

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

ATTORNEY GENERAL for the
STATE OF MICHIGAN, et al,
MICHIGAN NATURAL RESOURCES
COMMISSION, MICHIGAN WATER
RESOURCES COMMISSION, and
MICHIGAN DEPARTMENT OF NATURAL
RESOURCES,

Plaintiffs,

Case No. 88-34734-CE

vs

Hon. Donald E. Shelton

GELMAN SCIENCES INC.,
a Michigan corporation,

Defendant.

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GELMAN SCIENCES INC.'S MOTION TO APPROVE PALL LIFE SCIENCES'
COMPREHENSIVE PROPOSAL TO MODIFY CLEANUP PROGRAM

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Defendant, GELMAN SCIENCES, INC., d/b/a Pall Life Sciences (“PLS”) asks this Court to approve the modifications to the cleanup program described in PLS’ Comprehensive Proposal to modify the cleanup program (Appendix 13) for the reasons set forth in the accompanying Brief.

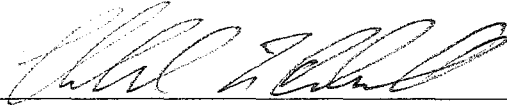
PLS also asks this Court for the opportunity to present live testimony in an evidentiary hearing regarding PLS’ Comprehensive Proposal and to cross-examine the witnesses for Plaintiff, to the extent this Court feels that such a hearing would be helpful.

WHEREFORE, PLS asks this Court to:

- a. Approve the modifications to the cleanup program described in PLS’ Comprehensive Proposal and the accompanying Brief;
- b. Schedule an evidentiary hearing at a time and date convenient for the Court, to the extent this Court deems that such a hearing would be helpful in resolving these issues.

Respectfully submitted,

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Dated: August 18, 2009

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BRIEF IN SUPPORT OF MOTION TO APPROVE
COMPREHENSIVE PROPOSAL

INTRODUCTION

Defendant, GELMAN SCIENCES, INC., d/b/a Pall Life Sciences (“PLS”) has been remediating the groundwater contamination associated with past operations on the 600 South Wagner Road property (“the PLS property”) since the late 1980s. This cleanup effort has been a spectacular success given the magnitude and complexity of the task. Unacceptable human exposures to the groundwater contamination have been prevented, and contaminant mass and concentrations have been reduced by orders of magnitude from original levels. Progress has been particularly rapid since this Court intervened in 2000 and allowed PLS to operate the previously installed horizontal well and to increase its overall groundwater extraction four-fold.

Both PLS and the Michigan Department of Environmental Quality (“MDEQ”) agree, however, that it is now important to update the cleanup program to ensure that it reflects the progress made to date and the parties’ current understanding of the nature and extent of the remaining contamination. Central to this effort is the need to establish a sustainable program with clear and coordinated cleanup objectives. As noted in PLS’ Motion to Approve Evergreen/Maple Road Modifications, PLS originally sought permission to implement the relatively straightforward modifications of those systems while the parties jointly developed modifications for the portion of the site west of Wagner Road. The MDEQ, however, required PLS to submit a comprehensive proposal covering all areas of the site before it would consider PLS’ original proposal.

PLS submitted the required Comprehensive Proposal to Modify Cleanup Program (“Comprehensive Proposal”) on May 4, 2009. Predictably, the MDEQ is now unwilling or unable to approve the Comprehensive Proposal it required PLS to submit. As explained

below and in the accompanying pleadings, the MDEQ's June 15, 2009 denial of PLS' proposal ("MDEQ Denial") reflects an institutional inability to make the professional judgments necessary to move the cleanup forward rather than any sound technical and/or legal objections.

As set forth in its Evergreen/Maple Road Brief, PLS is frustrated by the fact that the MDEQ's demand that PLS submit a "comprehensive" proposal has thus far prevented PLS from implementing the Evergreen/Maple Road modifications. For that reason, PLS has filed a separate motion seeking approval of those modifications, regardless of what this Court decides to do, if anything, with regard to the rest of the site. PLS, however, strongly believes that the modifications it has proposed for the portion of the remainder of the site will establish a more sustainable and protective cleanup program for this area. PLS asks this Court to approve its Comprehensive Proposal and the modifications described in more detail below.

BACKGROUND FOR MODIFICATIONS

A. PLS Is In Compliance With The Current Cleanup Objectives

PLS submitted the Comprehensive Proposal to improve the current cleanup program so that it could be sustained over the long term, not to avoid cleanup objectives it was not currently satisfying. PLS' original cleanup objectives are spelled out in the October 26, 1992, Consent Judgment ("Consent Judgment"). More recently, this Court issued two Remediation Orders to move the cleanup forward and to address the discovery of the Unit E contamination.¹ This legal framework requires PLS to accomplish the following objectives:

¹ The Remediation Orders include the July 17, 2000, Remediation Enforcement Order ("REO"), which resulted in the subsequent approval of PLS' 5-year plan and the December 17, 2004, Order and Opinion Regarding Remediation of the "Unit E" Aquifer ("the Unit E Order"), which addresses the more recently discovered Unit E contamination.

Consent Judgment Objectives

- a. Prevent the most highly contaminated groundwater in the shallow "C₃" aquifer (designated as the "Core Area") from migrating offsite;
- b. Intercept and prevent further migration of the leading edge of the two plumes (the Evergreen/"D₂" plume and the Western plume) that had already migrated offsite by the time the contamination had been discovered;

Unit E Objectives

- a. Prevent groundwater in the Unit E aquifer with contaminant levels above 85 parts per billion (ppb) from migrating east of Wagner Road; and
- b. Prevent groundwater contamination in the Unit E aquifer above 2,800 ppb from migrating east of Wagner Road.

PLS has consistently satisfied the cleanup objectives listed above by implementing one of the largest and most technologically advanced groundwater extraction and treatment programs in the state, if not the country.

Since the mid-90s, PLS has operated a groundwater extraction and treatment system in the Evergreen Subdivision area to capture the leading edge of contamination in that area. Originally, this system included a treatment unit located within the subdivision, which allowed PLS to inject the treated water back into the aquifer. Later, when additional capacity was required, PLS designed and installed the "Horizontal Well/Deep Transmission Line" – a remediation project that won a prestigious award from the National Groundwater Association. This infrastructure allowed PLS to convey the extracted groundwater back to the Wagner Road treatment system. Despite the operational difficulties with the Allison Street wells chronicled in PLS' Evergreen Brief, PLS has continued to satisfy the Consent Judgment

capture objective in this area.² PLS' proactive request to modify the Evergreen area objective to increase the program's long-term sustainability should not detract from the fact that PLS has successfully prevented further expansion of the Evergreen plume for more than 20 years.

PLS has also more than satisfied the Consent Judgment's "Core Area" objective. Since 1997, PLS has extracted groundwater from 11 extraction wells on or near the PLS Property to remove and contain the highest contaminant levels. This objective has, frankly, been rendered obsolete by the work PLS has undertaken to implement this Court's REO. The REO and the authority given to PLS under the related 5-Year Plan allowed PLS to begin operating the previously installed Horizontal Well and install 11 new extraction wells on or near the PLS property. This additional infrastructure allowed PLS to increase its overall purge rate from approximately 300 to 1,200-1,300 gpm while continuing to contain the leading edge of the offsite plumes.

PLS' efforts have dramatically reduced contaminant concentrations and mass throughout the site. PLS' proprietary treatment systems, including its current state-of-the-art ozone treatment system, have successfully treated 5.1 billion gallons of highly contaminated groundwater to trace levels, removing over 80,000 pounds of 1,4-dioxane. The dramatic decrease in concentrations attributable to the effort mandated by the REO and PLS' 5-Year Plan is illustrated in Attachment 3 to the Affidavit of James Brode, Jr. ("Brode Aff."), which compares groundwater concentrations in the D₂/C₃ aquifers before adoption of the 5-Year Plan to current levels. PLS has achieved similar decreases in concentrations in the subsequently discovered Unit E plume. (Brode Aff., Attachment 3). Another measure of the degree to which PLS has decreased concentrations is the 1,4-dioxane concentrations observed

² 1,4-dioxane has never been detected above a few parts per billion in the MDEQ-approved downgradient performance monitoring wells.

in the combined influent from all of PLS' extraction wells that is collected in PLS' "Red Pond" before treatment. In 1997, when groundwater extraction began on the PLS Property, Red Pond concentrations exceeded 21,000 ppb; currently, Red Pond concentrations are less than 550 ppb. (See Affidavit of Farsad Fotouhi, ("Fotouhi Aff.")).³

More recently, PLS has invested significant resources and technical expertise to comply with the Court's Unit E Order objectives. PLS has designed, constructed and operated active groundwater extraction and treatment systems to accomplish the capture objectives at both Maple and Wagner Roads. The complex remedial systems PLS has designed, installed and operated have successfully satisfied the cleanup objectives at these locations. (See Fotouhi Aff.).

B. Current Understanding of Site Conditions and Need for Modified Program.

The parties have now realized that despite the tremendous progress that has been achieved in reducing contaminant levels, the goal of reducing levels below the DWC cannot be achieved in the foreseeable future given the limits of the available pump and treat remedial technology.⁴ This barrier to achieving the parties' ultimate goal of reducing concentrations below the DWC is reflected in the slopes of the concentration curves for PLS' extraction wells. The reduction in concentrations in almost every onsite purge well has flattened out and become asymptotic at levels well above the DWC. (Appendix 13, Figure 2). The United

³ Although PLS was unable to achieve the REO's goal of reducing contaminant levels in the aquifers below the drinking water criterion ("DWC") within five years, contaminant concentrations throughout the affected area and the risk to the public have been significantly reduced. The "failure" to achieve the REO's five year cleanup goal is due to the limits of pump and treat technology, not PLS' effort or technical competence. No one disputes that PLS has faithfully carried out this Court's instruction to significantly accelerate to pace of the cleanup.

⁴ As this Court will recall, PLS has expended significant resources in attempts to develop other types of remedial technologies that PLS might use to further advance the cleanup. For instance, PLS overcame incredible resistance from the MDEQ and citizen groups to test various forms of in situ remediation (e.g., ozone, hydrogen peroxide, Fenton's Reagent). Unfortunately, none of the potential technologies PLS has identified and tested has worked in the field to the degree that it could provide meaningful help.

States Environmental Protection Agency (“USEPA”) and others have published materials that confirm that this is a common characteristic of pump-and-treat remedial systems, particularly in areas with complex geology like that present at the Gelman site and a hydrophilic contaminant like 1,4-dioxane.

The parties also understand that their previous approach to the cleanup on an aquifer-by-aquifer basis needs to be modified. Recent investigations have revealed that the degree of separation between aquifers in some areas is not as great in the as previously believed. For instance, in the Wagner Road area, there is no confining layer (aquitard) between the Unit E and D₂ aquifers, which has complicated PLS’ task of confirming (to the MDEQ’s satisfaction) that it is in compliance with the Unit E Order’s Wagner Road capture objective. (See Appendix 15, p. 6). In the Evergreen area a separating layer between the aquifers is generally present, but just south of the Evergreen area there is a shallower portion of the Unit E aquifer (sometimes referred to the E₁). This portion of the Unit E corresponds in depth and geological characteristics to the D₂ and is hydraulically connected to that unit. The reality is that the contamination in the E₁ and D₂ is really part of the same plume. Because the site geology is better understood, the differences between the cleanup objectives established for each aquifer now appear to be arbitrary in these areas. Cohesive cleanup objectives based on the parties’ current understanding of the site rather than outdated aquifer designations will result in a more efficient program.

Finally, the parties recognize (or at least PLS does) that the cleanup program needs to be restructured in a way that is both protective of the public and sustainable from an enforcement standpoint. It is simply ludicrous for the parties to continue to expend the resources, time, and effort that they have both spent on fighting over whether certain cleanup

objectives have been met if alternative, equally protective objectives can be substituted. The primary example of the parties' misallocation of resources in this regard is the Evergreen capture objective. PLS has been operating a groundwater extraction system in this area since the mid-1990s. Yet the MDEQ still contends that PLS has not defined the extent of the contamination in this area to the degree necessary for the MDEQ to conclude that the Consent Judgment objective is being met. (See MDEQ June 23, 2008 Correspondence and PLS August 7, 2008 response, Appendices 7 and 8 respectively, for a flavor of both the level of disagreement and the amount of resources being allocated to these issues.) Similar disputes have already arisen from the Unit E mid-plume capture objective at Wagner Road. (*Id.*) Modifying these cleanup objectives is necessary to avoid costly legal disputes, which require scarce technical and legal resources.

ARGUMENT

I. PLS' Comprehensive Proposal Should be Approved

A. PLS' Comprehensive Proposal Will Simplify the Cleanup Program

PLS' Comprehensive Proposal improves the current program by simplifying the legal structure of the cleanup program and reducing the number of remedial systems and cleanup objectives. Under the Comprehensive Proposal, there would only be two remedial systems defined by geography and the presence/absence of an institutional control: (1) the area west of Wagner Road where no property or used restrictions are currently in place (referred to as the "Western Area"); and (2) the area east of Wagner Road, including the area encompassed by the Prohibition Zone (referred to as the "Eastern Area"). (Appendix 13, p. 9). Each area has straightforward cleanup objectives that are intended to increase the sustainability and

effectiveness of the overall program. These changes address the MDEQ's oft-stated need for clear and enforceable cleanup objectives that the public can understand. (Appendix 15, p. 6.)

B. The Western Area Modifications Will Improve the Cleanup Program⁵

The technical and geological limits discussed above will prevent the parties from achieving everybody's goal of reducing 1,4-dioxane levels below the DWC in a reasonable time frame. Consequently, the parties have agreed to refocus their efforts on protecting the public by preventing unacceptable exposures to the groundwater (although obviously they disagree as to exactly what steps are necessary). Fortunately, this Court has already put the Prohibition Zone in place, which is the type of institutional control that has increasingly been used to protect the public in situations where, as here, simply reducing the contaminant to acceptable levels is not possible.⁶ PLS' modifications are focused on the work needed to: (a) ensure that the Prohibition Zone will continue to effectively prevent unacceptable exposures to the groundwater contamination, regardless of what aquifer the contamination is in; and (b) reduce the amount of contamination that ultimately vents to the Huron River.

As detailed in PLS' Comprehensive Proposal, PLS is proposing the following modifications to the cleanup program for the Western Area:

1. Mass Reduction and Increased Wagner Road Extraction

PLS is proposing to focus its efforts on reducing mass and concentrations in the areas west of Wagner Road where relatively high contaminant masses still exist. This includes the MW-94 location near Wagner Road discussed below. In total, PLS plans to operate nine extraction wells in the Western Area. PLS projects that this effort will remove virtually the

⁵ The elements of the proposed Eastern Area modifications are described in PLS' Evergreen Brief and will not be repeated here.

⁶ Under Part 201, parties are entitled to address their remedial responsibilities by preventing unacceptable exposures with restrictive covenants, institutional controls or engineering controls for any reason, not just when it is not possible to achieve the cleanup criteria through active remediation. MCL 324.20120b.

same amount of mass as the current program over the next ten years, but in a much more efficient and logical manner. (Brode Aff., ¶¶ 44-45).

PLS will continue to operate each of these wells as long as each well is productive in terms of reducing contaminant mass and concentrations. The criterion PLS will use to determine whether a well is productive is the 1,4-dioxane concentration in the water being extracted by each well. PLS is proposing to operate these wells so long as the 1,4-dioxane concentration of the purged water remains above 500 ppb. If the concentration of an extraction well falls below 500 ppb, PLS will evaluate whether the well can be operated effectively (i.e., with concentrations above 500 ppb) at a lower extraction rate. Wells that are not capable of removing greater than 500 ppb are simply not productive enough to serve as an effective mass removal well. This effort will efficiently reduce contaminant masses and concentrations that will enter the Prohibition Zone to levels that will both ensure that the Prohibition Zone is protective and reduce the contaminant loading to the Huron River.

These changes include replacing the Unit E Order's objective of preventing concentrations above 85 ppb from migrating east of Wagner Road in the Unit E aquifer with the unified goal of reducing concentrations/mass entering the Prohibition Zone, regardless of the aquifer designation. PLS will install a new extraction well in the area of MW-94 near Wagner Road where high concentrations have been detected in what has traditionally been understood to be the D₂ aquifer. This extraction well will serve to cut off groundwater contamination that would otherwise migrate to the Evergreen area. PLS will operate the new extraction well together with TW-18 and the onsite extraction wells to dramatically reduce the mass of contaminants and groundwater concentrations migrating into the Eastern Area throughout the vertical cross section of the entire aquifer system.

This focused effort will provide multiple benefits. Although PLS vigorously disputes that there is any uncertainty regarding the fate of groundwater contamination and whether the plume will expand beyond the Prohibition Zone boundaries, reducing the mass that enters the restricted area should help assuage the MDEQ's concerns in this regard. It will also provide even more confidence that PLS will be able to satisfy its obligation to prohibit groundwater contamination above 2,800 ppb from migrating east of Maple Road. Finally, it will also ultimately reduce contaminant loading to the Huron River well beyond what is legally required.

The MDEQ suggests that a "compelling case" can be made for requiring PLS to not only continue capturing Unit E groundwater contamination above the DWC, but also to apply this requirement to the shallower D₂ plume as well. (Appendix 15, pp. 4, 6).⁷ Such a requirement would not only provide no ascertainable public health benefits, but it would also create an enforcement quagmire that would benefit no one other than PLS' counsel.

PLS has not proposed to prevent a specific concentration from migrating east of Wagner Road for both legal and practical reasons. From a legal perspective, there is no public health benefit to be gained by reducing concentrations migrating into the Prohibition Zone at all: The Prohibition Zone already effectively prevents any unacceptable exposures to groundwater contamination above the DWC. Once the drinking water pathway is eliminated, the groundwater is "safe" from a human exposure perspective so long as 1,4-dioxane concentrations are below **1,700,000 ppb**, which is the level the MDEQ has determined to be

⁷ The MDEQ does not suggest how PLS would satisfy this objective within the restraints of its NPDES discharge limitation.

safe for direct human contact.⁸ The highest concentrations at the site are orders of magnitude below that criterion. Therefore, imposing a requirement that PLS capture any specific contaminant concentration, whether it be 85 ppb or 500 ppb or something else, would not increase the level of protection to the public.

From a practical perspective, requiring PLS to capture any specific groundwater concentration at Wagner Road would create an enforcement nightmare even more complex and irresolvable than the Evergreen area. First, the MDEQ would undoubtedly require further delineation along Wagner Road to determine the precise location of the 85 ppb contour vertically throughout the aquifer system. The MDEQ has already demanded further delineation along Wagner Road in its June 23, 2008 correspondence. (Appendix 7).

Second, as the parties have realized, it is next to impossible to confirm compliance with a "mid-plume capture" objective, particularly in the Wagner Road area. The MDEQ's standard method of confirming a capture objective is to monitor wells installed downgradient from the point where the plume is to be contained. This procedure will not work when the goal is to capture a groundwater contamination in the middle of the plume. In this case, any wells installed downgradient of Wagner Road already will have levels above the DWC, making it virtually impossible to confirm (at least from the MDEQ's perspective) whether the objective is being met. The inherent problems of crafting a performance monitoring plan to confirm a mid-plume capture objective are exacerbated in this case by the access issues east of Wagner Road. Much of this area consists of small lakes and wetlands that make it

⁸ Even the 2,800 ppb criterion that is protective of the aquatic receptors in the Huron River would be a conservative threshold because the contamination would naturally diffuse and dilute before the plume reaches the nearest surface water receptor (Huron River) and because PLS has the ability to capture groundwater contamination above 2,800 at Maple Road. Such a criterion would also be largely irrelevant because there are only isolated pockets of groundwater contamination in the Western Area that have concentrations approaching this criterion.

impossible to place performance monitoring wells in useful locations. The MDEQ acknowledges these “practical difficulties” in connection with evaluating the Unit E Wagner Road objective. (Appendix 15, p. 6).

Thus, imposing the requirement that PLS capture any specific groundwater concentration – whether it be 85 ppb, 500 ppb or some other number – would both delay implementation of the enhanced Wagner Road extraction while PLS attempted to satisfy the MDEQ’s delineation requirements and lead to inevitable legal disputes regarding compliance. PLS’ proposal to reduce the mass of contamination migrating into the Prohibition Zone addresses the MDEQ’s concerns regarding the uncertainty of the fate of the plume and at the same time avoids all of these technical and legal disputes inherent in a capture cleanup objective.

2. Containment Objective.

PLS will be responsible for preventing the areas impacted by contaminant concentrations of 85 ppb or greater from expanding in directions that do not lead to the Prohibition Zone east of Wagner Road. As explained in Section I.C below, meeting this objective should not require any groundwater extraction at all because groundwater in the area naturally flows east from the site, into the Prohibition Zone (that is why the leading edge of the Evergreen and Unit E plumes are both east of Wagner Road). PLS will, however, continue to operate any groundwater extraction wells (or install new wells) that are necessary to prevent the groundwater contamination that remains west of Wagner Road from migrating in another direction, even if the concentrations in any such well fall below the mass removal threshold of 500 ppb. This will prevent any additional properties from being affected by the groundwater contamination.

3. Performance Monitoring.

PLS' Comprehensive Groundwater Monitoring Plan ("Monitoring Plan") attached to its Comprehensive Proposal identifies the monitoring wells that will be used to evaluate whether the contaminant plume has expanded in unacceptable directions. PLS supplemented its Monitoring Plan with its June 3, 2009 Plan for Verifying Protectiveness of Proposed Remedial Modifications ("Verification Plan"). (Appendix 14). PLS will further supplement its Monitoring Plan to include specific "compliance" monitoring points so that the MDEQ can satisfy itself that it will be in a position to enforce PLS' commitment in this regard. (*See, Fotouhi Aff.*).

4. Institutional Controls.

At some point in the future, contaminant levels will be reduced to the point where PLS is no longer required to operate any of the extraction wells to meet either the containment or the mass removal objectives. Even after this occurs, areas with contamination above the DWC will likely remain. PLS understands, however, that it cannot terminate active remediation of these areas unless a restrictive covenant or an institutional control is in place to prevent unacceptable exposures to the groundwater on any affected properties. Consequently, PLS will commit to continuing groundwater extraction in the Western Area until either levels are below the DWC or such restrictive covenants or other acceptable institutional controls are in place.

The MDEQ has demanded that PLS obtain these restrictive covenants from the affected property owners now, years before they will become relevant or necessary. While it is true that the areal extent of the groundwater contamination above the DWC has been virtually unchanged since groundwater extraction began in 1997 (Appendix 15, p. 6), this may

not be true in the future. Assuming that the concentration reduction curves of PLS' groundwater extraction wells do not unexpectedly improve dramatically, PLS will be actively remediating the Western Area for many years. There are a number of areas where there are concentrations just above the DWC that may be reduced to safe levels by the time active remediation might be terminated. There is no reason to guess which properties will ultimately be affected or to restrict all of the properties that are now affected. Moreover, seeking permission from the currently affected property owners to put a restriction on their properties in the future would mean little if ownership changes in the interim.

C. The Proposed Modifications to the Western Area are Feasible

The MDEQ's primary concern with PLS' Western Area proposal is that the MDEQ assumes that groundwater contamination will expand in unacceptable directions once the mass removal threshold is achieved and groundwater extraction is terminated. Specifically, the MDEQ claims that "groundwater contamination migrated to the west and northwest prior to any extraction and those migration pathways are expected to resume upon termination of extraction." (Appendix 15, p. 3). This would only be a concern if the entirety of the parties' remedial investigation of the site prior to commencement of groundwater extraction in 1997 is ignored.

As explained by Mr. Brode, the hydrogeologist in charge of much of the early site work, the data gathered over the last 20 years demonstrate that the proposed Western Area remedial objective of preventing expansion is feasible. (Brode Aff., ¶¶ 31-34.) He explains that groundwater extraction is not required to contain the migration pathways to the west and northwest that the MDEQ is concerned about. Rather, even before groundwater extraction began, the natural downward hydraulic gradients caused any contamination in the shallower

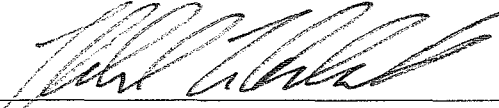
C₃ aquifer that initially migrated a short distance north and west from the source areas to flow down into the lower D₂ and Unit E aquifers. These downward gradients prevented the historically very high concentrations of groundwater contamination from expanding beyond the current extent of contamination. Once the contamination migrated into the deeper D₂ and Unit E aquifers, the strong groundwater flow carried the contamination to the east, where we now find the leading edge of the D₂ and Unit E plumes. This well-documented natural groundwater flow pattern has historically contained the migration of contamination to the north and west and directed the plume east of Wagner Road. Therefore, expansion of the plume beyond any areas where it historically migrated is extremely unlikely, even if all groundwater extraction is eventually terminated.

CONCLUSION

For the above-stated reasons, PLS asks this Court to approve PLS' Comprehensive Proposal and the modifications described in that proposal. As noted in PLS' motion, PLS would welcome the opportunity to present its proposed modifications to the Court in an evidentiary hearing if this Court determines such a proceeding would be helpful.

Respectfully submitted,

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