURON RIVER WATERSHED
COUNCIL, and SCIO TOWNSHIP,

**INTERVENING PLAINTIFFS'
BRIEF IN OPPOSITION TO
GELMAN'S MOTION FOR
PARTIAL STAY**

Intervening Plaintiffs,

-v-

GELMAN SCIENCES, INC., d/b/a PALL LIFE
SCIENCES, a Michigan Corporation,

Defendant.

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**INTERVENING PLAINTIFFS' BRIEF IN OPPOSITION TO GELMAN'S MOTION
FOR PARTIAL STAY**

Gelman's motion for partial stay should be denied. The Court's June 1, 2021 Response Activity Order directed Gelman to "immediately implement and conduct all requirements and activities stated in the Proposed 'Fourth Amended and Restated Consent Judgment.'" **Ex. A**, Response Activity Order.¹ The Court made that directive despite being well aware that Gelman likely would apply for leave to appeal. The Court's Response Activity Order established a very sensible process by which Gelman would begin implementing response activities to address the new cleanup standards and the parties would return to the Court every quarter so that the Court and the parties could address the status of those activities and the cleanup of the site in general (including review of additional requests for cleanup activities beyond that ordered and other relevant modifications). Gelman provides the Court no basis to depart from that reasonable

¹ Due to its size and length, the attachment referenced in this Order is not included with Exhibit A.

process. Indeed, by seeking a partial stay, Gelman recognizes the need for the Court to exercise its inherent authority to enter an initial order addressing the change in cleanup criteria and requiring the implementation of additional response activities without further delay.

Gelman's principal argument for the stay is based on inadmissible (and misrepresented) settlement discussions. Gelman's reference to an alleged bilateral agreement with EGLE is not part of the record and should not be considered by the Court. Intervenor's counsel objected to Gelman's reference to settlement discussions at the May 3, 2021 hearing and Gelman's continued reference to those discussions is completely inappropriate and violates the Michigan Rules of Evidence and the Court's confidentiality order. MRE 408 provides that "[e]vidence of conduct or statements made in compromise negotiations is...inadmissible." The Court's March 23, 2017 Confidentiality Order likewise protects "[a]ny statements made or positions expressed by any party on any topic" during settlement negotiations and provides that a party may not file or place in evidence statements or other information disclosed during settlement negotiations by another party. **Ex. B**, Confidentiality Order.

The Court later partially rescinded the confidentiality order only so that certain documents could be made public as part of EGLE's public comment process and the Intervenor's public vote process. **Ex. C**, Partial Rescission Order. The Court's directive that all settlement discussions be kept confidential remains in effect to this day.²

Gelman's characterization of settlement negotiations not only is inappropriate, it is inaccurate as well. No "bilateral agreement" between Gelman and EGLE to address the change in cleanup criteria has ever been presented to the Court. To the contrary, the parties' positions at

² Gelman's conduct is particularly egregious in light of the fact that Intervenor's provided all proposed public documents and videos to Gelman prior to posting them so that Gelman had a chance to raise any confidentiality concerns. Intervenor's also made changes to those documents and videos prior to posting to address Gelman's concerns.

the May 3, 2021 evidentiary hearing and in their briefs show that Gelman and EGLE do not agree on the changes to the cleanup regime. EGLE advocated for an order requiring implementation of all response activities contained in the Proposed Fourth Amended and Restated Consent Judgment, while Gelman advocated for an order without many of those response activities. In entering the Response Activity Order, the Court appropriately was guided by the briefs and reports filed, and the parties' arguments at the hearing, not by Gelman's misleading history of inadmissible settlement discussions.

For the foregoing reasons, Gelman's motion for stay should be denied.

Respectfully submitted,

Dated: June 14, 2021

ANN ARBOR CITY ATTORNEY'S
OFFICE

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Stephen K. Postema (P38871)
Attorney for Intervenor City of Ann Arbor

Dated: June 14, 2021

BODMAN PLC

By: /s/ Nathan D. Dupes
Nathan D. Dupes (P75454)
Attorneys for Intervenor City of Ann Arbor

Dated: June 14, 2021

DAVIS, BURKET, SAVAGE, LISTMAN

By: /s/ Robert Charles Davis
Robert Charles Davis (41055)
Attorney for Intervening Washtenaw County
Entities

Dated: June 14, 2021

GREAT LAKES ENVIRONMENTAL
LAW CENTER

By: /s/ Erin E. Mette
Erin E. Mette (P83199)
Attorney for Intervenor Huron River
Watershed Council

Dated: June 14, 2021

HOOPER HATHAWAY, P.C.

By: /s/ William J. Stapleton
William J. Stapleton (P38339)
Attorneys for Intervenor Scio Township

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2021, the foregoing document was filed with the Clerk of the Court via the Court's MiFile Truefiling e-filing system which will give notice of such filing to all parties of record.

BODMAN PLC

By: /s/ Nathan D. Dupes
Nathan D. Dupes (P75454)
Attorneys for Intervenor City of Ann Arbor

EXHIBIT A

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,

-and-

Case No. 88-34734-CE
Hon. Timothy P. Connors

CITY OF ANN ARBOR; WASHTENAW COUNTY;
WASHTENAW COUNTY HEALTH DEPARTMENT;
WASHTENAW COUNTY HEALTH OFFICER
JIMENA LOVELUCK, in her official capacity;
HURON RIVER WATERSHED COUNCIL; and
SCIO TOWNSHIP,

Intervening Plaintiffs,

vs.

GELMAN SCIENCES, INC., a Michigan corporation,

Defendant.

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**ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT AND COMPLY
 WITH REVISED CLEANUP CRITERIA**

This matter having come before the court for hearing on Response Activities necessary to implement and comply with revised cleanup criteria, all parties having filed briefs and technical reports, the court having heard argument of counsel and being otherwise fully advised in the premises;

IT IS HEREBY ORDERED:

1. Gelman Sciences shall immediately implement and conduct all requirements and activities stated in the Proposed “Fourth Amended and Restated Consent Judgment” which is attached to this Order and incorporated by reference.
2. The court retains continuing jurisdiction and will hold further hearings on a quarterly basis to review the progress of Response Activities and other actions required by this order related to releases of 1,4 dioxane at and emanating from the Gelman site and consider the implementation of additional or modified Response Activities and other actions.
3. The first quarterly hearing is scheduled for September 1, 2021 at 9 a.m.

4. Intervening Plaintiffs shall retain their status as Intervenor in this action.
5. This is not a final order and does not close the case.

SO ORDERED.

Dated: 6/1/2021

/s/ Timothy P. Connors 6/1/2021



Drafted/Presented By:

By: /s/Robert Charles Davis
ROBERT CHARLES DAVIS (P40155)
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Health Officer Jimena Loveluck
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Dated: May 27, 2021

EXHIBIT B

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

ATTORNEY GENERAL FOR THE STATE
OF MICHIGAN *ex rel.* MICHIGAN DEP'T
OF NATURAL RESOURCES AND
ENVIRONMENT,

Plaintiff,

Washtenaw County Case No. 88-34734-CE
Honorable Timothy P. Connors

And

STIPULATED
SETTLEMENT NEGOTIATION AND
CONFIDENTIALITY ORDER

THE CITY OF ANN ARBOR,

Intervenor-Plaintiff,

and

WASHTENAW COUNTY,

Intervenor-Plaintiff,

and

THE WASHTENAW COUNTY
HEALTH DEP'T,

Intervenor-Plaintiff,

and

WASHTENAW COUNTY HEALTH OFFICER
ELLEN RABINOWITZ,

Intervenor-Plaintiff,

and

THE HURON RIVER WATERSHED
COUNCIL,

Intervenor-Plaintiff,

and

{01086681}

FILED
2017 MAR 24 AM 8 16
CIRCUIT COURT

SCIO TOWNSHIP,
Intervenor-Plaintiff,

-v-

GELMAN SCIENCES, INC.,
a Michigan Corporation,

Defendant.

**STIPULATED SETTLEMENT NEGOTIATION
AND CONFIDENTIALITY ORDER**

At a session of said Court
held in the City of Ann Arbor, County of Washtenaw
on 3/23/2017
PRESENT Hon. Timothy P. Connors
Circuit Court Judge

The parties desiring to promote productive settlement negotiations regarding the requirements of a revised Consent Judgment and/or resolution of the claims and defenses asserted in this matter, (collectively, "Settlement Negotiations"); and the parties having stipulated and agreed to entry of this Order; and the Court being fully advised in the premises:

IT IS THEREFORE ORDERED as follows:

1. All discussions, statements, positions taken, and any documents, data or other information exchanged among the parties, collectively and between any subset of the parties during the Settlement Negotiations, shall be considered conduct or statements made in compromise negotiations covered by Michigan Law, the Michigan Rules of Evidence, including, but not limited to, MRE 408, and Michigan Rules of Court, including, but not limited to, MCR 2.412 (regardless if taken in a formal mediation process or exchanged between the parties). Except as set out herein or as may be required under Michigan law, none of the following that occurs during the Settlement Negotiations shall be disclosed, described characterized or disseminated by any party to anyone who is not a party to this case (a "third party"): (i) Any statements made or positions expressed by any party on any topic; (ii) any documents, data or other information disclosed by any other party; or (iii) the fact that such documents, data or other information was exchanged during the Settlement Negotiations by any party. To be clear, nothing in this order shall preclude any party from disclosing to any third party at any time any documents, data, or other information that the party created or that the party came to possess outside of the Settlement Negotiations, or the positions that the party may have on any topic, as long as there is no indication given to such third party that such documents, data, or other information was disclosed/exchanged or that such statements regarding positions were made during the Settlement Negotiations themselves.

2. None of the statements made and none of the documents, data, or other information disclosed by one party to the case during the Settlement Negotiations may be filed, or placed in evidence by a different party to the case for any purpose, including impeachment, in any legal or administrative proceeding whatsoever. However, notwithstanding the preceding sentence, documents, data, or other evidence that was disclosed during the Settlement Negotiations by a party that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its disclosure or use during the Settlement Negotiations and any such evidence may be sought in discovery and shall be produced and disclosed in response to such discovery requests (subject to any otherwise applicable privileges or other exemptions from discovery), following which such evidence may be admitted into evidence.

3. All statements made during the course of the Settlement Negotiations are made without prejudice to any of the parties' legal positions.

4. The disclosure during the Settlement Negotiations of any documents, data or other information, and any statements made by individuals during the Settlement Negotiations, that are exempt from discovery or disclosure by virtue of an applicable privilege, attorney work product, or other exemption from discovery or disclosure, shall not (i) operate as a waiver of any claim of privilege, attorney work product, or other exemption from discovery or disclosure, or (ii) change in any way the protected (or unprotected) character of any such materials.

5. All statements made during the Settlement Negotiations and any documents, data or other information disclosed during such Settlement Negotiations by a different party may be disclosed or made available only to the receiving Parties' employees, elected officials, officers, directors and advisors (including without limitation, attorneys and technical consultants) (collectively "**Agents**") who have a need to know such information for the purpose of negotiating a revised Consent Judgment and/or resolving the claims and the defenses asserted in this matter. All Agents must be informed of the confidential nature of such information and agree to be bound by the terms of this Order. Each Party will be responsible for any breach of this Order by any of its Agents.

6. To the extent any of the statements made during the Settlement Negotiations or any documents, data or other information disclosed during such Settlement Negotiations is discussed or reviewed with any of the municipal parties' elected officials or with any employees of the municipality, such municipal party(ies), their elected officials, and their employees shall maintain the privileged and confidential status of such information. Such communications, if oral, shall not be made during an open session of the governing body of the municipality, but may take place during a session of the body that is properly closed in accordance with the Michigan Open Meetings Act. Such communications, if written, shall be identified clearly as privileged and confidential and not subject to disclosure under the Freedom of Information Act (FOIA). If a Governmental Party receives a FOIA or similar request for documents that covers Settlement Negotiations or any related information exchanges, the Governmental Party receiving the request shall, in good faith, assert appropriate grounds for exempting from disclosure the Settlement Negotiations and related information exchanges. The Parties agree that the grounds for exemption may include the terms of this Order, Section 13(1)(f), (g), (h), (m) and (v) of the Michigan Freedom of Information Act, MCL 15.243(1)(f), (g), (h), (m) and (v), and any other applicable exemptions under Michigan law. If a Governmental Party receives a FOIA request or subpoena for Settlement

Negotiations or any related data, documents, or information exchanges, it shall give prompt notice to the other parties and, if the response will include disclosure of any information, data, or documents exchanged during the Settlement Negotiations, including any notes or summaries of the Settlement Negotiations, such notice shall be provided by electronic mail to counsel listed below a minimum of five business days before the Governmental Party responds to the request. The Governmental Party shall also give prompt notice to the other parties if the requesting party appeals the Governmental Party's denial of the request for disclosure. If necessary, any Party may act, and may request that the Court act to maintain the confidentiality of Settlement Negotiations and related information exchanges as set forth in this Order and applicable Michigan law.

7. Any violation of this Order will cause irreparable injury and monetary damages will be an inadequate remedy because the parties are relying on this Order and applicable limits of admissibility under the court rules in disclosing sensitive information. Consequently, any party may obtain an injunction to prevent disclosure of any such confidential information in violation of this Order. Any party violating this Order shall be liable for and shall indemnify the non-breaching parties, for all costs, expenses, liabilities, and fees, including attorney's fees that may be incurred in seeking an injunction, resulting from such violation.

8. Entry of this order does not resolve all claims between all parties and does not close the case.

IT IS SO ORDERED

Dated: 3/23/2017


Hon. Timothy P. Connors

STIPULATED TO AND APPROVED BY

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EXHIBIT C

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,

File No. 88-34734-CE
Hon. Timothy P. Connors

Plaintiff,

and

CITY OF ANN ARBOR, WASHTENAW COUNTY,
WASHTENAW COUNTY HEALTH
DEPARTMENT, WASHTENAW COUNTY
HEALTH OFFICER ELLEN RABINOWITZ, in her
official capacity, the HURON RIVER WATERSHED
COUNCIL, and SCIO TOWNSHIP,

**STIPULATED ORDER
RESCINDING IN PART
THE COURT'S MARCH 23, 2017
CONFIDENTIALITY ORDER**

Intervening Plaintiffs,

-v-

GELMAN SCIENCES, INC., a Michigan Corporation,

Defendant.

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**STIPULATED ORDER RESCINDING IN PART
 THE COURT'S MARCH 23, 2017, CONFIDENTIALITY ORDER**

At a session of said Court
 held in the City of Ann Arbor, County of Washtenaw
 on 8/31/2020
 PRESENT Timothy P. Connors
 Circuit Court Judge

The parties having desired to promote productive settlement negotiations regarding the requirements of a revised Consent Judgment and/or resolution of the claims and defenses asserted in this matter, (collectively, "Settlement Negotiations"); the parties having previously stipulated and agreed to entry by this Court of a Confidentiality Order dated March 23, 2017 ("Confidentiality Order"), that governs and protects the confidentiality of the Settlement Negotiations; the parties having concluded the Settlement Negotiations; the governmental Intervening Plaintiffs now needing to make public the proposed settlement documents in order to consider and vote on them publicly in accordance with the Michigan Open Meetings Act; Plaintiff now needing to make public the proposed settlement documents for purposes of public notice and comment; and the Court being fully advised in the premises:

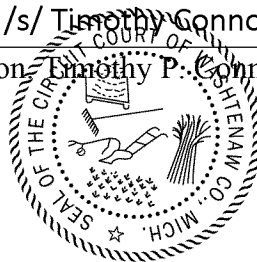
IT IS THEREFORE ORDERED as follows:

1. The requirements of the Court's Confidentiality Order are rescinded and shall not apply to the following documents that are products of the Settlement Negotiations: proposed Fourth Amended and Restated Consent Judgment, proposed Order of Dismissal, proposed Settlement Agreement between Defendant and the City of Ann Arbor, proposed Settlement Agreement between Defendant and Washtenaw County and its Health Department and Health Officer, and proposed Settlement Agreement between Defendant and Scio Township.
2. The requirements of the Court's Confidentiality Order also are rescinded and shall not apply to documents that may be prepared and published on the Intervenor's joint information repository website ("Intervenor's joint website") to explain or answer questions about any of the documents listed in Paragraph 1, so long as none of those other documents discloses any content or aspect of the Settlement Negotiations otherwise protected by the Court's Confidentiality Order, and are based on or otherwise disclose only information in the documents listed in Paragraph 1 and/or information that is otherwise publicly available and not subject to the restrictions of the Confidentiality Order.
3. To prevent inadvertent disclosures of confidential information that is subject to the Confidentiality Order, prior to publicly posting any documentation or information on the Intervenor's joint website under Paragraph 2, the producing party shall provide the documentation/information to the other parties. The documentation/information may be made public if no party objects in writing by 5:00 PM of the second business day after the documentation/information is sent. Writings for purposes of this paragraph may be by electronic mail. The only basis for objection shall be that the documentation/information contains information the Court's Confidentiality Order makes confidential and has not been rescinded by the terms of this Order. If an objection is made, the parties shall negotiate in good faith to resolve the objection. If the objection cannot be resolved and an impasse is declared in writing by any party, the documentation/information at issue may be made public unless the objecting party files a petition for resolution with the Court by 5:00 PM of the second business day after the written declaration of impasse is sent. Each party may file a response in accordance to a schedule set by the Court. All documents/information included in or attached to the petition and any party's response shall be filed with the Court under seal.
4. Except as rescinded in Paragraphs 1 through 3, all the provisions of the Court's March 23, 2017, Confidentiality Order remain in effect.
5. Entry of this order does not resolve all claims between all parties and does not close the case.

Dated: 8/31/2020

IT IS SO ORDERED

/s/ Timothy P. Connors 8/31/2020
 Hon. Timothy P. Connors



STIPULATED TO AND APPROVED BY

/s/ Brian J. Negele
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Attorney for Plaintiff

/s/ Fredrick J. Dindoffer
Fredrick J. Dindoffer (P31398)
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/s/ Erin Mette
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/s/ Michael L. Caldwell
Michael L. Caldwell (P40554)
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/s/ Robert Charles Davis
Robert Charles Davis (P40155)
Attorney for Washtenaw County

/s/ William J. Stapleton
William J. Stapleton (P38339)
Attorney for Scio Township

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,

Case No. 88-34734-CE
Hon. Timothy P. Connors

Plaintiff,

and

THE CITY OF ANN ARBOR,

Intervenor,

and

WASHTENAW COUNTY,

Intervenor,

and

THE WASHTENAW COUNTY HEALTH
DEPARTMENT,

Intervenor,

and

WASHTENAW COUNTY HEALTH OFFICER,
JIMENA LOVELUCK,

Intervenor,

and

THE HURON RIVER WATERSHED COUNCIL,

Intervenor,

and

SCIO TOWNSHIP,

Intervenor,

v

GELMAN SCIENCES, INC., a Michigan Corporation,

Defendant.

**GELMAN SCIENCES, INC.'S MOTION
FOR LEAVE TO FILE
SUPPLEMENTAL BRIEF IN SUPPORT
OF MOTION FOR PARTIAL STAY OF
ORDER TO CONDUCT RESPONSE
ACTIVITIES TO IMPLEMENT AND
COMPLY WITH REVISED CLEANUP
CRITERIA**

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**GELMAN SCIENCES, INC.'S MOTION FOR LEAVE TO FILE
SUPPLEMENTAL BRIEF IN SUPPORT OF
MOTION FOR PARTIAL STAY OF -ORDER TO CONDUCT
RESPONSE ACTIVITIES TO IMPLEMENT AND COMPLY WITH REVISED
CLEANUP CRITERIA**

Pursuant to MCR 2.119, MCR 2.614(D) and MCR 7.209(A), Defendant Gelman Sciences, Inc. ("Gelman") hereby moves the Court for leave to file the Supplemental Brief in support of its June 8, 2021 Motion for Partial Stay of Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria attached hereto as Exhibit 1 ("Supplemental Brief") for the reasons stated in the brief below.

BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE
SUPPLEMENTAL BRIEF IN -SUPPORT OF MOTION FOR PARTIAL STAY
OF ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT
AND COMPLY WITH REVISED CLEANUP CRITERIA

Rather than seek to stay the Court's Response Activity Order in its entirety, Gelman seeks to stay only those response activities that were not included in the 2017 draft bilateral Fourth Amended and Restated Consent Judgment (the "2017 Bilateral Consent Judgment") (Exhibit 2) that Gelman and EGLE negotiated before this Court injected Intervenor into the essentially completed negotiations. Gelman seeks this relief not because it recognizes "the need for the Court to exercise its inherent authority to enter an initial order addressing the change in cleanup criteria," as Intervenor asserts. (Intervenor Opposition, p 3). To the contrary, as Gelman has repeatedly asserted in numerous pleadings filed with this Court—including its Motion for Partial Stay—and as it intends to assert on appeal, the entire Response Activity Order and the purported evidentiary hearing from which it resulted are "wholly improper and without legal basis." (Motion for Partial Stay, p 3). Nevertheless, Gelman, in consultation with EGLE, has agreed to limit the extent of the stay it seeks while pursuing its appellate rights, so that the work that Gelman and EGLE agreed in 2017 would be appropriate to address the then-new change in cleanup criteria can go forward. Only Intervenor—whose untimely and improper intervention delayed entry of an amended consent judgment authorizing this work—could construe the parties' responsible stewardship of the cleanup as some kind of admission.

In the absence of any substantive basis for opposing Gelman's motion, Intervenor attempts to distract from the core issue by pointing to the fact that, because of the delay caused by the intervention and the Court's decision to issue a ruling before any evidence was offered or admitted

during the evidentiary hearing, the 2017 Bilateral Consent Judgment was never entered or made part of the record. Intervenor also make spurious allegations that Gelman improperly disclosed confidential settlement communications.

Gelman seeks leave to file the attached Supplemental Brief to supplement the record to include the 2017 Bilateral Consent Judgment and to briefly respond to Intervenor's baseless allegations that Gelman disclosed confidential settlement communications. Gelman has confirmed with counsel that EGLE does not object to Gelman providing this Court with the 2017 Bilateral Consent Judgment so that the record is complete.

Respectfully submitted,

ZAUSMER, P.C.

/s/ Michael L. Caldwell

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(248) 851-4111

Dated: June 16, 2021

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses as directed on the pleadings on June 16, 2021 by:

☒ E-FILE ☐ US MAIL ☐ HAND DELIVERY ☐ UPS
☐ FEDERAL EXPRESS ☐ OTHER

/s/Brenda Ann Smith
Brenda Ann Smith

EXHIBIT 1

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,

Plaintiff,

and

THE CITY OF ANN ARBOR,

Intervenor,

and

WASHTENAW COUNTY,

Intervenor,

and

THE WASHTENAW COUNTY HEALTH
DEPARTMENT,

Intervenor,

and

WASHTENAW COUNTY HEALTH OFFICER,
JIMENA LOVELUCK,

Intervenor,

and

THE HURON RIVER WATERSHED COUNCIL,

Intervenor,

and

SCIO TOWNSHIP,

Intervenor,

v

GELMAN SCIENCES, INC., a Michigan Corporation,

Defendant.

Case No. 88-34734-CE
Hon. Timothy P. Connors

**GELMAN SCIENCES, INC.'S
SUPPLEMENTAL BRIEF IN SUPPORT
OF MOTION FOR PARTIAL STAY OF
ORDER TO CONDUCT RESPONSE
ACTIVITIES TO IMPLEMENT AND
COMPLY WITH REVISED CLEANUP
CRITERIA**

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**GELMAN SCIENCES, INC.'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION
FOR PARTIAL STAY OF ORDER TO CONDUCT RESPONSE ACTIVITIES TO
IMPLEMENT AND COMPLY WITH REVISED CLEANUP CRITERIA**

Gelman has asserted many times and will assert again on appeal that the entire Response Activity Order and the purported evidentiary hearing from which it resulted are “wholly improper and without legal basis.” (Motion for Partial Stay, p 3). Nevertheless, after consulting with EGLE, Gelman’s Motion for Partial Stay seeks to stay only those response activities that were not included in the 2017 draft bilateral Fourth Amended and Restated Consent Judgment (the “2017 Bilateral Consent Judgment”) that Gelman and EGLE negotiated before the intervention prevented its entry. (Exhibit A). Gelman agreed to include in the proposed Fourth Amended and Restated Consent

Judgment (“4th Amended CJ”) the response activities it now seeks stayed not because those activities were required to provide a remedy protective of human health and the environment, but rather in exchange for other valuable consideration included in the global settlement package the Intervenor subsequently rejected. Motion for Partial Stay, p 4. Gelman’s willingness to move forward with the work that it and EGLE agree should be included in a properly amended bilateral consent judgment is not—as Intervenor erroneously assert¹—an admission that what this Court had done is proper. Rather, it is further evidence that Gelman will continue to address responsibly the environmental issues associated with the Site as it has for over thirty years, even while it pursues its legal rights.

In the absence of any substantive basis for opposing Gelman’s motion, Intervenor attempt to distract from the core issue by pointing out the fact that the 2017 Bilateral Consent Judgment was never entered or made part of the record. In other words, Intervenor cannot dispute that the response activities Gelman seeks to have stayed were not part of the 2017 Bilateral Consent Judgment that EGLE deemed protective, but they do not want to concede this point to this Court. Gelman intended to introduce the 2017 Bilateral Consent Judgment during the evidentiary hearing, but never had the opportunity to do so, because the Court shortened the scheduled three-day hearing into fewer than three hours, and issued its ruling before any evidence could be offered. Gelman now attaches the 2017 Bilateral Consent Judgment as Exhibit A to address Intervenor’s concerns in this regard.

Intervenor also make spurious allegations that Gelman’s motion improperly discloses confidential settlement communications. Gelman has done no such thing. The 2017 Bilateral

¹ Thus there is no basis for Intervenor’s assertion that Gelman’s limited request is a recognition of “the need for the Court to exercise its inherent authority to enter an initial order addressing the change in cleanup criteria.” (Intervenor Opposition, p 3).

Consent Judgment was drafted prior to the entry of, and is not covered by, this Court's March 23, 2017 Confidentiality Order. Moreover, EGLE does not object to Gelman's providing the draft agreement to this Court so the Court will have the entire background. In any event, Gelman's motion merely states that the response activities it seeks stayed were not included in the 2017 Bilateral Consent Judgment and that Gelman agreed to add these additional response activities in order to achieve a global settlement of the intervention—and did so in exchange for valuable consideration Intervenor are no longer providing. Gelman's discussion of its intentions in adding this work does not disclose any settlement discussions or Intervenor's negotiating positions, offers, or demands in any way—and the exchange of consideration between the parties is a matter of public record in any event. Intervenor's assertions to the contrary are entirely without merit and are nothing more than an attempt to distract the Court from the reasonableness of the relief Gelman seeks.

Respectfully submitted,

ZAUSMER, P.C.

/s/ Michael L. Caldwell

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(248) 851-4111

Dated: June 16, 2021

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses as directed on the pleadings on June 16, 2021 by:

☒ E-FILE☐ US MAIL☐ HAND DELIVERY☐ UPS☐ FEDERAL EXPRESS☐ OTHER

/s/Brenda Ann Smith

Brenda Ann Smith

EXHIBIT A

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

ATTORNEY GENERAL FOR THE STATE OF
MICHIGAN *ex rel.* MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiffs,

File No. 88-34734-CE
Honorable Timothy P. Connors

-v-

GELMAN SCIENCES INC.,
a Michigan Corporation,

Defendant.

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FOURTH AMENDED AND RESTATED CONSENT JUDGMENT

The Parties enter this Fourth Amended and Restated Consent Judgment in recognition of, and with the intention of, furtherance of the public interest by (1) addressing environmental concerns raised in MDEQ's Complaint; (2) expediting remedial action at the Site; and (3) avoiding further litigation concerning matters covered by this Consent Judgment. Among other things, the Parties enter this Fourth Amended and Restated Consent Judgment to reflect MDEQ's revision of the residential drinking water cleanup criterion for 1,4-dioxane in groundwater to 7.2 micrograms per liter. The Parties agree to be bound by the terms of this Consent Judgment and stipulate to its entry by the Court.

The Parties recognize that this Consent Judgment is a compromise of disputed claims. By entering into this Consent Judgment, Defendant does not admit any of the allegations of the Complaint, does not admit any fault or liability under any statutory or common law, and does not waive any rights, claims, or defenses with respect to any person, including the State of Michigan, its agencies, and employees, except as otherwise provided herein. By entering into this Consent Judgment, Plaintiffs do not admit the validity or factual basis of any of the defenses asserted by Defendant, do not admit the validity of any factual or legal determinations previously made by the Court in this matter, and do not waive any rights with respect to any person, including Defendant, except as otherwise provided herein. The Parties agree, and the Court by entering this Judgment finds, that the terms and conditions of the Judgment are reasonable, adequately resolve the environmental issues covered by the Judgment, and properly protect the public interest.

NOW, THEREFORE, upon the consent of the Parties, by their attorneys, it is hereby ORDERED and ADJUDGED:

I. JURISDICTION

A. This Court has jurisdiction over the subject matter of this action. This Court also has personal jurisdiction over the Defendant.

B. This Court shall retain jurisdiction over the Parties and the subject matter of this action to enforce this Judgment and to resolve disputes arising under the Judgment.

II. PARTIES BOUND

This Fourth Amended and Restated Consent Judgment applies to, is binding upon, and inures to the benefit of Plaintiffs, Defendant, and their successors and assigns.

III. DEFINITIONS

Whenever the terms listed below are used in this Fourth Amended and Restated Consent Judgment or the Attachments which are appended hereto, the following definitions shall apply:

A. “Consent Judgment” or “Judgment” shall mean this Fourth Amended and Restated Consent Judgment and all Attachments appended hereto. All Attachments to this Consent Judgment are incorporated herein and made enforceable parts of this Consent Judgment.

B. “Day” shall mean a calendar day unless expressly stated to be a working day. “Working Day” shall mean a day other than a Saturday, Sunday, or a State legal holiday. In computing any period of time under this Consent Judgment, where the last day would fall on a Saturday, Sunday, or State legal holiday, the period shall run until the end of the next working day.

C. “Defendant” shall mean Gelman Sciences Inc.

D. “1,4-dioxane” shall mean 1,4-dioxane released to or migrating from the Gelman Property. This term as it is used in this Consent Judgment shall not include any 1,4-dioxane that Defendant establishes by a preponderance of the evidence to have originated from a release for which Defendant is not legally responsible, except to the extent that such 1,4-dioxane is commingled with 1,4-dioxane released to or migrating from the Gelman Property. Nothing in this Consent Judgment shall preclude Defendant’s right to seek contribution or cost recovery from other parties responsible for such commingled 1,4-dioxane.

E. “Eastern Area” shall mean the part of the Site that is located east of Wagner Road and the areas encompassed by the Prohibition Zone.

F. “Evergreen Subdivision Area” shall mean the residential subdivision generally located north of I-94 and between Wagner and Maple Roads, bounded on the west by Rose Street, on the north by Dexter Road, and on the south and east by Valley Drive.

G. “Gelman” shall mean Gelman Sciences Inc.

H. “Gelman Property” shall mean the real property described in Attachment ___, where Defendant formerly operated a manufacturing facility in Scio Township, Michigan. The Defendant sold portions of the property and retains one parcel only for purposes of operating a water treatment system.

I. “Groundwater Contamination” shall mean the 1,4-dioxane in the groundwater at a concentration in excess of 7.2 micrograms per liter (“ug/L”), as determined by the sampling and analytical method(s) described in Attachment ___ to this Consent Judgment, subject to review and approval by MDEQ.

J. “MDEQ” shall mean the Michigan Department of Environmental Quality, the successor to the Michigan Department of Natural Resources and Environment, the Michigan Department of Natural Resources, and the Water Resources Commission.

K. “Municipal Water Connection Contingency Plan” or “MWCCP” shall mean a contingency plan developed to identify the steps necessary to connect residences that rely on a private water supply well to municipal water in the event those wells are threatened by the Groundwater Contamination and the estimated time necessary to implement each step of the water connection process.

L. “Parties” shall mean Plaintiffs and Defendant.

M. "Plaintiffs" shall mean the Attorney General of the State of Michigan *ex rel.* MDEQ.

N. "Prohibition Zone" shall mean the area that is subject to the institutional control established by the Prohibition Zone Order and this Consent Judgment. A map depicting the Prohibition Zone, as revised due to MDEQ's revision of the residential drinking water cleanup criterion for 1,4-dioxane in groundwater to 7.2 ug/L, is attached as Attachment ____.

O. "Prohibition Zone Order" shall collectively mean the Court's Order Prohibiting Groundwater Use, dated May 17, 2005, which established a judicial institutional control, and the March 8, 2011 Stipulated Order Amending Previous Remediation Orders, which incorporated the Prohibition Zone Order into the Consent Judgment and applied the institutional control to the Expanded Prohibition Zone, as defined in the Third Amendment to the Consent Judgment.

P. "PZ Boundary Wells" shall mean those wells on or near the boundary of the Prohibition Zone and designated in Section V.A.3.b herein, whose purpose is to detect movement of 1,4-dioxane near the Prohibition Zone boundary.

Q. "Remedial Action" or "Remediation" shall mean removal, treatment, and proper disposal of Groundwater and Soil Contamination, land use or resource restrictions, and institutional controls, pursuant to the terms and conditions of this Consent Judgment and work plans approved by the MDEQ under this Consent Judgment.

R. "Sentinel Wells" shall mean those wells designated in Section V.A.3.a herein, whose purpose is to detect movement of 1,4-dioxane toward the Prohibition Zone boundary.

S. "Site" shall mean the Gelman Property and other areas affected by the migration of 1,4-dioxane emanating from the Gelman Property.

T. “Soil Contamination” or “Soil Contaminant” shall mean 1,4-dioxane in soil at a concentration in excess of 500 micrograms per kilogram (“ug/kg”), as determined by the sampling and analytical method(s) described in Attachment ___ or another higher concentration limit derived by means consistent with Mich Admin Code R 299.18 or MCL 324.20120a.

U. “Verification Process” shall mean the process through which Defendant shall test for and verify concentrations of 1,4-dioxane in excess of the applicable threshold at the relevant monitoring wells, using the sampling and analytical method(s) described in Attachment ___ to this Consent Judgment. Specifically, Defendant shall sample the wells on a quarterly basis unless an alternative schedule is agreed upon with MDEQ. Groundwater samples will be analyzed for 1,4-dioxane, either by Defendant’s laboratory or a third-party laboratory retained by Defendant. In the event that 1,4-dioxane concentrations in groundwater sampled from any well exceed the applicable threshold, Defendant shall notify the MDEQ by phone or electronic mail within 48 hours of completion of the data verification and validation specified in the Quality Assurance Project Plan (“QAPP”) described in Section V.E. Defendant will resample the same well within five days after the data verification and validation of the original result or at a time agreed upon with MDEQ, if MDEQ opts to take split samples. If a second sample analyzed by Defendant’s laboratory or a third-party laboratory retained by Defendant has contaminant levels exceeding the applicable threshold, the exceedance will be considered verified and Defendant shall undertake the required response actions.

In the event that MDEQ opts to take split samples, Defendant shall also collect an additional split sample for potential analysis within the applicable holding time by a mutually agreed-upon third-party laboratory at Defendant’s expense. If the results from one sample, but

not both, confirm a verified exceedance, the third sample analyzed by the mutually agreed-upon third-party laboratory, using the sampling and analytical method(s) described in Attachment ___ to this Consent Judgment, shall serve as the relevant result for verification purposes.

V. “Western Area” shall mean that part of the Site located west of Wagner Road.

IV. IMPLEMENTATION OF REMEDIAL ACTION BY DEFENDANT

Defendant shall implement the Remedial Action to address Groundwater and Soil Contamination at, and emanating from, the Gelman Property in accordance with (1) the terms and conditions of this Consent Judgment; and (2) work plans approved by the MDEQ pursuant to this Consent Judgment.

V. GROUNDWATER REMEDIATION

Defendant shall design, install, operate, and maintain the systems described below. The objectives of these systems shall be to extract the contaminated groundwater from the subsurface at designated locations for treatment (as required) and proper disposal to the extent necessary to prevent the plumes of Groundwater Contamination emanating from the Gelman Property from expanding beyond the current boundaries of such plumes as of the date of this Consent Judgment, except into and within the Prohibition Zone, as described below. Defendant also shall prevent 1,4-dioxane from venting into surface waters in the Eastern and Western Areas at concentrations above the groundwater-surface water interface criterion established by the MDEQ for 1,4-dioxane under MCL 324.20120e(1)(a), except in compliance with Part 201, including MCL 324.20120e (“Groundwater-Surface Water Interface Objective”). Defendant also shall implement a monitoring program to verify the effectiveness of these systems.

A. Eastern Area

1. Objectives. The remedial objectives of the Eastern Area (“Eastern Area Objectives”) shall be the following:

a. Prohibition Zone Containment Objective. Defendant shall prevent Groundwater Contamination, regardless of the aquifer designation or the depth of the groundwater or Groundwater Contamination, from migrating beyond the boundaries of the Prohibition Zone, as may be amended, provided that MDEQ and the Defendant agree that any further expansion of the Prohibition Zone should be avoided, unless there are compelling reasons to do so. Compliance with the Prohibition Zone Containment Objective shall be determined as provided in Section V.A.4.b, below.

b. Groundwater-Surface Water Interface Objective. Defendant shall satisfy the Groundwater-Surface Water Interface Objective for the Eastern Area.

2. Prohibition Zone Institutional Control. Pursuant to MCL 324.20121(8) and the Prohibition Zone Order, the following land and resource use restrictions shall apply to the Prohibition Zone depicted on the map attached hereto as Attachment :

a. The installation by any person of a new water supply well in the Prohibition Zone for drinking, irrigation, commercial, or industrial use is prohibited.

b. The Washtenaw County Health Officer or any other entity authorized to issue well construction permits shall not issue a well construction permit for any well in the Prohibition Zone.

c. The consumption or use by any person of groundwater from the Prohibition Zone is prohibited.

d. The prohibitions listed in Subsections V.A.2.a–c do not apply to the installation and use of:

i. Groundwater extraction and monitoring wells as part of response activities approved by MDEQ or otherwise authorized under Parts 201 or 213 of the Natural Resources and Environmental Protection Act (“NREPA”), or other legal authority;

ii. Dewatering wells for lawful construction or maintenance activities, provided that appropriate measures are taken to prevent unacceptable human or environmental exposures to hazardous substances and comply with MCL 324.20107a;

iii. Wells supplying heat pump systems that either operate in a closed loop system or if not, are demonstrated to operate in a manner sufficient to prevent unacceptable human or environmental exposures to hazardous substances and comply with MCL 324.20107a;

iv. Emergency measures necessary to protect public health, safety, welfare or the environment;

v. Any existing water supply well that has been demonstrated, on a case-by-case basis and with the written approval of the MDEQ, to draw water from a formation that is not likely to become contaminated with 1,4-dioxane emanating from the Gelman Property. Such wells shall be monitored for 1,4-dioxane by Defendant at a frequency determined by the MDEQ; and

vi. The City of Ann Arbor’s Northwest Supply Well, provided that the City of Ann Arbor operates the Northwest Supply Well in a manner that does not prevent

its municipal water supply system from complying with all applicable state and federal laws and regulations.

e. Attachment ___ [consisting of the map depicting the Prohibition Zone and the above list of prohibitions/exceptions] shall be published and maintained in the same manner as a zoning ordinance at Defendant's sole expense. MDEQ-approved legal notice of the Prohibition Zone expansion reflected in Attachment ___ shall be provided at Defendant's sole expense.

f. The Prohibition Zone Institutional Control shall remain in effect in this form until such time as it is modified through amendment of this Consent Judgment, with a minimum of 30 days' prior notice to all Parties. The Defendant or MDEQ may move to amend the Consent Judgment to modify the boundaries of the Prohibition Zone to reflect material changes in the boundaries or fate and transport of the Groundwater Contamination as determined by future hydrogeological investigations or MDEQ-approved monitoring of the fate and transport of the Groundwater Contamination.

g. Future Inclusion of Triangle Property in the Prohibition Zone. The triangular piece of property located along Dexter Road/M-14 ("Triangle Property"), depicted in Attachment ___, will be included in the Prohibition Zone if the data obtained from monitoring wells MW-121s and MW-121d and other nearby wells, including any water supply well installed on the property, as validated by the Verification Process, indicate that the Groundwater Contamination has migrated to the Triangle Property.

h. Well Identification. To identify any wells newly included in the Prohibition Zone as a result of this modification or any future modification to the Prohibition

Zone, pursuant to an MDEQ-approved schedule, Defendant shall implement a well identification plan for the affected area that is consistent with the Expanded Prohibition Zone Well Identification Work Plan approved by MDEQ on February 4, 2011.

i. Plugging of Private Water Supply Wells. Defendant shall plug and replace any private drinking water wells identified in any areas newly included in the Prohibition Zone by connecting those properties to the municipal water supply. Unless otherwise approved by MDEQ, Defendant shall also properly plug non-drinking water wells in any areas newly included in the Prohibition Zone.

j. Municipal Water Connection Contingency Plan (“MWCCP”). Defendant shall develop a MWCCP addressing the potential provision of municipal water to residences using private water supply wells in the Calvin Street, Wagner Road, and Lakeview Avenue areas. The MWCCP will be developed according to a schedule to be approved by the MDEQ.

3. Monitoring and Extraction Well Installation and Operation. Defendant shall install the following additional wells in the Eastern Area:

a. Sentinel Well Installation. Defendant shall install the following two monitoring well clusters to monitor movement of 1,4-dioxane south of the northern Prohibition Zone boundary, in addition to MW-120, MW-123, and MW-129 that are already in place (collectively referred to herein as “Sentinel Wells”):

- i. Residential area in the general vicinity of Ravenwood and Barber Avenues (MW-A on map attached as Attachment); and
- ii. Residential area in the general vicinity of Sequoia Parkway and Archwood Avenues between Delwood and Center (MW-B on map attached as Attachment).

b. PZ Boundary Well Installation. Defendant shall install the following two monitoring well clusters to monitor the movement of 1,4-dioxane near the PZ Boundary (collectively referred to herein as “PZ Boundary Wells”):

- i. Residential, commercial, and vacant area east of South Wagner Road, north of West Liberty Road, west of Lakeview Avenue, and south of Second Sister Lake (MW-C on map attached as Attachment); and
- ii. Residential area south of the MW-112 cluster (MW-D on map attached as Attachment).

c. Sentinel and PZ Boundary Well Installation and Sampling.

Defendant shall install the new well clusters according to a schedule to be approved by the MDEQ. Each new Sentinel or PZ Boundary Well cluster will include two to three monitoring wells, and the determination of the number of wells shall be based on the MDEQ’s and the Defendant’s evaluation of the geologic conditions present at each location, consistent with past practice. The frequency of sampling these monitoring wells and the analytical methodology for sample analysis will be included in the Eastern Area System Monitoring Plan, as amended.

d. Drilling Techniques. Borings for new wells installed pursuant to Section V.A.3 shall be drilled to bedrock unless a different depth is approved by MDEQ or if conditions make such installation impracticable. The MDEQ reserves the right to require alternate drilling techniques to reach bedrock if standard methods are not able to do so. If the Defendant 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 MDEQ, Defendant may initiate dispute resolution under Section XVI of the Consent Judgment. The wells shall be installed using Defendant’s current

vertical profiling techniques, which are designed to minimize the amount of water introduced during drilling, unless the MDEQ agrees to alternate techniques.

e. Installation of Additional Groundwater Extraction Well.

Defendant shall install an additional groundwater extraction well (the “Rose Well”) and associated infrastructure in the general area bounded by [NAME] Street and [NAME] Street as designated on Attachment [] according to a schedule approved by the MDEQ. The exact location of the Rose Well will be based on an evaluation of relevant geologic conditions, water quality, and other relevant factors, including access.

f. Eastern Area Groundwater Extraction. The Defendant shall operate the Evergreen Subdivision Area extraction wells, LB-4 and the Rose Well (or MDEQ-approved replacement well(s)) (collectively, the “Evergreen Extraction Wells”), and TW-19 and TW-16 (or MDEQ-approved replacement well(s)) (the “Maple Road Wells”), at a combined minimum purge rate of approximately 200 gallons per minute (“gpm”), in order to reduce the mass of 1,4-dioxane migrating through the Evergreen Subdivision Area and the mass of 1,4-dioxane migrating east of Maple Road, until such time as it determines that the Eastern Area Objectives will be met at a reduced extraction rate or without the need to operate these extraction wells. Defendant shall have the discretion to adjust the individual well purge rates in order to optimize mass removal and compliance with the Eastern Area Objectives, provided that it shall operate the Evergreen Extraction Wells at a combined minimum purge rate of approximately 100 gpm, until such time as it determines that the Eastern Area Objectives will be met at a reduced extraction rate without the need to operate these wells. Before significantly reducing or terminating extraction from either the Evergreen Extraction Wells below the 100 gpm minimum

purge rate or the combined Evergreen and Maple Road Wells purge rate of 200 gpm, Defendant shall consult with MDEQ and provide a written analysis, together with the data that supports its conclusion. MDEQ will review the analysis and data and provide a written response to Defendant within 56 days after receiving Defendant's written analysis and data. If the MDEQ disagrees with the Defendant's decision to reduce or terminate extraction, it may initiate dispute resolution under Section XVI of the Consent Judgment. The Defendant shall not significantly reduce or terminate the Wagner Road extraction while MDEQ is reviewing or disputing the Defendant's determination.

4. Verification Monitoring. Defendant shall amend its Eastern Area System Monitoring Plan dated to include the monitoring wells installed under Section V.A.3 within days of their installation. The Eastern Area System Monitoring Plan, as amended (hereinafter the "Verification Plan"), shall be sufficient to meet the objectives of this Section.

a. Objectives of Verification Plan. The Verification Plan shall include the collection of data sufficient to measure the effectiveness of the System: (i) ensuring that any potential migration of Groundwater Contamination outside of the Prohibition Zone is detected before such migration occurs; (ii) tracking the migration of the Groundwater Contamination to determine the need for additional investigation and monitoring points to meet the objectives in Section V.A.1, including the determination of the fate and transport of Groundwater Contamination when and if it reaches the portion of the Huron River that is the easternmost extent of the Prohibition Zone; (iii) verifying that the Groundwater-Surface Water Interface Objective is satisfied; and (iv) evaluating potential changes in groundwater flow resulting from adjustments in extraction rates at different extraction well locations. The

Verification Plan shall be continued until terminated pursuant to Section V.D.

b. Compliance Determination. The Verification Plan shall include the following steps for verifying sampling results and confirming compliance or noncompliance with the Eastern Area Objectives.

i. Verification Process for Sentinel Wells. Defendant shall conduct the Verification Process as defined in Section III.U for each Sentinel Well to verify any exceedance of 7.2 ug/L. A verified detection above 7.2 ug/L will be considered a “Verified Sentinel Well Exceedance” and Defendant shall take the response actions set forth in Section V.A.5.a.

ii. Verification Process for PZ Boundary Wells. Defendant shall conduct the Verification Process as defined in Section III.U for each PZ Boundary Well to verify any exceedance of 4.6 ug/L and/or 7.2 ug/L. A verified detection above 4.6 ug/L will be considered a “Verified PZ Boundary Well Exceedance” and Defendant shall take the response actions set forth in Section V.5.b. A verified detection above 7.2 ug/L will be considered a “Confirmed PZ Boundary Well Noncompliance” and Defendant shall take the response actions set forth in Section V.5.c.

5. Eastern Area Response Actions. Defendant shall take the following response actions:

a. Verified Sentinel Well Exceedance. In the event of a Verified Sentinel Well Exceedance, Defendant shall sample that Sentinel Well monthly. If the concentrations of 1,4-dioxane are less than 7.2 ug/L in samples from any two successive monthly sampling events, Defendant shall return to sampling that Sentinel Well quarterly. If, however,

the concentrations of 1,4-dioxane exceed 7.2 ug/L in samples collected from the same Sentinel Well in any three successive monthly sampling events, Defendant shall take the following actions:

i. If involving a Sentinel Well in the north, installation of up to two additional well clusters near the new Prohibition Zone boundary (the location of which shall be determined based on the location of the initial exceedance). If more than one Sentinel Well in the north exceeds the trigger level, Defendant and MDEQ will mutually agree on the number of PZ Boundary Wells to be installed. Defendant shall sample the new PZ Boundary Wells monthly until Defendant completes the hydrogeological assessment described in Section V.A.5.a.ii below.

ii. A focused hydrogeological assessment of the applicable area will be undertaken to analyze the likelihood that 1,4-dioxane at levels above 7.2 ug/L will migrate outside the expanded Prohibition Zone. The assessment shall also opine on the mechanism causing the exceedances and the potential risk of impact to private water wells. Defendant shall provide this assessment within 60 days after installation of the new PZ Boundary Well(s). If the focused hydrogeological assessment determines that there is a low potential for the Groundwater Contamination to migrate beyond the PZ boundary, normal quarterly monitoring of the Sentinel Well and applicable PZ Boundary Wells will resume. If the focused hydrogeological assessment determines that there is a reasonable likelihood for 1,4-dioxane greater than 7.2 ug/L to migrate beyond the Prohibition Zone boundary, the Defendant shall initiate the following response actions:

(A) Defendant shall continue to monitor the affected Sentinel Well(s) and the Prohibition Zone Boundary Wells on a monthly basis.

(B) If the Verified Sentinel Well Exceedance occurs in a Sentinel Well to be installed near the northern boundary of the Prohibition Zone, Defendant shall develop a "Remedial Contingency Plan" that identifies the response actions that could be implemented to prevent Groundwater Contamination from migrating beyond the Prohibition Zone Boundary. The Remedial Contingency Plan may identify expansion of the Prohibition Zone as an option, subject to Section V.A.1.a. Defendant shall submit the Remedial Contingency Plan to the MDEQ within 45 days after the focused hydrogeological assessment is completed.

(C) Defendant will review the Municipal Water Connection Contingency Plan, if applicable, and initiate preliminary activities related to provision of municipal water to potentially impacted residential wells. The amount of work to be completed will be based on the anticipated time frame for water extension and the projected time of migration to potential receptors.

b. Verified PZ Boundary Well Exceedance. In the event of a Verified PZ Boundary Well Exceedance, Defendant shall sample that PZ Boundary Well monthly. If the concentrations of 1,4-dioxane are less than 4.6 ug/L in samples from any two successive monthly sampling events, Defendant shall return to sampling that PZ Boundary Well quarterly. If, however, the concentrations of 1,4-dioxane exceed 4.6 ug/L in samples collected from the same PZ Boundary Well in any three successive monthly sampling events, Defendant shall take the following actions:

i. Defendant, in consultation with the MDEQ, shall sample select residential wells in the immediate vicinity of the impacted PZ Boundary Well.

ii. Defendant will review the Municipal Water Connection Contingency Plan, and initiate further activities related to provision of municipal water to potentially impacted residential wells as appropriate. The amount of work to be completed will be based on the anticipated time frames for water extension and the projected time of migration to potential receptors.

iii. If the Verified PZ Boundary Well Exceedance is at the northern boundary of the Prohibition Zone, Defendant shall implement the Remedial Contingency Plan as necessary to prevent contaminant levels above 7.2 ug/L from migrating beyond the Prohibition Zone Boundary.

c. Confirmed PZ Boundary Well Noncompliance. In the event of a Confirmed PZ Boundary Well Noncompliance, Defendant shall sample that PZ Boundary Well monthly. If the concentrations of 1,4-dioxane are less than 7.2 ug/L in samples from any two successive monthly sampling events, Defendant shall return to sampling that PZ Boundary Well quarterly. If, however, the concentrations of 1,4-dioxane exceed 7.2 ug/L in samples collected from the same PZ Boundary Well in any four successive monthly sampling events, Defendant shall take the following actions:

i. Defendant shall sample any active drinking water supply wells in the immediate vicinity of the impacted PZ Boundary Well on a monthly basis.

ii. Defendant will review the Municipal Water Connection Contingency Plan and implement the remaining activities necessary to provide municipal water

to potentially impacted residential wells.

iii. Defendant shall connect any such residences to municipal water on a case-by-case basis as determined by the MDEQ or if requested by the property owner.

d. Bottled Water. At any time, Defendant shall supply the residents of any property with a threatened well with bottled water if, prior to connection to municipal water, contamination levels in the water supply well servicing the property exceed 3.0 ug/L. This obligation shall terminate if either (i) the contamination level in the residential well drops below 3.0 ug/L during two consecutive sampling events or (ii) the property is connected to an alternative water supply.

e. Triangle Property. If a drinking water supply well is installed on the Triangle Property in the future, Defendant shall take the necessary steps to obtain permission to sample the well on a schedule approved by the MDEQ. Defendant shall monitor such wells on the MDEQ-approved schedule unless or until that property is included in the Prohibition Zone, at which time, the water supply well(s) shall be addressed as part of the well identification process described in Section V.A.2.h.

f. Downgradient Investigation. The Defendant shall continue to implement its Downgradient Investigation Work Plan as approved by the MDEQ on February 4, 2005, to track the Groundwater Contamination as it migrates to ensure any potential migration of Groundwater Contamination outside of the Prohibition Zone is detected before such migration occurs.

6. Operation and Maintenance. Subject to Sections V.A.3.f and V.A.9, Defendant shall operate and maintain the Eastern Area System as necessary to meet the

Prohibition Zone Containment Objective. Defendant shall continuously operate, as necessary, and maintain the Eastern Area System according to MDEQ-approved operation and maintenance plans until Defendant is authorized to terminate extraction well operations pursuant to Section V.C.1.

7. Treatment and Disposal. Groundwater extracted by the extraction well(s) in the Eastern Area System shall be treated (as necessary) using methods approved by the MDEQ and disposed of using methods approved by the MDEQ, including, but not limited to, the following options:

a. Groundwater Discharge. The purged groundwater shall be treated to reduce 1,4-dioxane concentrations to the level required by the MDEQ, and discharged to groundwater at locations approved by MDEQ in compliance with a permit or exemption authorizing such discharge.

b. Sanitary Sewer Discharge. Use of the sanitary sewer leading to the Ann Arbor Wastewater Treatment Plant is conditioned upon approval of the City of Ann Arbor. If discharge is made to the sanitary sewer, the Eastern Area System shall be operated and monitored in compliance with the terms and conditions of an Industrial User's Permit from the City of Ann Arbor, and any subsequent written amendment of that permit made by the City of Ann Arbor. The terms and conditions of any such permit and any subsequent amendment shall be directly enforceable by the MDEQ against Defendant as requirements of this Consent Judgment.

c. Storm Drain Discharge. Use of the storm drain is conditioned upon issuance of an NPDES permit and approval of such use by the City of Ann Arbor and the

Allen Creek Drainage District. Discharge to the Huron River via the Ann Arbor storm water system shall be in accordance with the NPDES permit and conditions required by the City and the Drainage District. If the storm drain is to be used for disposal, no later than 21 days after permission is granted by the City and the Drainage District to use the storm drain for disposal of purged groundwater, Defendant shall submit to MDEQ, the City of Ann Arbor, and the Drainage District for their review and approval, a protocol under which the purge system shall be temporarily shut down: (i) for maintenance of the storm drain and (ii) during storm events to assure that the storm water system retains adequate capacity to handle run-off created during such events. The purge system shall be operated in accordance with the approved protocol for temporary shutdown.

d. Existing or Additional/Replacement Pipeline to Wagner Road Treatment Facility. Installation of an additional pipeline or a pipeline replacing the existing pipeline to the Wagner Road Treatment Facility is conditioned upon approval of such installation by the MDEQ. If the pipeline is proposed to be installed on public property, the pipeline installation is conditioned upon approval of such installation by the City of Ann Arbor, Scio Township, and the Washtenaw County Road Commission, if required by statute or ordinance, or by Order of the Court pursuant to the authority under MCL 324.20135a. Defendant shall design the pipeline in compliance with all state requirements and install the pipeline with monitoring devices to detect any leaks. If leaks are detected, the system will automatically shut down and notify an operator of the condition. In the event that any leakage is detected, Defendant shall take any measures necessary to repair any leaks and perform any remediation that may be necessary. To reduce the possibility of accidental damage to the pipeline during any future

construction, the location of the pipeline will be registered with MISS DIG System, Inc. Nothing in this Subsection shall relieve Defendant of its obligations to properly treat and dispose of contaminated groundwater in compliance with the Consent Judgment and applicable permit(s), using one or more of the other options for disposal, as necessary.

e. Additional Pipeline from Maple Road Extraction Well(s).

Installation and operation of a proposed pipeline from the Maple Road area to Evergreen area is conditioned upon approval of such installation and operation by the MDEQ. If the pipeline is proposed to be installed on public property, the pipeline installation is conditioned upon approval of such installation by the appropriate local authorities, if required by statute or ordinance, or Order of the Court pursuant to the authority under MCL 324.20135a. Defendant shall design any such pipeline in compliance with all state requirements and install it with monitoring devices to detect any leaks. In the event any leakage is detected, Defendant shall take any measures necessary to repair any leaks and perform any remediation that may be necessary. The pipeline shall be registered with the MISS DIG System, Inc., to reduce the possibility of accidental damage to the pipeline. Defendant may operate such pipeline to, among other things, convey groundwater extracted from the Maple Road Extraction Wells to the Wagner Road treatment systems, where it can be treated and disposed via the Defendant's permitted surface water discharge (capacity permitting).

f. Additional Pipeline from Rose Extraction Well. Installation and operation of a proposed pipeline from the Rose Extraction Well to the existing Evergreen area infrastructure is conditioned upon approval of such installation and operation by the MDEQ. If the pipeline is proposed to be installed on public property, the pipeline installation is conditioned

upon approval of such installation by the appropriate local authorities, if required by statute or ordinance, or Order of the Court pursuant to the authority under MCL 324.20135a. Defendant shall design any such pipeline in compliance with all state requirements and install it with monitoring devices to detect any leaks. In the event any leakage is detected, Defendant shall take any measures necessary to repair any leaks and perform any remediation that may be necessary. The pipeline shall be registered with the MISS DIG System, Inc., to reduce the possibility of accidental damage to the pipeline. Defendant may operate such pipeline to, among other things, convey groundwater extracted from the Rose Well to the Wagner Road treatment systems, where it can be treated and disposed via the Defendant's permitted surface water discharge (capacity permitting).

8. Wagner Road Extraction. The extraction wells currently or in the future located just west of Wagner Road (the "Wagner Road Wells") shall be considered part of the Eastern Area System even though they are located west of Wagner Road. The Defendant shall initially operate the Wagner Road Wells at a combined 200 gpm extraction rate. The Defendant shall continue to operate the Wagner Road Wells 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 Objectives will be met with a lower combined extraction rate or without the need to operate these wells. Before significantly reducing or terminating extraction from the Wagner Road Wells, Defendant shall consult with MDEQ and provide a written analysis, together with the data that supports its conclusion. MDEQ will review the analysis and data and provide a written response to Defendants within 56 days after receiving Defendant's written analysis and data. If the MDEQ disagrees with the Defendant's decision to reduce or terminate extraction, it may initiate dispute

resolution under Section XVI of the Consent Judgment. The Defendant shall not significantly reduce or terminate the Wagner Road extraction while MDEQ is reviewing or disputing the Defendant's determination.

9. Options Array for Transmission Line Failure/Inadequate Capacity. The Defendant has provided the MDEQ with documentation regarding the life expectancy of the deep transmission line and an Options Array (attached as Attachment ____). The Options Array describes the various options that may be available if the deep transmission line fails or the 200 gpm capacity of the existing deep transmission line that transports groundwater from the Eastern Area System to the treatment system located on the Gelman Property proves to be insufficient to meet the Prohibition Zone Containment Objective.

B. Western Area

1. Western Area Non-Expansion Cleanup Objective. The Defendant shall prevent the horizontal extent of the Groundwater Contamination in the Western Area, regardless of the depth (as established under Section V.B.3.c), from expanding. Compliance with this objective shall be determined as set forth in Section V.B.4, below. Continued migration of Groundwater Contamination into the Prohibition Zone, as may be modified, shall not be considered expansion and is allowed. A change in the horizontal extent of Groundwater Contamination resulting solely from the Court's application of a new cleanup criterion shall not constitute expansion. Nothing in this Section prohibits MDEQ from seeking additional response activities pursuant to Section XVIII.E of this Consent Judgment. Compliance with the Non-Expansion Cleanup Objective shall be established and verified by the network of monitoring wells in the Western Area to be selected and/or installed by the Defendant as provided in

Sections V.B.3.b and c, below (“Western Area Compliance Well Network”) and the Compliance Process set forth in Section V.B.4 (“Western Area Compliance Process”). There is no independent mass removal requirement or a requirement that Defendant operate any particular extraction well(s) at any particular rate beyond what is necessary to prevent the prohibited expansion, provided that Defendant’s ability to terminate all groundwater extraction in the Western Area is subject to Section V.C.1.c and the establishment of property use restrictions as required by Section V.B.3.a. If prohibited expansion occurs, as determined by the Western Area Compliance Well Network and the Western Area Compliance Process, Defendant shall undertake additional response activities to return the Groundwater Contamination to the boundary established by the Western Area Compliance Well Network (such response activities may include recommencement of extraction at particular locations).

MDEQ agreed to modify the remedial objective for the Western Area as provided herein to a no expansion performance objective in reliance on Defendant’s agreement to comply with a no expansion performance objective for the Western Area. To ensure compliance with this objective, Defendant acknowledges that in addition to taking further response action to return the horizontal extent of Groundwater Contamination to the boundary established by the Compliance Well Network, Defendant shall be subject to stipulated penalties for violation of the objective as provided in Section XVII. Nothing in this Section shall limit Defendant’s ability to contest the assessment of such stipulated penalties as provided in this Consent Judgment.

2. Western Area Groundwater-Surface Water Interface Objective.

a. Defendant shall satisfy the Groundwater-Surface Water Interface Objective in the Western Area.

b. Within days after the establishment of any downward revision of the groundwater-surface water interface criterion for 1,4-dioxane under Part 201, Defendant shall submit to MDEQ for its review and approval a work plan for investigation of the groundwater-surface water interface in the Western Area and a schedule for implementing the work plan.

3. Western Area Response Activities. Defendant shall implement the following response activities:

a. Groundwater Extraction. The Western Area Response Activities shall include the operation of groundwater extraction wells as necessary to meet the objective described in Section V.B.1 and 2, including operation of the Marshy Area groundwater extraction system described in Defendant's May 5, 2000 Final Design and Effectiveness Monitoring Plan, as subsequently modified and approved by the MDEQ. Purged groundwater from the Western Area shall be treated with ozone/hydrogen peroxide or ultraviolet light and oxidizing agent(s), or such other method approved by the MDEQ to reduce 1,4-dioxane concentrations to the level required by NPDES Permit No. MI-0048453, as amended or reissued. Discharge to the Honey Creek tributary shall be in accordance with NPDES Permit No. MI-0048453, as amended or reissued. The Defendant shall have property use restrictions that are sufficient to prevent unacceptable exposures in place for any properties affected by Soil Contamination or Groundwater Contamination before completely terminating extraction in the Western Area.

b. Western Area Delineation Investigation. Defendant shall install the following additional groundwater monitoring wells at the approximate locations described

below and on the map attached as Attachment ___ to address gaps in the current definition of the Groundwater Contamination and to further define the horizontal extent of Groundwater

Contamination in the Western Area:

- i. Commercial area north of Jackson Road (across from April Drive) and south of US-Highway I-94, near MW-40s&d. (Deep well only) (MW-E on Attachment ___);
- ii. Commercial area north of Jackson Road (across from Nancy Drive) and south of US-Highway I-94, east of MW-40s&d and west of the MW-133 cluster (MW-F on Attachment ___);
- iii. Residential area west of West Delhi, north of Jackson Road and south of US-Highway I-94 (MW-G on Attachment ___);
- iv. Residential area southwest of the MW-141 cluster in the vicinity of Kilkenny and Birkdale (MW-H on Attachment ___); and
- v. Residential area along Myrtle between Jackson Road and Park Road (Shallow Well only) (MW-I on Attachment ___).

This investigation may be amended by agreement of MDEQ and the Defendant to reflect data obtained during the investigation. Defendant shall promptly provide the data/results from the investigation to the MDEQ so that the MDEQ receives them prior to Defendant's submission of the Compliance Monitoring Plan described in Subsection V.B.3.c, below. Based on the data obtained from the wells described above, Defendant may propose to install additional monitoring wells to potentially serve as Compliance Wells. MDEQ reserves the right to request the installation of additional borings/monitoring wells, if the totality of the data indicate that the horizontal extent of Groundwater Contamination has not been completely defined.

c. Compliance Well Network and Compliance Monitoring Plan.

Within 15 days of completing the investigation described in Subsection V.B.3.b, above, Defendant shall amend its Western Area Monitoring Plan dated [REDACTED], including Defendant's analysis of the data obtained during the investigation for review and approval by the MDEQ, to identify the network of compliance wells that will be used to confirm compliance with the

Western Area Non-Expansion Cleanup Objective (hereinafter referred to as the “Compliance Monitoring Plan”). The Compliance Monitoring Plan shall include the collection of data from a compliance well network sufficient to verify the effectiveness of the Western Area System in meeting the Western Area Non-Expansion Cleanup Objective. The locations and/or number of the Compliance Wells for the Compliance Monitoring Plan will be determined based on the data obtained from the investigation Defendant shall conduct pursuant to Section V.B.3.b, and shall consist of existing monitoring wells. The MDEQ shall approve the Compliance Monitoring Plan, submit to Defendant changes in the Compliance Monitoring Plan that would result in approval, or deny the Compliance Monitoring Plan within 35 days of receiving the Compliance Monitoring Plan. Defendant shall either implement the MDEQ-approved Compliance Monitoring Plan, including any changes required by MDEQ, or initiate dispute resolution pursuant to Section XVI of this Consent Judgment. Defendant shall implement the MDEQ- (or Court)-approved Compliance Monitoring Plan to verify the effectiveness of the Western Area System in meeting the Western Area Non-Expansion Cleanup Objective. Defendant shall continue to implement the current MDEQ-approved monitoring plan(s) until MDEQ approves the Compliance Monitoring Plan required by this Section. The monitoring program shall be continued until terminated pursuant to Section V.D.

d. Municipal Water Connection Contingency Plan (“MWCCP”).

Defendant shall develop a MWCCP addressing the potential provision of municipal water to residences using private water supply wells on Elizabeth Road. The MWCCP will be developed according to a schedule to be approved by the MDEQ.

4. Compliance Determination. The Compliance Monitoring Plan shall include the following steps for verifying sampling results and confirming compliance or noncompliance with the Western Area Non-Expansion Cleanup Objective.

a. Monitoring Frequency/Analytical Method. Defendant will sample groundwater from the Compliance Wells on a quarterly basis unless an alternative schedule is agreed upon with MDEQ. Groundwater samples will be submitted to a laboratory owned, operated or contracted by Defendant for 1,4-dioxane analysis.

b. Verification Process. Defendant shall conduct the Verification Process as defined in Section III.U for each Compliance Well to verify any exceedance of 7.2 ug/L. A verified detection above 7.2 ug/L will be considered a "Verified Compliance Well Exceedance." If a second sample does not exceed 7.2 ug/L, monitoring of the well will increase to monthly until the pattern of exceedances is broken by two successive sampling events below 7.2 ug/L. At that point, a quarterly monitoring frequency will resume.

c. Response Activities. In the event of a Verified Compliance Well Exceedance, Defendant shall take the following response actions:

i. Sample selected nearby residential water wells. Defendant shall sample select residential wells unless otherwise agreed upon with the MDEQ. Prior to sampling the selected residential wells, Defendant shall submit a list of the wells to be sampled and other sampling details to MDEQ for approval. In selecting residential wells to be sampled, Defendant shall consider data collected from monitoring and residential wells within 1,000 feet of the Compliance Well(s) that exceeded 7.2 ug/L, groundwater flow, hydrogeology and well depth. MDEQ shall respond within seven days after receipt of Defendant's list of select

residential wells and shall either approve the list or propose alternate or additional residential wells to be sampled.

ii. If a Verified Compliance Well Exceedance occurs in the same Compliance Well in any two successive monthly sampling events, Defendant shall take the following response actions:

(A) Continue to sample the previously selected residential well(s) unless otherwise agreed upon with the MDEQ.

(B) Conduct focused hydrogeological investigation to determine whether the Verified Compliance Well Exceedance is a temporary fluctuation or evidence of plume expansion. The investigation shall include the measurement of groundwater levels in relevant monitoring wells in the vicinity of the Compliance Well with the Verified Compliance Well Exceedance. Defendant shall report its findings to MDEQ within 30 days of completing the hydrogeological investigation.

(C) Conduct Statistical Analysis. During the eight month period after the second consecutive Verified Compliance Well Exceedance, Defendant shall complete a statistical analysis of the data using a Mann-Kendall Trend Test or other statistical technique approved by MDEQ.

(D) Interim Measures Feasibility Study. During the eight month period after the second consecutive Verified Compliance Well Exceedance, Defendant shall evaluate affirmative measures to control migration of the Groundwater Contamination, including adjustments in groundwater extraction rates. Defendant shall submit to MDEQ a feasibility study within 240 days of the Verified Compliance Well Exceedance. The

feasibility study shall include an evaluation of the feasibility and effectiveness of all applicable measures to control expansion of the Groundwater Contamination in light of the geology and current understanding of the fate and transport of the Groundwater Contamination.

iii. If, after conducting the focused hydrogeological investigation and statistical analysis, the totality of the data evidences a reasonable likelihood that the Western Area Non-Expansion Cleanup Objective is not being met, Defendant shall evaluate and, subject to MDEQ approval, implement one or more of the potential response activities identified in the feasibility study, or other response activities, as necessary to achieve compliance with the Western Area Non-Expansion Cleanup Objective. Nothing in this Section shall prevent Defendant from implementing response activities as necessary to achieve the Western Area Non-Expansion Cleanup Objective at an earlier time.

d. Stipulated Penalties/Exacerbation. Defendant shall not be subject to stipulated penalties until concentrations in at least four consecutive monthly samples from a given Compliance Well exceed 7.2 ug/L, at which point Defendant shall be subject to stipulated penalties for violation of the Western Area Non-Expansion Cleanup Objective as provided in Section XVII, provided, however, that Defendant shall not be subject to stipulated penalties with respect to prohibited expansion of the horizontal extent of the Groundwater Contamination if Defendant can demonstrate by a preponderance of the evidence that the migration of the Groundwater Contamination is caused in whole or in part by the actions of an unrelated third party that have contributed to or exacerbated the Groundwater Contamination. In such event, although Defendant is not subject to stipulated penalties, Defendant shall remain responsible for mitigating the migration of the Groundwater Contamination. Nothing in this Consent Judgment

shall preclude Defendant from seeking contribution or cost recovery from other parties responsible for or contributing to exacerbation of the Groundwater Contamination.

e. Residential Drinking Water Well Response Actions. If, after conducting the focused hydrogeological investigation and statistical analysis, the totality of the data evidences a reasonable likelihood that a residential drinking water supply well will be contaminated with 1,4-dioxane above 7.2 ug/L, Defendant shall evaluate and, if appropriate, implement response activities, including, without limitation, the following:

- i. Sampling of at risk residential drinking water supply well(s) on a monthly basis;
- ii. Implementation of affirmative interim measures to mitigate the migration of the Groundwater Contamination toward the residential drinking water supply well(s) as determined in the feasibility study described in Section V.B.4.c.ii.(D);
- iii. Evaluation of land use restrictions and/or institutional controls to eliminate unacceptable exposures to Groundwater Contamination; and
- iv. Evaluation of water supply alternatives including, but not limited to, providing bottled water, a municipal water connection, and point-of-use treatment systems.

If at any time 1,4-dioxane is detected in an active residential well above 3.0 ug/L, Defendant shall promptly at its expense, offer the resident the option of receiving bottled water and shall sample the residential well monthly. These obligations shall terminate if either (i) the contamination level in the residential well drops below 3.0 ug/L during two consecutive sampling events or (ii) residence is connected to a permanent alternative water supply.

Furthermore, Defendant shall work with MDEQ and municipal authorities to evaluate long-term and economically reasonable water supply options.

5. Groundwater Contamination Definition. Additional definition of the extent of Groundwater Contamination, including within the plume boundary, and/or characterization of source areas shall not be required beyond the additional monitoring wells to be installed as provided in Section V.B.3.c. MDEQ reserves the right to petition the Court to require additional work if there are findings that MDEQ determines warrant additional Groundwater Contamination definition.

C. Termination of Groundwater Extraction Systems

1. Defendant may only terminate the Groundwater Extraction Systems listed below as provided below:

a. Termination Criteria for Evergreen Extraction Wells/Maple Road Wells/Wagner Road Wells. Except as otherwise provided pursuant to Section V.C.2, Defendant may only reduce (below the stated minimum purge rates) or terminate operation of the Evergreen Extraction Wells/Maple Road Wells as provided in Section V.A.3.f. and of the Wagner Road Wells as provided in Section V.A.8.

b. Termination Criteria for Western Area. Except as otherwise provided pursuant to Section V.C.2, and subject to Section V.B.1., Defendant shall not terminate all groundwater extraction in the Western Area until:

i. Defendant can establish to MDEQ's satisfaction that groundwater extraction is no longer necessary to prevent the expansion of Groundwater Contamination prohibited under Section V.B.1;

ii. Defendant's demonstration shall also establish that groundwater extraction is no longer necessary to satisfy the Groundwater-Surface Water Interface Objective under Section V.B.2; and

iii. Defendant has the land use or resource use restrictions described in Section V.B.3.a in place.

Defendant's request to terminate extraction in the Western Area must be made in writing for review and approval pursuant to Section X of the Consent Judgment. The request must include all supporting documentation demonstrating compliance with the termination criteria. Defendant may initiate dispute resolution pursuant to Section XVI of the Consent Judgment if the MDEQ does not approve the Defendant's request/demonstration. Defendant may terminate Western Area groundwater extraction upon: (i) receipt of notice of approval from MDEQ; or (ii) receipt of notice of a final decision approving termination pursuant to dispute resolution procedures of Section XVI of this Consent Judgment.

2. Modification of Termination Criteria/Cleanup Criteria. The termination criteria provided in Section V.C.1. and/or the definition of "Groundwater Contamination" or "Soil Contamination" may be modified as follows:

a. After entry of this Amended Consent Judgment, Defendant may propose to the MDEQ that the termination criteria be modified based upon either or both of the following:

i. a change in legally applicable or relevant and appropriate regulatory criteria since the entry of this Consent Judgment; for purposes for this Subsection,

“regulatory criteria” shall mean any promulgated standard criterion or limitation under federal or state environmental law specifically applicable to 1,4-dioxane; or

ii. scientific evidence newly released since the date of the United States Environmental Protection Agency’s IRIS risk assessment for 1,4-dioxane (August 11, 2010), which, in combination with the existing scientific evidence, establishes that different termination criteria/definitions for 1,4-dioxane are appropriate and will assure protection of public health, safety, welfare, the environment, and natural resources.

b. Defendant shall submit any such proposal in writing, together with supporting documentation, to the MDEQ for review.

c. If the Defendant and MDEQ agree to a proposed modification, the agreement shall be made by written Stipulation filed with the Court pursuant to Section XXIV of this Amended Consent Judgment.

d. If MDEQ disapproves the proposed modification, Defendant may invoke the dispute resolution procedures contained in Section XVI of this Consent Judgment. Alternatively, if MDEQ disapproves a proposed modification, Defendant may seek to have the dispute resolved pursuant to Subsection V.C.3.

3. If the Defendant invokes the procedures of this Subsection, Defendant and MDEQ shall prepare a list of the items of difference to be submitted to a scientific advisory panel for review and recommendations. The scientific advisory panel shall be comprised of three persons with scientific expertise in the discipline(s) relevant to the items of difference. No member of the panel may be a person who has been employed or retained by either Party, except

persons compensated solely for providing peer review of the Hartung Report, in connection with the subject of this litigation.

a. If this procedure is invoked, each Party shall, within 14 days, select one member of the panel. Those two members of the panel shall select the third member. Defendant shall, within 28 days after this procedure is invoked, establish a fund of at least \$10,000.00, from which each member of the panel shall be paid reasonable compensation for their services, including actual and necessary expenses. If the MDEQ and Defendant do not agree concerning the qualifications, eligibility, or compensation of panel members, they may invoke the dispute resolution procedures contained in Section XVI of this Consent Judgment.

b. Within a reasonable period of time after selection of all panel members, the panel shall confer and establish a schedule for acceptance of submissions from the MDEQ and the Defendant completing review and making recommendations on the items of difference.

c. The scientific advisory panel shall make its recommendations concerning resolution of the items of difference to the MDEQ and the Defendant. If both MDEQ and Defendant accept those recommendations, the termination criteria shall be modified in accordance with such recommendations. If the MDEQ and the Defendant disagree with the recommendations, the MDEQ's proposed resolution of the dispute shall be final unless Defendant invokes the procedures for judicial dispute resolution as provided in Section XVI of the Consent Judgment. The recommendation of the scientific advisory panel and any related documents shall be submitted to the Court as part of the record to be considered by the Court in resolving the dispute.

D. Post-Termination Monitoring

1. Eastern Area

a. Prohibition Zone Containment Objective. Except as otherwise provided pursuant to Section V.C.2, Defendant shall continue to monitor the Groundwater Contamination as it migrates within the Prohibition Zone until all approved monitoring wells are below 7.2 ug/L or such other applicable criterion for 1,4-dioxane for six consecutive months, or Defendant can establish to MDEQ's satisfaction that continued monitoring is not necessary to satisfy the Prohibition Zone Containment Objective. Defendant's request to terminate monitoring must be made in writing for review and approval pursuant to Section X of the Consent Judgment. Defendant may initiate dispute resolution pursuant to Section XVI of this Consent Judgment if the MDEQ does not approve its termination request.

b. Groundwater-Surface Water Interface Objective. Except as provided in Section V.D.1.a., for Prohibition Zone monitoring wells, post-termination monitoring is required for Eastern Area wells for a minimum of ten years after purging is terminated under Section V.C.1.b. with cessation subject to MDEQ approval. Defendant's request to terminate monitoring must be made in writing for review and approval pursuant to Section X of the Consent Judgment. Defendant may initiate dispute resolution pursuant to Section XVI of this Consent Judgment if the MDEQ does not approve its termination request.

2. Western Area. Post-termination monitoring will be required for a minimum of ten years after termination of extraction with cessation subject to MDEQ approval. Except as otherwise provided pursuant to Section V.C.2, Defendant shall continue to monitor the groundwater in accordance with approved monitoring plan(s), to verify that it remains in

compliance with the Non-Expansion Cleanup Objective set forth in Section V.B.1 and the Groundwater-Surface Water Interface Objective set forth in Section V.B.2. If any exceedance is detected, Defendant shall immediately notify MDEQ and take whatever steps are necessary to comply with the requirements of Section V.B.1, or V.B.2, as applicable.

E. Quality Assurance Project Plan (QAPP). Defendant previously voluntarily submitted to MDEQ for review and approval a QAPP, which is intended to describe the quality control, quality assurance, sampling protocol, and chain of custody procedures that will be used in carrying out the tasks required by this Consent Judgment. MDEQ shall review, and Defendant shall revise accordingly, the QAPP to ensure that it is in general accordance with the United States Environmental Protection Agency's ("U.S. EPA" or "EPA") "Guidance for Quality Assurance Project Plans," EPA QA/G-5, December 2002; and American National Standard ANSI/ASQC E4-2004, "Quality Systems For Environmental Data And Technology Programs – Requirements With Guidance For Use."

VI. GELMAN PROPERTY SOILS

A. Gelman Property Objectives. The objectives for the Gelman Property shall be to prevent the migration of 1,4-dioxane from contaminated soils on the Gelman Property into any aquifer at concentrations or locations that cause non-compliance with the Western Area objectives set forth in Sections V.B.1 and V.B.2.

B. Response Activities. If necessary to achieve the Gelman Property Objectives, Defendant shall design and implement remedial systems at the Gelman Property.

C. Monitoring. Defendant shall implement the MDEQ-approved Compliance Monitoring Plan to verify that the Gelman Property soil contamination does not cause or

contribute to non-compliance with the Western Area objectives set forth in Sections V.B.1 and V.B.2, and to verify the effectiveness of any implemented remedial system.

VII. COMPLIANCE WITH OTHER LAWS AND PERMITS

A. Defendant shall undertake all activities pursuant to this Consent Judgment in accordance with the requirements of all applicable laws, regulations, and permits.

B. Defendant shall apply for all permits necessary for implementation of the Consent Judgment including, without limitation, surface water discharge permit(s) and air discharge permit(s).

C. Defendant shall include in all contracts entered into by the Defendant for Remedial Action required under this Consent Judgment (and shall require that any contractor include in all subcontracts), a provision stating that such contractors and subcontractors, including their agents and employees, shall perform all activities required by such contracts or subcontracts in compliance with and all applicable laws, regulations, and permits. Defendant shall provide a copy of relevant approved work plans to any such contractor or subcontractor.

D. The Parties agree to provide reasonable cooperation and assistance to the Defendant in obtaining necessary approvals and permits for Remedial Action. Plaintiffs shall not unreasonably withhold or delay any required approvals or permits for Defendant's performance of the Remedial Action. Plaintiffs expressly acknowledge that one or more of the following permits and approvals may be necessary for Remedial Action:

1. NPDES Permit No. MI-0048453;
2. An Air Permit for discharges of contaminants to the atmosphere for vapor extraction systems, if such systems are part of the remedial design;

3. A Wetlands Permit if necessary for construction of the Marshy Area System or the construction of facilities as part of the Core or Western Systems;
4. An Industrial User's Permit to be issued by the City of Ann Arbor for use of the sewer to dispose of treated or untreated purged groundwater.
Plaintiffs have no objection to receipt by the Ann Arbor Wastewater Treatment Plant of the purged groundwater extracted pursuant to the terms and conditions of this Judgment, and acknowledge that receipt of the purged groundwater would not necessitate any change in current and proposed residual management programs of the Ann Arbor Wastewater Treatment Plant;
5. Permit(s) or permit exemptions to be issued by the MDEQ to authorize the reinjection of purged and treated groundwater in the Eastern Area, Western Area, and Little Lake Area;
6. Surface water discharge permit(s) for discharge into surface waters in the Little Lake System Area, if necessary;
7. Approval of the City of Ann Arbor and the Washtenaw County Drain Commissioner to use storm drains for the remedial programs; or
8. A permit for the use of Defendant's deep well for injection of purged groundwater from the remedial systems required under this Consent Judgment.

VIII. SAMPLING AND ANALYSIS

Defendant shall make available to MDEQ the results of all sampling, tests, and/or other data generated in the performance or monitoring of any requirement under this Consent Judgment. Sampling data generated consistent with this Consent Judgment shall be admissible in evidence in any proceeding related to enforcement of this Judgment without waiver by any Party of any objection as to weight or relevance. MDEQ and/or their authorized representatives, at their discretion, may take split or duplicate samples and observe the sampling event. MDEQ shall make available to Defendant the results of all sampling, tests, and/or other data generated in the performance or monitoring of any requirement under this Consent Judgment. Defendant will provide MDEQ with reasonable notice of changes in the schedule of data collection activities included in the progress reports submitted pursuant to Section XII.

IX. ACCESS

A. From the effective date of this Consent Judgment, the MDEQ, their authorized employees, agents, representatives, contractors, and consultants, upon presentation of proper identification, shall have the right at all reasonable times to enter the Site and any property to which access is required for the implementation of this Consent Judgment, to the extent access to the property is owned, controlled by, or available to the Defendant, for the purpose of conducting any activity authorized by this Consent Judgment, including, but not limited to:

1. Monitoring of the Remedial Action or any other activities taking place pursuant to this Consent Judgment on the property;
2. Verification of any data or information submitted to the MDEQ;
3. Conduct of investigations related to contamination at the Site;

4. Collection of samples;
5. Assessment of the need for, or planning and implementing of, Response Actions at the Site; and
6. Inspection and copying of non-privileged documents including records, operating logs, contracts, or other documents required to assess Defendant's compliance with this Consent Judgment.

All Parties with access to the Site or other property pursuant to this Section shall comply with all applicable health and safety laws and regulations.

B. To the extent that the Site or any other area where Remedial Action is to be performed by the Defendant under this Consent Judgment is owned or controlled by persons other than the Defendant, Defendant shall use its best efforts to secure from such persons access for Defendant, MDEQ, and their authorized employees, agents, representatives, contractors, and consultants. Defendant shall provide MDEQ with a copy of each access agreement secured pursuant to this Section. For purposes of this Section, "best efforts" includes, but is not limited to, seeking judicial assistance to secure such access pursuant to MCL 324.20135a.

X. APPROVALS OF SUBMISSIONS

Upon receipt of any plan, report, or other item that is required to be submitted for approval pursuant to this Consent Judgment, as soon as practicable, but in no event later than 56 days after receipt of such submission, MDEQ will: (1) approve the submission or (2) submit to Defendant changes in the submission that would result in approval of the submission. MDEQ will (1) approve a feasibility study or plan that proposes a risk based cleanup or a remedy that requires public comment, or (2) submit to Defendant changes in such

submittal that would result in approval in the time provided under Part 201 of the Natural Resources and Environmental Protection Act, as amended, MCL 324.20101 et seq. If MDEQ does not respond within 56 days, Defendant may submit the matter to dispute resolution pursuant to Section XVI. Upon receipt of a notice of approval or changes from the MDEQ, Defendant shall proceed to take any action required by the plan, report, or other item, as approved or as may be modified to address the deficiencies identified by MDEQ. If Defendant does not accept the changes proposed by MDEQ, Defendant may submit the matter to dispute resolution pursuant to Section XVI.

XI. PROJECT COORDINATORS

A. Plaintiffs designate Daniel Hamel as MDEQ's Project Coordinator. Defendant designates Farsad Fotouhi as Defendant's Project Coordinator. Defendant's Project Coordinator shall have primary responsibility for implementation of the Remedial Action at the Site. MDEQ's Project Coordinator will be the primary designated representative for Plaintiffs with respect to implementation of the Remedial Action at the Site. All communication between Defendant and MDEQ, including all documents, reports, approvals, other submissions, and correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Judgment, shall be directed through the Project Coordinators. If any Party changes its designated Project Coordinator, that Party shall provide the name, address, and telephone number of the successor in writing to the other Party seven days prior to the date on which the change is to be effective. This Section does not relieve Defendant from other reporting obligations under the law.

B. MDEQ may designate other authorized representatives, employees, contractors, and consultants to observe and monitor the progress of any activity undertaken pursuant to this Consent Judgment. MDEQ's Project Coordinator shall provide Defendant's Project Coordinator with the name, addresses, telephone numbers, positions, and responsibilities of any person designated pursuant to this Section.

XII. PROGRESS REPORTS

Defendant shall provide to MDEQ written quarterly progress report that shall: (1) described the actions which have been taken toward achieving compliance with this Consent Judgment during the previous three months; (2) describe data collection and activities scheduled for the next three months; and (3) include all results of sampling and tests and other data received by Defendant, its consultants, engineers, or agents during the previous three months relating to Remedial Action performed pursuant to this Consent Judgment. Defendant shall submit the first quarterly report to MDEQ within 120 days after entry of this Consent Judgment, and by the 30th day of the month following each quarterly period thereafter, as feasible, until termination of this Consent Judgment as provided in Section XXV.

XIII. RESTRICTIONS ON ALIENATION

A. Defendant shall not sell, lease, or alienate the Gelman Property until: (1) it places an MDEQ-approved land use or resource use restrictions on the affected portion(s) of the Gelman Property; and (2) any purchaser, lessee, or grantee provides to MDEQ its written agreement providing that the purchaser, lessee, or grantee will not interfere with any term or condition of this Consent Judgment. Notwithstanding any purchase, lease, or grant,

Defendant shall remain obligated to comply with all terms and conditions of this Consent Judgment.

B. Any deed, title, or other instrument of conveyance regarding the Gelman Property shall contain a notice that Defendant's Property is the subject of this Consent Judgment, setting forth the caption of the case, the case number, and the court having jurisdiction herein.

XIV. FORCE MAJEURE

Any delay attributable to a Force Majeure shall not be deemed a violation of Defendant's obligations under this Consent Judgment.

A. "Force Majeure" is defined as an occurrence or nonoccurrence arising from causes beyond the control of Defendant or of any entity controlled by the Defendant performing Remedial Action, such as Defendant's employees, contractors, and subcontractors. Such occurrence or nonoccurrence includes, but is not limited to: (1) an Act of God; (2) untimely review of permit applications or submissions; (3) acts or omissions of third parties for which Defendant is not responsible; (4) insolvency of any vendor, contractor, or subcontractor retained by Defendant as part of implementation of this Judgment; and (5) delay in obtaining necessary access agreements under Section IX that could not have been avoided or overcome by due diligence. "Force Majeure" does not include unanticipated or increased costs, changed financial circumstances, or nonattainment of the treatment and termination standards set forth in Sections V and VI.

B. When circumstances occur that Defendant believes constitute Force Majeure, Defendant shall notify the MDEQ by telephone of the circumstances within 48 hours after Defendant first believes those circumstances to apply. Within 14 working days after Defendant

first believes those circumstances to apply, Defendant shall supply to the MDEQ, in writing, an explanation of the cause(s) of any actual or expected delay, the anticipated duration of the delay, the measures taken and the measures to be taken by Defendant to avoid, minimize, or overcome the delay, and the timetable for implementation of such measures. Failure of Defendant to comply with the written notice provisions of this Section shall constitute a waiver of Defendant's right to assert a claim of Force Majeure with respect to the circumstances in question.

C. A determination by the MDEQ that an event does not constitute Majeure, that a delay was not caused by Force, or that the period of delay was not necessary to compensate for Force Majeure may be subject to dispute resolution under Section XVI of this Judgment.

D. The MDEQ shall respond, in writing, to any request by Defendant for a Force Majeure extension within 30 days of receipt of the Defendant's request. If the MDEQ does not respond within that time period, Defendant's request shall be deemed granted. If the MDEQ agrees that a delay is or was caused by Force Majeure, Defendant's delays shall be excused, stipulated penalties shall not accrue, and the MDEQ shall provide Defendant such additional time as may be necessary to compensate for the Force Majeure event.

E. Delay in achievement of any obligation established by the Consent Judgment shall not automatically justify or excuse delay in achievement of any subsequent obligation unless the subsequent obligation automatically follows from the delayed obligation.

XV. REVOCATION OR MODIFICATION OF LICENSES OR PERMITS

Any delay attributable to the revocation or modification of licenses or permits obtained by Defendant to implement remediation actions as set forth in this Consent Judgment shall not be deemed a violation of Defendant's obligations under this Consent Judgment, provided that such

revocation or modification arises from causes beyond the control of Defendant or of any entity controlled by the Defendant performing Remedial Action, such as Defendant's employees, contractors, and subcontractors.

A. Licenses or permits that may need to be obtained or modified by Defendant to implement the Remedial Actions are those specified in Section VII.D. and licenses, easements, and other agreements for access to property or rights of way on property necessary for the installation of remedial systems required by this Consent Judgment.

B. A revocation or modification of a license or permit within the meaning of this Section means withdrawal of permission, denial of permission, a limitation or a change in license or permit conditions that delays the implementation of all or part of a remedial system. Revocation or modification due to Defendant's violation of a license or permit (or any conditions of a license or permit) shall not constitute a revocation or modification covered by this Section.

C. When circumstances occur that Defendant believes constitute revocation or modification of a license or permit, Defendant shall notify the MDEQ by telephone of the circumstances within 48 hours after Defendant first believes those circumstances to apply. Within 14 working days after Defendant first believes those circumstances to apply, Defendant shall supply to the MDEQ, in writing, an explanation of the cause(s) of any actual or expected delay, the anticipated duration of the delay, the measures taken and the measures to be taken by Defendant to avoid, minimize, or overcome the delay, and the timetable for implementation of such measures. Failure of Defendant to comply with the written notice provisions of this Section shall constitute a waiver of Defendant's right to assert a claim of revocation or modification of a license or permit with respect to the circumstances in question.

D. A determination by the MDEQ that an event does not constitute revocation or modification of a license or permit, that a delay was not caused by revocation or modification of a license or permit, or that the period of delay was not necessary to compensate for revocation or modification of a license or permit may be subject to dispute resolution under Section XVI of this Consent Judgment.

E. The MDEQ shall respond, in writing, to any request by Defendant for a revocation or modification of a license or permit extension within 30 days of receipt of the Defendant's request. If the MDEQ does not respond within that time period, Defendant's request shall be deemed granted. If the MDEQ agrees that a delay is or was caused by revocation or modification of a license or permit, Defendant's delays shall be excused, stipulated penalties shall not accrue, and the MDEQ shall provide Defendant such additional time as may be necessary to compensate for the revocation or modification of a license or permit.

F. Delay in achievement of any obligation established by the Consent Judgment shall not automatically justify or excuse delay in achievement of any subsequent obligation unless the subsequent obligation automatically follows from the delayed obligation.

XVI. DISPUTE RESOLUTION

A. The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under this Consent Judgment and shall apply to all provisions of this Consent Judgment, whether or not particular provisions of the Consent Judgment in question make reference to the dispute resolution provisions of this Section. Any dispute that arises under this Consent Judgment initially shall be the subject of informal negotiations between the Parties. The period of negotiations shall not exceed ten working days

from the date of written notice by MDEQ or the Defendant that a dispute has arisen. This period may be extended or shortened by agreement of the MDEQ or the Defendant.

B. Immediately upon expiration of the informal negotiation period (or sooner if upon agreement of the parties), the MDEQ shall provide to Defendant a written statement setting forth the MDEQ's proposed resolution of the dispute. Such resolution shall be final unless, within 15 days after receipt of the MDEQ's proposed resolution (clearly identified as such under this Section), Defendant files a petition for resolution with the Washtenaw County Circuit Court setting forth the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Judgment.

C. Within ten days of the filing of the petition, MDEQ may file a response to the petition, and unless a dispute arises from the alleged failure of MDEQ to timely make a decision, MDEQ will submit to the Court all documents containing information related to the matters in dispute, including documents provided to MDEQ by Defendant. In the event of a dispute arising from the alleged failure of MDEQ to timely make a decision, within ten days of filing of the petition, each party shall submit to the Court correspondence, reports, affidavits, maps, diagrams, and other documents setting forth facts pertaining to the matters in dispute. Those documents and this Consent Judgment shall comprise the record upon which the Court shall resolve the dispute. Additional evidence may be taken by the Court on its own motion or at the request of either party if the Court finds that the record is incomplete or inadequate. Review of the petition shall be conducted by the Court and shall be confined to the record. The review shall be independent of any factual or legal conclusions made by the Court prior to the date of entry of

the Consent Judgment.

D. The Court shall uphold the decision of MDEQ on the issue in dispute unless the Court determines that the decision is any of the following:

1. Inconsistent with this Consent Judgment;
2. Not supported by competent, material, and substantial evidence on the whole record;
3. Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion; or
4. Affected by other substantial and material error of law.

E. The filing of a petition for resolution of a dispute shall not by itself extend or postpone any obligation of Defendant under this Consent Judgment, provided, however, that payment of stipulated penalties with respect to the disputed matter shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue as provided in Section XVII. Stipulated penalties that have accrued with respect to the matter in dispute shall not be assessed by the Court and shall be dissolved if Defendant prevails on the matter. The Court may also direct that stipulated penalties shall not be assessed and paid as provided in Section XVII upon a determination that there was a substantial basis for Defendant's position on the disputed matter.

XVII. STIPULATED PENALTIES

A. Except as otherwise provided, if Defendant fails or refuses to comply with any term or condition in Sections IV, V, VI, VII, or VIII, or with any plan, requirement, or schedule established pursuant to those Sections, then Defendant shall pay stipulated penalties in the

following amounts for each working day for every failure or refusal to comply or conform:

<u>Period of Delay</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th Day	\$ 1,000
15th through 30th Day	\$ 1,500
Beyond 30 Days	\$ 2,000

B. Except as otherwise provided if Defendant fails or refuses to comply with any other term or condition of this Consent Judgment, Defendant shall pay to MDEQ stipulated penalties of \$500.00 per working day for each and every failure to comply.

C. If Defendant is in violation of this Consent Judgment, Defendant shall notify MDEQ of any violation no later than five working days after first becoming aware of such violation, and shall describe the violation.

D. Stipulated penalties shall begin to accrue upon the next day after performance was due or other failure or refusal to comply occurred. Penalties shall continue to accrue until the final day of correction of the noncompliance. Separate penalties shall accrue for each separate failure or refusal to comply with the terms and conditions of this Consent Judgment. Penalties may be waived in whole in part by MDEQ or may be dissolved by the Court pursuant to Section XVII.

E. Stipulated penalties shall be paid no later than 14 working days after receipt by Defendant of a written demand from MDEQ. Defendant shall make payment by transmitting a check in the amount due, payable to the "State of Michigan," addressed to the Revenue Control Unit; Finance Section, Administration Division; Michigan Department of Environmental Quality; P.O. Box 30657; Lansing, MI 48909-8157. The check shall be transmitted via Courier to the Revenue Control Unit; Finance Section, Administration Division; Michigan

Department of Environmental Quality; Constitution Hall, 5th Floor South Tower; 525 West Allegan Street; Lansing, MI 48933-2125. To ensure proper credit, Defendant shall include the settlement ID - ERD1902 on the payment.

F. Plaintiffs agree that, in the event that an act or omission of Defendant constitutes a violation of this Consent Judgment subject to stipulated penalties and a violation of other applicable law, Plaintiffs will not impose upon Defendant for that violation both the stipulated penalties provided under this Consent Judgment and the civil penalties permitted under other applicable laws. MDEQ reserves the right to pursue any other remedy or remedies to which they may be entitled under this Consent Judgment or any applicable law for any failure or refusal of the Defendant to comply with the requirements of this Consent Judgment.

XVIII. PLAINTIFFS' COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

A. Except as otherwise provided in this Consent Judgment, Plaintiffs covenant not to sue or take administrative action for Covered Matters against Defendant, its officers, employees, agents, directors, and any persons acting on its behalf or under its control.

B. "Covered Matters" shall mean any and all claims available to Plaintiffs under federal and state law arising out of the subject matter of the Plaintiffs' Complaint with respect to the following:

1. Claims for injunctive relief to address soil, groundwater, and surface water contamination at or emanating from the Gelman Property;
2. Claims for civil penalties and costs;
3. Claims for natural resource damages;
4. Claims for reimbursement of response costs incurred prior to entry of this

Consent Judgment or incurred by Plaintiffs for provision of alternative water supplies in the Evergreen Subdivision; and

5. Claims for reimbursement of costs incurred by Plaintiffs for overseeing the implementation of this Consent Judgment.

C. “Covered Matters” does not include:

1. Claims based upon a failure by Defendant to comply with the requirements of this Consent Judgment;
2. Liability for violations of federal or state law which occur during implementation of the Remedial Action; and
3. Liability arising from the disposal, treatment, or handling of any hazardous substance removed from the Site.

D. With respect to liability for alleged past violations of law, this covenant not to sue shall take effect on the effective date of this Consent Judgment. With respect to future liability for performance of response activities required to be performed under this Consent Judgment, the covenant not to sue shall take effect upon issuance by MDEQ of the Certificate of Completion in accordance with Section XXV.

E. Notwithstanding any other provision in this Consent Judgment: (1) MDEQ reserves 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) MDEQ reserves the right to institute proceedings in this action or in a new action seeking to reimburse MDEQ for response costs incurred by the State of Michigan relating to the Site. MDEQ’s rights in Sections XVIII.E.1 and E.2 apply if the following conditions are met:

1. For proceedings prior to MDEQ's certification of completion of the Remedial Action concerning the Site,
 - a. (i) conditions at the Site, previously unknown to the MDEQ, are discovered after entry of this Consent Judgment, (ii) new information previously unknown to MDEQ is received after entry of the Consent Judgment, or (iii) MDEQ adopts one or more new, more restrictive cleanup criteria for 1,4-dioxane pursuant to Part 201 of the NREPA, MCL 324.20101 *et seq.*, 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 MDEQ's certification of completion of the Remedial Action concerning the Site,
 - a. (i) conditions at the Site, previously unknown to the MDEQ, are discovered after certification of completion by MDEQ, (ii) new information previously unknown to MDEQ is received after certification of completion by MDEQ, or (iii) MDEQ adopts one or more new, more restrictive cleanup criteria for 1,4-dioxane pursuant to Part 201 of NREPA, after certification of completion by MDEQ; 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 MDEQ adopts one or more new, more restrictive, cleanup criteria, MDEQ's rights in Sections XVIII.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 MDEQ has not made the demonstration(s) required under this Section.

F. Nothing in this Consent Judgment shall in any manner restrict or limit the nature or scope of response actions that may be taken by MDEQ in fulfilling its responsibilities under federal and state law, and this Consent Judgment does not release, waive, limit, or impair in any manner the claims, rights, remedies, or defenses of MDEQ against a person or entity not a party to this Consent Judgment.

G. Except as expressly provided in this Consent Judgment, MDEQ reserves all other rights and defenses that they may have, and this Consent Judgment is without prejudice, and shall not be construed to waive, estop, or otherwise diminish MDEQ's right to seek other relief with respect to all matters other than Covered Matters.

XIX. DEFENDANT'S COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

A. Defendant hereby covenants not to sue and agrees not to assert any claim or cause of action against MDEQ or any other agency of the State of Michigan with respect to environmental contamination at the Site or response activities relating to the Site arising from this Consent Judgment.

B. Notwithstanding any other provision in this Consent Judgment, for matters that are not Covered Matters as defined in Section XVIII.B, or in the event that Plaintiffs institute proceedings as allowed under Section XVIII.E., Defendant reserves all other rights, defenses, or counterclaims that it may have with respect to such matters and this Consent Judgment is without prejudice, and shall not be construed to waive, estop, or otherwise diminish Defendant's right to seek other relief and to assert any other rights and defenses with respect to such other matters.

C. Nothing in this Consent Judgment shall in any way impair Defendant's rights, claims, or defenses with respect to any person not a party to this Consent Judgment.

XX. INDEMNIFICATION, INSURANCE, AND FINANCIAL ASSURANCE

A. Defendant shall indemnify and save and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives from any and all claims or causes of action arising from, or on account of, acts or omissions of Defendant, its officers, employees, agents, and any persons acting on its behalf or under its control in carrying out Remedial Action pursuant to this Consent Judgment. MDEQ shall not be held out as a party to any contract entered into by or on behalf of Defendant in carrying out activities pursuant to this Consent Judgment. Neither the Defendant nor any contractor shall be considered an agent of MDEQ. Defendant shall not indemnify or save and hold harmless Plaintiffs from their own negligence pursuant to this Section.

B. Prior to commencing any Remedial Action on the Gelman Property, Defendant shall secure, and shall maintain for the duration of the Remedial Action, comprehensive general liability insurance with limits of \$1,000,000.00, combined single limit, naming as an additional insured the State of Michigan. If Defendant demonstrates by evidence satisfactory to MDEQ that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then with respect to that contractor or subcontractor, Defendant need provide only that portion, if any, of the insurance described above that is not maintained by the contractor or subcontractor.

C. Financial Assurance

1. Defendant shall be responsible for providing and maintaining financial assurance in a mechanism approved by MDEQ in an amount sufficient to cover the estimated cost to assure performance of the response activities required to meet the remedial objectives of this Consent Judgment including, but not limited to, investigation, monitoring, operation and maintenance, and other costs (collectively referred to as “Long-Term Remedial Action Costs”). Defendant shall continuously maintain a financial assurance mechanism (“FAM”) until MDEQ’s Remediation and Redevelopment Division (“RRD”) Chief or his or her authorized representative notifies it in writing that it is no longer required to maintain a FAM.

2. The Letter of Credit provided in Attachment ___ is the initial FAM approved by the MDEQ. Defendant shall be responsible for providing and maintaining financial assurance in a mechanism acceptable to the MDEQ to assure the performance of the Long Term Remedial Action Costs required by Defendant’s selected remedial action.

3. The FAM shall remain in an amount sufficient to cover Long Term Remedial Action Costs for a 30-year period. Unless Defendant opts to use and satisfies the Financial Test or Financial Test/Corporate Guarantee as provided in Section XX.C.8, the FAM shall remain in a form that allows the MDEQ to immediately contract for the response activities for which financial assurance is required in the event Defendant fails to implement the required tasks, subject to Defendant’s rights under Sections XIV and XVI.

4. Within 120 days of the Effective Date of this Fourth Amended Consent Judgment, Defendant shall provide MDEQ with an estimate of the amount of funds necessary to assure Long Term Remedial Action Costs for the following 30-year period based upon an annual

estimate of costs for the response activities required by this Fourth Amended Consent Judgment as if they were to be conducted by a person under contract to the MDEQ (the “Updated Long Term Remedial Action Cost Estimate”). The Updated Long Term Remedial Action Cost Estimate shall include all assumptions and calculations used in preparing the cost estimate and shall be signed by an authorized representative of Defendant who shall confirm the validity of the data. Defendant may only use a present worth analysis if an interest accruing FAM is selected. Within 60 days after Defendant’s submittal of the Updated Long Term Remedial Action Cost Estimate, Defendant shall capitalize or revise the FAM in a manner acceptable to the MDEQ to address Long Term Remedial Action Costs unless otherwise notified by the MDEQ. If the MDEQ disagrees with the conclusions of the Updated Long Term Remedial Action Cost Estimate, Defendant shall capitalize the FAM to a level acceptable to the MDEQ within 30 days of the MDEQ notification, subject to Dispute Resolution under Section XVI.

5. Sixty days prior to the 5-year anniversary of the Effective Date of this Fourth Amended Consent Judgment and each subsequent 5-year anniversary, Defendant shall provide to the MDEQ a report containing the actual Long Term Remedial Action Costs for the previous 5-year period and an estimate of the amount of funds necessary to assure Long Term Remedial Action Costs for the following 30-year period given the financial trends in existence at the time of preparation of the report (“Long Term Remedial Action Cost Report”). The cost estimate shall be based upon an annual estimate of maximum costs for the response activities required by this Fourth Amended Consent Judgment as if they were to be conducted by a person under contract to the MDEQ, provided that, if Defendant is using the Financial Test or Corporate Guarantee/Financial Test under Section XX.C.8, below, Defendant may use an estimate on its

internal costs to satisfy the Financial Test. The Long Term Remedial Action Cost Report shall also include all assumptions and calculations used in preparing the necessary cost estimate and shall be signed by an authorized representative of Defendant who shall confirm the validity of the data. Defendant may only use a present worth analysis if an interest accruing FAM is selected.

6. Within 60 days after Defendant's submittal of the Long Term Remedial Action Cost Report to MDEQ, Defendant shall capitalize or revise the FAM in a manner acceptable to the MDEQ to address Long Term Remedial Action Costs consistent with the conclusions of the Long Term Remedial Action Cost Report unless otherwise notified by the MDEQ. If the MDEQ disagrees with the conclusions of the Long Term Remedial Action Cost Report, Defendant shall capitalize the FAM to a level acceptable to the MDEQ within 30 days of the MDEQ notification, subject to dispute resolution under Section XVI. If, at any time, the MDEQ determines that the FAM does not secure sufficient funds to address Long Term Remedial Action Costs, Defendant shall capitalize the FAM or provide an alternate FAM to secure any additional costs within 30 days of request by the MDEQ, subject to dispute resolution under Section XVI.

7. If, pursuant to the Long Term Remedial Action Cost Report, Defendant can demonstrate that the FAM provides funds in excess of those needed for Long Term Remedial Action Costs, Defendant may request a modification in the amount. Any requested FAM modifications must be accompanied by a demonstration that the proposed FAM provides adequate funds to address future Long Term Remedial Action Costs. Upon MDEQ approval of the request, Defendant may modify the FAM as approved by the MDEQ. Modifications to the

FAM pursuant to this Section shall be approved by the MDEQ RRD Chief or his or her authorized representative, subject to dispute resolution under Section XVI.

8. If Defendant chooses to use the Financial Test or Corporate Guarantee/Financial Test attached as Attachment (hereinafter, the term “Financial Test” refers to both an independent financial test or a financial test utilized in conjunction with a corporate guarantee), Defendant shall, within 90 days after the end of Defendant’s next fiscal year and the end of each succeeding fiscal year, submit to the MDEQ the necessary forms and supporting documents to demonstrate to the satisfaction of the MDEQ that Defendant can continue to meet the Financial Test requirements. If Defendant can no longer meet the financial test requirements, Defendant shall submit a proposal for an alternate FAM to satisfy its financial obligations with respect to this Consent Judgment.

9. If the Financial Test is being used as the FAM, the MDEQ, based on a reasonable belief that Defendant may no longer meet the requirements for the Financial Test, may require reports of financial condition at any time from Defendant, and/or require Defendant to submit updated Financial Test information to determine whether it meets the Financial Test criteria. Defendant shall provide, with reasonable promptness to the MDEQ, any other data and information that may reasonably be expected to materially adversely affect Defendant’s ability to meet the Financial Test requirements. If the MDEQ finds that Defendant no longer meets the Financial Test requirements, Defendant shall, within 30 days after notification from the MDEQ, submit a proposal for an alternate FAM to satisfy its financial obligations with respect to this Fourth Amended Consent Judgment, subject to dispute resolution under Section XVI.

10. If the Financial Test/Corporate Guarantee is used as the FAM, Defendant shall comply with the terms of the Corporate Guarantee. The Corporate Guarantee shall remain in place until Long-Term Remedial Action Costs are no longer required or Defendant establishes an alternate FAM acceptable to the MDEQ.

11. If Defendant wishes to change the type of FAM or establish a new FAM, Defendant shall submit a request to the MDEQ for approval. Upon MDEQ approval of the request, Defendant may change the type of FAM or establish the new FAM as approved by the MDEQ. Modifications to the FAM pursuant to this Section shall be approved by the MDEQ RRD Chief or his or her authorized representative, subject to dispute resolution under Section XVI.

12. If Defendant dissolves or otherwise ceases to conduct business and fails to make arrangements acceptable to the MDEQ for the continued implementation of all activities required by the Consent Judgment, all rights under this Fourth Amended Consent Judgment regarding the FAM shall immediately and automatically vest in the MDEQ in accordance with the FAM.

XXI. RECORD RETENTION

Defendant, Plaintiffs, and their representatives, consultants, and contractors shall preserve and retain, during the pendency of this Consent Judgment and for a period of ten years after its termination, all records, sampling or test results, charts, and other documents that are maintained or generated pursuant to any requirement of this Consent Judgment, including, but not limited to, documents reflecting the results of any sampling or tests or other data or information generated or acquired by Plaintiffs or Defendant, or on their behalf, with respect to

the implementation of this Consent Judgment. After the ten-year period of document retention, the Defendant and its successors shall notify MDEQ, in writing, at least 90 days prior to the destruction of such documents or records, and upon request, the Defendant and/or its successor shall relinquish custody of all records and documents to MDEQ.

XXII. ACCESS TO INFORMATION

Upon request, MDEQ and Defendant shall provide to each other copies of or access to all non-privileged documents and information within their possession and/or control or that of their employees, contractors, agents, or representatives, relating to activities at the Site or to the implementation of this Consent Judgment, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Remedial Action. Upon request, Defendant shall also make available to MDEQ, their employees, contractors, agents, or representatives with knowledge or relevant facts concerning the performance of the Remedial Action. The Plaintiffs shall treat as confidential all documents provided to Plaintiffs by the Defendant marked “confidential” or “proprietary.”

XXIII. NOTICES

Whenever under the terms of this Consent Judgment notice is required to be given or a report, sampling data, analysis, or other document is required to be forwarded by one Party to the other, such notice or document shall be directed to the following individuals at the specified addresses or at such other address as may subsequently be designated in writing:

For Plaintiffs:

Daniel Hamel
Project Coordinator

For Defendants:

Farsad Fotouhi
Vice President of Corporate Environmental

Michigan Department
of Natural Resources
and Environment
Remediation Division
301 East Louis Glick Highway
Jackson, MI 49201

Engineering
Gelman Sciences Inc.
600 South Wagner Road
Ann Arbor, MI 48106

and

Michael L. Caldwell
Zausmer, August, & Caldwell, P.C.
31700 Middlebelt Road, Ste. 150
Farmington Hills, MI 48334

Any party may substitute for those designated to receive such notices by providing prior written notice to the other parties.

XXIV. MODIFICATION

This Consent Judgment may not be modified unless such modification is in writing, signed by the Plaintiffs and the Defendant, and approved and entered by the Court. Remedial Plans, work plans, or other submissions made pursuant to this Consent Judgment may be modified by mutual agreement of the Defendant and MDEQ.

XXV. CERTIFICATION AND TERMINATION

A. When Defendant determines that it has completed all Remedial Action required by this Consent Judgment, Defendant shall submit to the MDEQ a Notification of Completion and a draft final report. The draft final report must summarize all Remedial Action performed under this Consent Judgment and the performance levels achieved. The draft final report shall include or refer to any supporting documentation.

B. Upon receipt of the Notification of Completion, the MDEQ will review the Notification of Completion and the accompanying draft final report, any supporting documentation, and the actual Remedial Action performed pursuant to this Consent Judgment.

After conducting this review, and not later than three months after receipt of the Notification of Completion, the MDEQ shall issue a Certificate of Completion upon a determination by the MDEQ that Defendant has completed satisfactorily all requirements of this Consent Decree, including, but not limited to, completion of all Remedial Action, achievement of all termination and treatment standards required by this Consent Judgment, compliance with all terms and conditions of this Consent Judgment, and payment of any and all stipulated penalties owed to MDEQ. If the MDEQ does not respond to the Notification of Completion within three months after receipt of the Notification of Completion, Defendant may submit the matter to dispute resolution pursuant to Section XVI. This Consent Judgment shall terminate upon motion and order of this Court after issuance of the Certificate of Completion. Upon issuance, the Certificate of Completion may be recorded.

XXVI. EFFECTIVE DATE

The effective date of this Consent Judgment shall be the date upon which this Consent Judgment is entered by the Court.

XXVII. SEVERABILITY

The provisions of this Consent Judgment shall be severable. Should any provision be declared by a court of competent jurisdiction to be inconsistent with federal or state law, and therefore unenforceable, the remaining provisions of this Consent Judgment shall remain in full force and effect.

XXIII. SIGNATORIES

Each undersigned representatives of a Party to this Consent Judgment certifies that he or she is fully authorized by the Party to enter into this Consent Judgment and to legally bind such Party to the respective terms and conditions of this Consent Judgment.

EXHIBIT 2

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

ATTORNEY GENERAL FOR THE STATE OF
MICHIGAN *ex rel.* MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiffs,

File No. 88-34734-CE

-v-

Honorable Timothy P. Connors

GELMAN SCIENCES INC.,
a Michigan Corporation,

Defendant.

Brian J. Negele (P41846)
Michigan Department of Attorney General
525 W. Ottawa St.
PO Box 30212
Lansing, MI 48909-7712
Telephone: (517) 373-7540
Attorney for the State of Michigan

Michael L. Caldwell (P40554)
Zausmer, August & Caldwell, P.C.
31700 Middlebelt Road
Suite 150
Farmington Hills, MI 48334
Telephone: (248) 851-4111
Attorney for Defendant

FOURTH AMENDED AND RESTATED CONSENT JUDGMENT

The Parties enter this Fourth Amended and Restated Consent Judgment in recognition of, and with the intention of, furtherance of the public interest by (1) addressing environmental concerns raised in MDEQ's Complaint; (2) expediting remedial action at the Site; and (3) avoiding further litigation concerning matters covered by this Consent Judgment. Among other things, the Parties enter this Fourth Amended and Restated Consent Judgment to reflect MDEQ's revision of the residential drinking water cleanup criterion for 1,4-dioxane in groundwater to 7.2 micrograms per liter. The Parties agree to be bound by the terms of this Consent Judgment and stipulate to its entry by the Court.

The Parties recognize that this Consent Judgment is a compromise of disputed claims. By entering into this Consent Judgment, Defendant does not admit any of the allegations of the Complaint, does not admit any fault or liability under any statutory or common law, and does not waive any rights, claims, or defenses with respect to any person, including the State of Michigan, its agencies, and employees, except as otherwise provided herein. By entering into this Consent Judgment, Plaintiffs do not admit the validity or factual basis of any of the defenses asserted by Defendant, do not admit the validity of any factual or legal determinations previously made by the Court in this matter, and do not waive any rights with respect to any person, including Defendant, except as otherwise provided herein. The Parties agree, and the Court by entering this Judgment finds, that the terms and conditions of the Judgment are reasonable, adequately resolve the environmental issues covered by the Judgment, and properly protect the public interest.

NOW, THEREFORE, upon the consent of the Parties, by their attorneys, it is hereby ORDERED and ADJUDGED:

I. JURISDICTION

A. This Court has jurisdiction over the subject matter of this action. This Court also has personal jurisdiction over the Defendant.

B. This Court shall retain jurisdiction over the Parties and the subject matter of this action to enforce this Judgment and to resolve disputes arising under the Judgment.

II. PARTIES BOUND

This Fourth Amended and Restated Consent Judgment applies to, is binding upon, and inures to the benefit of Plaintiffs, Defendant, and their successors and assigns.

III. DEFINITIONS

Whenever the terms listed below are used in this Fourth Amended and Restated Consent Judgment or the Attachments which are appended hereto, the following definitions shall apply:

A. “Consent Judgment” or “Judgment” shall mean this Fourth Amended and Restated Consent Judgment and all Attachments appended hereto. All Attachments to this Consent Judgment are incorporated herein and made enforceable parts of this Consent Judgment.

B. “Day” shall mean a calendar day unless expressly stated to be a working day. “Working Day” shall mean a day other than a Saturday, Sunday, or a State legal holiday. In computing any period of time under this Consent Judgment, where the last day would fall on a Saturday, Sunday, or State legal holiday, the period shall run until the end of the next working day.

C. “Defendant” shall mean Gelman Sciences Inc.

D. “1,4-dioxane” shall mean 1,4-dioxane released to or migrating from the Gelman Property. This term as it is used in this Consent Judgment shall not include any 1,4-dioxane that Defendant establishes by a preponderance of the evidence to have originated from a release for which Defendant is not legally responsible, except to the extent that such 1,4-dioxane is commingled with 1,4-dioxane released to or migrating from the Gelman Property. Nothing in this Consent Judgment shall preclude Defendant’s right to seek contribution or cost recovery from other parties responsible for such commingled 1,4-dioxane.

E. “Eastern Area” shall mean the part of the Site that is located east of Wagner Road and the areas encompassed by the Prohibition Zone.

F. “Evergreen Subdivision Area” shall mean the residential subdivision generally located north of I-94 and between Wagner and Maple Roads, bounded on the west by Rose Street, on the north by Dexter Road, and on the south and east by Valley Drive.

G. “Gelman” shall mean Gelman Sciences Inc.

H. “Gelman Property” shall mean the real property described in Attachment ___, where Defendant formerly operated a manufacturing facility in Scio Township, Michigan. The Defendant sold portions of the property and retains one parcel only for purposes of operating a water treatment system.

I. “Groundwater Contamination” shall mean the 1,4-dioxane in the groundwater at a concentration in excess of 7.2 micrograms per liter (“ug/L”), as determined by the sampling and analytical method(s) described in Attachment ___ to this Consent Judgment, subject to review and approval by MDEQ.

J. “MDEQ” shall mean the Michigan Department of Environmental Quality, the successor to the Michigan Department of Natural Resources and Environment, the Michigan Department of Natural Resources, and the Water Resources Commission.

K. “Municipal Water Connection Contingency Plan” or “MWCCP” shall mean a contingency plan developed to identify the steps necessary to connect residences that rely on a private water supply well to municipal water in the event those wells are threatened by the Groundwater Contamination and the estimated time necessary to implement each step of the water connection process.

L. “Parties” shall mean Plaintiffs and Defendant.

M. "Plaintiffs" shall mean the Attorney General of the State of Michigan *ex rel.* MDEQ.

N. "Prohibition Zone" shall mean the area that is subject to the institutional control established by the Prohibition Zone Order and this Consent Judgment. A map depicting the Prohibition Zone, as revised due to MDEQ's revision of the residential drinking water cleanup criterion for 1,4-dioxane in groundwater to 7.2 ug/L, is attached as Attachment ____.

O. "Prohibition Zone Order" shall collectively mean the Court's Order Prohibiting Groundwater Use, dated May 17, 2005, which established a judicial institutional control, and the March 8, 2011 Stipulated Order Amending Previous Remediation Orders, which incorporated the Prohibition Zone Order into the Consent Judgment and applied the institutional control to the Expanded Prohibition Zone, as defined in the Third Amendment to the Consent Judgment.

P. "PZ Boundary Wells" shall mean those wells on or near the boundary of the Prohibition Zone and designated in Section V.A.3.b herein, whose purpose is to detect movement of 1,4-dioxane near the Prohibition Zone boundary.

Q. "Remedial Action" or "Remediation" shall mean removal, treatment, and proper disposal of Groundwater and Soil Contamination, land use or resource restrictions, and institutional controls, pursuant to the terms and conditions of this Consent Judgment and work plans approved by the MDEQ under this Consent Judgment.

R. "Sentinel Wells" shall mean those wells designated in Section V.A.3.a herein, whose purpose is to detect movement of 1,4-dioxane toward the Prohibition Zone boundary.

S. "Site" shall mean the Gelman Property and other areas affected by the migration of 1,4-dioxane emanating from the Gelman Property.

T. “Soil Contamination” or “Soil Contaminant” shall mean 1,4-dioxane in soil at a concentration in excess of 500 micrograms per kilogram (“ug/kg”), as determined by the sampling and analytical method(s) described in Attachment ___ or another higher concentration limit derived by means consistent with Mich Admin Code R 299.18 or MCL 324.20120a.

U. “Verification Process” shall mean the process through which Defendant shall test for and verify concentrations of 1,4-dioxane in excess of the applicable threshold at the relevant monitoring wells, using the sampling and analytical method(s) described in Attachment ___ to this Consent Judgment. Specifically, Defendant shall sample the wells on a quarterly basis unless an alternative schedule is agreed upon with MDEQ. Groundwater samples will be analyzed for 1,4-dioxane, either by Defendant’s laboratory or a third-party laboratory retained by Defendant. In the event that 1,4-dioxane concentrations in groundwater sampled from any well exceed the applicable threshold, Defendant shall notify the MDEQ by phone or electronic mail within 48 hours of completion of the data verification and validation specified in the Quality Assurance Project Plan (“QAPP”) described in Section V.E. Defendant will resample the same well within five days after the data verification and validation of the original result or at a time agreed upon with MDEQ, if MDEQ opts to take split samples. If a second sample analyzed by Defendant’s laboratory or a third-party laboratory retained by Defendant has contaminant levels exceeding the applicable threshold, the exceedance will be considered verified and Defendant shall undertake the required response actions.

In the event that MDEQ opts to take split samples, Defendant shall also collect an additional split sample for potential analysis within the applicable holding time by a mutually agreed-upon third-party laboratory at Defendant’s expense. If the results from one sample, but

not both, confirm a verified exceedance, the third sample analyzed by the mutually agreed-upon third-party laboratory, using the sampling and analytical method(s) described in Attachment ___ to this Consent Judgment, shall serve as the relevant result for verification purposes.

V. “Western Area” shall mean that part of the Site located west of Wagner Road.

IV. IMPLEMENTATION OF REMEDIAL ACTION BY DEFENDANT

Defendant shall implement the Remedial Action to address Groundwater and Soil Contamination at, and emanating from, the Gelman Property in accordance with (1) the terms and conditions of this Consent Judgment; and (2) work plans approved by the MDEQ pursuant to this Consent Judgment.

V. GROUNDWATER REMEDIATION

Defendant shall design, install, operate, and maintain the systems described below. The objectives of these systems shall be to extract the contaminated groundwater from the subsurface at designated locations for treatment (as required) and proper disposal to the extent necessary to prevent the plumes of Groundwater Contamination emanating from the Gelman Property from expanding beyond the current boundaries of such plumes as of the date of this Consent Judgment, except into and within the Prohibition Zone, as described below. Defendant also shall prevent 1,4-dioxane from venting into surface waters in the Eastern and Western Areas at concentrations above the groundwater-surface water interface criterion established by the MDEQ for 1,4-dioxane under MCL 324.20120e(1)(a), except in compliance with Part 201, including MCL 324.20120e (“Groundwater-Surface Water Interface Objective”). Defendant also shall implement a monitoring program to verify the effectiveness of these systems.

A. Eastern Area

1. Objectives. The remedial objectives of the Eastern Area (“Eastern Area Objectives”) shall be the following:

a. Prohibition Zone Containment Objective. Defendant shall prevent Groundwater Contamination, regardless of the aquifer designation or the depth of the groundwater or Groundwater Contamination, from migrating beyond the boundaries of the Prohibition Zone, as may be amended, provided that MDEQ and the Defendant agree that any further expansion of the Prohibition Zone should be avoided, unless there are compelling reasons to do so. Compliance with the Prohibition Zone Containment Objective shall be determined as provided in Section V.A.4.b, below.

b. Groundwater-Surface Water Interface Objective. Defendant shall satisfy the Groundwater-Surface Water Interface Objective for the Eastern Area.

2. Prohibition Zone Institutional Control. Pursuant to MCL 324.20121(8) and the Prohibition Zone Order, the following land and resource use restrictions shall apply to the Prohibition Zone depicted on the map attached hereto as Attachment ___:

a. The installation by any person of a new water supply well in the Prohibition Zone for drinking, irrigation, commercial, or industrial use is prohibited.

b. The Washtenaw County Health Officer or any other entity authorized to issue well construction permits shall not issue a well construction permit for any well in the Prohibition Zone.

c. The consumption or use by any person of groundwater from the Prohibition Zone is prohibited.

d. The prohibitions listed in Subsections V.A.2.a–c do not apply to the installation and use of:

i. Groundwater extraction and monitoring wells as part of response activities approved by MDEQ or otherwise authorized under Parts 201 or 213 of the Natural Resources and Environmental Protection Act (“NREPA”), or other legal authority;

ii. Dewatering wells for lawful construction or maintenance activities, provided that appropriate measures are taken to prevent unacceptable human or environmental exposures to hazardous substances and comply with MCL 324.20107a;

iii. Wells supplying heat pump systems that either operate in a closed loop system or if not, are demonstrated to operate in a manner sufficient to prevent unacceptable human or environmental exposures to hazardous substances and comply with MCL 324.20107a;

iv. Emergency measures necessary to protect public health, safety, welfare or the environment;

v. Any existing water supply well that has been demonstrated, on a case-by-case basis and with the written approval of the MDEQ, to draw water from a formation that is not likely to become contaminated with 1,4-dioxane emanating from the Gelman Property. Such wells shall be monitored for 1,4-dioxane by Defendant at a frequency determined by the MDEQ; and

vi. The City of Ann Arbor’s Northwest Supply Well, provided that the City of Ann Arbor operates the Northwest Supply Well in a manner that does not prevent

its municipal water supply system from complying with all applicable state and federal laws and regulations.

e. Attachment ___ [consisting of the map depicting the Prohibition Zone and the above list of prohibitions/exceptions] shall be published and maintained in the same manner as a zoning ordinance at Defendant's sole expense. MDEQ-approved legal notice of the Prohibition Zone expansion reflected in Attachment ___ shall be provided at Defendant's sole expense.

f. The Prohibition Zone Institutional Control shall remain in effect in this form until such time as it is modified through amendment of this Consent Judgment, with a minimum of 30 days' prior notice to all Parties. The Defendant or MDEQ may move to amend the Consent Judgment to modify the boundaries of the Prohibition Zone to reflect material changes in the boundaries or fate and transport of the Groundwater Contamination as determined by future hydrogeological investigations or MDEQ-approved monitoring of the fate and transport of the Groundwater Contamination.

g. Future Inclusion of Triangle Property in the Prohibition Zone. The triangular piece of property located along Dexter Road/M-14 ("Triangle Property"), depicted in Attachment ___, will be included in the Prohibition Zone if the data obtained from monitoring wells MW-121s and MW-121d and other nearby wells, including any water supply well installed on the property, as validated by the Verification Process, indicate that the Groundwater Contamination has migrated to the Triangle Property.

h. Well Identification. To identify any wells newly included in the Prohibition Zone as a result of this modification or any future modification to the Prohibition

Zone, pursuant to an MDEQ-approved schedule, Defendant shall implement a well identification plan for the affected area that is consistent with the Expanded Prohibition Zone Well Identification Work Plan approved by MDEQ on February 4, 2011.

i. Plugging of Private Water Supply Wells. Defendant shall plug and replace any private drinking water wells identified in any areas newly included in the Prohibition Zone by connecting those properties to the municipal water supply. Unless otherwise approved by MDEQ, Defendant shall also properly plug non-drinking water wells in any areas newly included in the Prohibition Zone.

j. Municipal Water Connection Contingency Plan (“MWCCP”). Defendant shall develop a MWCCP addressing the potential provision of municipal water to residences using private water supply wells in the Calvin Street, Wagner Road, and Lakeview Avenue areas. The MWCCP will be developed according to a schedule to be approved by the MDEQ.

3. Monitoring and Extraction Well Installation and Operation. Defendant shall install the following additional wells in the Eastern Area:

a. Sentinel Well Installation. Defendant shall install the following two monitoring well clusters to monitor movement of 1,4-dioxane south of the northern Prohibition Zone boundary, in addition to MW-120, MW-123, and MW-129 that are already in place (collectively referred to herein as “Sentinel Wells”):

- i. Residential area in the general vicinity of Ravenwood and Barber Avenues (MW-A on map attached as Attachment); and
- ii. Residential area in the general vicinity of Sequoia Parkway and Archwood Avenues between Delwood and Center (MW-B on map attached as Attachment).

b. PZ Boundary Well Installation. Defendant shall install the following two monitoring well clusters to monitor the movement of 1,4-dioxane near the PZ Boundary (collectively referred to herein as “PZ Boundary Wells”):

- i. Residential, commercial, and vacant area east of South Wagner Road, north of West Liberty Road, west of Lakeview Avenue, and south of Second Sister Lake (MW-C on map attached as Attachment); and
- ii. Residential area south of the MW-112 cluster (MW-D on map attached as Attachment).

c. Sentinel and PZ Boundary Well Installation and Sampling.

Defendant shall install the new well clusters according to a schedule to be approved by the MDEQ. Each new Sentinel or PZ Boundary Well cluster will include two to three monitoring wells, and the determination of the number of wells shall be based on the MDEQ’s and the Defendant’s evaluation of the geologic conditions present at each location, consistent with past practice. The frequency of sampling these monitoring wells and the analytical methodology for sample analysis will be included in the Eastern Area System Monitoring Plan, as amended.

d. Drilling Techniques. Borings for new wells installed pursuant to Section V.A.3 shall be drilled to bedrock unless a different depth is approved by MDEQ or if conditions make such installation impracticable. The MDEQ reserves the right to require alternate drilling techniques to reach bedrock if standard methods are not able to do so. If the Defendant 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 MDEQ, Defendant may initiate dispute resolution under Section XVI of the Consent Judgment. The wells shall be installed using Defendant’s current

vertical profiling techniques, which are designed to minimize the amount of water introduced during drilling, unless the MDEQ agrees to alternate techniques.

e. Installation of Additional Groundwater Extraction Well.

Defendant shall install an additional groundwater extraction well (the “Rose Well”) and associated infrastructure in the general area bounded by [NAME] Street and [NAME] Street as designated on Attachment ___ according to a schedule approved by the MDEQ. The exact location of the Rose Well will be based on an evaluation of relevant geologic conditions, water quality, and other relevant factors, including access.

f. Eastern Area Groundwater Extraction. The Defendant shall operate the Evergreen Subdivision Area extraction wells, LB-4 and the Rose Well (or MDEQ-approved replacement well(s)) (collectively, the “Evergreen Extraction Wells”), and TW-19 and TW-16 (or MDEQ-approved replacement well(s)) (the “Maple Road Wells”), at a combined minimum purge rate of approximately 200 gallons per minute (“gpm”), in order to reduce the mass of 1,4-dioxane migrating through the Evergreen Subdivision Area and the mass of 1,4-dioxane migrating east of Maple Road, until such time as it determines that the Eastern Area Objectives will be met at a reduced extraction rate or without the need to operate these extraction wells. Defendant shall have the discretion to adjust the individual well purge rates in order to optimize mass removal and compliance with the Eastern Area Objectives, provided that it shall operate the Evergreen Extraction Wells at a combined minimum purge rate of approximately 100 gpm, until such time as it determines that the Eastern Area Objectives will be met at a reduced extraction rate without the need to operate these wells. Before significantly reducing or terminating extraction from either the Evergreen Extraction Wells below the 100 gpm minimum

purge rate or the combined Evergreen and Maple Road Wells purge rate of 200 gpm, Defendant shall consult with MDEQ and provide a written analysis, together with the data that supports its conclusion. MDEQ will review the analysis and data and provide a written response to Defendant within 56 days after receiving Defendant's written analysis and data. If the MDEQ disagrees with the Defendant's decision to reduce or terminate extraction, it may initiate dispute resolution under Section XVI of the Consent Judgment. The Defendant shall not significantly reduce or terminate the Wagner Road extraction while MDEQ is reviewing or disputing the Defendant's determination.

4. Verification Monitoring. Defendant shall amend its Eastern Area System Monitoring Plan dated [REDACTED] to include the monitoring wells installed under Section V.A.3 within [REDACTED] days of their installation. The Eastern Area System Monitoring Plan, as amended (hereinafter the "Verification Plan"), shall be sufficient to meet the objectives of this Section.

a. Objectives of Verification Plan. The Verification Plan shall include the collection of data sufficient to measure the effectiveness of the System: (i) ensuring that any potential migration of Groundwater Contamination outside of the Prohibition Zone is detected before such migration occurs; (ii) tracking the migration of the Groundwater Contamination to determine the need for additional investigation and monitoring points to meet the objectives in Section V.A.1, including the determination of the fate and transport of Groundwater Contamination when and if it reaches the portion of the Huron River that is the easternmost extent of the Prohibition Zone; (iii) verifying that the Groundwater-Surface Water Interface Objective is satisfied; and (iv) evaluating potential changes in groundwater flow resulting from adjustments in extraction rates at different extraction well locations. The

Verification Plan shall be continued until terminated pursuant to Section V.D.

b. Compliance Determination. The Verification Plan shall include the following steps for verifying sampling results and confirming compliance or noncompliance with the Eastern Area Objectives.

i. Verification Process for Sentinel Wells. Defendant shall conduct the Verification Process as defined in Section III.U for each Sentinel Well to verify any exceedance of 7.2 ug/L. A verified detection above 7.2 ug/L will be considered a “Verified Sentinel Well Exceedance” and Defendant shall take the response actions set forth in Section V.A.5.a.

ii. Verification Process for PZ Boundary Wells. Defendant shall conduct the Verification Process as defined in Section III.U for each PZ Boundary Well to verify any exceedance of 4.6 ug/L and/or 7.2 ug/L. A verified detection above 4.6 ug/L will be considered a “Verified PZ Boundary Well Exceedance” and Defendant shall take the response actions set forth in Section V.5.b. A verified detection above 7.2 ug/L will be considered a “Confirmed PZ Boundary Well Noncompliance” and Defendant shall take the response actions set forth in Section V.5.c.

5. Eastern Area Response Actions. Defendant shall take the following response actions:

a. Verified Sentinel Well Exceedance. In the event of a Verified Sentinel Well Exceedance, Defendant shall sample that Sentinel Well monthly. If the concentrations of 1,4-dioxane are less than 7.2 ug/L in samples from any two successive monthly sampling events, Defendant shall return to sampling that Sentinel Well quarterly. If, however,

the concentrations of 1,4-dioxane exceed 7.2 ug/L in samples collected from the same Sentinel Well in any three successive monthly sampling events, Defendant shall take the following actions:

i. If involving a Sentinel Well in the north, installation of up to two additional well clusters near the new Prohibition Zone boundary (the location of which shall be determined based on the location of the initial exceedance). If more than one Sentinel Well in the north exceeds the trigger level, Defendant and MDEQ will mutually agree on the number of PZ Boundary Wells to be installed. Defendant shall sample the new PZ Boundary Wells monthly until Defendant completes the hydrogeological assessment described in Section V.A.5.a.ii below.

ii. A focused hydrogeological assessment of the applicable area will be undertaken to analyze the likelihood that 1,4-dioxane at levels above 7.2 ug/L will migrate outside the expanded Prohibition Zone. The assessment shall also opine on the mechanism causing the exceedances and the potential risk of impact to private water wells. Defendant shall provide this assessment within 60 days after installation of the new PZ Boundary Well(s). If the focused hydrogeological assessment determines that there is a low potential for the Groundwater Contamination to migrate beyond the PZ boundary, normal quarterly monitoring of the Sentinel Well and applicable PZ Boundary Wells will resume. If the focused hydrogeological assessment determines that there is a reasonable likelihood for 1,4-dioxane greater than 7.2 ug/L to migrate beyond the Prohibition Zone boundary, the Defendant shall initiate the following response actions:

(A) Defendant shall continue to monitor the affected Sentinel Well(s) and the Prohibition Zone Boundary Wells on a monthly basis.

(B) If the Verified Sentinel Well Exceedance occurs in a Sentinel Well to be installed near the northern boundary of the Prohibition Zone, Defendant shall develop a "Remedial Contingency Plan" that identifies the response actions that could be implemented to prevent Groundwater Contamination from migrating beyond the Prohibition Zone Boundary. The Remedial Contingency Plan may identify expansion of the Prohibition Zone as an option, subject to Section V.A.1.a. Defendant shall submit the Remedial Contingency Plan to the MDEQ within 45 days after the focused hydrogeological assessment is completed.

(C) Defendant will review the Municipal Water Connection Contingency Plan, if applicable, and initiate preliminary activities related to provision of municipal water to potentially impacted residential wells. The amount of work to be completed will be based on the anticipated time frame for water extension and the projected time of migration to potential receptors.

b. Verified PZ Boundary Well Exceedance. In the event of a Verified PZ Boundary Well Exceedance, Defendant shall sample that PZ Boundary Well monthly. If the concentrations of 1,4-dioxane are less than 4.6 ug/L in samples from any two successive monthly sampling events, Defendant shall return to sampling that PZ Boundary Well quarterly. If, however, the concentrations of 1,4-dioxane exceed 4.6 ug/L in samples collected from the same PZ Boundary Well in any three successive monthly sampling events, Defendant shall take the following actions:

i. Defendant, in consultation with the MDEQ, shall sample select residential wells in the immediate vicinity of the impacted PZ Boundary Well.

ii. Defendant will review the Municipal Water Connection Contingency Plan, and initiate further activities related to provision of municipal water to potentially impacted residential wells as appropriate. The amount of work to be completed will be based on the anticipated time frames for water extension and the projected time of migration to potential receptors.

iii. If the Verified PZ Boundary Well Exceedance is at the northern boundary of the Prohibition Zone, Defendant shall implement the Remedial Contingency Plan as necessary to prevent contaminant levels above 7.2 ug/L from migrating beyond the Prohibition Zone Boundary.

c. Confirmed PZ Boundary Well Noncompliance. In the event of a Confirmed PZ Boundary Well Noncompliance, Defendant shall sample that PZ Boundary Well monthly. If the concentrations of 1,4-dioxane are less than 7.2 ug/L in samples from any two successive monthly sampling events, Defendant shall return to sampling that PZ Boundary Well quarterly. If, however, the concentrations of 1,4-dioxane exceed 7.2 ug/L in samples collected from the same PZ Boundary Well in any four successive monthly sampling events, Defendant shall take the following actions:

i. Defendant shall sample any active drinking water supply wells in the immediate vicinity of the impacted PZ Boundary Well on a monthly basis.

ii. Defendant will review the Municipal Water Connection Contingency Plan and implement the remaining activities necessary to provide municipal water

to potentially impacted residential wells.

iii. Defendant shall connect any such residences to municipal water on a case-by-case basis as determined by the MDEQ or if requested by the property owner.

d. Bottled Water. At any time, Defendant shall supply the residents of any property with a threatened well with bottled water if, prior to connection to municipal water, contamination levels in the water supply well servicing the property exceed 3.0 ug/L. This obligation shall terminate if either (i) the contamination level in the residential well drops below 3.0 ug/L during two consecutive sampling events or (ii) the property is connected to an alternative water supply.

e. Triangle Property. If a drinking water supply well is installed on the Triangle Property in the future, Defendant shall take the necessary steps to obtain permission to sample the well on a schedule approved by the MDEQ. Defendant shall monitor such wells on the MDEQ-approved schedule unless or until that property is included in the Prohibition Zone, at which time, the water supply well(s) shall be addressed as part of the well identification process described in Section V.A.2.h.

f. Downgradient Investigation. The Defendant shall continue to implement its Downgradient Investigation Work Plan as approved by the MDEQ on February 4, 2005, to track the Groundwater Contamination as it migrates to ensure any potential migration of Groundwater Contamination outside of the Prohibition Zone is detected before such migration occurs.

6. Operation and Maintenance. Subject to Sections V.A.3.f and V.A.9, Defendant shall operate and maintain the Eastern Area System as necessary to meet the

Prohibition Zone Containment Objective. Defendant shall continuously operate, as necessary, and maintain the Eastern Area System according to MDEQ-approved operation and maintenance plans until Defendant is authorized to terminate extraction well operations pursuant to Section V.C.1.

7. Treatment and Disposal. Groundwater extracted by the extraction well(s) in the Eastern Area System shall be treated (as necessary) using methods approved by the MDEQ and disposed of using methods approved by the MDEQ, including, but not limited to, the following options:

a. Groundwater Discharge. The purged groundwater shall be treated to reduce 1,4-dioxane concentrations to the level required by the MDEQ, and discharged to groundwater at locations approved by MDEQ in compliance with a permit or exemption authorizing such discharge.

b. Sanitary Sewer Discharge. Use of the sanitary sewer leading to the Ann Arbor Wastewater Treatment Plant is conditioned upon approval of the City of Ann Arbor. If discharge is made to the sanitary sewer, the Eastern Area System shall be operated and monitored in compliance with the terms and conditions of an Industrial User's Permit from the City of Ann Arbor, and any subsequent written amendment of that permit made by the City of Ann Arbor. The terms and conditions of any such permit and any subsequent amendment shall be directly enforceable by the MDEQ against Defendant as requirements of this Consent Judgment.

c. Storm Drain Discharge. Use of the storm drain is conditioned upon issuance of an NPDES permit and approval of such use by the City of Ann Arbor and the

Allen Creek Drainage District. Discharge to the Huron River via the Ann Arbor storm water system shall be in accordance with the NPDES permit and conditions required by the City and the Drainage District. If the storm drain is to be used for disposal, no later than 21 days after permission is granted by the City and the Drainage District to use the storm drain for disposal of purged groundwater, Defendant shall submit to MDEQ, the City of Ann Arbor, and the Drainage District for their review and approval, a protocol under which the purge system shall be temporarily shut down: (i) for maintenance of the storm drain and (ii) during storm events to assure that the storm water system retains adequate capacity to handle run-off created during such events. The purge system shall be operated in accordance with the approved protocol for temporary shutdown.

d. Existing or Additional/Replacement Pipeline to Wagner Road Treatment Facility. Installation of an additional pipeline or a pipeline replacing the existing pipeline to the Wagner Road Treatment Facility is conditioned upon approval of such installation by the MDEQ. If the pipeline is proposed to be installed on public property, the pipeline installation is conditioned upon approval of such installation by the City of Ann Arbor, Scio Township, and the Washtenaw County Road Commission, if required by statute or ordinance, or by Order of the Court pursuant to the authority under MCL 324.20135a. Defendant shall design the pipeline in compliance with all state requirements and install the pipeline with monitoring devices to detect any leaks. If leaks are detected, the system will automatically shut down and notify an operator of the condition. In the event that any leakage is detected, Defendant shall take any measures necessary to repair any leaks and perform any remediation that may be necessary. To reduce the possibility of accidental damage to the pipeline during any future

construction, the location of the pipeline will be registered with MISS DIG System, Inc. Nothing in this Subsection shall relieve Defendant of its obligations to properly treat and dispose of contaminated groundwater in compliance with the Consent Judgment and applicable permit(s), using one or more of the other options for disposal, as necessary.

e. Additional Pipeline from Maple Road Extraction Well(s).

Installation and operation of a proposed pipeline from the Maple Road area to Evergreen area is conditioned upon approval of such installation and operation by the MDEQ. If the pipeline is proposed to be installed on public property, the pipeline installation is conditioned upon approval of such installation by the appropriate local authorities, if required by statute or ordinance, or Order of the Court pursuant to the authority under MCL 324.20135a. Defendant shall design any such pipeline in compliance with all state requirements and install it with monitoring devices to detect any leaks. In the event any leakage is detected, Defendant shall take any measures necessary to repair any leaks and perform any remediation that may be necessary. The pipeline shall be registered with the MISS DIG System, Inc., to reduce the possibility of accidental damage to the pipeline. Defendant may operate such pipeline to, among other things, convey groundwater extracted from the Maple Road Extraction Wells to the Wagner Road treatment systems, where it can be treated and disposed via the Defendant's permitted surface water discharge (capacity permitting).

f. Additional Pipeline from Rose Extraction Well. Installation and operation of a proposed pipeline from the Rose Extraction Well to the existing Evergreen area infrastructure is conditioned upon approval of such installation and operation by the MDEQ. If the pipeline is proposed to be installed on public property, the pipeline installation is conditioned

upon approval of such installation by the appropriate local authorities, if required by statute or ordinance, or Order of the Court pursuant to the authority under MCL 324.20135a. Defendant shall design any such pipeline in compliance with all state requirements and install it with monitoring devices to detect any leaks. In the event any leakage is detected, Defendant shall take any measures necessary to repair any leaks and perform any remediation that may be necessary. The pipeline shall be registered with the MISS DIG System, Inc., to reduce the possibility of accidental damage to the pipeline. Defendant may operate such pipeline to, among other things, convey groundwater extracted from the Rose Well to the Wagner Road treatment systems, where it can be treated and disposed via the Defendant's permitted surface water discharge (capacity permitting).

8. Wagner Road Extraction. The extraction wells currently or in the future located just west of Wagner Road (the "Wagner Road Wells") shall be considered part of the Eastern Area System even though they are located west of Wagner Road. The Defendant shall initially operate the Wagner Road Wells at a combined 200 gpm extraction rate. The Defendant shall continue to operate the Wagner Road Wells 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 Objectives will be met with a lower combined extraction rate or without the need to operate these wells. Before significantly reducing or terminating extraction from the Wagner Road Wells, Defendant shall consult with MDEQ and provide a written analysis, together with the data that supports its conclusion. MDEQ will review the analysis and data and provide a written response to Defendants within 56 days after receiving Defendant's written analysis and data. If the MDEQ disagrees with the Defendant's decision to reduce or terminate extraction, it may initiate dispute

resolution under Section XVI of the Consent Judgment. The Defendant shall not significantly reduce or terminate the Wagner Road extraction while MDEQ is reviewing or disputing the Defendant's determination.

9. Options Array for Transmission Line Failure/Inadequate Capacity. The Defendant has provided the MDEQ with documentation regarding the life expectancy of the deep transmission line and an Options Array (attached as Attachment ____). The Options Array describes the various options that may be available if the deep transmission line fails or the 200 gpm capacity of the existing deep transmission line that transports groundwater from the Eastern Area System to the treatment system located on the Gelman Property proves to be insufficient to meet the Prohibition Zone Containment Objective.

B. Western Area

1. Western Area Non-Expansion Cleanup Objective. The Defendant shall prevent the horizontal extent of the Groundwater Contamination in the Western Area, regardless of the depth (as established under Section V.B.3.c), from expanding. Compliance with this objective shall be determined as set forth in Section V.B.4, below. Continued migration of Groundwater Contamination into the Prohibition Zone, as may be modified, shall not be considered expansion and is allowed. A change in the horizontal extent of Groundwater Contamination resulting solely from the Court's application of a new cleanup criterion shall not constitute expansion. Nothing in this Section prohibits MDEQ from seeking additional response activities pursuant to Section XVIII.E of this Consent Judgment. Compliance with the Non-Expansion Cleanup Objective shall be established and verified by the network of monitoring wells in the Western Area to be selected and/or installed by the Defendant as provided in

Sections V.B.3.b and c, below (“Western Area Compliance Well Network”) and the Compliance Process set forth in Section V.B.4 (“Western Area Compliance Process”). There is no independent mass removal requirement or a requirement that Defendant operate any particular extraction well(s) at any particular rate beyond what is necessary to prevent the prohibited expansion, provided that Defendant’s ability to terminate all groundwater extraction in the Western Area is subject to Section V.C.1.c and the establishment of property use restrictions as required by Section V.B.3.a. If prohibited expansion occurs, as determined by the Western Area Compliance Well Network and the Western Area Compliance Process, Defendant shall undertake additional response activities to return the Groundwater Contamination to the boundary established by the Western Area Compliance Well Network (such response activities may include recommencement of extraction at particular locations).

MDEQ agreed to modify the remedial objective for the Western Area as provided herein to a no expansion performance objective in reliance on Defendant’s agreement to comply with a no expansion performance objective for the Western Area. To ensure compliance with this objective, Defendant acknowledges that in addition to taking further response action to return the horizontal extent of Groundwater Contamination to the boundary established by the Compliance Well Network, Defendant shall be subject to stipulated penalties for violation of the objective as provided in Section XVII. Nothing in this Section shall limit Defendant’s ability to contest the assessment of such stipulated penalties as provided in this Consent Judgment.

2. Western Area Groundwater-Surface Water Interface Objective.

a. Defendant shall satisfy the Groundwater-Surface Water Interface Objective in the Western Area.

b. Within days after the establishment of any downward revision of the groundwater-surface water interface criterion for 1,4-dioxane under Part 201, Defendant shall submit to MDEQ for its review and approval a work plan for investigation of the groundwater-surface water interface in the Western Area and a schedule for implementing the work plan.

3. Western Area Response Activities. Defendant shall implement the following response activities:

a. Groundwater Extraction. The Western Area Response Activities shall include the operation of groundwater extraction wells as necessary to meet the objective described in Section V.B.1 and 2, including operation of the Marshy Area groundwater extraction system described in Defendant's May 5, 2000 Final Design and Effectiveness Monitoring Plan, as subsequently modified and approved by the MDEQ. Purged groundwater from the Western Area shall be treated with ozone/hydrogen peroxide or ultraviolet light and oxidizing agent(s), or such other method approved by the MDEQ to reduce 1,4-dioxane concentrations to the level required by NPDES Permit No. MI-0048453, as amended or reissued. Discharge to the Honey Creek tributary shall be in accordance with NPDES Permit No. MI-0048453, as amended or reissued. The Defendant shall have property use restrictions that are sufficient to prevent unacceptable exposures in place for any properties affected by Soil Contamination or Groundwater Contamination before completely terminating extraction in the Western Area.

b. Western Area Delineation Investigation. Defendant shall install the following additional groundwater monitoring wells at the approximate locations described

below and on the map attached as Attachment ___ to address gaps in the current definition of the Groundwater Contamination and to further define the horizontal extent of Groundwater

Contamination in the Western Area:

- i. Commercial area north of Jackson Road (across from April Drive) and south of US-Highway I-94, near MW-40s&d. (Deep well only) (MW-E on Attachment ___);
- ii. Commercial area north of Jackson Road (across from Nancy Drive) and south of US-Highway I-94, east of MW-40s&d and west of the MW-133 cluster (MW-F on Attachment ___);
- iii. Residential area west of West Delhi, north of Jackson Road and south of US-Highway I-94 (MW-G on Attachment ___);
- iv. Residential area southwest of the MW-141 cluster in the vicinity of Kilkenny and Birkdale (MW-H on Attachment ___); and
- v. Residential area along Myrtle between Jackson Road and Park Road (Shallow Well only) (MW-I on Attachment ___).

This investigation may be amended by agreement of MDEQ and the Defendant to reflect data obtained during the investigation. Defendant shall promptly provide the data/results from the investigation to the MDEQ so that the MDEQ receives them prior to Defendant's submission of the Compliance Monitoring Plan described in Subsection V.B.3.c, below. Based on the data obtained from the wells described above, Defendant may propose to install additional monitoring wells to potentially serve as Compliance Wells. MDEQ reserves the right to request the installation of additional borings/monitoring wells, if the totality of the data indicate that the horizontal extent of Groundwater Contamination has not been completely defined.

c. Compliance Well Network and Compliance Monitoring Plan.

Within 15 days of completing the investigation described in Subsection V.B.3.b, above, Defendant shall amend its Western Area Monitoring Plan dated ___, including Defendant's analysis of the data obtained during the investigation for review and approval by the MDEQ, to identify the network of compliance wells that will be used to confirm compliance with the

Western Area Non-Expansion Cleanup Objective (hereinafter referred to as the “Compliance Monitoring Plan”). The Compliance Monitoring Plan shall include the collection of data from a compliance well network sufficient to verify the effectiveness of the Western Area System in meeting the Western Area Non-Expansion Cleanup Objective. The locations and/or number of the Compliance Wells for the Compliance Monitoring Plan will be determined based on the data obtained from the investigation Defendant shall conduct pursuant to Section V.B.3.b, and shall consist of existing monitoring wells. The MDEQ shall approve the Compliance Monitoring Plan, submit to Defendant changes in the Compliance Monitoring Plan that would result in approval, or deny the Compliance Monitoring Plan within 35 days of receiving the Compliance Monitoring Plan. Defendant shall either implement the MDEQ-approved Compliance Monitoring Plan, including any changes required by MDEQ, or initiate dispute resolution pursuant to Section XVI of this Consent Judgment. Defendant shall implement the MDEQ- (or Court)-approved Compliance Monitoring Plan to verify the effectiveness of the Western Area System in meeting the Western Area Non-Expansion Cleanup Objective. Defendant shall continue to implement the current MDEQ-approved monitoring plan(s) until MDEQ approves the Compliance Monitoring Plan required by this Section. The monitoring program shall be continued until terminated pursuant to Section V.D.

d. Municipal Water Connection Contingency Plan (“MWCCP”). Defendant shall develop a MWCCP addressing the potential provision of municipal water to residences using private water supply wells on Elizabeth Road. The MWCCP will be developed according to a schedule to be approved by the MDEQ.

4. Compliance Determination. The Compliance Monitoring Plan shall include the following steps for verifying sampling results and confirming compliance or noncompliance with the Western Area Non-Expansion Cleanup Objective.

a. Monitoring Frequency/Analytical Method. Defendant will sample groundwater from the Compliance Wells on a quarterly basis unless an alternative schedule is agreed upon with MDEQ. Groundwater samples will be submitted to a laboratory owned, operated or contracted by Defendant for 1,4-dioxane analysis.

b. Verification Process. Defendant shall conduct the Verification Process as defined in Section III.U for each Compliance Well to verify any exceedance of 7.2 ug/L. A verified detection above 7.2 ug/L will be considered a "Verified Compliance Well Exceedance." If a second sample does not exceed 7.2 ug/L, monitoring of the well will increase to monthly until the pattern of exceedances is broken by two successive sampling events below 7.2 ug/L. At that point, a quarterly monitoring frequency will resume.

c. Response Activities. In the event of a Verified Compliance Well Exceedance, Defendant shall take the following response actions:

i. Sample selected nearby residential water wells. Defendant shall sample select residential wells unless otherwise agreed upon with the MDEQ. Prior to sampling the selected residential wells, Defendant shall submit a list of the wells to be sampled and other sampling details to MDEQ for approval. In selecting residential wells to be sampled, Defendant shall consider data collected from monitoring and residential wells within 1,000 feet of the Compliance Well(s) that exceeded 7.2 ug/L, groundwater flow, hydrogeology and well depth. MDEQ shall respond within seven days after receipt of Defendant's list of select

residential wells and shall either approve the list or propose alternate or additional residential wells to be sampled.

ii. If a Verified Compliance Well Exceedance occurs in the same Compliance Well in any two successive monthly sampling events, Defendant shall take the following response actions:

(A) Continue to sample the previously selected residential well(s) unless otherwise agreed upon with the MDEQ.

(B) Conduct focused hydrogeological investigation to determine whether the Verified Compliance Well Exceedance is a temporary fluctuation or evidence of plume expansion. The investigation shall include the measurement of groundwater levels in relevant monitoring wells in the vicinity of the Compliance Well with the Verified Compliance Well Exceedance. Defendant shall report its findings to MDEQ within 30 days of completing the hydrogeological investigation.

(C) Conduct Statistical Analysis. During the eight month period after the second consecutive Verified Compliance Well Exceedance, Defendant shall complete a statistical analysis of the data using a Mann-Kendall Trend Test or other statistical technique approved by MDEQ.

(D) Interim Measures Feasibility Study. During the eight month period after the second consecutive Verified Compliance Well Exceedance, Defendant shall evaluate affirmative measures to control migration of the Groundwater Contamination, including adjustments in groundwater extraction rates. Defendant shall submit to MDEQ a feasibility study within 240 days of the Verified Compliance Well Exceedance. The

feasibility study shall include an evaluation of the feasibility and effectiveness of all applicable measures to control expansion of the Groundwater Contamination in light of the geology and current understanding of the fate and transport of the Groundwater Contamination.

iii. If, after conducting the focused hydrogeological investigation and statistical analysis, the totality of the data evidences a reasonable likelihood that the Western Area Non-Expansion Cleanup Objective is not being met, Defendant shall evaluate and, subject to MDEQ approval, implement one or more of the potential response activities identified in the feasibility study, or other response activities, as necessary to achieve compliance with the Western Area Non-Expansion Cleanup Objective. Nothing in this Section shall prevent Defendant from implementing response activities as necessary to achieve the Western Area Non-Expansion Cleanup Objective at an earlier time.

d. Stipulated Penalties/Exacerbation. Defendant shall not be subject to stipulated penalties until concentrations in at least four consecutive monthly samples from a given Compliance Well exceed 7.2 ug/L, at which point Defendant shall be subject to stipulated penalties for violation of the Western Area Non-Expansion Cleanup Objective as provided in Section XVII, provided, however, that Defendant shall not be subject to stipulated penalties with respect to prohibited expansion of the horizontal extent of the Groundwater Contamination if Defendant can demonstrate by a preponderance of the evidence that the migration of the Groundwater Contamination is caused in whole or in part by the actions of an unrelated third party that have contributed to or exacerbated the Groundwater Contamination. In such event, although Defendant is not subject to stipulated penalties, Defendant shall remain responsible for mitigating the migration of the Groundwater Contamination. Nothing in this Consent Judgment

shall preclude Defendant from seeking contribution or cost recovery from other parties responsible for or contributing to exacerbation of the Groundwater Contamination.

e. Residential Drinking Water Well Response Actions. If, after conducting the focused hydrogeological investigation and statistical analysis, the totality of the data evidences a reasonable likelihood that a residential drinking water supply well will be contaminated with 1,4-dioxane above 7.2 ug/L, Defendant shall evaluate and, if appropriate, implement response activities, including, without limitation, the following:

- i. Sampling of at risk residential drinking water supply well(s) on a monthly basis;
- ii. Implementation of affirmative interim measures to mitigate the migration of the Groundwater Contamination toward the residential drinking water supply well(s) as determined in the feasibility study described in Section V.B.4.c.ii.(D);
- iii. Evaluation of land use restrictions and/or institutional controls to eliminate unacceptable exposures to Groundwater Contamination; and
- iv. Evaluation of water supply alternatives including, but not limited to, providing bottled water, a municipal water connection, and point-of-use treatment systems.

If at any time 1,4-dioxane is detected in an active residential well above 3.0 ug/L, Defendant shall promptly at its expense, offer the resident the option of receiving bottled water and shall sample the residential well monthly. These obligations shall terminate if either (i) the contamination level in the residential well drops below 3.0 ug/L during two consecutive sampling events or (ii) residence is connected to a permanent alternative water supply.

Furthermore, Defendant shall work with MDEQ and municipal authorities to evaluate long-term and economically reasonable water supply options.

5. Groundwater Contamination Definition. Additional definition of the extent of Groundwater Contamination, including within the plume boundary, and/or characterization of source areas shall not be required beyond the additional monitoring wells to be installed as provided in Section V.B.3.c. MDEQ reserves the right to petition the Court to require additional work if there are findings that MDEQ determines warrant additional Groundwater Contamination definition.

C. Termination of Groundwater Extraction Systems

1. Defendant may only terminate the Groundwater Extraction Systems listed below as provided below:

a. Termination Criteria for Evergreen Extraction Wells/Maple Road Wells/Wagner Road Wells. Except as otherwise provided pursuant to Section V.C.2, Defendant may only reduce (below the stated minimum purge rates) or terminate operation of the Evergreen Extraction Wells/Maple Road Wells as provided in Section V.A.3.f. and of the Wagner Road Wells as provided in Section V.A.8.

b. Termination Criteria for Western Area. Except as otherwise provided pursuant to Section V.C.2, and subject to Section V.B.1., Defendant shall not terminate all groundwater extraction in the Western Area until:

i. Defendant can establish to MDEQ's satisfaction that groundwater extraction is no longer necessary to prevent the expansion of Groundwater Contamination prohibited under Section V.B.1;

ii. Defendant's demonstration shall also establish that groundwater extraction is no longer necessary to satisfy the Groundwater-Surface Water Interface Objective under Section V.B.2; and

iii. Defendant has the land use or resource use restrictions described in Section V.B.3.a in place.

Defendant's request to terminate extraction in the Western Area must be made in writing for review and approval pursuant to Section X of the Consent Judgment. The request must include all supporting documentation demonstrating compliance with the termination criteria. Defendant may initiate dispute resolution pursuant to Section XVI of the Consent Judgment if the MDEQ does not approve the Defendant's request/demonstration. Defendant may terminate Western Area groundwater extraction upon: (i) receipt of notice of approval from MDEQ; or (ii) receipt of notice of a final decision approving termination pursuant to dispute resolution procedures of Section XVI of this Consent Judgment.

2. Modification of Termination Criteria/Cleanup Criteria. The termination criteria provided in Section V.C.1. and/or the definition of "Groundwater Contamination" or "Soil Contamination" may be modified as follows:

a. After entry of this Amended Consent Judgment, Defendant may propose to the MDEQ that the termination criteria be modified based upon either or both of the following:

i. a change in legally applicable or relevant and appropriate regulatory criteria since the entry of this Consent Judgment; for purposes for this Subsection,

“regulatory criteria” shall mean any promulgated standard criterion or limitation under federal or state environmental law specifically applicable to 1,4-dioxane; or

ii. scientific evidence newly released since the date of the United States Environmental Protection Agency’s IRIS risk assessment for 1,4-dioxane (August 11, 2010), which, in combination with the existing scientific evidence, establishes that different termination criteria/definitions for 1,4-dioxane are appropriate and will assure protection of public health, safety, welfare, the environment, and natural resources.

b. Defendant shall submit any such proposal in writing, together with supporting documentation, to the MDEQ for review.

c. If the Defendant and MDEQ agree to a proposed modification, the agreement shall be made by written Stipulation filed with the Court pursuant to Section XXIV of this Amended Consent Judgment.

d. If MDEQ disapproves the proposed modification, Defendant may invoke the dispute resolution procedures contained in Section XVI of this Consent Judgment. Alternatively, if MDEQ disapproves a proposed modification, Defendant may seek to have the dispute resolved pursuant to Subsection V.C.3.

3. If the Defendant invokes the procedures of this Subsection, Defendant and MDEQ shall prepare a list of the items of difference to be submitted to a scientific advisory panel for review and recommendations. The scientific advisory panel shall be comprised of three persons with scientific expertise in the discipline(s) relevant to the items of difference. No member of the panel may be a person who has been employed or retained by either Party, except

persons compensated solely for providing peer review of the Hartung Report, in connection with the subject of this litigation.

a. If this procedure is invoked, each Party shall, within 14 days, select one member of the panel. Those two members of the panel shall select the third member. Defendant shall, within 28 days after this procedure is invoked, establish a fund of at least \$10,000.00, from which each member of the panel shall be paid reasonable compensation for their services, including actual and necessary expenses. If the MDEQ and Defendant do not agree concerning the qualifications, eligibility, or compensation of panel members, they may invoke the dispute resolution procedures contained in Section XVI of this Consent Judgment.

b. Within a reasonable period of time after selection of all panel members, the panel shall confer and establish a schedule for acceptance of submissions from the MDEQ and the Defendant completing review and making recommendations on the items of difference.

c. The scientific advisory panel shall make its recommendations concerning resolution of the items of difference to the MDEQ and the Defendant. If both MDEQ and Defendant accept those recommendations, the termination criteria shall be modified in accordance with such recommendations. If the MDEQ and the Defendant disagree with the recommendations, the MDEQ's proposed resolution of the dispute shall be final unless Defendant invokes the procedures for judicial dispute resolution as provided in Section XVI of the Consent Judgment. The recommendation of the scientific advisory panel and any related documents shall be submitted to the Court as part of the record to be considered by the Court in resolving the dispute.

D. Post-Termination Monitoring

1. Eastern Area

a. Prohibition Zone Containment Objective. Except as otherwise provided pursuant to Section V.C.2, Defendant shall continue to monitor the Groundwater Contamination as it migrates within the Prohibition Zone until all approved monitoring wells are below 7.2 ug/L or such other applicable criterion for 1,4-dioxane for six consecutive months, or Defendant can establish to MDEQ's satisfaction that continued monitoring is not necessary to satisfy the Prohibition Zone Containment Objective. Defendant's request to terminate monitoring must be made in writing for review and approval pursuant to Section X of the Consent Judgment. Defendant may initiate dispute resolution pursuant to Section XVI of this Consent Judgment if the MDEQ does not approve its termination request.

b. Groundwater-Surface Water Interface Objective. Except as provided in Section V.D.1.a., for Prohibition Zone monitoring wells, post-termination monitoring is required for Eastern Area wells for a minimum of ten years after purging is terminated under Section V.C.1.b. with cessation subject to MDEQ approval. Defendant's request to terminate monitoring must be made in writing for review and approval pursuant to Section X of the Consent Judgment. Defendant may initiate dispute resolution pursuant to Section XVI of this Consent Judgment if the MDEQ does not approve its termination request.

2. Western Area. Post-termination monitoring will be required for a minimum of ten years after termination of extraction with cessation subject to MDEQ approval. Except as otherwise provided pursuant to Section V.C.2, Defendant shall continue to monitor the groundwater in accordance with approved monitoring plan(s), to verify that it remains in

compliance with the Non-Expansion Cleanup Objective set forth in Section V.B.1 and the Groundwater-Surface Water Interface Objective set forth in Section V.B.2. If any exceedance is detected, Defendant shall immediately notify MDEQ and take whatever steps are necessary to comply with the requirements of Section V.B.1, or V.B.2, as applicable.

E. Quality Assurance Project Plan (QAPP). Defendant previously voluntarily submitted to MDEQ for review and approval a QAPP, which is intended to describe the quality control, quality assurance, sampling protocol, and chain of custody procedures that will be used in carrying out the tasks required by this Consent Judgment. MDEQ shall review, and Defendant shall revise accordingly, the QAPP to ensure that it is in general accordance with the United States Environmental Protection Agency's ("U.S. EPA" or "EPA") "Guidance for Quality Assurance Project Plans," EPA QA/G-5, December 2002; and American National Standard ANSI/ASQC E4-2004, "Quality Systems For Environmental Data And Technology Programs – Requirements With Guidance For Use."

VI. GELMAN PROPERTY SOILS

A. Gelman Property Objectives. The objectives for the Gelman Property shall be to prevent the migration of 1,4-dioxane from contaminated soils on the Gelman Property into any aquifer at concentrations or locations that cause non-compliance with the Western Area objectives set forth in Sections V.B.1 and V.B.2.

B. Response Activities. If necessary to achieve the Gelman Property Objectives, Defendant shall design and implement remedial systems at the Gelman Property.

C. Monitoring. Defendant shall implement the MDEQ-approved Compliance Monitoring Plan to verify that the Gelman Property soil contamination does not cause or

contribute to non-compliance with the Western Area objectives set forth in Sections V.B.1 and V.B.2, and to verify the effectiveness of any implemented remedial system.

VII. COMPLIANCE WITH OTHER LAWS AND PERMITS

A. Defendant shall undertake all activities pursuant to this Consent Judgment in accordance with the requirements of all applicable laws, regulations, and permits.

B. Defendant shall apply for all permits necessary for implementation of the Consent Judgment including, without limitation, surface water discharge permit(s) and air discharge permit(s).

C. Defendant shall include in all contracts entered into by the Defendant for Remedial Action required under this Consent Judgment (and shall require that any contractor include in all subcontracts), a provision stating that such contractors and subcontractors, including their agents and employees, shall perform all activities required by such contracts or subcontracts in compliance with and all applicable laws, regulations, and permits. Defendant shall provide a copy of relevant approved work plans to any such contractor or subcontractor.

D. The Parties agree to provide reasonable cooperation and assistance to the Defendant in obtaining necessary approvals and permits for Remedial Action. Plaintiffs shall not unreasonably withhold or delay any required approvals or permits for Defendant's performance of the Remedial Action. Plaintiffs expressly acknowledge that one or more of the following permits and approvals may be necessary for Remedial Action:

1. NPDES Permit No. MI-0048453;
2. An Air Permit for discharges of contaminants to the atmosphere for vapor extraction systems, if such systems are part of the remedial design;

3. A Wetlands Permit if necessary for construction of the Marshy Area System or the construction of facilities as part of the Core or Western Systems;
4. An Industrial User's Permit to be issued by the City of Ann Arbor for use of the sewer to dispose of treated or untreated purged groundwater. Plaintiffs have no objection to receipt by the Ann Arbor Wastewater Treatment Plant of the purged groundwater extracted pursuant to the terms and conditions of this Judgment, and acknowledge that receipt of the purged groundwater would not necessitate any change in current and proposed residual management programs of the Ann Arbor Wastewater Treatment Plant;
5. Permit(s) or permit exemptions to be issued by the MDEQ to authorize the reinjection of purged and treated groundwater in the Eastern Area, Western Area, and Little Lake Area;
6. Surface water discharge permit(s) for discharge into surface waters in the Little Lake System Area, if necessary;
7. Approval of the City of Ann Arbor and the Washtenaw County Drain Commissioner to use storm drains for the remedial programs; or
8. A permit for the use of Defendant's deep well for injection of purged groundwater from the remedial systems required under this Consent Judgment.

VIII. SAMPLING AND ANALYSIS

Defendant shall make available to MDEQ the results of all sampling, tests, and/or other data generated in the performance or monitoring of any requirement under this Consent Judgment. Sampling data generated consistent with this Consent Judgment shall be admissible in evidence in any proceeding related to enforcement of this Judgment without waiver by any Party of any objection as to weight or relevance. MDEQ and/or their authorized representatives, at their discretion, may take split or duplicate samples and observe the sampling event. MDEQ shall make available to Defendant the results of all sampling, tests, and/or other data generated in the performance or monitoring of any requirement under this Consent Judgment. Defendant will provide MDEQ with reasonable notice of changes in the schedule of data collection activities included in the progress reports submitted pursuant to Section XII.

IX. ACCESS

A. From the effective date of this Consent Judgment, the MDEQ, their authorized employees, agents, representatives, contractors, and consultants, upon presentation of proper identification, shall have the right at all reasonable times to enter the Site and any property to which access is required for the implementation of this Consent Judgment, to the extent access to the property is owned, controlled by, or available to the Defendant, for the purpose of conducting any activity authorized by this Consent Judgment, including, but not limited to:

1. Monitoring of the Remedial Action or any other activities taking place pursuant to this Consent Judgment on the property;
2. Verification of any data or information submitted to the MDEQ;
3. Conduct of investigations related to contamination at the Site;

4. Collection of samples;
5. Assessment of the need for, or planning and implementing of, Response Actions at the Site; and
6. Inspection and copying of non-privileged documents including records, operating logs, contracts, or other documents required to assess Defendant's compliance with this Consent Judgment.

All Parties with access to the Site or other property pursuant to this Section shall comply with all applicable health and safety laws and regulations.

B. To the extent that the Site or any other area where Remedial Action is to be performed by the Defendant under this Consent Judgment is owned or controlled by persons other than the Defendant, Defendant shall use its best efforts to secure from such persons access for Defendant, MDEQ, and their authorized employees, agents, representatives, contractors, and consultants. Defendant shall provide MDEQ with a copy of each access agreement secured pursuant to this Section. For purposes of this Section, "best efforts" includes, but is not limited to, seeking judicial assistance to secure such access pursuant to MCL 324.20135a.

X. APPROVALS OF SUBMISSIONS

Upon receipt of any plan, report, or other item that is required to be submitted for approval pursuant to this Consent Judgment, as soon as practicable, but in no event later than 56 days after receipt of such submission, MDEQ will: (1) approve the submission or (2) submit to Defendant changes in the submission that would result in approval of the submission. MDEQ will (1) approve a feasibility study or plan that proposes a risk based cleanup or a remedy that requires public comment, or (2) submit to Defendant changes in such

submittal that would result in approval in the time provided under Part 201 of the Natural Resources and Environmental Protection Act, as amended, MCL 324.20101 et seq. If MDEQ does not respond within 56 days, Defendant may submit the matter to dispute resolution pursuant to Section XVI. Upon receipt of a notice of approval or changes from the MDEQ, Defendant shall proceed to take any action required by the plan, report, or other item, as approved or as may be modified to address the deficiencies identified by MDEQ. If Defendant does not accept the changes proposed by MDEQ, Defendant may submit the matter to dispute resolution pursuant to Section XVI.

XI. PROJECT COORDINATORS

A. Plaintiffs designate Daniel Hamel as MDEQ's Project Coordinator. Defendant designates Farsad Fotouhi as Defendant's Project Coordinator. Defendant's Project Coordinator shall have primary responsibility for implementation of the Remedial Action at the Site. MDEQ's Project Coordinator will be the primary designated representative for Plaintiffs with respect to implementation of the Remedial Action at the Site. All communication between Defendant and MDEQ, including all documents, reports, approvals, other submissions, and correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Judgment, shall be directed through the Project Coordinators. If any Party changes its designated Project Coordinator, that Party shall provide the name, address, and telephone number of the successor in writing to the other Party seven days prior to the date on which the change is to be effective. This Section does not relieve Defendant from other reporting obligations under the law.

B. MDEQ may designate other authorized representatives, employees, contractors, and consultants to observe and monitor the progress of any activity undertaken pursuant to this Consent Judgment. MDEQ's Project Coordinator shall provide Defendant's Project Coordinator with the name, addresses, telephone numbers, positions, and responsibilities of any person designated pursuant to this Section.

XII. PROGRESS REPORTS

Defendant shall provide to MDEQ written quarterly progress report that shall: (1) described the actions which have been taken toward achieving compliance with this Consent Judgment during the previous three months; (2) describe data collection and activities scheduled for the next three months; and (3) include all results of sampling and tests and other data received by Defendant, its consultants, engineers, or agents during the previous three months relating to Remedial Action performed pursuant to this Consent Judgment. Defendant shall submit the first quarterly report to MDEQ within 120 days after entry of this Consent Judgment, and by the 30th day of the month following each quarterly period thereafter, as feasible, until termination of this Consent Judgment as provided in Section XXV.

XIII. RESTRICTIONS ON ALIENATION

A. Defendant shall not sell, lease, or alienate the Gelman Property until: (1) it places an MDEQ-approved land use or resource use restrictions on the affected portion(s) of the Gelman Property; and (2) any purchaser, lessee, or grantee provides to MDEQ its written agreement providing that the purchaser, lessee, or grantee will not interfere with any term or condition of this Consent Judgment. Notwithstanding any purchase, lease, or grant,

Defendant shall remain obligated to comply with all terms and conditions of this Consent Judgment.

B. Any deed, title, or other instrument of conveyance regarding the Gelman Property shall contain a notice that Defendant's Property is the subject of this Consent Judgment, setting forth the caption of the case, the case number, and the court having jurisdiction herein.

XIV. FORCE MAJEURE

Any delay attributable to a Force Majeure shall not be deemed a violation of Defendant's obligations under this Consent Judgment.

A. "Force Majeure" is defined as an occurrence or nonoccurrence arising from causes beyond the control of Defendant or of any entity controlled by the Defendant performing Remedial Action, such as Defendant's employees, contractors, and subcontractors. Such occurrence or nonoccurrence includes, but is not limited to: (1) an Act of God; (2) untimely review of permit applications or submissions; (3) acts or omissions of third parties for which Defendant is not responsible; (4) insolvency of any vendor, contractor, or subcontractor retained by Defendant as part of implementation of this Judgment; and (5) delay in obtaining necessary access agreements under Section IX that could not have been avoided or overcome by due diligence. "Force Majeure" does not include unanticipated or increased costs, changed financial circumstances, or nonattainment of the treatment and termination standards set forth in Sections V and VI.

B. When circumstances occur that Defendant believes constitute Force Majeure, Defendant shall notify the MDEQ by telephone of the circumstances within 48 hours after Defendant first believes those circumstances to apply. Within 14 working days after Defendant

first believes those circumstances to apply, Defendant shall supply to the MDEQ, in writing, an explanation of the cause(s) of any actual or expected delay, the anticipated duration of the delay, the measures taken and the measures to be taken by Defendant to avoid, minimize, or overcome the delay, and the timetable for implementation of such measures. Failure of Defendant to comply with the written notice provisions of this Section shall constitute a waiver of Defendant's right to assert a claim of Force Majeure with respect to the circumstances in question.

C. A determination by the MDEQ that an event does not constitute Majeure, that a delay was not caused by Force, or that the period of delay was not necessary to compensate for Force Majeure may be subject to dispute resolution under Section XVI of this Judgment.

D. The MDEQ shall respond, in writing, to any request by Defendant for a Force Majeure extension within 30 days of receipt of the Defendant's request. If the MDEQ does not respond within that time period, Defendant's request shall be deemed granted. If the MDEQ agrees that a delay is or was caused by Force Majeure, Defendant's delays shall be excused, stipulated penalties shall not accrue, and the MDEQ shall provide Defendant such additional time as may be necessary to compensate for the Force Majeure event.

E. Delay in achievement of any obligation established by the Consent Judgment shall not automatically justify or excuse delay in achievement of any subsequent obligation unless the subsequent obligation automatically follows from the delayed obligation.

XV. REVOCATION OR MODIFICATION OF LICENSES OR PERMITS

Any delay attributable to the revocation or modification of licenses or permits obtained by Defendant to implement remediation actions as set forth in this Consent Judgment shall not be deemed a violation of Defendant's obligations under this Consent Judgment, provided that such

revocation or modification arises from causes beyond the control of Defendant or of any entity controlled by the Defendant performing Remedial Action, such as Defendant's employees, contractors, and subcontractors.

A. Licenses or permits that may need to be obtained or modified by Defendant to implement the Remedial Actions are those specified in Section VII.D. and licenses, easements, and other agreements for access to property or rights of way on property necessary for the installation of remedial systems required by this Consent Judgment.

B. A revocation or modification of a license or permit within the meaning of this Section means withdrawal of permission, denial of permission, a limitation or a change in license or permit conditions that delays the implementation of all or part of a remedial system.

Revocation or modification due to Defendant's violation of a license or permit (or any conditions of a license or permit) shall not constitute a revocation or modification covered by this Section.

C. When circumstances occur that Defendant believes constitute revocation or modification of a license or permit, Defendant shall notify the MDEQ by telephone of the circumstances within 48 hours after Defendant first believes those circumstances to apply. Within 14 working days after Defendant first believes those circumstances to apply, Defendant shall supply to the MDEQ, in writing, an explanation of the cause(s) of any actual or expected delay, the anticipated duration of the delay, the measures taken and the measures to be taken by Defendant to avoid, minimize, or overcome the delay, and the timetable for implementation of such measures. Failure of Defendant to comply with the written notice provisions of this Section shall constitute a waiver of Defendant's right to assert a claim of revocation or modification of a license or permit with respect to the circumstances in question.

D. A determination by the MDEQ that an event does not constitute revocation or modification of a license or permit, that a delay was not caused by revocation or modification of a license or permit, or that the period of delay was not necessary to compensate for revocation or modification of a license or permit may be subject to dispute resolution under Section XVI of this Consent Judgment.

E. The MDEQ shall respond, in writing, to any request by Defendant for a revocation or modification of a license or permit extension within 30 days of receipt of the Defendant's request. If the MDEQ does not respond within that time period, Defendant's request shall be deemed granted. If the MDEQ agrees that a delay is or was caused by revocation or modification of a license or permit, Defendant's delays shall be excused, stipulated penalties shall not accrue, and the MDEQ shall provide Defendant such additional time as may be necessary to compensate for the revocation or modification of a license or permit.

F. Delay in achievement of any obligation established by the Consent Judgment shall not automatically justify or excuse delay in achievement of any subsequent obligation unless the subsequent obligation automatically follows from the delayed obligation.

XVI. DISPUTE RESOLUTION

A. The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under this Consent Judgment and shall apply to all provisions of this Consent Judgment, whether or not particular provisions of the Consent Judgment in question make reference to the dispute resolution provisions of this Section. Any dispute that arises under this Consent Judgment initially shall be the subject of informal negotiations between the Parties. The period of negotiations shall not exceed ten working days

from the date of written notice by MDEQ or the Defendant that a dispute has arisen. This period may be extended or shortened by agreement of the MDEQ or the Defendant.

B. Immediately upon expiration of the informal negotiation period (or sooner if upon agreement of the parties), the MDEQ shall provide to Defendant a written statement setting forth the MDEQ's proposed resolution of the dispute. Such resolution shall be final unless, within 15 days after receipt of the MDEQ's proposed resolution (clearly identified as such under this Section), Defendant files a petition for resolution with the Washtenaw County Circuit Court setting forth the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Judgment.

C. Within ten days of the filing of the petition, MDEQ may file a response to the petition, and unless a dispute arises from the alleged failure of MDEQ to timely make a decision, MDEQ will submit to the Court all documents containing information related to the matters in dispute, including documents provided to MDEQ by Defendant. In the event of a dispute arising from the alleged failure of MDEQ to timely make a decision, within ten days of filing of the petition, each party shall submit to the Court correspondence, reports, affidavits, maps, diagrams, and other documents setting forth facts pertaining to the matters in dispute. Those documents and this Consent Judgment shall comprise the record upon which the Court shall resolve the dispute. Additional evidence may be taken by the Court on its own motion or at the request of either party if the Court finds that the record is incomplete or inadequate. Review of the petition shall be conducted by the Court and shall be confined to the record. The review shall be independent of any factual or legal conclusions made by the Court prior to the date of entry of

the Consent Judgment.

D. The Court shall uphold the decision of MDEQ on the issue in dispute unless the Court determines that the decision is any of the following:

1. Inconsistent with this Consent Judgment;
2. Not supported by competent, material, and substantial evidence on the whole record;
3. Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion; or
4. Affected by other substantial and material error of law.

E. The filing of a petition for resolution of a dispute shall not by itself extend or postpone any obligation of Defendant under this Consent Judgment, provided, however, that payment of stipulated penalties with respect to the disputed matter shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue as provided in Section XVII. Stipulated penalties that have accrued with respect to the matter in dispute shall not be assessed by the Court and shall be dissolved if Defendant prevails on the matter. The Court may also direct that stipulated penalties shall not be assessed and paid as provided in Section XVII upon a determination that there was a substantial basis for Defendant's position on the disputed matter.

XVII. STIPULATED PENALTIES

A. Except as otherwise provided, if Defendant fails or refuses to comply with any term or condition in Sections IV, V, VI, VII, or VIII, or with any plan, requirement, or schedule established pursuant to those Sections, then Defendant shall pay stipulated penalties in the

following amounts for each working day for every failure or refusal to comply or conform:

<u>Period of Delay</u>	<u>Penalty Per Violation Per Day</u>
1st through 15th Day	\$ 1,000
15th through 30th Day	\$ 1,500
Beyond 30 Days	\$ 2,000

B. Except as otherwise provided if Defendant fails or refuses to comply with any other term or condition of this Consent Judgment, Defendant shall pay to MDEQ stipulated penalties of \$500.00 per working day for each and every failure to comply.

C. If Defendant is in violation of this Consent Judgment, Defendant shall notify MDEQ of any violation no later than five working days after first becoming aware of such violation, and shall describe the violation.

D. Stipulated penalties shall begin to accrue upon the next day after performance was due or other failure or refusal to comply occurred. Penalties shall continue to accrue until the final day of correction of the noncompliance. Separate penalties shall accrue for each separate failure or refusal to comply with the terms and conditions of this Consent Judgment. Penalties may be waived in whole in part by MDEQ or may be dissolved by the Court pursuant to Section XVII.

E. Stipulated penalties shall be paid no later than 14 working days after receipt by Defendant of a written demand from MDEQ. Defendant shall make payment by transmitting a check in the amount due, payable to the "State of Michigan," addressed to the Revenue Control Unit; Finance Section, Administration Division; Michigan Department of Environmental Quality; P.O. Box 30657; Lansing, MI 48909-8157. The check shall be transmitted via Courier to the Revenue Control Unit; Finance Section, Administration Division; Michigan

Department of Environmental Quality; Constitution Hall, 5th Floor South Tower; 525 West Allegan Street; Lansing, MI 48933-2125. To ensure proper credit, Defendant shall include the settlement ID - ERD1902 on the payment.

F. Plaintiffs agree that, in the event that an act or omission of Defendant constitutes a violation of this Consent Judgment subject to stipulated penalties and a violation of other applicable law, Plaintiffs will not impose upon Defendant for that violation both the stipulated penalties provided under this Consent Judgment and the civil penalties permitted under other applicable laws. MDEQ reserves the right to pursue any other remedy or remedies to which they may be entitled under this Consent Judgment or any applicable law for any failure or refusal of the Defendant to comply with the requirements of this Consent Judgment.

XVIII. PLAINTIFFS' COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

A. Except as otherwise provided in this Consent Judgment, Plaintiffs covenant not to sue or take administrative action for Covered Matters against Defendant, its officers, employees, agents, directors, and any persons acting on its behalf or under its control.

B. "Covered Matters" shall mean any and all claims available to Plaintiffs under federal and state law arising out of the subject matter of the Plaintiffs' Complaint with respect to the following:

1. Claims for injunctive relief to address soil, groundwater, and surface water contamination at or emanating from the Gelman Property;
2. Claims for civil penalties and costs;
3. Claims for natural resource damages;
4. Claims for reimbursement of response costs incurred prior to entry of this

Consent Judgment or incurred by Plaintiffs for provision of alternative water supplies in the Evergreen Subdivision; and

5. Claims for reimbursement of costs incurred by Plaintiffs for overseeing the implementation of this Consent Judgment.

C. "Covered Matters" does not include:

1. Claims based upon a failure by Defendant to comply with the requirements of this Consent Judgment;
2. Liability for violations of federal or state law which occur during implementation of the Remedial Action; and
3. Liability arising from the disposal, treatment, or handling of any hazardous substance removed from the Site.

D. With respect to liability for alleged past violations of law, this covenant not to sue shall take effect on the effective date of this Consent Judgment. With respect to future liability for performance of response activities required to be performed under this Consent Judgment, the covenant not to sue shall take effect upon issuance by MDEQ of the Certificate of Completion in accordance with Section XXV.

E. Notwithstanding any other provision in this Consent Judgment: (1) MDEQ reserves 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) MDEQ reserves the right to institute proceedings in this action or in a new action seeking to reimburse MDEQ for response costs incurred by the State of Michigan relating to the Site. MDEQ's rights in Sections XVIII.E.1 and E.2 apply if the following conditions are met:

1. For proceedings prior to MDEQ's certification of completion of the Remedial Action concerning the Site,
 - a. (i) conditions at the Site, previously unknown to the MDEQ, are discovered after entry of this Consent Judgment, (ii) new information previously unknown to MDEQ is received after entry of the Consent Judgment, or (iii) MDEQ adopts one or more new, more restrictive cleanup criteria for 1,4-dioxane pursuant to Part 201 of the NREPA, MCL 324.20101 *et seq.*, 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 MDEQ's certification of completion of the Remedial Action concerning the Site,
 - a. (i) conditions at the Site, previously unknown to the MDEQ, are discovered after certification of completion by MDEQ, (ii) new information previously unknown to MDEQ is received after certification of completion by MDEQ, or (iii) MDEQ adopts one or more new, more restrictive cleanup criteria for 1,4-dioxane pursuant to Part 201 of NREPA, after certification of completion by MDEQ; 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 MDEQ adopts one or more new, more restrictive, cleanup criteria, MDEQ's rights in Sections XVIII.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 MDEQ has not made the demonstration(s) required under this Section.

F. Nothing in this Consent Judgment shall in any manner restrict or limit the nature or scope of response actions that may be taken by MDEQ in fulfilling its responsibilities under federal and state law, and this Consent Judgment does not release, waive, limit, or impair in any manner the claims, rights, remedies, or defenses of MDEQ against a person or entity not a party to this Consent Judgment.

G. Except as expressly provided in this Consent Judgment, MDEQ reserves all other rights and defenses that they may have, and this Consent Judgment is without prejudice, and shall not be construed to waive, estop, or otherwise diminish MDEQ's right to seek other relief with respect to all matters other than Covered Matters.

XIX. DEFENDANT'S COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

A. Defendant hereby covenants not to sue and agrees not to assert any claim or cause of action against MDEQ or any other agency of the State of Michigan with respect to environmental contamination at the Site or response activities relating to the Site arising from this Consent Judgment.

B. Notwithstanding any other provision in this Consent Judgment, for matters that are not Covered Matters as defined in Section XVIII.B, or in the event that Plaintiffs institute proceedings as allowed under Section XVIII.E., Defendant reserves all other rights, defenses, or counterclaims that it may have with respect to such matters and this Consent Judgment is without prejudice, and shall not be construed to waive, estop, or otherwise diminish Defendant's right to seek other relief and to assert any other rights and defenses with respect to such other matters.

C. Nothing in this Consent Judgment shall in any way impair Defendant's rights, claims, or defenses with respect to any person not a party to this Consent Judgment.

XX. INDEMNIFICATION, INSURANCE, AND FINANCIAL ASSURANCE

A. Defendant shall indemnify and save and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives from any and all claims or causes of action arising from, or on account of, acts or omissions of Defendant, its officers, employees, agents, and any persons acting on its behalf or under its control in carrying out Remedial Action pursuant to this Consent Judgment. MDEQ shall not be held out as a party to any contract entered into by or on behalf of Defendant in carrying out activities pursuant to this Consent Judgment. Neither the Defendant nor any contractor shall be considered an agent of MDEQ. Defendant shall not indemnify or save and hold harmless Plaintiffs from their own negligence pursuant to this Section.

B. Prior to commencing any Remedial Action on the Gelman Property, Defendant shall secure, and shall maintain for the duration of the Remedial Action, comprehensive general liability insurance with limits of \$1,000,000.00, combined single limit, naming as an additional insured the State of Michigan. If Defendant demonstrates by evidence satisfactory to MDEQ that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then with respect to that contractor or subcontractor, Defendant need provide only that portion, if any, of the insurance described above that is not maintained by the contractor or subcontractor.

C. Financial Assurance

1. Defendant shall be responsible for providing and maintaining financial assurance in a mechanism approved by MDEQ in an amount sufficient to cover the estimated cost to assure performance of the response activities required to meet the remedial objectives of this Consent Judgment including, but not limited to, investigation, monitoring, operation and maintenance, and other costs (collectively referred to as “Long-Term Remedial Action Costs”). Defendant shall continuously maintain a financial assurance mechanism (“FAM”) until MDEQ’s Remediation and Redevelopment Division (“RRD”) Chief or his or her authorized representative notifies it in writing that it is no longer required to maintain a FAM.

2. The Letter of Credit provided in Attachment is the initial FAM approved by the MDEQ. Defendant shall be responsible for providing and maintaining financial assurance in a mechanism acceptable to the MDEQ to assure the performance of the Long Term Remedial Action Costs required by Defendant’s selected remedial action.

3. The FAM shall remain in an amount sufficient to cover Long Term Remedial Action Costs for a 30-year period. Unless Defendant opts to use and satisfies the Financial Test or Financial Test/Corporate Guarantee as provided in Section XX.C.8, the FAM shall remain in a form that allows the MDEQ to immediately contract for the response activities for which financial assurance is required in the event Defendant fails to implement the required tasks, subject to Defendant’s rights under Sections XIV and XVI.

4. Within 120 days of the Effective Date of this Fourth Amended Consent Judgment, Defendant shall provide MDEQ with an estimate of the amount of funds necessary to assure Long Term Remedial Action Costs for the following 30-year period based upon an annual

estimate of costs for the response activities required by this Fourth Amended Consent Judgment as if they were to be conducted by a person under contract to the MDEQ (the “Updated Long Term Remedial Action Cost Estimate”). The Updated Long Term Remedial Action Cost Estimate shall include all assumptions and calculations used in preparing the cost estimate and shall be signed by an authorized representative of Defendant who shall confirm the validity of the data. Defendant may only use a present worth analysis if an interest accruing FAM is selected. Within 60 days after Defendant’s submittal of the Updated Long Term Remedial Action Cost Estimate, Defendant shall capitalize or revise the FAM in a manner acceptable to the MDEQ to address Long Term Remedial Action Costs unless otherwise notified by the MDEQ. If the MDEQ disagrees with the conclusions of the Updated Long Term Remedial Action Cost Estimate, Defendant shall capitalize the FAM to a level acceptable to the MDEQ within 30 days of the MDEQ notification, subject to Dispute Resolution under Section XVI.

5. Sixty days prior to the 5-year anniversary of the Effective Date of this Fourth Amended Consent Judgment and each subsequent 5-year anniversary, Defendant shall provide to the MDEQ a report containing the actual Long Term Remedial Action Costs for the previous 5-year period and an estimate of the amount of funds necessary to assure Long Term Remedial Action Costs for the following 30-year period given the financial trends in existence at the time of preparation of the report (“Long Term Remedial Action Cost Report”). The cost estimate shall be based upon an annual estimate of maximum costs for the response activities required by this Fourth Amended Consent Judgment as if they were to be conducted by a person under contract to the MDEQ, provided that, if Defendant is using the Financial Test or Corporate Guarantee/Financial Test under Section XX.C.8, below, Defendant may use an estimate on its

internal costs to satisfy the Financial Test. The Long Term Remedial Action Cost Report shall also include all assumptions and calculations used in preparing the necessary cost estimate and shall be signed by an authorized representative of Defendant who shall confirm the validity of the data. Defendant may only use a present worth analysis if an interest accruing FAM is selected.

6. Within 60 days after Defendant's submittal of the Long Term Remedial Action Cost Report to MDEQ, Defendant shall capitalize or revise the FAM in a manner acceptable to the MDEQ to address Long Term Remedial Action Costs consistent with the conclusions of the Long Term Remedial Action Cost Report unless otherwise notified by the MDEQ. If the MDEQ disagrees with the conclusions of the Long Term Remedial Action Cost Report, Defendant shall capitalize the FAM to a level acceptable to the MDEQ within 30 days of the MDEQ notification, subject to dispute resolution under Section XVI. If, at any time, the MDEQ determines that the FAM does not secure sufficient funds to address Long Term Remedial Action Costs, Defendant shall capitalize the FAM or provide an alternate FAM to secure any additional costs within 30 days of request by the MDEQ, subject to dispute resolution under Section XVI.

7. If, pursuant to the Long Term Remedial Action Cost Report, Defendant can demonstrate that the FAM provides funds in excess of those needed for Long Term Remedial Action Costs, Defendant may request a modification in the amount. Any requested FAM modifications must be accompanied by a demonstration that the proposed FAM provides adequate funds to address future Long Term Remedial Action Costs. Upon MDEQ approval of the request, Defendant may modify the FAM as approved by the MDEQ. Modifications to the

FAM pursuant to this Section shall be approved by the MDEQ RRD Chief or his or her authorized representative, subject to dispute resolution under Section XVI.

8. If Defendant chooses to use the Financial Test or Corporate Guarantee/Financial Test attached as Attachment ___ (hereinafter, the term “Financial Test” refers to both an independent financial test or a financial test utilized in conjunction with a corporate guarantee), Defendant shall, within 90 days after the end of Defendant’s next fiscal year and the end of each succeeding fiscal year, submit to the MDEQ the necessary forms and supporting documents to demonstrate to the satisfaction of the MDEQ that Defendant can continue to meet the Financial Test requirements. If Defendant can no longer meet the financial test requirements, Defendant shall submit a proposal for an alternate FAM to satisfy its financial obligations with respect to this Consent Judgment.

9. If the Financial Test is being used as the FAM, the MDEQ, based on a reasonable belief that Defendant may no longer meet the requirements for the Financial Test, may require reports of financial condition at any time from Defendant, and/or require Defendant to submit updated Financial Test information to determine whether it meets the Financial Test criteria. Defendant shall provide, with reasonable promptness to the MDEQ, any other data and information that may reasonably be expected to materially adversely affect Defendant’s ability to meet the Financial Test requirements. If the MDEQ finds that Defendant no longer meets the Financial Test requirements, Defendant shall, within 30 days after notification from the MDEQ, submit a proposal for an alternate FAM to satisfy its financial obligations with respect to this Fourth Amended Consent Judgment, subject to dispute resolution under Section XVI.

10. If the Financial Test/Corporate Guarantee is used as the FAM, Defendant shall comply with the terms of the Corporate Guarantee. The Corporate Guarantee shall remain in place until Long-Term Remedial Action Costs are no longer required or Defendant establishes an alternate FAM acceptable to the MDEQ.

11. If Defendant wishes to change the type of FAM or establish a new FAM, Defendant shall submit a request to the MDEQ for approval. Upon MDEQ approval of the request, Defendant may change the type of FAM or establish the new FAM as approved by the MDEQ. Modifications to the FAM pursuant to this Section shall be approved by the MDEQ RRD Chief or his or her authorized representative, subject to dispute resolution under Section XVI.

12. If Defendant dissolves or otherwise ceases to conduct business and fails to make arrangements acceptable to the MDEQ for the continued implementation of all activities required by the Consent Judgment, all rights under this Fourth Amended Consent Judgment regarding the FAM shall immediately and automatically vest in the MDEQ in accordance with the FAM.

XXI. RECORD RETENTION

Defendant, Plaintiffs, and their representatives, consultants, and contractors shall preserve and retain, during the pendency of this Consent Judgment and for a period of ten years after its termination, all records, sampling or test results, charts, and other documents that are maintained or generated pursuant to any requirement of this Consent Judgment, including, but not limited to, documents reflecting the results of any sampling or tests or other data or information generated or acquired by Plaintiffs or Defendant, or on their behalf, with respect to

the implementation of this Consent Judgment. After the ten-year period of document retention, the Defendant and its successors shall notify MDEQ, in writing, at least 90 days prior to the destruction of such documents or records, and upon request, the Defendant and/or its successor shall relinquish custody of all records and documents to MDEQ.

XXII. ACCESS TO INFORMATION

Upon request, MDEQ and Defendant shall provide to each other copies of or access to all non-privileged documents and information within their possession and/or control or that of their employees, contractors, agents, or representatives, relating to activities at the Site or to the implementation of this Consent Judgment, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Remedial Action. Upon request, Defendant shall also make available to MDEQ, their employees, contractors, agents, or representatives with knowledge or relevant facts concerning the performance of the Remedial Action. The Plaintiffs shall treat as confidential all documents provided to Plaintiffs by the Defendant marked “confidential” or “proprietary.”

XXIII. NOTICES

Whenever under the terms of this Consent Judgment notice is required to be given or a report, sampling data, analysis, or other document is required to be forwarded by one Party to the other, such notice or document shall be directed to the following individuals at the specified addresses or at such other address as may subsequently be designated in writing:

For Plaintiffs:

Daniel Hamel
Project Coordinator

For Defendants:

Farsad Fotouhi
Vice President of Corporate Environmental

Michigan Department
of Natural Resources
and Environment
Remediation Division
301 East Louis Glick Highway
Jackson, MI 49201

Engineering
Gelman Sciences Inc.
600 South Wagner Road
Ann Arbor, MI 48106

and

Michael L. Caldwell
Zausmer, August, & Caldwell, P.C.
31700 Middlebelt Road, Ste. 150
Farmington Hills, MI 48334

Any party may substitute for those designated to receive such notices by providing prior written notice to the other parties.

XXIV. MODIFICATION

This Consent Judgment may not be modified unless such modification is in writing, signed by the Plaintiffs and the Defendant, and approved and entered by the Court. Remedial Plans, work plans, or other submissions made pursuant to this Consent Judgment may be modified by mutual agreement of the Defendant and MDEQ.

XXV. CERTIFICATION AND TERMINATION

A. When Defendant determines that it has completed all Remedial Action required by this Consent Judgment, Defendant shall submit to the MDEQ a Notification of Completion and a draft final report. The draft final report must summarize all Remedial Action performed under this Consent Judgment and the performance levels achieved. The draft final report shall include or refer to any supporting documentation.

B. Upon receipt of the Notification of Completion, the MDEQ will review the Notification of Completion and the accompanying draft final report, any supporting documentation, and the actual Remedial Action performed pursuant to this Consent Judgment.

After conducting this review, and not later than three months after receipt of the Notification of Completion, the MDEQ shall issue a Certificate of Completion upon a determination by the MDEQ that Defendant has completed satisfactorily all requirements of this Consent Decree, including, but not limited to, completion of all Remedial Action, achievement of all termination and treatment standards required by this Consent Judgment, compliance with all terms and conditions of this Consent Judgment, and payment of any and all stipulated penalties owed to MDEQ. If the MDEQ does not respond to the Notification of Completion within three months after receipt of the Notification of Completion, Defendant may submit the matter to dispute resolution pursuant to Section XVI. This Consent Judgment shall terminate upon motion and order of this Court after issuance of the Certificate of Completion. Upon issuance, the Certificate of Completion may be recorded.

XXVI. EFFECTIVE DATE

The effective date of this Consent Judgment shall be the date upon which this Consent Judgment is entered by the Court.

XXVII. SEVERABILITY

The provisions of this Consent Judgment shall be severable. Should any provision be declared by a court of competent jurisdiction to be inconsistent with federal or state law, and therefore unenforceable, the remaining provisions of this Consent Judgment shall remain in full force and effect.

XXIII. SIGNATORIES

Each undersigned representatives of a Party to this Consent Judgment certifies that he or she is fully authorized by the Party to enter into this Consent Judgment and to legally bind such Party to the respective terms and conditions of this Consent Judgment.

STATE OF MICHIGAN

IN THE 22nd CIRCUIT COURT (WASHTENAW COUNTY)

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

Plaintiff,

Case No. 88-34734-CE

And

THE CITY OF ANN ARBOR,
Intervenor,

And

WASHTENAW COUNTY,
Intervenor,

And

WASHTENAW COUNTY HEALTH
DEPARTMENT,
Intervenor,

And

WASHTENAW COUNTY HEALTH OFFICER
JIMENA LOVELUCK,
Intervenor,

And

THE HURON RIVER WATERSHED COUNCIL,
Intervenor,

And

SCIO TOWNSHIP,
Intervenor,

V.

GELMAN SCIENCES, INC., a Michigan
Corporation,
Defendant.

_____. /

HEARING ON GELMAN SCIENCES, INC.'S MOTION FOR PARTIAL STAY OF
ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT AND COMPLY
WITH REVISED CLEANUP CRITERIA

AND

HEARING ON GELMAN SCIENCES, INC.'S MOTION FOR LEAVE TO FILE
SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR PARTIAL STAY OF
ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT AND COMPLY
WITH REVISED CLEANUP CRITERIA

HELD VIA ZOOM VIDEOCONFERENCE
BEFORE THE HONORABLE TIMOTHY P. CONNORS
Ann Arbor, Michigan - Thursday, June 17, 2021

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None .

EXHIBITS :

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None .

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<p>(1) Ann Arbor, Michigan</p> <p>(2) Thursday, June 17, 2021 - 12:34 p.m.</p> <p>(3) THE CLERK: Now on record, Frank Kelley versus</p> <p>(4) Gelman Sciences, case number 88-34734-CE. This is</p> <p>(5) Defendant Gelman's motion for a partial stay.</p> <p>(6) THE COURT: Good afternoon, everybody. Thank</p> <p>(7) you for being so patient. It's been a long, long morning.</p> <p>(8) So, although I must say, we sure fill up the screen with</p> <p>(9) everybody on this one. So if you'd put your appearances</p> <p>(10) on the record, please?</p> <p>(11) MR. CALDWELL: Your Honor, this is Mike</p> <p>(12) Caldwell for Gelman Sciences. Also with me is Ray</p> <p>(13) Ludwizewski.</p> <p>(14) MR. POSTEMA: Your Honor, Stephen Postema on</p> <p>(15) behalf of the City of Ann Arbor, and I have outside</p> <p>(16) counsel, Nathan Dupes, with me today. Thank you.</p> <p>(17) MR. STAPLETON: Your Honor, William Stapleton</p> <p>(18) on behalf of Scio Township.</p> <p>(19) MS. METTE: Your Honor, Erin Mette on behalf</p> <p>(20) of the Huron River Watershed Council.</p> <p>(21) MR. NEGELE: Good afternoon, Your Honor.</p> <p>(22) Brian Negele, Assistant Attorney General, on behalf of the</p> <p>(23) Michigan Department of Environment, Great Lakes, and</p> <p>(24) Energy.</p> <p>(25) THE COURT: Mr. Negele, it just struck me as</p>	<p>(1) stay, that does not mean that we recognize the Court's</p> <p>(2) authority to unilaterally modify or replace the Consent</p> <p>(3) Judgment as it has through its issuance of the response</p> <p>(4) activity order. We've been very clear on that issue and</p> <p>(5) that continues to be our position in case there was any</p> <p>(6) doubt on that.</p> <p>(7) Knowing that we are going to appeal the entire</p> <p>(8) order, the easy thing to do would be to seek a stay of the</p> <p>(9) entire order; however, after consulting with EGLE, we</p> <p>(10) agree with EGLE that we should proceed with implementation</p> <p>(11) of the response activities that we agreed to implement</p> <p>(12) back in 2017 when we had concluded our negotiations with</p> <p>(13) EGLE and before the intervention negotiations began. We</p> <p>(14) agree we should pursue implementing those activities even</p> <p>(15) while our appellate rights are being pursued. And we are</p> <p>(16) willing to do that in hopes that the Court of Appeals with</p> <p>(17) overturn the response activity order, and we'll eventually</p> <p>(18) be in a position to enter a bilateral Amended CJ that will</p> <p>(19) include this previously agreed to work.</p> <p>(20) Consequently, we are only seeking to stay the</p> <p>(21) response activities included in the Fourth CJ that are not</p> <p>(22) necessary to provide a protective remedy. Gelman agreed</p> <p>(23) to include these measures in the Fourth Amended CJ not</p> <p>(24) because they were necessary to provide a protective</p> <p>(25) remedy, but rather because these measures, we added -- we</p>
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<p>(1) this case was being called, Frank Kelley, but man, that</p> <p>(2) was a long time ago.</p> <p>(3) MR. NEGELE: Yes. I never worked under him.</p> <p>(4) THE COURT: Okay.</p> <p>(5) MR. NEGELE: Thank you, Your Honor.</p> <p>(6) THE COURT: So is it your -- this is your</p> <p>(7) motion, Mr. Caldwell, yes?</p> <p>(8) MR. CALDWELL: Yes, it is, Your Honor. And I</p> <p>(9) will, especially given the time, I will try to briefly</p> <p>(10) state our position without repeating everything that's in</p> <p>(11) our motion, which I know the Court has read.</p> <p>(12) We have a motion for partial stay in a</p> <p>(13) response to concerns raised by the Intervenors about the</p> <p>(14) completeness of the record. Our -- we've also filed a</p> <p>(15) motion for leave to file a supplemental brief in support</p> <p>(16) of that stay motion.</p> <p>(17) As the Court knows, Gelman will appeal, is in</p> <p>(18) the process of appealing the Court's June 1st response</p> <p>(19) activity order in its entirety. We've made reasons for</p> <p>(20) opposing the entry of that order clear in many briefs,</p> <p>(21) oral argument during the evidentiary hearing and</p> <p>(22) elsewhere, so there's no need to rehash those arguments.</p> <p>(23) But I just want to make clear in response to a</p> <p>(24) point made by Intervenors, that the fact that we are for</p> <p>(25) the reasons explained in our motion seeking only a partial</p>	<p>(1) agreed to add these measures in order to achieve a global</p> <p>(2) settlement of the intervention, the type of global</p> <p>(3) settlement that we think this Court envisioned when it</p> <p>(4) allowed the intervention in the first place.</p> <p>(5) Now, I would ask the Court in evaluating the</p> <p>(6) limited relief that we're seeking, I would ask the Court</p> <p>(7) to remember that we made these difficult compromises, and</p> <p>(8) at these very significant additional, significant in terms</p> <p>(9) of cost and not environmental impact, response activities</p> <p>(10) to achieve the kind of global settlement that I think this</p> <p>(11) Court wanted, despite the fact that we vigorously opposed</p> <p>(12) the Court's decision to grant the intervention in the</p> <p>(13) first place. And I hope we take that as a sign of good</p> <p>(14) faith and frankly remember that the Intervenors were the</p> <p>(15) ones that rejected that settlement, not Gelman.</p> <p>(16) Now, the limited stay that we seek will not</p> <p>(17) delay the overall implementation of the response</p> <p>(18) activities required by the RAO; it will actually allow</p> <p>(19) Gelman and EGLE to focus on the high priority response</p> <p>(20) activities while the appeal is pending.</p> <p>(21) The response activities that were added to the</p> <p>(22) CJ that we now seek to stay, like the Park Lake, First</p> <p>(23) Sister Lake discharge work, are ironically the response</p> <p>(24) actions that were the subject of the vast majority of the</p> <p>(25) public criticism that was leveled against the settlement.</p>

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<p>(1) Delaying these added activities and this work while the</p> <p>(2) appeal is pending is probably in everybody's interest.</p> <p>(3) The Intervenors don't -- haven't provided any</p> <p>(4) substantive reason for not granting the limited stay that</p> <p>(5) Gelman is seeking. Instead, they have pointed out that</p> <p>(6) the 2017 draft bilateral CJ between Gelman and EGLE that</p> <p>(7) we've referred to has not been made part of the record,</p> <p>(8) and that is, that part is true. They've also raised</p> <p>(9) spurious allegations that we somehow disclosed</p> <p>(10) confidential settlement discussions. Because of those</p> <p>(11) allegations and the concerns about the completeness of the</p> <p>(12) record we, and because the Intervenors previously objected</p> <p>(13) to our filing of a reply brief, we sought leave to file</p> <p>(14) our proposed supplemental brief, which includes the draft</p> <p>(15) 2017 bilateral agreement that represents the conclusion of</p> <p>(16) our pre-intervention negotiations with EGLE regarding the</p> <p>(17) revised remedy. That document, to be fair to Mr. Negele</p> <p>(18) and I, perhaps a proofread version of that document was</p> <p>(19) about to be made public in 2017 before the intervention</p> <p>(20) negotiations began and before the Court issued its March</p> <p>(21) 2017 confidentiality order. So EGLE doesn't object to its</p> <p>(22) inclusion in the record now that the Intervenors have</p> <p>(23) raised that concern.</p> <p>(24) As set forth in our supplemental brief, we</p> <p>(25) didn't disclose any discussions with Intervenors. We</p>	<p>(1) these meritless allegations about disclosure of settlement</p> <p>(2) discussions. These are just a distraction from the fact</p> <p>(3) that there's really no good reason not to grant our</p> <p>(4) limited motion for stay, for a partial stay. So we'd ask</p> <p>(5) the Court to grant that partial stay and to grant us leave</p> <p>(6) to file our supplemental brief to address Intervenors'</p> <p>(7) concerns. We provided an order to that effect. And</p> <p>(8) that's all I have. I'm obviously --</p> <p>(9) THE COURT: Mr. Caldwell --</p> <p>(10) MR. CALDWELL: -- available for questions.</p> <p>(11) THE COURT: Yes, thank you. Mr. Caldwell,</p> <p>(12) correct me if I'm mistaken here, but my understanding is</p> <p>(13) when the trial court can grant a stay or does not have to</p> <p>(14) grant a stay, but it doesn't really affect your ability to</p> <p>(15) obtain a stay from the Court of Appeals, you know, it</p> <p>(16) could be done at this level, it can also be done at that</p> <p>(17) level, am I right?</p> <p>(18) MR. CALDWELL: Both the trial court and upon</p> <p>(19) denial of a motion for stay by the trial court, the Court</p> <p>(20) of Appeals could grant a motion for stay.</p> <p>(21) THE COURT: All right. Thank you.</p> <p>(22) Mr. Negele, your position, sir?</p> <p>(23) MR. NEGELE: I have some very brief comments.</p> <p>(24) Consistent with EGLE's, you know, response to the February</p> <p>(25) 4th hearing where Gelman was seeking a stay, we're taking,</p>
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<p>(1) merely pointed out that the unnecessary response</p> <p>(2) activities that we seek to have stayed were not included</p> <p>(3) in the protective remedy that we had reached with EGLE in</p> <p>(4) 2017, and we told the Court why we agreed to add the</p> <p>(5) additional response activities to the publically available</p> <p>(6) Fourth Amended CJ. We did that in exchange for the</p> <p>(7) additional consideration that the global settlement</p> <p>(8) package would have provided consideration that is no</p> <p>(9) longer available.</p> <p>(10) So we've discussed the endpoint of our, of our</p> <p>(11) negotiations with EGLE with no objection from EGLE, and</p> <p>(12) the publically available endpoint of our discussions with</p> <p>(13) the Intervenors; that was all made part of the publically</p> <p>(14) presented settlement package. We've not disclosed</p> <p>(15) anything in between that would be covered by the Court's</p> <p>(16) confidentiality order or MRE 408. We haven't disclosed</p> <p>(17) whether the 2017 bilateral CJ was even provided to the</p> <p>(18) Intervenors, let alone disclosed any of the discussions</p> <p>(19) that led to the Fourth Amended CJ that was made public as</p> <p>(20) part of the settlement package. Even if we had provided</p> <p>(21) the bilateral CJ to the Intervenors during the</p> <p>(22) negotiations, that fact doesn't make the document itself</p> <p>(23) confidential under the very terms of the confidentiality</p> <p>(24) order.</p> <p>(25) Therefore, we would ask the Court to ignore</p>	<p>(1) you know, no position on this request for a stay. But as</p> <p>(2) Mr. Caldwell had mentioned, you know, during the February</p> <p>(3) 4th hearing, we also urged the Court to consider the</p> <p>(4) future need for EGLE and Gelman to move forward with what</p> <p>(5) I either call an interim or a placeholder consent judgment</p> <p>(6) that would have been based on that 2017 draft CJ, and</p> <p>(7) that's what allowed us to get going on some much long</p> <p>(8) delayed and needed work. So therefore we appreciate that</p> <p>(9) Gelman seeks to stay, you know, only the, only two areas</p> <p>(10) of the ordered implementation of the Fourth CJ rather than</p> <p>(11) all of it, and, you know, this would actually provide more</p> <p>(12) work than the EGLE, Gelman 2017 draft.</p> <p>(13) And as Mr. Caldwell also noted was that</p> <p>(14) Gelman's proposal would stay that portion of the ordered</p> <p>(15) CJ that was most objected to by the public, and that is</p> <p>(16) the First Sister Lake treated water discharge, so.</p> <p>(17) And that's basically all I've got, and thanks.</p> <p>(18)</p> <p>(19) THE COURT: Thank you, Mr. Negele.</p> <p>(20) Mr. Stapleton, the last time you indicated to</p> <p>(21) me that the Intervenors were in agreement and so therefore</p> <p>(22) only one attorney was speaking. Are you again --</p> <p>(23) MR. STAPLETON: Yes --</p> <p>(24) THE COURT: -- (unintelligible) --</p> <p>(25) MR. STAPLETON: -- and Mr. Dupes will be</p>

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<p>(1) speaking for Intervenor today.</p> <p>(2) THE COURT: Okay, thank you.</p> <p>(3) MR. DUPES: Good afternoon, Your Honor.</p> <p>(4) Again, Nathan Dupes on behalf of the City of Ann Arbor,</p> <p>(5) but as Mr. Stapleton mentioned, I'll give our collective</p> <p>(6) position on Gelman's requests today.</p> <p>(7) You know, really I didn't hear anything new in</p> <p>(8) Mr. Caldwell's presentation, so at least on his request</p> <p>(9) for a stay I would say that we've made our position in our</p> <p>(10) brief opposing that stay, and I'm not going to reiterate</p> <p>(11) that unless Your Honor has questions about our brief. But</p> <p>(12) I do want to briefly respond to the motion to file a</p> <p>(13) supplemental brief that Gelman filed yesterday, which</p> <p>(14) we've not had a chance to respond to yet.</p> <p>(15) Despite everything you're hearing today, Your</p> <p>(16) Honor, there's a couple of things that really can't be</p> <p>(17) disputed. The parties' positions at the time that Your</p> <p>(18) Honor entered the responsive activity order were the</p> <p>(19) following: Gelman was arguing for an order, which it</p> <p>(20) attached to its brief that it filed for the evidentiary</p> <p>(21) hearing that was different than, it wasn't the proposed</p> <p>(22) Fourth Amended CJ, but it was also different and required</p> <p>(23) additional response activities beyond the 2017 document</p> <p>(24) that they're now seeking for leave to file. Okay. Gelman</p> <p>(25) had every opportunity to file whatever it wanted to with</p>	<p>(1) no authority for the idea that after the Court has ruled</p> <p>(2) it can add a new document into the record, which was never</p> <p>(3) presented to the Court. So Gelman says this document was</p> <p>(4) drafted in 2017, in the four years since that document has</p> <p>(5) never been made public and it's never been presented to</p> <p>(6) the Court. So for that reason alone it's not part of the</p> <p>(7) record and the Court should deny the request to do so</p> <p>(8) after the fact.</p> <p>(9) And then briefly on confidentiality, Gelman's</p> <p>(10) just trying to slice this much too thin. They're not just</p> <p>(11) trying to submit that document into the record, but</p> <p>(12) they're trying to argue that EGLE deemed everything in</p> <p>(13) that document to be fully protective of the environment.</p> <p>(14) So they're trying to characterize positions of EGLE, which</p> <p>(15) EGLE hasn't even made today in Mr. Negele's remarks.</p> <p>(16) They're trying to characterize something another party</p> <p>(17) said and another party's position during settlement</p> <p>(18) negotiations. Okay.</p> <p>(19) And it's also important to remember that</p> <p>(20) Gelman did not give a copy of this document to the</p> <p>(21) Intervenor until after Your Honor entered the</p> <p>(22) confidentiality order. So to say now that somehow this</p> <p>(23) document can be freely filed with this Court and made part</p> <p>(24) of the record is nonsense, and it formed the basis for the</p> <p>(25) years of negotiations that the parties engaged in, that</p>
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<p>(1) the Court, or attempt to file with the Court in advance of</p> <p>(2) that evidentiary hearing. Gelman didn't file the document</p> <p>(3) they're now trying to seek to put in the record, okay?</p> <p>(4) Also at that time EGLE's position was that the</p> <p>(5) Court should enter an order that required everything that</p> <p>(6) was contained in the proposed Fourth Amended Consent</p> <p>(7) Judgment which was made public last fall. And as Your</p> <p>(8) Honor knows, you ultimately did just that with the</p> <p>(9) response activity order. So that was EGLE's position on</p> <p>(10) the record at the May 3rd evidentiary hearing.</p> <p>(11) Intervenor's position was that we use the</p> <p>(12) proposed Fourth Amended and restate as a starting point,</p> <p>(13) but thought there should be things that needed to be</p> <p>(14) changed or some additional response activities that need</p> <p>(15) to be included. Okay. Those were the parties' positions</p> <p>(16) as set forth in their brief, and those were, that was what</p> <p>(17) was in the record at the time Your Honor entered your</p> <p>(18) response activity order.</p> <p>(19) So setting aside confidentiality concerns over</p> <p>(20) the 2017 document that Gelman now wants to put in the</p> <p>(21) record, there's simply no authority for the proposition</p> <p>(22) that a party can, after the Court has made its decision,</p> <p>(23) inject a new document into the record. And apparently</p> <p>(24) Gelman's trying to do this because it wants to have that</p> <p>(25) document as part of the record on appeal, but it's given</p>	<p>(1) Your Honor directed the parties to engage in, which we</p> <p>(2) made sure were kept under the cloak of confidentiality.</p> <p>(3) The only, the only rescission of that order that Your</p> <p>(4) Honor approved were the documents that were made public,</p> <p>(5) the proposed Fourth Amended Consent Judgment, some</p> <p>(6) explanatory documents, and the proposed settlement</p> <p>(7) agreements. So it is confidential. It's now being used</p> <p>(8) inappropriately to characterize a position of another</p> <p>(9) party, okay, and to suggest that somehow that that means</p> <p>(10) that Your Honor's order was improper.</p> <p>(11) So again, Your Honor, we think the stay should</p> <p>(12) be denied for the reasons stated in our brief, and I'm</p> <p>(13) happy to answer questions you have, but we did want to</p> <p>(14) briefly respond to, you know, Gelman's filing of</p> <p>(15) yesterday.</p> <p>(16) THE COURT: Thank you.</p> <p>(17) Mr. Caldwell, any rebuttal?</p> <p>(18) MR. CALDWELL: Well, Your Honor, we certainly</p> <p>(19) planned on, during the evidentiary hearing we were going</p> <p>(20) to offer that 2017 CJ as an exhibit and we were going to</p> <p>(21) talk about the fact that it provided for a protective</p> <p>(22) remedy. I think it's a fair assumption that EGLE wouldn't</p> <p>(23) have agreed to it if they didn't also think it provided</p> <p>(24) for a protective remedy. And we didn't get a chance</p> <p>(25) obviously to do that. In fact, no evidence was presented.</p>

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<p>(1) No evidence was admitted. And we filed our supplemental</p> <p>(2) brief because the Intervenor was -- objected to the fact</p> <p>(3) that we were referring to a document that wasn't part of</p> <p>(4) the record, so we offered it as, to make it part of the</p> <p>(5) record. And so I don't understand the concern there. I</p> <p>(6) think that it really just goes to support the idea that</p> <p>(7) our motion for partial stay is really of no significance</p> <p>(8) in terms of the environmental issues that will be</p> <p>(9) addressed by the previously agreed upon work that we are</p> <p>(10) going to implement.</p> <p>(11) And in, Mr. Dupes is correct, the Fourth</p> <p>(12) Amended CJ that was negotiated is not an exact replica of</p> <p>(13) the 2017 CJ, plus these few added response activities, you</p> <p>(14) get that many lawyers in a room there's going to be some</p> <p>(15) wordsmith and some additional things were added. And to</p> <p>(16) the extent that those additional things were not</p> <p>(17) objectionable to Gelman, we've not sought to stay those.</p> <p>(18) So I -- we're trying to be the adult in the</p> <p>(19) room here, Your Honor, quite frankly. We're only seeking</p> <p>(20) to stay -- we're appealing the entire order. We think its</p> <p>(21) issuance was improper, but we're only seeking to stay the</p> <p>(22) activities that were not agreed to back in 2017.</p> <p>(23) THE COURT: Mr. Caldwell, I'd like to make an</p> <p>(24) observation, and that is, I mean this very sincerely, you</p> <p>(25) have been a delight to work with as a professional.</p>	<p>(1) be stricken from this record as well as the attachment to</p> <p>(2) that brief?</p> <p>(3) THE COURT: No, I'm not going to strike it</p> <p>(4) from the record. That's a request that they made, but I'm</p> <p>(5) not putting it, I'm not adding it into -- I'm not adding</p> <p>(6) that supplemental proposal into the original record, but I</p> <p>(7) want to preserve --</p> <p>(8) MR. DUPES: Okay.</p> <p>(9) THE COURT: -- that they made that request and</p> <p>(10) here's what the request was for. I want to let Mr.</p> <p>(11) Caldwell have that, the opportunity to argue that.</p> <p>(12) MR. CALDWELL: Thank you, Your Honor.</p> <p>(13) MR. DUPES: Okay, I understand.</p> <p>(14) THE COURT: All right?</p> <p>(15) All right, stay safe everybody.</p> <p>(16) MR. POSTEMA: Thank you, Judge.</p> <p>(17) MR. NEGELE: Your Honor?</p> <p>(18) THE COURT: Yes, Mr. Negele.</p> <p>(19) MR. NEGELE: One point I'd just like to make</p> <p>(20) --</p> <p>(21) THE COURT: Yes, Mr. Negele.</p> <p>(22) MR. NEGELE: -- just to be clear, that EGLE</p> <p>(23) would not agree to enter into a consent decree that it did</p> <p>(24) not believe was protective of public health and the</p> <p>(25) environment, and that is the case with the 2017 draft that</p>
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<p>(1) You're a smooth talker because you've been able to</p> <p>(2) politely tell me you think I'm full of it, and you do it</p> <p>(3) in such a polite way. And you may be right with the Court</p> <p>(4) of Appeals. But I am not -- I will deny your motion for a</p> <p>(5) partial stay; that way you can seek the relief in the</p> <p>(6) Court of Appeals for the stay on that.</p> <p>(7) And Mr. Dupes, it's hard to remember exactly,</p> <p>(8) you know, you're indicating this is not part of the</p> <p>(9) official record. I'm not going to supplement the original</p> <p>(10) record, but, although you do have this motion and the fact</p> <p>(11) that I was denying that, but that that was something you</p> <p>(12) had offered to do when you see the Court of Appeals. So</p> <p>(13) good luck on it, and I look forward to see what they have</p> <p>(14) to say about this for all of us.</p> <p>(15) MR. CALDWELL: Thank you, Your Honor. And</p> <p>(16) just to be clear, would the Court be granting our motion</p> <p>(17) for leave to file the supplemental brief?</p> <p>(18) THE COURT: No, I'm denying that. But you</p> <p>(19) have this motion that you made that request that that was</p> <p>(20) denied, and at least that's part of something you can</p> <p>(21) (unintelligible) with the Court of Appeals.</p> <p>(22) MR. CALDWELL: I understand, Your Honor.</p> <p>(23) Thank you.</p> <p>(24) MR. DUPES: Okay, Your Honor. Just on our end</p> <p>(25) can we be clear that that, that brief that they filed will</p>	<p>(1) we have.</p> <p>(2) THE COURT: I'm sure the three Judges at the</p> <p>(3) Court of Appeals are going to love hearing from all of</p> <p>(4) you.</p> <p>(5) MR. CALDWELL: Thank you, Your Honor. Stay</p> <p>(6) healthy.</p> <p>(7) MR. LISTMAN: Your Honor, before we go -- Your</p> <p>(8) Honor, we before we go, I did want to put my appearance on</p> <p>(9) the record. I didn't get a chance. I'm Attorney William</p> <p>(10) Listman standing in for Attorney Robert Davis representing</p> <p>(11) the County.</p> <p>(12) THE COURT: Thank you, sir. Yeah, I wondered</p> <p>(13) who you were.</p> <p>(14) MR. CALDWELL: And Your Honor, I apologize, I</p> <p>(15) did not have all of the windows open. Rachel Corley from</p> <p>(16) Mr. Ludwizewski's office is also with us today, and I</p> <p>(17) didn't want to forget to mention her.</p> <p>(18) THE COURT: Okay, welcome. Hello and goodbye</p> <p>(19) I guess is what I say, huh?</p> <p>(20) THE COURT: Okay. Take care.</p> <p>(21) MR. STAPLETON: Thank you, Your Honor.</p> <p>(22) (At 12:56 p.m., proceedings concluded; off the</p> <p>(23) record.)</p> <p>(24)</p> <p>(25)</p>

STATE OF MICHIGAN

COUNTY OF WASHTENAW)ss.

I certify that this transcript is a complete, true, and correct transcript to the best of my ability of the Zoom videoconference hearing in the matter of ATTORNEY GENERAL FOR THE STATE OF MICHIGAN v. GELMAN SCIENCES, case number 88-34734-CE, held June 17, 2021.

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DATED: June 18, 2021

S/Kristen Shankleton

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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,
-and-

Case No. 88-34734-CE
Hon. Timothy P. Connors

CITY OF ANN ARBOR; WASHTENAW COUNTY;
WASHTENAW COUNTY HEALTH DEPARTMENT;
WASHTENAW COUNTY HEALTH OFFICER
JIMENA LOVELUCK, in her official capacity;
HURON RIVER WATERSHED COUNCIL; and
SCIO TOWNSHIP,

Intervenors,

vs.

GELMAN SCIENCES, INC., a Michigan corporation,

Defendant.

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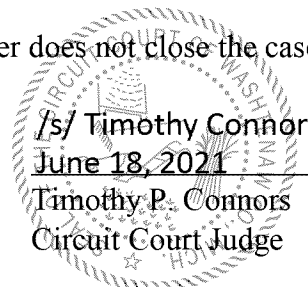
**ORDER DENYING MOTION FOR PARTIAL STAY OF ORDER
TO ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT
AND COMPLY WITH REVISED CLEANUP CRITERIA**

This matter having come before the Court on Defendant Gelman Sciences, Inc.'s ("Gelman") Motion for Partial Stay of Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria, the Intervenor having filed their opposition and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED that Gelman's Motion for Partial Stay of Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria is denied.

IT IS FURTHER ORDERED that this order does not close the case.

Dated: 6/18/2021

 /s/ Timothy Connors
June 18, 2021
Timothy P. Connors
Circuit Court Judge

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,
-and-

Case No. 88-34734-CE
Hon. Timothy P. Connors

CITY OF ANN ARBOR; WASHTENAW COUNTY;
WASHTENAW COUNTY HEALTH DEPARTMENT;
WASHTENAW COUNTY HEALTH OFFICER
JIMENA LOVELUCK, in her official capacity;
HURON RIVER WATERSHED COUNCIL; and
SCIO TOWNSHIP,

Intervenors,

vs.

GELMAN SCIENCES, INC., a Michigan corporation,

Defendant.

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**ORDER DENYING MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF IN
SUPPORT OF MOTION FOR PARTIAL STAY OF ORDER
TO ORDER TO CONDUCT RESPONSE ACTIVITIES TO IMPLEMENT
AND COMPLY WITH REVISED CLEANUP CRITERIA**

This matter having come before the Court on Defendant Gelman Sciences, Inc.'s ("Gelman") Motion for Leave to File Supplemental Brief in Support of Motion for Partial Stay of Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria, and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED that Gelman's Motion for Leave to File Supplemental Brief in Support of Motion for Partial Stay of Order to Conduct Response Activities to Implement and Comply with Revised Cleanup Criteria is denied.

IT IS FURTHER ORDERED that this order does not close the case.

Dated: 6/18/2021

The seal of the Circuit Court of Washington is a circular emblem. It features a central shield with a sun rising over mountains and a river. The shield is flanked by two figures, possibly representing justice and mercy. The words "CIRCUIT COURT OF WASHINGTON" are inscribed around the perimeter of the seal.
/s/ Timothy Connors
June 18, 2021
Timothy P. Connors
Circuit Court Judge

RECEIVED by MSC 10/4/2021 5:25:41 PM

REGISTER OF ACTIONS**CASE No. 88-034734-CE****Kelley, Frank J/attorney vs Gelman Sciences Inc**§
§
§
§
§
§
§Case Type: **Environment (CE)**
Date Filed: **02/26/1988**
Location: **Civil**
Judicial Officer: **Connors, Timothy P.**
eNACT Case Number: **GCW-1988-0034734****PARTY INFORMATION**

		Attorneys
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		Celeste R Gill <i>Retained</i> (517) 335-7627(W)
Plaintiff	Michigan Dept Of Nat Resources	Brian J. Negele <i>Retained</i> (517) 335-7664(W)
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Plaintiff	Michigan Natural Resources Com	Brian J. Negele <i>Retained</i> (517) 335-7664(W)
Plaintiff	Michigan Water Resources Comm	Brian J. Negele <i>Retained</i> (517) 335-7664(W)

EVENTS & ORDERS OF THE COURT

		DISPOSITIONS
10/26/1992		Final Judgment
		OTHER EVENTS AND HEARINGS
02/26/1988		Complaint filed sum issued <i>Comment: Complaint fd sum issued</i>
02/26/1988		Free text <i>Comment: State gen fund per 220.011 rec #95533</i> Amount: 5.25
02/26/1988		Free text <i>Comment: L.r.s. fee collected per 228.008</i> Amount: 5.00
02/26/1988		Free text <i>Comment: J.r.s. fee collected per 228.007</i> Amount: 18.75
02/26/1988		Free text <i>Comment: Entry fee circuit court</i> Amount: 11.00
03/15/1988		Conversion <i>Comment: Prior/comp reassignment 99 34538 aw</i>
03/15/1988		Free text <i>Comment: Reasgmt ord fd (judge campbell to judge p conlin)</i>
03/16/1988		Summons served filed (personal) <i>Comment: Summons served fd (personal 2 26 88 by corp secret ary)/proof of service fd GELMAN SCIENCES INC</i>
03/28/1988		Stip & order for <i>Comment: Stip & order extending time for deft to answer complaint fd (sgd 03 24 88) (on or before april 1 1988)</i>
04/11/1988		Answer to complaint filed <i>Comment: Answer to complaint/affirmative defenses fd GELMAN SCIENCES INC</i>
04/13/1988		Order

04/13/1988 *Comment: Order allowing appearance and sub of attys fd (sgd 04 13 88)*
Appearance by attorney filed
Comment: Appearance & substitution of attorneys/consent fd GELMAN SCIENCES INC

06/17/1988 **Proof of service filed**
Comment: Proof of service/mailling fd

08/24/1988 **Proof of mailing filed**
Comment: Proof of mailing fd

08/29/1988 **Pretrial & trial notice filed**
Comment: Pretrial & trial notice fd (pt 05 05 89 @ 9 30 td 11 27 89 @ 9 00)

09/14/1988 **Proof of mailing filed**
Comment: Proof of mailing fd

09/23/1988 **Proof of mailing filed**
Comment: Proof of mailing fd

09/27/1988 **Proof of mailing filed**
Comment: Proof of mailing fd

10/03/1988 **Proof of service filed**
Comment: Proof of service/mailling fd

10/11/1988 **Proof of mailing filed**
Comment: Proof of mailing fd

10/17/1988 **Proof of mailing filed**
Comment: Proof of mailing fd

10/19/1988 **Notice of hearing filed**
Comment: Notice of hearing/proof of service fd

10/19/1988 **Motion fee**
Comment: Motion fee rec #102524
Amount: 10.00

10/19/1988 **Motion**
Comment: Mot to compel answers to interrogatories and for sanctions/proof of service fd KELLEY FRANK J/ATTORNEY GEN

12/02/1988 **Proof of service filed**
Comment: Proof of service/mailling fd

02/02/1989 **Proof of service filed**
Comment: Proof of service fd

02/13/1989 **Proof of mailing filed**
Comment: Proof of mailing fd

02/15/1989 **Proof of service filed**
Comment: Proof of service fd

02/15/1989 **Notice of hearing filed**
Comment: Notice of hearing fd

02/15/1989 **Brief filed**
Comment: Brief in support of mot for partial summ dispo fd GELMAN SCIENCES INC

02/15/1989 **Motion fee**
Comment: Motion fee rec #105866
Amount: 10.00

02/15/1989 **Motion**
Comment: Motion for partial summary disposition fd GELMAN SCIENCES INC

02/21/1989 **Brief filed**
Comment: Brief in opposition to mot for part summ dispo fd KELLEY FRANK J/ATTORNEY GEN

02/22/1989 **Motion heard/under adv/op to follow (type)**
Comment: Gelman motion for judgment on pleadings hrd/taken under adv/responsive brief to be filed 2 weeks/2 weeks later brief of plaintiff/decision to follow

03/13/1989 **Proof of service filed**
Comment: Proof of mailing fd

03/13/1989 **Reply to**
Comment: Reply brief on mot for partial summ disposition fd GELMAN SCIENCES INC

05/04/1989 **Pretrial summary statement filed**
Comment: Pretrial summary statement fd KELLEY FRANK J/ATTORNEY GEN

05/09/1989 **Pretrial summary statement by ct filed**
Comment: Pretrial summary statement by ct fd (sgd 05 05 89) (td 11 27 89 @ 9 00)

05/09/1989 **Proof of service filed**
Comment: Proof of service fd

05/09/1989 **Pretrial summary statement filed**
Comment: Pretrial summary statement fd GELMAN SCIENCES INC

05/24/1989 **Notice of hearing filed**
Comment: Notice of hearing fd

05/24/1989 **Motion fee**
Comment: Motion fee rec #108759
Amount: 10.00

05/24/1989 **Motion**
Comment: Motion to compel discovery and for sanctions fd KELLEY FRANK J/ATTORNEY GEN

05/30/1989 **Proof of service filed**
Comment: Proof of service fd

05/30/1989 **Response to**
Comment: Response to pl mot to compel discovery and for sanctions fd GELMAN SCIENCES INC

05/31/1989 **Motion fee**
Comment: Motion fee rec #108967
Amount: 10.00

05/31/1989 **Motion**
Comment: Motion for protective order fd GELMAN SCIENCES INC

05/31/1989 **Order**
Comment: Order fd (sgd 05 31 89)(re producing things etc)

06/05/1989 **Proof of service filed**
Comment: Proof of service fd

06/05/1989 **Response to**
Comment: Response to df motion for entry of protective order/proof of service fd PLAINTIFFS

06/09/1989 **Free text**
Comment: Protective order fd (sgd 06 08 89)

06/12/1989 **Proof of service filed**
Comment: Proof of service fd

06/13/1989 **Proof of service filed**
Comment: Proof of service fd

06/14/1989 **Proof of service filed**
Comment: Proof of service fd

06/14/1989 **Notice of taking deposition filed**
Comment: Notice of taking depo/request for production of documents fd

06/15/1989 **Amended**
Comment: Amended proof of service fd

06/15/1989 **Proof of service filed**
Comment: Proof of service fd

07/05/1989 **Proof of service filed**
Comment: Proof of service fd

07/13/1989 **Proof of mailing filed**
Comment: Proof of mailing fd (2)

07/21/1989 **Notice of hearing/proof of service filed**
Comment: Notice of hearing/proof of service fd

07/21/1989 **Motion fee**
Comment: Motion fee rec #110466
Amount: 10.00

07/21/1989 **Motion**
Comment: Mot for determination of status of documents as containing confidential business information fd GELMAN SCIENCES INC

07/26/1989 **Proof of service filed**
Comment: Proof of service fd

07/27/1989 **Proof of service filed**
Comment: Proof of service fd

08/04/1989 **Proof of service filed**
Comment: Proof of service fd

08/09/1989 **Notice of hearing/proof of service filed**
Comment: Notice of hearing/proof of service fd

08/09/1989 **Motion fee**
Comment: Motion fee rec #111011
Amount: 10.00

08/09/1989 **Motion**
Comment: Motion to compel ans to defts second set of interogs to pltfs fd GELMAN SCIENCES INC

08/11/1989 **Memorandum filed**
Comment: Memo in supt of a determination that disputed documents are not covered by the protective order/pr of service fd PLTFS

08/15/1989 **Response to**
Comment: Response to defts mot to compel ans to defts 2nd set of interogs to pltfs fd PLTFS

08/16/1989 **Motion heard/under advl (type)**
Comment: Motion for sum disp heard/under adv

08/21/1989 **Proof of service filed**
Comment: Proof of service fd

08/22/1989 **Proof of service filed**
Comment: Proof of service fd (2)

08/22/1989 **Notice of hearing filed**
Comment: Notice of hearing fd

08/22/1989 **Motion fee**
Comment: Motion fee rec #111338
Amount: 10.00

08/22/1989 **Free text**
Comment: Joint mot to compel ent upon property of a non party automatic data processing inc for the undertaking of cert- ain inspection testing sampling activities fd GELMAN SCIENCES INC

08/23/1989 **Notice of hearing/proof of service filed**
Comment: Notice of hearing/proof of service fd

08/23/1989 **Brief filed**
Comment: Brief in supt of mot for leave to file/serve third party comp/for ord to show cause why a preliminary inj should not issue fd

08/23/1989 **Motion fee**
Comment: Motion fee rec #111395
Amount: 10.00

08/23/1989 **Motion**
Comment: Mot for leave to file & serve third party comp & for an ord to show cause why a preliminary injunction should not issue/verified third party complaint fd GELMAN SCIENCES INC

08/24/1989 **Proof of service filed**
Comment: Proof of service fd

08/30/1989 **Notice of taking deposition filed**
Comment: Not of taking depo/request for production of documents/pr of service fd

08/31/1989 **Proof of service filed**
Comment: Proof of service fd (3)

08/31/1989 **Notice of taking deposition filed**
Comment: Not of taking depo/request for prod of documents fd

09/01/1989 **Proof of service filed**
Comment: Proof of service fd

09/05/1989 **Proof of service filed**
Comment: Proof of service fd

09/05/1989 **Response to**
Comment: Resp of automatic data processing inc to request for entry upon property fd ADP

09/05/1989 **Response to**
Comment: Response to mot for leave to file/serve third pty complaint/for an ord to show cause why a preliminary injunction should not issue/pr of service fd PLTFS

09/06/1989 **Proof of service filed**

09/06/1989 **Free text**
 Comment: Proof of service fd
 Comment: Supplemental witness list/pr of service fd GELMAN SCIENCES INC
 09/06/1989 **Order**
 Comment: Order fd (sgd 09 06 89)re: ans to interrogs
 09/11/1989 **Proof of service filed**
 Comment: Proof of service fd
 09/13/1989 **Proof of service filed**
 Comment: Proof of service fd (2)
 09/14/1989 **Proof of service filed**
 Comment: Proof of service fd
 09/14/1989 **Proof of service filed**
 Comment: Proof of service fd
 09/18/1989 **Proof of service filed**
 Comment: Proof of service fd
 09/19/1989 **Proof of mailing filed**
 Comment: Proof of mailing fd
 09/22/1989 **Proof of service filed**
 Comment: Proof of service fd
 09/22/1989 **Proof of service filed**
 Comment: Proof of service fd
 09/25/1989 **Proof of service filed**
 Comment: Proof of service fd
 09/26/1989 **Proof of service filed**
 Comment: Proof of service fd
 09/27/1989 **Notice of taking deposition filed**
 Comment: Not of taking depo/req for production of doc/pr of service fd (2)
 09/29/1989 **Proof of service filed**
 Comment: Proof of service fd
 10/04/1989 **Proof of service filed**
 Comment: Proof of service fd
 10/06/1989 **Proof of service filed**
 Comment: Proof of service fd
 10/10/1989 **Proof of service filed**
 Comment: Proof of service fd
 10/10/1989 **Proof of service filed**
 Comment: Proof of service fd
 10/11/1989 **Proof of service filed**
 Comment: Proof of service fd
 10/11/1989 **Proof of service filed**
 Comment: Proof of hand delivery fd
 10/11/1989 **Notice of hearing filed**
 Comment: Notice of hearing fd
 10/11/1989 **Brief filed**
 Comment: Brief in supt of mot for sum dispo fd
 10/11/1989 **Motion fee**
 Comment: Motion fee rec #112912
 Amount: 10.00
 10/11/1989 **Motion**
 Comment: Motion for summary dispo fd GELMAN SCIENCES INC
 10/12/1989 **Motion fee**
 Comment: Motion fee rec #112950
 Amount: 10.00
 10/12/1989 **Motion**
 Comment: Motion to expedite discovery/not of hrg/pr of serv fd GELMAN SCIENCES INC
 10/16/1989 **Proof of service filed**
 Comment: Proof of service fd
 10/16/1989 **Proof of service filed**
 Comment: Proof of service fd
 10/16/1989 **Notice**
 Comment: Not of continued depo/request for production of documents/pr of mailing fd
 10/16/1989 **Notice of taking deposition filed**
 Comment: Not of taking depo/request for production of doc/ pr of service fd
 10/17/1989 **Proof of service filed**
 Comment: Proof of service fd (2)
 10/18/1989 **Proof of service filed**
 Comment: Proof of service fd (4)
 10/18/1989 **Renotice of hearing/proof of service filed**
 Comment: Re notice of hearing/proof of service fd
 10/18/1989 **Notice of hearing filed**
 Comment: Notice of hearing fd
 10/18/1989 **Motion fee**
 Comment: Motion fee rec #113223
 Amount: 10.00
 10/18/1989 **Motion**
 Comment: Motion to compel discovery fd GELMAN SCIENCES INC
 10/19/1989 **Proof of service filed**
 Comment: Proof of service fd (2)
 10/20/1989 **Proof of service filed**
 Comment: Proof of service fd(2)
 10/23/1989 **Proof of service filed**
 Comment: Proof of service fd (2)
 10/23/1989 **Affidavit filed**
 Comment: Affidavit of process server fd

10/23/1989 **Brief filed**
Comment: Brief in opposition to mot for sum dispo fd

10/24/1989 **Proof of mailing filed**
Comment: Proof of mailing fd

10/24/1989 **Proof of service filed**
Comment: Proof of service fd

10/24/1989 **Response to**
Comment: Response to defts mot to expedite discovery/pr of service fd KELLEY FRANK J/ATTORNEY GEN

10/24/1989 **Reply to**
Comment: Reply brief on mot for summary dispo fd GELMAN SCIENCES INC

10/24/1989 **First**
Comment: First set of requests for admission directed to pltfs fd (exhibits nos 61-114) GELMAN SCIENCES INC

10/24/1989 **First**
Comment: First set of requests for admission directed to pltfs fd(exhibits nos 1-60) GELMAN SCIENCES INC

10/24/1989 **First**
Comment: First set of requests for admission directed to pltfs fd GELMAN SCIENCES INC

10/25/1989 **Motion heard/under advl (type)**
Comment: Df motions for sum disp hrd/denied/re issue of statute of limitations argument/taken under advisement/agreements on discovery except for one issue heard and denied/orders to follow/briefs to follow

10/25/1989 **Proof of service filed**
Comment: Proof of service fd (2)

10/25/1989 **Opinion & order of the court filed**
Comment: Opinion & order fd (sgd 10 25 89) re:partial sum dispo granted in favor of deft gelman) ENT CC JRL 1052A PG 440900-04

10/26/1989 **Proof of mailing filed**
Comment: Proof of mailing fd

10/27/1989 **Proof of service filed**
Comment: Proof of service fd (2)

10/27/1989 **Notice of hearing filed**
Comment: Notice of hearing fd

10/27/1989 **Motion fee**
Comment: Motion fee rec #113471
 Amount: 10.00

10/27/1989 **Motion**
Comment: Motion for leave to file counterclaim GELMAN SCIENCES INC

10/30/1989 **Proof of service filed**
Comment: Proof of service fd (3)

10/30/1989 **Response to**
Comment: Resp to defts mot for leave to file counterclaim fd PLTFS

10/31/1989 **Free text**
Comment: Supplemental brief in opposition to mot for sum dispo/pr of service fd KELLEY FRANK J/ATTORNEY GEN

11/01/1989 **Proof of service filed**
Comment: Proof of service fd

11/01/1989 **Second**
Comment: Second set of requests for admission directed to pltfs fd GELMAN SCIENCES INC

11/01/1989 **Free text**
Comment: Supplemental brief on mot for sum dispo fd GELMAN SCIENCES INC

11/01/1989 **Notice of Submission - Copy of Order - Proof of Service**
Comment: Notice submission/copy of order/proof service fd GELMAN SCIENCES INC

11/02/1989 **Proof of service filed**
Comment: Proof of service fd

11/02/1989 **Fourth**
Comment: Fourth request for production of documents to pltf fd GELMAN SCIENCES INC

11/02/1989 **Third**
Comment: Third request for production of documents/pr of service fd GELMAN SCIENCES INC

11/08/1989 **Objection**
Comment: Obj to defts porposed ord granting deft gelman sciences inc mot for sum dispo in part/denying mot in part/reserv ing decision in part/pr of service fd PLTFS

11/09/1989 **Proof of service filed**
Comment: Proof of service fd (2)

11/13/1989 **Notice of hearing/proof of service filed**
Comment: Notice of hearing/proof of service fd

11/13/1989 **Motion fee**
Comment: Motion fee rec #113912
 Amount: 10.00

11/13/1989 **Motion**
Comment: Motion in limine to determine scope of trial fd GELMAN SCIENCES INC

11/13/1989 **Notice**
Comment: Notice of settlement of order fd

11/13/1989 **Clerks notice of filing of objections filed**
Comment: Clerks notice of filing of objections fd

11/13/1989 **Proof of service filed**
Comment: Proof of service fd

11/15/1989 **Proof of service filed**
Comment: Proof of service fd

11/15/1989 **Supplemental Document**
Comment: Supplement to motion in limine to determine scope of trial fd GELMAN SCIENCES INC

11/17/1989 **Response to**
Comment: Resp to deft gelman sciences incs mot in limine to determine scope of trial fd PLTFS

11/17/1989 **Notice of hearing/proof of service filed**
Comment: Notice of hearing/proof of service fd

11/17/1989 **Response to**
Comment: Response to pltf 3d req for production of document directed to def gelman sciences inc fd GELMAN SCIENCES INC

11/17/1989 **Response to**
Comment: Response to pltf 2nd set of req for admissions fd GELMAN SCIENCES INC

11/17/1989 **Response to**
Comment: Response to pltf 1st set of req for admissions fd GELMAN SCIENCES INC

11/17/1989 **List of trial exhibits filed**
Comment: List of trial exhibits fd GELMAN SCIENCES INC

11/17/1989 **Motion fee**
Comment: Motion fee rec #114142
Amount: 10.00

11/17/1989 **Second**
Comment: Second motion in limine to determine scope of trial fd GELMAN SCIENCES INC

11/20/1989 **Free text**
Comment: Mot for sum dipso exhibits fd(2 volumes)

11/20/1989 **Motion fee**
Comment: Motion fee rec #114179
Amount: 10.00

11/20/1989 **Notice of hrg/motion**
Comment: Not of hrg/mot for sum dispo based upon violation of equal protection/brief in supt of mot/pr of service fd GELMAN SCIENCES INC

11/22/1989 **Motion**
Comment: Motion hd/decision on record/order to follow (re; motion in limine to determine scope of trial)

11/22/1989 **Conversion**
Comment: Plaintiffs trial brief fd

11/27/1989 **Trial brief filed**
Comment: Trial brief fd GELMAN SCIENCES INC

11/27/1989 **Free text**
Comment: Non-jury trial fee rec #114286
Amount: 15.00

11/27/1989 **Judgment fee**
Comment: Judgment fee rec #114286
Amount: 10.00

11/27/1989 **Adjourned (what adjourned to when)**
Comment: Adjourned non jury trial

12/01/1989 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial began/test tkn/adj to 12 06 89

12/05/1989 **Free text**
Comment: Renot of taking de bene esse depo/pr of serv fd

12/06/1989 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 12 07 89

12/07/1989 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 12 13 89

12/12/1989 **Notice of taking deposition filed**
Comment: Not of continuation of taking de bene esse depo/ pr of service fd

12/13/1989 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 01 17 90

01/17/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 01 18 90

01/18/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 01 24 90

01/19/1990 **Transcript**
Comment: Transcript of trial held 01 18 90 fd(84 pgs)

01/19/1990 **Transcript**
Comment: Transcript or bench tr held 01 17 90 fd(89 pgs)

01/19/1990 **Order**
Comment: Ord denying deft gelman sciences mot for sum dispo in part/reserving decision in part fd (sgd 01 17 90)

01/24/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 01 25 90

01/25/1990 **Transcript**
Comment: Transcript of trial held 01 24 90 fd (59 pgs)

01/25/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/ adj to 01 31 90

01/26/1990 **Transcript**
Comment: Transcript of trial held 01 25 90 fd (88pgs)

01/30/1990 **Proof of service filed**
Comment: Proof of service fd

01/31/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 02 07 90

02/01/1990 **Transcript**
Comment: Transcript of trial held 01 31 90 fd(74 pgs)

02/07/1990 **Memorandum filed**
Comment: Memo of law fd PLTFS

02/07/1990 **Memorandum filed**
Comment: Memo in opposition to defts motion to exclude evidence fd GELMAN SCIENCES INC

02/07/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 02 21 90 2:00p

02/08/1990 **Transcript of trial held (date) filed (no of pgs)**
Comment: Transcript of trial held 02 07 90 fd (80 pgs)

02/22/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 02 28 90 2:00

02/28/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 03 21 90 2pm

04/18/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 04 19 90 2 pm

04/19/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/to 05 02 90 2 p.m.

05/02/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 05 09 90 2 pm

05/09/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/ adj to 05 23 90 2pm

05/23/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/ adj to 05 30 90 2pm

05/30/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 06 06 90 2pm

06/06/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 06 20 90 2pm

06/20/1990 **Adjourned (what adjourned to when)**
Comment: Adjourned to 06 27 90 2:00 p.m

06/27/1990 **Adjourned (what adjourned to when)**
Comment: Adjourned by ct to 07 11 90 2:00 p.m.

07/11/1990 **Adjourned (what adjourned to when)**
Comment: Adjourned by def request to 07 18 90

07/18/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 07 25 90 2pm

07/25/1990 **Adjourned (what adjourned to when)**
Comment: Adjourned pltf cannot get witness here/adj to 08 16 90 at 2:00 pm

08/16/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 08 22 90 2pm both sides to submit briefs by today re; issue of retroactive rules/decision prior to 08 29 90.

08/22/1990 **Case opened**
Comment: Copy request and not for film & electronic media coverage of court proceedings fd ANN ARBOR NEWS

08/22/1990 **Proof of service filed**
Comment: Proof of service fd

08/22/1990 **Memorandum filed**
Comment: Memorandum of law regarding retroactive application of michigan environmental response act/act 307/fd GELMAN SCIENCES INC

08/22/1990 **Memorandum filed**
Comment: Memorandum in supt of admission of evidence pertaining to administrative rules for environmental contamination response activity fd KELLEY FRANK J/ATTORNEY GEN

08/22/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/adj to 08 29 90 2pm

08/29/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/court decision re; retroactive use of new rules by dnr-denied/separate record made--mr venman testimony taken/adj to 09 05 90 2pm

09/05/1990 **Free text**
Comment: Counsel called court/trial unable to proceed today to be adj to date to be set

09/26/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/pltf rest/adj to 10 03 90 2:00 pm

10/03/1990 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/test tkn/ad to 10 31 90 for deft motion for involuntary dismissal

10/11/1990 **Notice of hearing/proof of service filed**
Comment: Notice of hearing/proof of service fd

10/11/1990 **Brief In Support of Motion etc FD**
Comment: Brief in support of motion etc fd GELMAN SCIENCES INC

10/11/1990 **Motion fee**
Comment: Motion fee rec #124177
Amount: 10.00

10/11/1990 **Motion**
Comment: Motion for involuntary dismissal fd GELMAN SCIENCES INC

10/18/1990 **Brief In Support of Motion etc FD**
Comment: Brief in support of motion etc fd KELLEY FRANK J/ATTORNEY GEN

10/18/1990 **Motion fee**
Comment: Motion fee rec #123428
Amount: 10.00

10/18/1990 **Motion**
Comment: Motion for preliminary injunctive relief fd KELLEY FRANK J/ATTORNEY GEN

10/31/1990 **Adjourned (what adjourned to when)**
Comment: Adjourned continuation n/j trial to 11 07 90

11/05/1990 **Brief in opposition to motion etc filed**
Comment: Brief in opposition to motion for invol dism/ proof of service fd KELLEY FRANK J/ATTORNEY GEN

11/07/1990 **Adjourned (what adjourned to when)**
Comment: Adjourned cont of nj trial to 01 23 91 1:30pm

11/13/1990 **Proof of service filed**
Comment: Proof of service fd

11/13/1990 **Brief in opposition to motion etc filed**
Comment: Brief in opposition to pls motion for preliminary injunctive relief fd GELMAN SCIENCES INC

11/21/1990 **Brief in opposition to motion etc filed**
Comment: Brief in opposition to motion for involuntary dismissal fd KELLEY FRANK J/ATTORNEY GEN

01/14/1991 **Amended trial notice filed (**
Comment: Amended trial notice fd (01 23 91 @ 01 30)

01/23/1991 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont from 10 03 90/def motion for involuntary dismissal (directed verdict) hd/and argued/matter u/a adj to 01 30 91 1:30 pm to hear pltf's motion

01/30/1991 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/pltf motion for preliminary injunction order hd/partially argued/adj to 02 13 91 1:30 pm

02/13/1991 **Adjourned (what adjourned to when)**
Comment: Adjourned non-jury continuation to 02 20 91 1:30 p

02/20/1991 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/cont arguments on pltf's motion for injunctive relief heard/matters under advisement/opinion to follow

07/25/1991 **Opinion & order of the court filed**
Comment: Opinion & order fd (sgd 07 25 91)(motion for preliminary injunction denied) ENTCC JRL 01143A PG 485075-103

08/16/1991 **Proof of service filed**
Comment: Proof of service fd

08/16/1991 **Brief filed**
Comment: Brief in opposition to pltfs mot for certification of final judgment fd GELMAN SCIENCES INC

08/19/1991 **Motion fee**
Comment: Motion fee rec #1040y
Amount: 10.00

08/19/1991 **Motion**
Comment: Motion for certification of final judgment/proof of service fd KELLEY FRANK J/ATTORNEY GEN

08/21/1991 **Objection**
Comment: Objection to entry of judgment/argued/courts decision on record/(only issue still pending re;overflow issue) non-jury trial to recommence 09 04 91 1:30pm

08/27/1991 **Motion fee**
Comment: Motion fee rec #5837a
Amount: 10.00

08/27/1991 **Motion**
Comment: Motion in limine to determine scope of trial/pr of serv fd PLTFS

08/30/1991 **Proof of service filed**
Comment: Proof of service fd

08/30/1991 **Brief in opposition to motion etc filed**
Comment: Brief in opposition to pl motion in limine fd GELMAN SCIENCES INC

09/04/1991 **Adjourned (what adjourned to when)**
Comment: Continuation of non-jury trial adj to 09 05 91 1:30 pm

09/05/1991 **Order**
Comment: Ord denying mot for certification of final judg fd (sgd 09 05 91)

09/05/1991 **Non jury trial held/test tkn/jdg gr to follow**
Comment: Non jury trial cont/pltf motion in limine hd/arg court decision on record/on defendants case -- test tkn/adj to 98 25 91 1:30pm

09/25/1991 **Free text**
Comment: Non jury trial continued/def witnesses cont test tkn/adj to 10 02 91 1:30 pm

10/02/1991 **Free text**
Comment: Non jury trial continued/test tkn/adj to 10 16 91 at 1:30pm

10/04/1991 **Transcript**
Comment: Transcript of hrg held 08 21 91 fd (19 pgs)

10/16/1991 **Free text**
Comment: Nothing on non jury trial/adj to 10 30 91 1:30pm

10/30/1991 **Free text**
Comment: Non jury trial continued/test tkn/adj to 11 12 91 9am

11/12/1991 **Free text**
Comment: Non jury trial continued/test tkn/adj to 11 27 91 1:30pm

11/27/1991 **Adjourned (what adjourned to when)**
Comment: Adjourned by court to 12 11 91

12/11/1991 **Free text**
Comment: Nothing in ct/adj to 01 22 92 1:30

01/22/1992 **Free text**
Comment: Non jury trial continued fr 11 12 91/test cont/ adj to 02 06 92 1:30pm

02/06/1992 **Free text**
Comment: Non jury trial continued/test tkn/adj to 02 19 92 at 1:30pm

02/12/1992 **Notice of hearing & proof of mailing filed**
Comment: Notice of hearing & proof of mailing fd

02/12/1992 **Brief In Support of Motion etc FD**
Comment: Brief in support of motion etc fd GELMAN SCIENCES INC

02/12/1992 **Motion fee**
Comment: Motion fee rec #1989y
Amount: 10.00

02/12/1992 **Motion**
Comment: Motion for permanent injunction fd GELMAN SCIENCES INC

02/19/1992 **Free text**
Comment: Non-jury trial scheduled to continue/adj to 03 11 92 1:30pm (def in trial in other case)

03/05/1992 **Copy of court of appeals order filed (details)**
Comment: Copy of court of appeals order fd (application for leave to appeal is dismissed) ENT CC JRL 1174A PG 502879

06/25/1992 **Clerks notation - type in**
Comment: Clerks notation - continued to 07 22 92 01 30

07/22/1992 **Adjourned (what adjourned to when)**
Comment: Adjourned cont of njt to 09 23 92 1:30pm

09/23/1992 **Free text**
Comment: Per counsel/matter settled/judgment to follow

10/26/1992 **Consent judgment filed**
Comment: Consent judgment fd (sgd 10 26 92)closes 521115) ENT CC JRL 1208A PG 520985-

11/25/1992 **Free text**
Comment: List of non jury trial exhibits fd

12/04/1992 **Transcript**
Comment: Transcript proceedings held 10 30 91 fd(61 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 10 02 91 fd (55 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 08 29 90 fd (46 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 08 22 90 fd (44 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 08 16 90 fd (45 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 05 30 90 fd (50 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 05 23 90 fd (43 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 05 02 90 fd (46 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 04 18 90 vol i fd(49 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 02 28 90 vol ii fd(40 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 02 22 90 fd(71 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 12 13 89 fd (29 pgs)

12/04/1992 **Transcript**
Comment: Transcript trial held 12 007 89 fd (40 pgs)

12/04/1992 **Transcript**
Comment: Transcript proceedings held 10 25 89 fd(60 pgs)

06/18/1996 **Case reassigned from to per demo project**
Comment: Case reassigned from pjc to mm per demo project

09/23/1996 **Amended**
Comment: Amendment to consent judgment fd (sgd 09 23 96) ENT CC RL 96040A PGS 31498-510

08/13/1999 **Motion fee**
Comment: Motion fee rec #88754a
Amount: 20.00

08/13/1999 **Notice of hearing filed**
Comment: Notice of hearing etc/petition for dispute resolution pursuant to sec xvi of the 1992 consent judgment as amended/proof of service fd

08/13/1999 **Appearance and notice of appearance filed**
Comment: Appearance/notice of appearance fd

08/19/1999 **Renotice of hearing filed**
Comment: Renotice of hearing on deft petition for dispute resolution pursuant to sec xvi of the 1992 consent judgment as amended/proof of serv fd

08/24/1999 **Event cancellation notice generated**
Comment: Event notice generated, connors, richard d , #00418115 CONNORS, RICHARD D

08/24/1999 **Event cancellation notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00418114 CHURCHILL SALLY J/AST ATTY

08/24/1999 **Event cancellation notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00418113 REICHEL ROBERT P/ASST ATTY

08/24/1999 **Event cancellation notice generated**
Comment: Event notice generated, freeman, stewart h , , #00418110 FREEMAN, STEWART H, 1

08/25/1999 **Motion Hearing (3:00 PM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: DF/PETITION FOR DISPUTE RESOLUTION
Result: ADJ. BY DEFENDANT

08/26/1999 **Renotice of hearing filed**
Comment: Renotice of hearing on deft petition for dispute resolution pursuant to sec xvi of the 1992 consent judgment as amended fd

09/01/1999 **Renotice of hearing filed**
Comment: Renotice of hearing on deft petition for dispute resolution etc/proof of service fd

09/01/1999 **Motion Hearing (3:00 PM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: DF/PETITION FOR DISPUTE RESOLUTION Notes: ADJ. FROM 08/25/99 BY DF
Result: ADJ. BY DEFENDANT

09/08/1999 **Conversion**
Comment: Motion heard/deq has to seek public input/maximum time allowed to seek input is 180 days/180 day max begins 09/15/99/order to follow (shelton/cc#2/video)

09/08/1999 **Proof of service filed**
Comment: Proof of service fd

09/08/1999 **Response to**
Comment: Response to defts petition for dispute resolution fd

09/08/1999 **Clerk's Notice Returned Undeliverable**
Comment: Clerks notice returned undeliverable fd

09/08/1999 **Motion Hearing (1:30 PM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0004 Directive: DF/PETITION FOR DISPUTE RESOLUTION Notes: ADJ. FROM 08/25/99 BY DF Notes: ADJ. FROM 09/01/99 BY DF Notes: (MM CASE)

09/08/1999 **Motion Hearing (3:00 PM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0003 Directive: DF/PETITION FOR DISPUTE RESOLUTION Notes: ADJ. FROM 08/25/99 BY DF Notes: ADJ. FROM 09/01/99 BY DF
Result: ADJ. BY COURT

09/14/1999 **Event notice generated**
Comment: Event notice generated, connors, richard d , #00423349 CONNORS, RICHARD D

09/14/1999 **Event notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00423348 CHURCHILL SALLY J/AST ATTY

09/14/1999 **Event notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00423347 REICHEL ROBERT P/ASST ATTY

09/14/1999 **Event notice generated**
Comment: Event notice generated, freeman, stewart h , , #00423346 FREEMAN, STEWART H, 1

09/16/1999 **Notice of Submission - Copy of Order - Proof of Service**
Comment: Not submission/order (copy)/pr of serv 09 15 99 fd

09/22/1999 **Hearing for Entry of Order (9:00 AM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: PER THE HEARING HELD ON 09/08/99 W/DES RE: 180 Notes: DAY

09/23/1999 **Order**
Comment: Order resolving dispute fd (sgd 09 21 99)

09/27/1999 **Order**
Comment: Order resolving dispute fd (sgd 09 27 99)

09/29/1999 **Order**
Comment: Order resolving dispute fd (sgd 09 28 99) ENT RL NO 99039A PG 021913-4

10/21/1999 **Second**
Comment: Second amendment to consent judgment fd (sgd 10 20 99) ENT RL NO 99041A PG 23803-8

02/14/2000 **Oral argument set for**
Comment: Oral argument set for 03/10/2000 8:30 a.m.

02/14/2000 **Event notice generated**
Comment: Event notice generated, freeman, stewart h , , #00033292 FREEMAN, STEWART H, 1

02/14/2000 **Event notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00033293 REICHEL ROBERT P/ASST ATTY

02/14/2000 **Event notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00033294 CHURCHILL SALLY J/AST ATTY

02/14/2000 **Event notice generated**
Comment: Event notice generated, connors, richard d , #00033296 CONNORS, RICHARD D

02/14/2000 **Payment received**
Comment: Payment received receipt # - 00007789
Amount: 20.00

02/14/2000 **Motion**
Comment: Motion to enforce consent judgment fd cmfe 20.00
Amount: 20.00

02/14/2000 **Affidavit filed**
Comment: Affidavit of sybil a kolon fd

02/14/2000 **Affidavit filed**
Comment: Affidavit of leonard c lipinski fd

02/14/2000 **Notice of hearing filed**
Comment: Notice of hearing filed

02/14/2000 **Proof of service filed**
Comment: Proof of service fd

02/16/2000 **Order**
Comment: Order fd (sgd 02 14 00)(re mot to enforce consent judgment)

02/18/2000 **Stip & order for**
Comment: Stip & order to substitute attorney fd (sgd 02 24 00)(connors out/ fink/caldwell/wasserman in)

02/23/2000 **Payment received**
Comment: Payment received receipt # - 00008328
Amount: 20.00

02/23/2000 **Motion for**
Comment: Motion for hearing on oral testimony and to compel discovery fd cmfe 20.00

02/23/2000 **Notice of hearing filed**
Comment: Notice of hearing filed

02/23/2000 **Proof of service filed**
Comment: Proof of service fd (2)

02/24/2000 **Notice of disqualification/county clerks notice filed**
Comment: Notice of disqualification/county clerks notice fd

02/24/2000 **Stip & order for**
Comment: Stip & order to substitute attorneys fd (sgd 02 24 00)(connors out/ fink/caldwell/wasserman in)

02/28/2000 **Clerks note - slip sent to assignment clerk**
Comment: Clerks note - slip sent to assignment clerk

02/28/2000 **Response to**
Comment: Response to motion for hearing on oral testimony and to compel discovery fd

02/28/2000 **Proof of service filed**
Comment: Proof of service fd

02/29/2000 **Conversion**
Comment: Opposition to pltfs motion to enforce consent judgment fd

02/29/2000 **Affidavit filed**
Comment: Affidavit of farsad fotouhi fd

02/29/2000 **Proof of service filed**
Comment: Proof of service fd

03/01/2000 **Motion for**
Comment: Motion for hearing on oral testimony & compel heard/ court adjourned 03 10 00 hearing/ parties to depose each others witnesses within 30 days/ status conference set for 04 19 00 @ 2:30/ evidentiary hearing to be set for may/ order to follow (shelton/ cc#2/ video)

03/01/2000 **Motion Hearing** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: PL/ENFORCE CONSENT JUDGMENT
Result: EVENT CANCEL BY COURT

03/01/2000 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: DF/MOTION FOR HEARING ON ORAL TESTIMONY & COMPEL
Result: EVENT HELD AS SCHEDULED

03/03/2000 **Reassignment Order**
Comment: Reassignment order fd

03/06/2000 **Reassignment**
Comment: Reassignment from: cvcb to: cvcc

03/08/2000 **Conversion**
Comment: Attachment 2 to the affidavit of farsad fotouhi fd

03/10/2000 **Oral Argument** (8:30 AM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: RE: ENFORCEMENT OF CONSENT JUDGMENT (SET PER CT)
Result: EVENT CANCEL BY COURT

03/16/2000 **Order**
Comment: Order resolving deflt motion for hearing on oral testimony and to compel discovery fd (sgd 03 14 00)

03/20/2000 **Proof of service filed**
Comment: Proof of service fd

04/19/2000 **Status conference held**
Comment: Status conference held in chambers

04/19/2000 **Status Conference** (2:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: PER THE HEARING HELD ON 03/01/00 - EVIDENTIARY Notes: HEARING TO BE SET
Result: EVENT HELD AS SCHEDULED

04/24/2000 **Event cancellation notice generated**
Comment: Event notice generated, freeman,stewart h , #00085852 FREEMAN,STEWART H, 1

04/24/2000 **Event cancellation notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00085854 REICHEL ROBERT P/ASST ATTY

04/24/2000 **Event cancellation notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00085855 CHURCHILL SALLY J/AST ATTY

04/24/2000 **Event cancellation notice generated**
Comment: Event notice generated, fink, david h , #00085856 FINK, DAVID H

04/24/2000 **Event cancellation notice generated**
Comment: Event notice generated, wasserman, alan d , #00085858 WASSERMAN, ALAN D

04/24/2000 **Event cancellation notice generated**
Comment: Event notice generated, caldwell, michael I , #00085859 CALDWELL, MICHAEL L

05/12/2000 **Payment received**
Comment: Payment received receipt # - 00013173
Amount: 25.00

06/20/2000 **Event cancellation notice generated**
Comment: Event notice generated, freeman, Stewart H , #00130928 FREEMAN, STEWART H, 1

06/20/2000 **Event cancellation notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00130930 REICHEL ROBERT P/ASST ATTY

06/20/2000 **Event cancellation notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00130933 CHURCHILL SALLY J/AST ATTY

06/20/2000 **Event cancellation notice generated**
Comment: Event notice generated, fink, david h , #00130934 FINK, DAVID H

06/20/2000 **Event cancellation notice generated**
Comment: Event notice generated, wasserman, alan d , #00130935 WASSERMAN, ALAN D

06/20/2000 **Event cancellation notice generated**
Comment: Event notice generated, caldwell, michael I , #00130936 CALDWELL, MICHAEL L

06/23/2000 **Statement**
Comment: Joint prehearing statement fd

06/23/2000 **Proof of service filed**
Comment: Proof of service fd

06/29/2000 **Evidentiary Hearing (8:00 AM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: PER THE STC HELD ON 04/19/00 - TO BE HELD ALL DAY Notes: AND CONTINUED ON 06/30/00
Result: ADJ. BY COURT

06/30/2000 **Evidentiary Hearing Continued (8:00 AM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: PER THE STC HELD ON 04/19/00 - TO BE HELD ALL DAY Notes: AND CONTINUED FROM 06/29/00
Result: ADJ. BY COURT

07/03/2000 **Brief filed**
Comment: Hearing brief fd

07/03/2000 **Proof of service filed**
Comment: Proof of service fd

07/06/2000 **Evidentiary hrg held/test taken/**
Comment: Evidentiary hrg held/test taken/adjourned until 07 07 00 @ 8:00 (shelton/ cc#2/ video)

07/06/2000 **Evidentiary Hearing (8:00 AM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0003 Directive: PER THE STC HELD ON 04/19/00 - TO BE HELD ALL DAY Notes: AND CONTINUED ON 06/30/00
Notes: ADJ. FROM 06/29/00 BY COUNSEL
Result: EVENT HELD AS SCHEDULED

07/07/2000 **Evidentiary hrg held/test taken/**
Comment: Evidentiary hrg held/test taken/court adjourned until 07 10 00 @ 9:15 (shelton/ cc#2/ video)

07/07/2000 **Evidentiary Hearing Continued (8:00 AM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0003 Directive: PER THE STC HELD ON 04/19/00 - TO BE HELD ALL DAY Notes: AND CONTINUED FROM 07/06/00
Notes: ADJ. FROM 06/30/00 BY COUNSEL

07/10/2000 **Evidentiary hrg held/test taken/**
Comment: Evidentiary hrg held/test taken/ hearing concluded/ opinion to follow (shelton/ cc#2/ video)

07/10/2000 **Evidentiary Hearing Continued (9:00 AM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0000
Result: MOTION HRD - UNDER ADVISEMENT

07/17/2000 **Opinion & order filed**
Comment: Opinion and remediation enforcement order fd (sgd 07 17 00)(see order for details) ENT RL NO 0030 PG 34734-23

08/22/2000 **Transcript**
Comment: Transcript of evidentiary hearing vol 1 fd (49 pgs)

08/22/2000 **Transcript**
Comment: Transcript of evidentiary hearing vol 2 fd (63 pgs)

08/22/2000 **Transcript**
Comment: Transcript of of evidentiary hearing vol 3 fd (33 pgs)

08/28/2000 **Stip & order for**
Comment: Stip & order amending remediation enforcement order fd (sgd 08 28 00)

01/03/2001 **Motion**
Comment: Motion for entry of order adopting 5 year plan fd cmfe 20.00
Amount: 20.00

01/03/2001 **Payment received**
Comment: Payment received receipt # - 00025225
Amount: 20.00

01/03/2001 **Notice of hearing filed**
Comment: Notice of hearing filed

01/03/2001 **Proof of service filed**
Comment: Proof of service fd

01/10/2001 **Motion for**
Comment: Motion for entry of order adopting 5 year plan heard/ granted/ order signed/ review set 07 18 01 @ 1:30 (shelton/ cc#2/ video)

01/10/2001 **Motion Hearing (1:30 PM)** (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: DF/ENTRY OF RODER ADOPTING 5 YEAR PLAN
Result: EVENT HELD AS SCHEDULED

01/11/2001 **Stip & order for**
Comment: Stip & order adopting five year plan fd (sgd 01 10 01)

05/30/2001 **Letter filed (detail here)**
Comment: Letter fd (from attys reichel & caldwell)

06/21/2001 **Payment received**
Comment: Payment received receipt # - 00034147
Amount: 20.00

06/21/2001 **Petition**
Comment: Petition for dispute resolution fd cmfe 20.00

06/21/2001 **Notice of hearing filed**

06/21/2001 *Comment: Notice of hearing filed*
Proof of service filed
Comment: Proof of service fd

06/29/2001 **Event notice generated**
Comment: Event notice generated, freeman,stewart h , #00422559 FREEMAN,STEWART H, 1

06/29/2001 **Event notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00422569 REICHEL ROBERT P/ASST ATTY

06/29/2001 **Event notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00422570 CHURCHILL SALLY J/AST ATTY

06/29/2001 **Event notice generated**
Comment: Event notice generated, fink, david h , #00422572 FINK, DAVID H

06/29/2001 **Event notice generated**
Comment: Event notice generated, wasserman, alan d , #00422573 WASSERMAN, ALAN D

06/29/2001 **Event notice generated**
Comment: Event notice generated, caldwell, michael l , #00422575 CALDWELL, MICHAEL L

07/03/2001 **Brief filed**
Comment: Brief in response to petition for dispute resolution & in support of imposition of stipulated penalties/proof of service fd

07/18/2001 **Conversion**
Comment: Review held/ arguments on record/ order to follow outling courts findings/ another review set for 01 16 02 @ 1:30 (shelton/cc#2/video)

07/18/2001 **Review Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0003 Directive: PER THE HEARING HELD ON 01/10/01 Notes: DF/FOR DISPUTE RESOLUTION Notes: (TO BE HEARD BY JUDGE SHELTON @ COUNTY CT. HOUSE)
Result: EVENT HELD AS SCHEDULED

07/20/2001 **Reply to**
Comment: Reply to pltfs opposition to petition for dispute resolution fd

07/20/2001 **Proof of service filed**
Comment: Proof of service fd

07/25/2001 **Proof of service filed**
Comment: Proof of service fd

07/25/2001 **Notice**
Comment: 5 year plan status report fd

07/26/2001 **Notice of Submission - Copy of Order - Proof of Service**
Comment: Not submission/order (copy)/pr of serv 07 23 01 fd

07/31/2001 **Proof of service filed**
Comment: Proof of service fd

07/31/2001 **Notice**
Comment: Notice of objection to proposed order fd

08/02/2001 **Stipulated order**
Comment: Stipulated order regarding status review and dispute resolution fd (sgd 08 01 01)

08/03/2001 **Order**
Comment: Order regarding status review & dispute resolution fd (sgd 08 02 01) (rescinded on 08 02 01)

10/30/2001 **Event notice generated**
Comment: Event notice generated, freeman,stewart h , #00514241 FREEMAN,STEWART H, 1

10/30/2001 **Event notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00514243 REICHEL ROBERT P/ASST ATTY

10/30/2001 **Event notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00514245 CHURCHILL SALLY J/AST ATTY

10/30/2001 **Event notice generated**
Comment: Event notice generated, fink, david h , #00514246 FINK, DAVID H

10/30/2001 **Event notice generated**
Comment: Event notice generated, wasserman, alan d , #00514247 WASSERMAN, ALAN D

10/30/2001 **Event notice generated**
Comment: Event notice generated, caldwell, michael l , #00514248 CALDWELL, MICHAEL L

12/10/2001 **Reply to**
Comment: 5-year plan status report fd

12/11/2001 **Supplemental Document**
Comment: Supplemental submission regarding the 06 20 01 petition for dispute resolution/proof of ser fd

12/12/2001 **Brief filed**
Comment: Status conference held/adjourned to 4 3 02 @ 3:00 (cc#2/shelton/video)

12/12/2001 **Status Conference** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET PER TAMALA
Result: ADJ. BY COURT

01/16/2002 **Review Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: PER THE HEARING HELD ON 1/10/01 & 7/18/01 Notes: DF/FOR DISPUTE RESOLUTION
Result: PRAECIPE DISMISSED

03/15/2002 **Event notice generated**
Comment: Event notice generated, freeman,stewart h , #00617998 FREEMAN,STEWART H, 1

03/15/2002 **Event notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00617999 REICHEL ROBERT P/ASST ATTY

03/15/2002 **Event notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00618000 CHURCHILL SALLY J/AST ATTY

03/15/2002 **Event notice generated**
Comment: Event notice generated, fink, david h , #00618001 FINK, DAVID H

03/15/2002 **Event notice generated**
Comment: Event notice generated, wasserman, alan d , #00618002 WASSERMAN, ALAN D

03/15/2002 **Event notice generated**
Comment: Event notice generated, caldwell, michael l , #00618004 CALDWELL, MICHAEL L

04/03/2002 **Status Conference** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: SET PER TAMALA Notes: ADJ FROM 12/12
Result: ADJ. BY COURT

04/04/2002 **Event notice generated**
Comment: Event notice generated, freeman,stewart h , #00633311 FREEMAN,STEWART H, 1

04/04/2002 **Event notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00633314 REICHEL ROBERT P/ASST ATTY

04/04/2002 **Event notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00633315 CHURCHILL SALLY J/AST ATTY

04/04/2002 **Event notice generated**
Comment: Event notice generated, fink, david h , #00633316 FINK, DAVID H

04/04/2002 **Event notice generated**
Comment: Event notice generated, wasserman, alan d , #00633317 WASSERMAN, ALAN D

04/04/2002 **Event notice generated**
Comment: Event notice generated, caldwell, michael l , #00633318 CALDWELL, MICHAEL L

05/20/2002 **Status Conference** (2:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: SET PER TAMALA Notes: ADJ FROM 12/12; 4/3
 Result: ADJ. BY COURT

05/21/2002 **Fifth**
Comment: 5 year plan status report fd

05/21/2002 **Proof of service filed**
Comment: Proof of service fd

05/22/2002 **Status conference held**
Comment: Status conference held on record/cts rulings on record/set new review hearing: 08 28 02 @ 3 00 pm (shelton/cc#2/video)

05/22/2002 **Status Conference** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0003 Directive: SET PER TAMALA Notes: ADJ FROM 12/12; 4/3 Notes: ADJC FROM 5/20
 Result: EVENT HELD AS SCHEDULED

05/24/2002 **Appearance/proof of service filed**
Comment: Appearance/proof of service fd

07/11/2002 **Event notice generated**
Comment: Event notice generated, freeman, stewart h , #00710884

07/11/2002 **Event notice generated**
Comment: Event notice generated, reichel robert p/asst at, #00710888

07/11/2002 **Event notice generated**
Comment: Event notice generated, churchill sally j/ast at, #00710890

07/11/2002 **Event notice generated**
Comment: Event notice generated, fink, david h , #00710893

07/11/2002 **Event notice generated**
Comment: Event notice generated, wasserman, alan d , #00710895

07/11/2002 **Event notice generated**
Comment: Event notice generated, caldwell, michael l , #00710897

08/12/2002 **Status conference held**
Comment: Status conference held on record/ct ruling on record/set new status review: 02 10 03 @ 3 00 pm (shelton/cc#9/video)

08/12/2002 **Status Conference** (2:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET PER COURT
 Result: ADJ. BY COURT

08/12/2002 **Status Conference** (2:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET PER COURT
 Result: EVENT HELD AS SCHEDULED

08/14/2002 **Notice**
Comment: 5 year plan status report fd

08/14/2002 **Proof of service filed**
Comment: Proof of service fd

08/14/2002 **Status Conference** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: SET PER COURT Notes: ADJ FROM 8/12 PER CHRIS
 Result: ADJ. BY COURT

08/28/2002 **Review Hearing** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET PER 5/22 DOCKET
 Result: EVENT CANCEL BY COURT

02/10/2003 **Hearing**
Comment: Review hearing held/ct set new review date: 07 14 03 @ 3 00 pm

02/10/2003 **Review Hearing** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET AT 8/12 HEARING
 Result: EVENT HELD AS SCHEDULED

06/04/2003 **Order**
Comment: Protective order regarding groundwater model fd (sgd 06 02 03)

06/04/2003 **Order**
Comment: Stipulation for protective order regarding groundwater model fd

07/14/2003 **Review Hearing** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET AT 2/10 REVIEW
 Result: ADJ. BY COURT

08/04/2003 **Hearing**
Comment: Review hearing held/set new review: 02 09 04 @ 3 00 pm (shelton/cc#9/ video)

08/04/2003 **Review Hearing** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: ADJ FROM 7/14
 Result: EVENT HELD AS SCHEDULED

10/08/2003 **Stipulation**
Comment: Stipulation regarding ae-1 dispute resolution fd

10/08/2003 **Transcript**
Comment: Transcript of status conference held 08 04 03 fd (11 pgs)

02/09/2004 **Conversion**
Comment: Review hearing not held/adjoined to 02 25 04 @ 3 00 pm by ct

02/09/2004 **Review Hearing** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET AT 8/4 REVIEW
 Result: ADJ. BY COURT

02/25/2004 **Hearing**
Comment: Review hearing held/ct ruling on record/order to follow/next review date: 09 08 04 @ 3 00 pm (shelton/cc#9/digital)

02/25/2004 **Review Hearing** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: ADJ FROM 2/9
 Result: EVENT HELD AS SCHEDULED

03/03/2004 **Payment received**

Comment: Payment received receipt # - 00088275
Amount: 20.00

03/03/2004 **Motion for**
Comment: Emergency petition for access to private property fd

03/03/2004 **Notice of hearing filed**
Comment: Notice of hearing filed

03/03/2004 **Proof of mailing filed**
Comment: Proof of mailing fd

03/10/2004 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: DEF/ACCESS PRIVATE PROPERTY
Result: PRAECIPE DISMISSED

09/08/2004 **Conversion**
Comment: Review hearing held/ct statements on record/ct to modify July 17, 2000 remediation enforcement order within 60 days/counsel to submit proposals within 21 days/ct will hold an informal status conf prior to opinion being issued/ct will notify counsel of date (shelton/cc#9/ digital)

09/08/2004 **Review Hearing** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET AT 2/9 HEARING
Result: EVENT HELD AS SCHEDULED

09/21/2004 **Payment received**
Comment: Payment received receipt # - 00099863
Amount: 20.00

09/21/2004 **Motion**
Comment: Notice of hearing/motion to intervene/brief in support/proof of ser fd NEW PLAN EXCEL REALTY TRUST INC
Amount: 20.00

09/28/2004 **Brief in opposition to motion etc filed**
Comment: Brief in opposition to new plan excel realty trust incs motion to intervene/pr of ser fd

09/28/2004 **Response to**
Comment: Response to new plan excel realty trust incs motion to intervene fd

09/28/2004 **Proof of mailing filed**
Comment: Proof of mailing fd

10/04/2004 **Renotice of hearing/proof of service filed**
Comment: Renotice of hearing/proof of service fd

10/06/2004 **Reply to**
Comment: Reply brief in supp of motion to intervene fd NEW PLAN EXCEL REALTY TRUST INC

10/06/2004 **Proof of service filed**
Comment: Proof of service fd NEW PLAN EXCEL REALTY TRUST INC

10/08/2004 **Memorandum filed**
Comment: Memorandum of the city of ann arbor regarding proposed amendments to July 17 00 opinion & remediation enforcement order fd

10/13/2004 **Motion heard and denied**
Comment: Pltf interveners motion to intervene heard/denied without prejudice as stated/order to follow (shelton/cc#9/digital)

10/13/2004 **Record on appeal filed**
Comment: Record on appeal from the dept of environmental quality recd(vol 1-3)

10/13/2004 **Proof of service filed**
Comment: Proof of service fd

10/13/2004 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: INTERVENERS/MOTION TO INTERVENE
Result: MOTION HEARD - DENIED

10/14/2004 **Supplemental Document**
Comment: Supplemental filing in support of pall life sciences remedial alternative/proof of mailing fd

10/14/2004 **Certificate of service filed**
Comment: Certificate of service fd

10/14/2004 **Supplemental Document**
Comment: Supplemental submission regarding unit e remedial action/proof of ser fd

10/22/2004 **Order denying/dismissing filed**
Comment: Order denying new plan excel realty trust incs motion to intervene fd (sgd 10 20 94)

10/26/2004 **Response to**
Comment: Pr of mail/response to pltf's supplemental submission regarding unit e remedial action fd

11/17/2004 **Transcript**
Comment: Transcript of hrg hrd 09 08 04 fd

12/17/2004 **Opinion & order filed**
Comment: Opinion and order regarding remediation of the contamination of the unit e aquifer fd (sgd 12 17 04) (parties to implement holding in the order forthwith) MF 122204 PG 44958-72

12/22/2004 **Transcript**
Comment: Transcript of motion held 12 13 04 fd (14 pgs)

03/15/2005 **Payment received**
Comment: Payment received receipt # - 00109669
Amount: 20.00

03/15/2005 **Motion**
Comment: Motion to enter order prohibiting groundwater use fd
Amount: 20.00

03/15/2005 **Notice of hearing filed**
Comment: Notice of hearing filed

03/15/2005 **Proof of service filed**
Comment: Proof of service fd

03/17/2005 **Renotice of hearing filed**
Comment: Renotice of hearing fd

03/23/2005 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: PL/MOTION TO ENTER ORDER PROHIBITING GROUNDWATER Notes: USE
Result: PRAECIPE DISMISSED

04/05/2005 **Payment received**
Comment: Payment received receipt # - 00110872
Amount: 20.00

04/05/2005 **Motion**
Comment: Motion for permission to file amicus brief/brief in supp fd cmfe 20.00
Amount: 20.00

04/06/2005 **Payment received**
Comment: Payment received receipt # - 00110905
Amount: 20.00

04/06/2005 **Motion**
Comment: Not of hrg/motion & brief in supp thereof seeking permission to file amicus curiae brief in supp of pltfs motion to enter order prohibiting groundwater use/cert of ser fd CITY OF ANN ARBOR
Amount: 20.00

04/06/2005 **Notice of hearing filed**
Comment: Notice of hearing filed

04/06/2005 **Certificate of service filed**
Comment: Certificate of service fd

04/08/2005 **Renotice of hearing filed**
Comment: Renotice of hearing/cert of ser fd

04/08/2005 **Renotice of hearing filed**
Comment: Renotice of hearing fd

04/08/2005 **Certificate of service filed**
Comment: Certificate of service fd

04/13/2005 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0003 Directive: PL/MOTION TO ENTER ORDER PROHIBITING GROUNDWATER Notes: USE, CITY OF A2 SEEKING PERMISSION TO FILE AMICUS Notes: CURIAE BRIEF IN SUPPORT OF PL'S MOTION
Result: PRAECIPE DISMISSED

04/19/2005 **Renotice of hearing filed**
Comment: Renotice of hearing fd

04/19/2005 **Certificate of service filed**
Comment: Certificate of service fd

04/19/2005 **Renotice of hearing/proof of service filed**
Comment: Renotice of hearing/proof of service fd

04/20/2005 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0003 Directive: PL/MOTION TO ENTER ORDER PROHIBITING GROUNDWATER Notes: USE, CITY OF A2 SEEKING PERMISSION TO FILE AMICUS Notes: CURIAE BRIEF IN SUPPORT OF PL'S MOTION
Result: PRAECIPE DISMISSED

04/25/2005 **Renotice of hearing filed**
Comment: Renotice of hearing fd

04/25/2005 **Proof of service filed**
Comment: Proof of service fd

05/02/2005 **Response to**
Comment: Response to pltfs motion to enter order prohibiting groundwater use fd

05/02/2005 **Proof of mailing filed**
Comment: Proof of mailing fd

05/02/2005 **Response to**
Comment: Response to the city of ann arbor & ann arbor charter townships motion seeking permission to file amicus curiae briefs in support of pltfs motion to enter order prohibiting groundwater use fd

05/04/2005 **Motion heard and denied**
Comment: Aa city motion seeking permission to file amicus brief hrd and denied as stated/pltf motion to enter order prohibiting groundwater use hrd & granted with modifications as stated/order to follow within 10 days (shelton/cc#9/digital)

05/04/2005 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0003 Directive: PL/MOTION TO ENTER ORDER PROHIBITING GROUNDWATER Notes: USE, CITY OF A2 SEEKING PERMISSION TO FILE AMICUS Notes: CURIAE BRIEF IN SUPPORT OF PL'S MOTION
Result: EVENT HELD AS SCHEDULED

05/19/2005 **Order**
Comment: Order prohibiting groundwater use fd (sgd 05 17 05)

05/25/2005 **Proof of service filed**
Comment: Proof of service fd

06/10/2005 **Transcript**
Comment: Transcript of hrg held 05 04 05 fd

07/09/2007 **Payment received**
Comment: Payment received receipt # - 00154956
Amount: 20.00

07/09/2007 **Motion**
Comment: Motion to amend consent judgment fd
Amount: 20.00

07/09/2007 **Brief In Support of Motion etc FD**
Comment: Brief in support of motion etc fd

07/09/2007 **Notice of hearing filed**
Comment: Notice of hearing filed

07/09/2007 **Proof of service filed**
Comment: Proof of service fd

07/09/2007 **Petition**
Comment: Petition for dispute resolution fd

07/09/2007 **Notice of hearing filed**
Comment: Notice of hearing filed

07/19/2007 **Substitution of Attorney-Notice-Consent-Order**
Comment: Substitution of counsel fd

07/19/2007 **Brief filed**
Comment: Brief in response to petition for dispute resolution and in support of imposition of stipulated penalties fd

07/19/2007 **Proof of service filed**
Comment: Proof of service fd

07/19/2007 **Free text**
Comment: Dispute-resolution-denial of force majeure administrative record document listing 000001 through 000382 fd

08/01/2007 **Order granting**
Comment: Order granting substitution of counsel fd (sgd 7/27/07)(robert p reichel out/celeste r gill in)

08/01/2007 **Proof of service filed**
Comment: Proof of service fd

08/01/2007 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)

EXTENSION_COUNT: 0002 Directive: DF/AMEND CONSENT JUDGMENT; PETITION FOR DISPUTE Notes: RESOLUTION
Result: PRAECIPE DISMISSED

08/06/2007 **Proof of service filed**
Comment: Proof of service fd(order granting substitution of counsel)

08/09/2007 **Stip & order for**
Comment: Stip & order regarding ae-3 dispute resolution fd (sgd 8/07/07)

11/18/2008 **Event notice generated**
Comment: Event notice generated, freeman, stewart h , #02527912

11/18/2008 **Event notice generated**
Comment: Event notice generated, gill, celeste r , #02527916

11/18/2008 **Event notice generated**
Comment: Event notice generated, churchill sally j/ast at, #02527918

11/18/2008 **Event notice generated**
Comment: Event notice generated, fink, david h , #02527919

11/18/2008 **Event notice generated**
Comment: Event notice generated, wasserman, alan d , #02527921

11/18/2008 **Event notice generated**
Comment: Event notice generated, caldwell, michael I , #02527922

11/18/2008 **Event notice generated**
Comment: Event notice generated, thwaites, karyn a , #02527924

11/18/2008 **Event cancellation notice generated**
Comment: Event notice generated, wasserman, alan d , #02527952

11/18/2008 **Event cancellation notice generated**
Comment: Event notice generated, caldwell, michael I , #02527954

11/18/2008 **Event cancellation notice generated**
Comment: Event notice generated, thwaites, karyn a , #02527955

11/18/2008 **Event cancellation notice generated**
Comment: Event notice generated, wasserman, alan d , #02527959

11/18/2008 **Event cancellation notice generated**
Comment: Event notice generated, caldwell, michael I , #02527960

11/18/2008 **Event cancellation notice generated**
Comment: Event notice generated, thwaites, karyn a , #02527961

12/15/2008 **Status conference held off record**
Comment: Status conference held off record/ stip & order re: status conf to be submitted by 12/19/08/ order re: progress of case to be submitted no later than 01 15 09

12/15/2008 **Status Conference** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET PER KELLY
Result: EVENT HELD AS SCHEDULED

01/14/2009 **Stipulated order**
Comment: Stipulated order regarding 12 15 08 status conference fd (sgd 01 13 09)

04/06/2009 **Order**
Comment: Order regarding potential remedial modifications fd (sgd 04 06 09) (this ord modified by ord sgd 04/22/2009)

04/23/2009 **Stipulated order**
Comment: Stipulated order re cons judgment modifications fd (sgd 04/22/2009) (mods to order sgd 4/6/09 re deadlines etc/see order for details) (mf04/29/2009 pg11190-11193)

05/07/2009 **Proof of service filed**
Comment: Proof of service fd

05/13/2009 **Clerk's Notice Returned Undeliverable**
Comment: Clerks notice returned undeliverable fd

05/15/2009 **Stipulated order**
Comment: Stipulated order re consent judgment modifications extension of deadline for submitting well id dispute to court fd (sgd 05/14/2009) (deadline for deq to file mot re well id changed from 05/14 to 06/05)

05/28/2009 **Proof of service filed**
Comment: Proof of service fd

06/05/2009 **Payment received**
Comment: Payment received receipt # - 00190359
Amount: 20.00

06/05/2009 **Motion**
Comment: Motion to enforce order prohibiting groundwater use fd cmfe 20.00 00000000
Amount: 20.00

06/05/2009 **Brief In Support of Motion etc FD**
Comment: Brief in support of motion etc fd

06/05/2009 **Notice of hearing/proof of service filed**
Comment: Notice of hearing/proof of service fd

06/24/2009 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: PF/ENFORCE ORDER PROHIBITING GROUNDWATER USE
Result: PRAECIPE DISMISSED

06/25/2009 **Renotice of hearing filed**
Comment: Renotice of hearing fd

06/25/2009 **Proof of service filed**
Comment: Proof of service fd

07/01/2009 **Stipulated order**
Comment: Stipulated order re consent judgment modifications extension of deadline for submitting dsiputes to court fd (sgd 06/29/2009)

07/30/2009 **Stipulated order**
Comment: Stipulated order re potential remedial modifications fd (sgd 07/29/2009)(re deadlines for parties to file motions/see for detail)

08/05/2009 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: PLTF/ENFORCE ORDER PROHIBITING GROUNDWATER USE
Result: PRAECIPE DISMISSED

08/06/2009 **Stipulated order**
Comment: Stipulated order regarding potential remedial modifications fd (sgd 08 05 09)

08/07/2009 **Renotice of hearing filed**
Comment: Renotice of hearing fd

08/07/2009 **Proof of service filed**
Comment: Proof of service fd

08/14/2009 **Payment received**
Comment: Payment received receipt # - 00194007
Amount: 20.00

08/14/2009 **Motion**
Comment: Motion to enforce consent judgment & request for additinal response activity fd
Amount: 20.00

08/14/2009 **Notice of hearing filed**
Comment: Notice of hearing filed

08/14/2009 **Proof of service filed**
Comment: Proof of service fd

08/18/2009 **Payment received**
Comment: Payment received receipt # - 00194177
Amount: 20.00

08/18/2009 **Motion**
Comment: Motion for appoval of proposed modifications to evergreen & maple road remedial systems/brief in support fd DEFT PALL LIFE SCIENSES INC
Amount: 20.00

08/18/2009 **Motion for**
Comment: Motion to approve pall life sciences comprehensive proposal to modify cleanup program/brief in support fd

08/18/2009 **Free text**
Comment: Joint appendix to motions to modify cleanup program fd

08/18/2009 **Petition**
Comment: Petition for dispute resolution fd

08/18/2009 **Brief filed**
Comment: Brief fd

08/18/2009 **Affidavit filed**
Comment: Affidavit of neven krisic pg phd fd

08/18/2009 **Affidavit filed**
Comment: Affidavit of james w brode jr cpd fd

08/18/2009 **Notice of hearing/proof of service filed**
Comment: Notice of hearing/proof of service fd (2)

08/19/2009 **Renotice of hearing filed**
Comment: Renotice of hearing fd

08/19/2009 **Proof of service filed**
Comment: Proof of service fd

08/19/2009 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: PLTF/ENFORCE ORDER PROHIBITING GROUNDWATER USE
Result: PRAECIPE DISMISSED

08/24/2009 **Letter filed (detail here)**
Comment: Letter fd (req to replace or add to exhibits filed w/ brief in supp of pltfs mot to enforce cons judgment & req additional resp activ) (exhibits not changed)

08/26/2009 **Motion for**
Comment: Amended motion to approve comp proposal to modify cleanup prog/brief in supp fd

08/26/2009 **Motion for**
Comment: Amended motion for approval of prop modifications to evergreen & maple rd remedial systems/brief in supp fd

08/26/2009 **Brief filed**
Comment: Brief re issues in dispute fd

08/26/2009 **Affidavit filed**
Comment: Affidavit of farsad fotouhi fd

08/28/2009 **Brief filed**
Comment: Brief in resp to pet for dispute resolution fd

08/28/2009 **Free text**
Comment: Administrative record/certif of record fd

08/28/2009 **Proof of service filed**
Comment: Proof of service fd

08/31/2009 **Conversion**
Comment: Opposition to mot to enforce order prohibiting groundwater use/proof of serv fd

09/02/2009 **Plaintiffs motion**
Comment: Plaintiffs motion to enforce order prohibiting groundwater use heard & ct ruling on record/ order to follow today w/counsel to use the cts jury room (shelton/cc#9/digital/williams ceo#5737)

09/02/2009 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: PLTF/ENFORCE ORDER PROHIBITING GROUNDWATER USE
Result: EVENT HELD AS SCHEDULED

09/03/2009 **Order**
Comment: Order resolving pltfs mot to enforce order prohibiting groundwater use fd 9sgfd 09/02/2009)

09/30/2009 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: PLTF/ENFORCE CONSENT JUDGMENT AND REQUEST FOR Notes: ADDITIONAL RESPONSE ACTIVITY
Result: PRAECIPE DISMISSED

10/06/2009 **Renotice of hearing filed**
Comment: Renotice of hearing fd

10/06/2009 **Proof of service filed**
Comment: Proof of service fd

10/21/2009 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: PLTF/ENFORCE ORDER PROHIBITING GROUNDWATER USE
Result: PRAECIPE DISMISSED

10/23/2009 **Proof of service filed**
Comment: Proof of service fd

12/09/2009 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: PLTF/ENFORCE ORDER PROHIBITING GROUNDWATER USE
Result: PRAECIPE DISMISSED

09/08/2010 **Event cancellation notice generated**
Comment: Event notice generated, gill, celeste r , #03023881

09/08/2010 **Event cancellation notice generated**

09/08/2010 *Comment: Event notice generated, churchill sally j/ast at, #03023884*
Event cancellation notice generated
Comment: Event notice generated, gill, celeste r , #03023885

09/08/2010 **Event cancellation notice generated**
Comment: Event notice generated, fink, david h , #03023886

09/08/2010 **Event cancellation notice generated**
Comment: Event notice generated, wasserman, alan d , #03023887

09/08/2010 **Event cancellation notice generated**
Comment: Event notice generated, caldwell, michael I , #03023888

09/08/2010 **Event cancellation notice generated**
Comment: Event notice generated, thwaites, karyn a , #03023889

09/29/2010 **Notice**
Comment: Notice of change of address/prof of ser fd (attys)

10/18/2010 **Status conference held off record**
Comment: Status conference held off record/ parties to submit stipulated scheduling order re: clean-up plan

10/18/2010 **Status Conference** (3:00 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET PER K.R.
Result: EVENT HELD AS SCHEDULED

11/04/2010 **Stip & order for**
Comment: Stip & order establishing briefing schedule fd (sgd 11 04 10)

11/16/2010 **Motion**
*Comment: Motion * cmfe 20.00 00000000*
Amount: 20.00

11/16/2010 **Payment received**
Comment: Payment received receipt # - 00218490
Amount: 20.00

11/16/2010 **Notice of hearing filed**
Comment: Notice of hearing/proof of serv/not of tentative agreement on prop modif to remedial objectives for gelman site fd PLTFS & DEFT JOINTLY

11/18/2010 **Exhibits submitted for by**
Comment: Exhibits inadvertently omitted from notice of tent agreement on prop modif filed on 11/16/2010 fd

11/19/2010 **Void receipt--(reason)**
Comment: Void receipt--(transaction on wrong case. s/b gcw 10-1136)
Amount: 20.00

11/19/2010 **Proof of service filed**
Comment: Proof of service fd

11/24/2010 **Defendants motion**
Comment: Defendants motion for tentative agreement on proposed modifications to remedial objectives for gelman site heard & approved by court/ amended consent judgment to follow by 12/8 or case will proceed with bench trial on 02 14 11 @ 8:00 am (shelton/cc#9/digital/ williams ceo#5737)

11/24/2010 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: DEF/TENTATIVE AGREEMENT ON PROPOSED MODIFICATIONS Notes: TO REMEDIAL OBJECTIVES FOR GELMAN SITE
Result: EVENT HELD AS SCHEDULED

12/28/2010 **Event cancellation notice generated**
Comment: Event notice generated, gill, celeste r , #03099452

12/28/2010 **Event cancellation notice generated**
Comment: Event notice generated, churchill sally j/ast at, #03099453

12/28/2010 **Event cancellation notice generated**
Comment: Event notice generated, fink, david h , #03099454

12/28/2010 **Event cancellation notice generated**
Comment: Event notice generated, wasserman, alan d , #03099455

12/28/2010 **Event cancellation notice generated**
Comment: Event notice generated, caldwell, michael I , #03099456

12/28/2010 **Event cancellation notice generated**
Comment: Event notice generated, thwaites, karyn a , #03099457

02/14/2011 **Nonjury Trial** (8:00 AM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET BY COURT ON 11/24
Result: JUDGMENT

02/14/2011 **Evidentiary Hearing** (9:00 AM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: SET PER KELLY
Result: JUDGMENT

03/11/2011 **Third**
Comment: Third amendment to consent judgment fd (sgd 03 08 11) (mf 04/06/11 pg 59999-60120)

03/11/2011 **Stipulated order**
Comment: Stipulated order amending previous remediation orders fd (sgd 03 08 11)(mf 04/06/11 pg 60121-24)

03/28/2011 **Proof of service filed**
Comment: Proof of service fd

10/26/2011 **Payment received**
Comment: Payment received receipt # - 00236442
Amount: 20.00

10/26/2011 **Motion**
Comment: Petition for dispute resolution fd
Amount: 20.00

10/26/2011 **Notice of hearing/proof of service filed**
Comment: Notice of hearing/proof of service fd

11/07/2011 **Brief filed**
Comment: Brief response to defendants petition for dispute resolution fd

11/07/2011 **Document filed (explain)**
Comment: Administrative record fd

11/07/2011 **Proof of service filed**
Comment: Proof of service fd

11/09/2011 **Renotice of hearing/proof of service filed**
Comment: Renotice of hearing/proof of service fd

11/16/2011 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: DEF/DISPUTE RESOLUTION
Result: PRAECIPE DISMISSED

12/06/2011 **Notice of hearing filed**
Comment: Re-notice of hearing/prf of svc filed

12/21/2011 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0001 Directive: DEF/DISPUTE RESOLUTION
Result: ADJ. BY DEFENDANT

01/09/2012 **Reply brief filed**
Comment: Reply brief in support of its petition for dispute resolution fd

01/11/2012 **Defendants motion**
Comment: Defendants motion -dispute resolution/heard & denied/(cc9/shelton digital/d coleman ceo #7197)

01/11/2012 **Motion Hearing** (1:30 PM) (Judicial Officer Judge, Historical)
EXTENSION_COUNT: 0002 Directive: DEF/DISPUTE RESOLUTION Notes: ADJ FROM 12/21
Result: MOTION HEARD - DENIED

01/18/2012 **Proof of service filed**
Comment: Proof of service fd

02/28/2012 **Transcript**
Comment: Transcript of hearing on petition for dispute resolution held on wed 1 11 12 fd (38 pgs)

03/07/2012 **Payment received**
Comment: Payment received receipt # - 00243193
Amount: 18.50

03/29/2012 **Order**
Comment: Order resolving defts petition for dispute resolution regarding the western area groundwater monitoring plan fd (sgd 03/26/12)

07/07/2014 **Stip & order for**
Comment: Stipulation and order for dismissal fd (sgd 07/03/2014) (mf 7/16/2014 pg 56801-56802)

07/15/2014 **Proof of service filed**
Comment: Proof of service fd

11/10/2016 **Motion**
To intervene

11/10/2016 **Brief**
In support of City of Ann Arbor's motion to intervene introduction

11/10/2016 **Notice of Hearing**
Certificate of service

11/21/2016 **Renotice of Hearing**

12/05/2016 **Appearance**
and Proof of Service

12/05/2016 **Proof of Service**

12/05/2016 **Notice of Hearing**
and Proof of Service

12/05/2016 **Brief**
in Support of Their Motion to Intervene Pursuant to MCR 2.209 and Proof of Service

12/05/2016 **Motion**
to Intervene Pursuant to MCR 2/209 and Proof of Service

12/07/2016 **Request and Notice for Film and Electronic Media Coverage of**

12/12/2016 **Response**
Gelman Scineces, INC.'s Resposne in Opposition to the Cirty of Ann Arbor Motion to Intervene/ Proof of Service

12/12/2016 **Response**
Gelman Sciences, INC.'s Response in Opposition to Washtenaw County's Motion to Intervene/ Proof of Service

12/12/2016 **Response**
Gelman Sciences, INC.'s Response to Opposition to the Huron River Watershed Council's Motion to Intervene/ Proof of Service

12/13/2016 **Stipulated Order**
to Enlarge Page Limit (sgd 12 13 16)

12/13/2016 **Reply**
in Support of its Motion in Intervene/ (City of Ann Arbor)/ Cert of Service

12/13/2016 **Response**
Attorney General Brief in Opposition to Huron River Watershed Council's Motion to Intervene

12/13/2016 **Proof of Service**

12/13/2016 **Response**
Attorney General Response to Washtenaw Co, Washtenaw Co Health Dept and Washtenaw Co Health Officer Ellen Rabinowitz's Motion to Intervene

12/13/2016 **Proof of Service**

12/13/2016 **Response**
Attorney General Response to City of Ann Arbor's Motion to Intervene

12/13/2016 **Proof of Service**

12/15/2016 **Motion Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
City of Ann Arbor/ Motion to Intervene; Adj12/1 Intervening Pltff/ Motion to Intervene Pursuant to MCR 2.209
[Parties Present](#)
12/01/2016 Reset by Court to 12/15/2016
Result: Held

12/20/2016 **Motion**
By Huron River Watershed Council to Intervene

12/20/2016 **Certificate of Service**

12/20/2016 **Brief**
by Huron River Watershed Council in Support of Motion to Intervene

12/22/2016 **Notice of Submission - Copy of Order - Proof of Service**
Notice of Submission of Order for Entry by Court/ Cert of Service/ Order Granting Motion to Intervene of city of Ann Arbor , Washtenaw County,, and The Huron River Watershed Council

12/29/2016 **Notice of Hearing**
and Proof of service

12/29/2016 **Objections**
to the City of Ann Arbor's Submission of 7-Day Order/ Proof of Service

01/04/2017 **Document**

01/04/2017 *Clerk's Notice of Filing of Objections*
Document
Clerk's notice of filing of objections

01/04/2017 **Document**
Clerk's notice of filing of objections

01/04/2017 **Document**
Clerk's Notice of Filing of Objections

01/04/2017 **Document**
Clerk's Notice of Filing of Objections

01/04/2017 **Document**
Clerk's Notice of Filing of Objections

01/04/2017 **Document**
Clerk's notice of filing of objections

01/13/2017 **Response**
of City of Ann Arbor to Deft's Objections to Order Granting Motions to Intervene/ Cert of Service

01/17/2017 **Motion**
Scio Township's Motion to Intervene

01/17/2017 **Brief**
in Support of Scio Township's Motion to Intervene

01/17/2017 **Notice of Hearing**

01/17/2017 **Proof of Service**

01/18/2017 **Response**
to Deft's Order Objections/ Proof of Service

01/18/2017 **Proof of Service**

01/18/2017 **Notice of Hearing**
(Amended)

01/19/2017 **Motion Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
Deft Gelman Sciences/ Objection to the City of Ann Arbor's Submission for 7-day Order
01/19/2017 Reset by Court to 01/19/2017
 Result: Not Held - No Show

01/19/2017 **Order**
granting motions to intervene of the City of Ann Arbor Washtenaw County and the Huron River Watershed Council (sgd 01/18/17)

01/19/2017 **Notice of Hearing**
Second Amended

01/19/2017 **Proof of Service**

01/23/2017 **Notice**
of appearance/certificate of service

01/23/2017 **Proof of Service**
/appearance of counsel on behalf of intervener City of Ann Arbor

01/23/2017 **Response**
City of Ann Arbor's Concurrence in Scio Townships Motion to intervene/Certificate of service

01/23/2017 **Appearance**
Notice of Appearance and Cert of Service

01/24/2017 **Response**
to scio township's motion to intervene/ proof of service

01/27/2017 **Entry and Notice of Appearance**
and Cert of Service

01/30/2017 **Response**
in opposition to Scio Township's motion to intervene/proof of service

01/31/2017 **Reply**
in support of its motion to intervene (Scio Township)

01/31/2017 **Proof of Service**

02/02/2017 **Motion Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
Intervening Pltf Scio Township/ Motion to Intervene; Adj 1/26
[Parties Present](#)
01/26/2017 Reset by Court to 02/02/2017
 Result: Held

02/06/2017 **Order**
Granting Scio Township's Motion to Intervene (Sgd 02 06 17)

02/06/2017 **Appearance**

02/06/2017 **Proof of Service**

02/06/2017 **Response**
by Huron River Watershed Council to Scio township Motion to Intervene

02/07/2017 **Proof of Service**

02/08/2017 **Notice of Filing of Transcript and Affidavit of Mailing**

02/08/2017 **Proof of Service**

02/08/2017 **Transcript**
Motion to Intervene held 2-2-17 29 pages

02/08/2017 **Motion**
for Reconsideration and Brief in Support

03/24/2017 **Status Conference** (9:00 AM) (Judicial Officer Connors, Timothy P.)

03/24/2017 **Stipulated Order**
stipulated settlement negotiation and confidentiality order (sgd 03/23/17)

03/28/2017 **Opinion**
and Order Denying Defendant's Motion for Reconsideration (Sgd 03 24 17)

03/31/2017 **Notice of Hearing**
on Gelman Sciences inc.'s motion for stay of orders pending appeal/ notice of hearing/ proof of service

04/03/2017 **Motion**
for Stay of Orders Pending Appeal and Brief in Support

04/10/2017 **Order**
Denying Gelman Sciences, Inc's motion for stay of orders pending appeal (Sgd 4-7-17)

04/20/2017 **Motion Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)

Deft/ Motion for Stay of Proceedings Pending Appeal
Result: Not Held - No Show

07/18/2017 **Copy of Court of Appeals Order**

08/30/2017 **Notice**
of filing application for leave to appeal to the Michigan Supreme Court; proof of service

09/21/2017 **File Sent**
to MI Supreme Court

01/16/2018 **Copy of Supreme Court Order**

06/29/2018 **Status Conference** (1:30 PM) (Judicial Officer Connors, Timothy P.)

07/17/2018 **Substitution of Attorney**
/Proof of Service

11/22/2019 **Status Conference** (9:00 AM) (Judicial Officer Connors, Timothy P.)
08/16/2019 Reset by Court to 09/20/2019
09/20/2019 Reset by Court to 10/25/2019
10/25/2019 Reset by Court to 11/22/2019

02/03/2020 **Status Conference** (1:00 PM) (Judicial Officer Connors, Timothy P.)
Result: Held

02/07/2020 **Scheduling Order**
sgd 02 05 20

02/20/2020 **Appearance**
/cert of service

02/20/2020 **Proof of Service**

02/20/2020 **Proof of Service**

02/20/2020 **Notice**
Of appearance/cert of service

02/20/2020 **Proof of Service**

02/20/2020 **Notice**
Of appearance/cert of service

02/20/2020 **Proof of Service**

02/20/2020 **Notice**
Of appearance/cert of service

03/09/2020 **Status Conference** (12:00 PM) (Judicial Officer Connors, Timothy P.)
Result: Held

04/07/2020 **Status Conference** (12:00 PM) (Judicial Officer Connors, Timothy P.)

07/06/2020 **Order**
setting status conference (sgd 7/6/20)

07/14/2020 **Status Conference** (1:30 PM) (Judicial Officer Connors, Timothy P.)
Result: Held

08/12/2020 **Status Conference** (12:00 PM) (Judicial Officer Connors, Timothy P.)
Result: Held

08/31/2020 **Proof of Service**

08/31/2020 **Stipulated Order**
Rescinding in part the court's march 23 2017 confidentiality order (sgd 8/31/20)

11/19/2020 **Status Conference** (9:00 AM) (Judicial Officer Connors, Timothy P.)
10/22/2020 Reset by Court to 11/05/2020
11/05/2020 Reset by Court to 11/12/2020
11/12/2020 Reset by Court to 11/19/2020

Result: Held

12/11/2020 **Scheduling Order**
(second amended) (sgd 12/11/20)

12/17/2020 **Scheduling Order**
(third amended) (sgd 12/17/20)

12/17/2020 **Proof of Service**

01/07/2021 **Proof of Service**

01/07/2021 **Motion for Reconsideration**
Of order scheduling hearing on modification of consent agreement / proof of service

01/07/2021 **Brief**
In support of motion for reconsideration of order scheduling hearing on modification of consent agreement / proof of service

01/07/2021 **Exhibit**
Log

01/07/2021 **Proof of Service**

01/07/2021 **Motion for Reconsideration**
Of order scheduling hearing on modification of consent agreement and brief in support

01/07/2021 **Exhibit**
Log

01/07/2021 **Motion for Reconsideration**
Of order scheduling hearing on modification of consent agreement / proof of service

01/07/2021 **Brief**
In support of motion for reconsideration of order scheduling hearing on modification of consent agreement / proof of service

01/07/2021 **Exhibit**
Log

01/07/2021 **Proof of Service**

01/07/2021 **Brief**
In support of motion for reconsideration of order scheduling hearing on modification of consent agreement

01/07/2021 **Motion for Reconsideration**
Of order scheduling hearing on modification of consent agreement / proof of service

01/07/2021 **Exhibit**
Log

01/07/2021 **Proof of Service**

01/11/2021 **CANCELED Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
Event Cancelled By Court

01/11/2021 *Reset by Court to 01/11/2021*

01/12/2021 **CANCELED Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
Event Cancelled By Court

01/13/2021 **CANCELED Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
Event Cancelled By Court

01/19/2021 **Proof of Service**

01/19/2021 **Zoom Notice of Motion Hearing**
Scheduled

01/22/2021 **Brief**
In support of motion for stay of order with proof of service

01/22/2021 **Motion**
For stay of order scheduling hearing on modification of consent agreement with proof of service

01/22/2021 **Proof of Service**

01/25/2021 **Proof of Service**

01/27/2021 **Scheduling Order**
(fourth amended) (sgd 1/27/21)

01/27/2021 **Proof of Service**

01/27/2021 **Supplemental Document**
Brief in support of gelman science's motion for stay of order scheduling hearing on modification of consent agreement with proof of service

01/28/2021 **Notice**
Of withdrawal of motion for reconsideration of order scheduling hearing on modification of consent agreement with proof of service

01/28/2021 **Proof of Service**

01/28/2021 **Motion for Reconsideration**
Of order scheduling hearing on modification of consent judgment with proof of service

01/28/2021 **Proof of Service**

01/28/2021 **Proof of Service**

01/28/2021 **Motion for Reconsideration**
Of order scheduling hearing on modification of consent agreement with brief in support and proof of service

01/29/2021 **Response**
To gelman's motion for stay of order scheduling hearing on modification of the consent agreement with proof of service

01/29/2021 **Exhibit**
#1 to response in opposition

01/29/2021 **Proof of Service**

02/01/2021 **Response**
To motion for stay of order scheduling hearing on modification of consent agreement

02/01/2021 **Proof of Service**

02/03/2021 **Proof of Service**

02/03/2021 **Reply**
Brief in support of gelman sciences, inc.'s motion for stay of order scheduling hearing on modification of consent agreement / proof of service

02/03/2021 **Proof of Service**

02/03/2021 **Reply**
To correct misstatements in briefs filed by the state and gelman related to motion for stay of order / proof of service

02/04/2021 **Motion Hearing** (9:30 AM) (Judicial Officer Connors, Timothy P.)
ZOOM-Deft/ Motion for Stay of Order Scheduling Hearing on Modification of Consent Agreement Pending Appeal
Result: Held

02/11/2021 **Proof of Service**

02/11/2021 **Scheduling Order**
Regarding motion for reconsideration of order setting hearing on modificaion of consent agreement (sgd 2/11/21)

03/08/2021 **Proof of Service**

03/08/2021 **Brief**
In opposition to gelman's motion for reconsideration

03/15/2021 **Reply**
Brief in support of motion for reconsideration / proof of service

03/15/2021 **Proof of Service**

03/15/2021 **Exhibit**
Index for reply brief in support of motion for reconsideration

03/22/2021 **CANCELED Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
Cancel
03/08/2021 Reset by Court to 03/22/2021
03/22/2021 Reset by Court to 03/22/2021

03/22/2021 **Oral Argument** (9:00 AM) (Judicial Officer Connors, Timothy P.)
set in court 2/4
Result: Held

03/23/2021 **CANCELED Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
Cancel
03/09/2021 Reset by Court to 03/23/2021

03/29/2021 **Proposed 7 day Order Received**

03/29/2021 **Proof of Service**

03/30/2021 **Proof of Service**

03/30/2021 **Motion**
For entry of proposed order setting briefing/deposition schedule and new hearing dates with proof of service

03/30/2021 **Notice of Hearing**
On objections to proposed 7-day order with proof of service

03/30/2021 **Objections filed to proposed 7 day Order**
With proof of service

03/30/2021 **Brief**
In support of motion for entry of order with proof of service

03/30/2021 **Proof of Service**

03/30/2021 **Proof of Service**

03/30/2021 **Zoom Notice of Motion Hearing**
Scheduled

03/31/2021 **Proof of Service**

03/31/2021 **Response**
To defendant gelman sciences inc objection to proposed 7-day order denying motion for reconsideration and scheduling hearing dates. also, for motion for entry of order setting briefing schedule/deposition schedule and new hearing dates with cos

04/01/2021 **Motion Hearing** (11:30 AM) (Judicial Officer Connors, Timothy P.)
ZOOM- Deft/ Objection to Proposed 7 Day Order and Motion for Entry of Order Setting Briefing/Deposition Dates
 Result: Held

04/01/2021 **Proof of Service**

04/02/2021 **Proof of Service**

04/02/2021 **Proof of Service**

04/05/2021 **Proof of Service**

04/06/2021 **Order**
Denying defendant gelman sciences, inc's motion to stay (sgd 4/6/21)

04/06/2021 **Order**
Denying defendant gelman sciences, inc's motion for entry of setting briefing/deposition schedule and new hearing dates (sgd 4/6/21)

04/06/2021 **Order**
Denying motion for reconsideration and scheduling hearing dates (sgd 4/6/21)

04/26/2021 **Proof of Service**

04/26/2021 **Motion**
To temporary admisson to practice/ affidavit

04/26/2021 **Motion**
For temporary admisson to practice/ affidavit

04/26/2021 **Proof of Service**

04/27/2021 **Proof of Service**

04/28/2021 **Appearance**

04/28/2021 **Proof of Service**

04/28/2021 **Order**
Granting motion for temporary admission to practice (sgd 4/28/21)

04/28/2021 **Order**
Granting motion for temporary admission to practice (sgd 4/28/21)

04/29/2021 **Notice of Hearing**
And proof of service

04/29/2021 **Proof of Service**

04/29/2021 **Motion**
In limine to exclude undisclosed expert witnesses and to limit expert testimony with brief in support and proof of service

04/29/2021 **Copy of Court of Appeals Order**

04/30/2021 **Proof of Service**

04/30/2021 **Brief**
Supporting a court order implementing the revised clean-up standards and proof of service

04/30/2021 **Response**
To motion in limine to exclude undisclosed expert witnesses and limit expert testimony and brief in support / cert of service

04/30/2021 **Proof of Service**

04/30/2021 **Proof of Service**

04/30/2021 **Document**
Intervenors' expert report

04/30/2021 **Proof of Service**

04/30/2021 **Proof of Service**

04/30/2021 **Brief**
(joint) in support of an additional response activities order ("2021 order") to implement revised cleanup criteria and to modify existing response activity orders and judgments

04/30/2021 **Proof of Service**

04/30/2021 **Brief**
Hearing

04/30/2021 **Brief**
Addressing response activites for the gelman site

05/03/2021 **Evidentiary Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
set in court 3/22/21
 Result: Held

05/04/2021 **CANCELED Evidentiary Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
Cancel
set in court 3/22/21

05/04/2021 **Proof of Service**

05/04/2021 **Document**
Technical brief

05/05/2021 **CANCELED Evidentiary Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
Cancel
set in court 3/22/21

05/10/2021 **Proof of Service**

05/10/2021 **Proposed 7 day Order Received**

05/14/2021 **Proof of Service**

05/14/2021 **Objections filed to proposed 7 day Order**
With proof of service

05/14/2021 **Zoom Notice of Motion Hearing**
Scheduled

05/24/2021 **Proof of Service**

05/24/2021 **Response**
To defendant's objections to proposed 7-day order to conduct activities and comply with revised cleanup criteria

05/26/2021 **Proof of Service**

05/26/2021 **Supplemental Document**
Brief in support of its objections to proposed 7-day order with proof of service

05/27/2021 **Motion Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
ZOOM- Deft/ Objections to Proposed 7 Day Order
 Result: Held

05/27/2021 **Proof of Service**

06/01/2021 **Order**

To conduct response activities to implement and comply with revised cleanup criteria (sgd 6/1/21)

06/07/2021 **Zoom Notice of Motion Hearing**
Scheduled

06/07/2021 **Proof of Service**

06/08/2021 **Proof of Service**

06/08/2021 **Motion**
For partial stay of order to conduct response activities to implement and comply with revised cleanup criteria/ proof of service

06/14/2021 **Proof of Service**

06/14/2021 **Brief**
In opposition to gelman's motion for partial stay/ certificate of service

06/16/2021 **Motion**
For leave to file supplemental brief in support of for partial stay of order to conduct response activities to implement and comply with revised cleanup criteria/ brief in support/ proof of service

06/16/2021 **Zoom Notice of Motion Hearing**
Scheduled

06/16/2021 **Proof of Service**

06/17/2021 **Motion Hearing** (11:30 AM) (Judicial Officer Connors, Timothy P.)
Def Gelman/Partial Stay
Result: Held

06/17/2021 **Proof of Service**

06/18/2021 **Order**
Denying motion for leave to file supplemental brief in support of motion for partial stay of to to conduct response activites to implement and comply with revised cleanup criteria (sgd 6/18/21)

06/18/2021 **Order**
Denying motion for partial stay of to conduct response activites to implement and comply with revised cleanup criteria (sgd 6/18/21)

09/01/2021 **Review Hearing** (9:00 AM) (Judicial Officer Connors, Timothy P.)
First Quarterly Review - set in court 5/3/21

FINANCIAL INFORMATION

Plaintiff Kelley, Frank J/attorney			
Total Financial Assessment			808.50
Total Payments and Credits			808.50
Balance Due as of 06/21/2021			0.00

02/14/2000	Transaction Assessment		20.00
02/14/2000	Payment Over the Counter	Receipt # 00007789	(20.00)
02/23/2000	Transaction Assessment		20.00
02/23/2000	Payment Over the Counter	Receipt # 00008328	(20.00)
05/12/2000	Transaction Assessment		25.00
05/12/2000	Payment Over the Counter	Receipt # 00013173	(25.00)
01/04/2001	Transaction Assessment		20.00
01/04/2001	Payment Over the Counter	Receipt # 00025225	(20.00)
06/21/2001	Transaction Assessment		20.00
06/21/2001	Payment Over the Counter	Receipt # 00034147	(20.00)
03/04/2004	Transaction Assessment		20.00
03/04/2004	Payment Over the Counter	Receipt # 00088275	(20.00)
09/21/2004	Transaction Assessment		20.00
09/21/2004	Payment Over the Counter	Receipt # 00099863	(20.00)
03/15/2005	Transaction Assessment		20.00
03/15/2005	Payment Over the Counter	Receipt # 00109669	(20.00)
04/06/2005	Transaction Assessment		20.00
04/06/2005	Payment Over the Counter	Receipt # 00110872	(20.00)
04/06/2005	Transaction Assessment		20.00
04/06/2005	Payment Over the Counter	Receipt # 00110905	(20.00)
07/10/2007	Transaction Assessment		20.00
07/10/2007	Payment Over the Counter	Receipt # 00154956	(20.00)
06/08/2009	Transaction Assessment		20.00
06/08/2009	Payment Over the Counter	Receipt # 00190359	(20.00)
08/17/2009	Transaction Assessment		20.00
08/17/2009	Payment Over the Counter	Receipt # 00194007	(20.00)
08/19/2009	Transaction Assessment		20.00
08/19/2009	Payment Over the Counter	Receipt # 00194177	(20.00)
11/16/2010	Transaction Assessment		20.00
11/16/2010	Payment Over the Counter	Receipt # 00218488	(20.00)
10/26/2011	Transaction Assessment		20.00
10/26/2011	Payment Over the Counter	Receipt # 00236442	(20.00)
03/07/2012	Transaction Assessment		18.50
03/07/2012	Payment Over the Counter	Receipt # 00243193	(18.50)
11/14/2016	Transaction Assessment		20.00
11/14/2016	Payment Over the Counter	Receipt # CC-2016-14360	(20.00)
12/05/2016	Transaction Assessment		20.00
12/05/2016	Payment Over the Counter	Receipt # CC-2016-15344	(20.00)
12/20/2016	Transaction Assessment		20.00
12/20/2016	Payment Received By Mail	Receipt # CC-2016-15974	(20.00)
01/11/2017	Transaction Assessment		20.00
01/11/2017	Payment Over the Counter	Receipt # CC-2017-409	(20.00)
01/17/2017	Transaction Assessment		20.00
01/17/2017	Payment Over the Counter	Receipt # CC-2017-643	(20.00)
02/08/2017	Transaction Assessment		20.00
02/08/2017	Payment Over the Counter	Receipt # CC-2017-1708	(20.00)

STATE OF MICHIGAN

FINK, DAVID H

CIMMINO, NOEL AARON

FINK, DAVID H

FINK, DAVID H

CALDWELL, MICHAEL L

CAMERON, JAMES M

STATE OF MICHIGAN

DINDOFFER, FREDRICK J

MORAN, MICHAEL C

CALDWELL, MICHAEL L

KELLEY, FRANK J/ATTORN

GILL, CELESTE R

CALDWELL, MICHAEL L

CALDWELL, MICHAEL L

ZAUSMER KAUFMAN AUGUST

STATE OF MI DEPT OF ATTORN

CITY OF ANN ARBOR

Michigan Natural Resources Com

Huron River Watershed Council

JANE ALLEN

Scio Township

Dindoffer, Fredrick J.

04/03/2017	Transaction Assessment			20.00
04/03/2017	Payment Over the Counter	Receipt # CC-2017-4351	Fink, David H.	(20.00)
01/07/2021	Transaction Assessment			20.00
01/07/2021	E-File	Receipt # EFILE-2021-00093	Zausmer, P.C.	(20.00)
01/07/2021	Transaction Assessment			20.00
01/07/2021	E-File	Receipt # EFILE-2021-00096	Zausmer, P.C.	(20.00)
01/07/2021	Transaction Assessment			85.00
01/07/2021	E-File	Receipt # EFILE-2021-00107	Zausmer, P.C.	(85.00)
01/08/2021	Transaction Assessment			20.00
01/08/2021	E-File	Receipt # EFILE-2021-00112	Zausmer, P.C.	(20.00)
01/22/2021	Transaction Assessment			20.00
01/22/2021	E-File	Receipt # EFILE-2021-00390	Zausmer, P.C.	(20.00)
01/28/2021	Transaction Assessment			20.00
01/28/2021	E-File	Receipt # EFILE-2021-00514	Zausmer, P.C.	(20.00)
01/28/2021	Transaction Assessment			20.00
01/28/2021	E-File	Receipt # EFILE-2021-00517	Zausmer, P.C.	(20.00)
03/30/2021	Transaction Assessment			20.00
03/30/2021	E-File	Receipt # EFILE-2021-01617	Zausmer, P.C.	(20.00)
04/27/2021	Transaction Assessment			20.00
04/27/2021	E-File	Receipt # EFILE-2021-02095	Zausmer, August & Caldwell, P.C.	(20.00)
04/27/2021	Transaction Assessment			20.00
04/27/2021	E-File	Receipt # EFILE-2021-02096	Zausmer, August & Caldwell, P.C.	(20.00)
04/29/2021	Transaction Assessment			20.00
04/29/2021	E-File	Receipt # EFILE-2021-02171	Zausmer, P.C.	(20.00)
06/08/2021	Transaction Assessment			20.00
06/08/2021	E-File	Receipt # EFILE-2021-02865	Zausmer, August & Caldwell, P.C.	(20.00)
06/16/2021	Transaction Assessment			20.00
06/16/2021	E-File	Receipt # EFILE-2021-03034	Zausmer, August & Caldwell, P.C.	(20.00)

RECEIVED by MSC 10/4/2021 5:25:41 PM

Court of Appeals, State of Michigan

ORDER

Attorney General v Gelman Sciences Inc

Docket No. 357598

LC No. 88-034734-CE

Christopher M. Murray, Chief Judge, acting under MCR 7.203(F)(1), orders:

The claim of appeal and attendant “motion for partial stay of proceedings pending appeal” are DISMISSED for lack of jurisdiction because the June 1, 2021 postjudgment order is not a final order as defined in MCR 7.202(6). MCR 7.203(A)(1). Specifically, the June 1, 2021 order was not “*the first*” judgment or order that disposed of all the claims and adjudicated the rights and liabilities of all the parties; the October 26, 1992 consent judgment was “*the first*” judgment that disposed of the claims and adjudicated the rights and liabilities of all the parties to the case. MCR 7.202(6)(a)(i) contemplates that only the first judgment or order meeting the definition will be considered final under that provision unless that judgment or order is reversed. See *Varran v Granneman (On Remand)*, 312 Mich App 591, 600-601; 880 NW2d 242 (2015). The postjudgment addition of intervening parties into the case does not change this outcome. *Id.* Moreover, although the October 26, 1992 consent judgment was amended or modified several times, it was not reversed and it remains the final order pursuant to MCR 7.202(6)(a)(i). Appellant’s application for leave to appeal and attendant “motion for partial stay of proceedings pending appeal” remain pending in Docket No. 357599.





A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

June 29, 2021

Date


Chief Clerk

Court of Appeals, State of Michigan

ORDER

Attorney General v Gelman Sciences Inc

Docket No. 357598

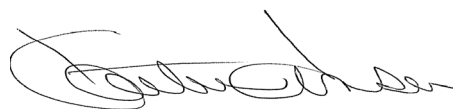
LC No. 88-034734-CE

Kathleen Jansen
Presiding Judge

Kirsten Frank Kelly

Stephen L. Borrello
Judges

The motion for reconsideration is DENIED.



Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

August 23, 2021

Date


Chief Clerk

Court of Appeals, State of Michigan

ORDER

Attorney General v Gelman Sciences Inc

Docket No. 337818

LC No. 88-034734-CE

Mark T. Boonstra
Presiding Judge

William B. Murphy

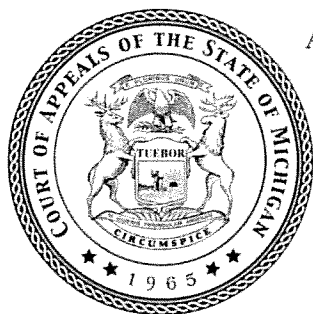
Jane E. Markey
Judges

The Court orders that the motions for immediate consideration are GRANTED.

The Court further orders that the motion for stay pending appeal is DENIED.

The Court orders that the motion for leave to exceed the page limit for combined reply to answers is GRANTED and the reply received on May 8, 2017 is accepted for filing.

The Court orders that the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JUL 14 2017

Date

Jerome W. Zimmer Jr.
Chief Clerk