

# Zausmer, Kaufman, August & Caldwell, P.C.

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## VIA ELECTRONIC TRANSMISSION

Robert P. Reichel  
Assistant Attorney General  
Natural Resources Division  
300 S. Washington Sq., Suite 530  
Lansing, MI 48913

Re: Attorney General v Gelman Sciences, Inc:  
Our File No. 471

Dear Mr. Reichel:

I am compelled, by Ms. Kolon's recent email regarding a possible enforcement action, to inform the MDEQ and the Attorney General's office that circumstances exist that constitute a force majeure event under the Consent Judgment. As you know, the transmission line that brings purged groundwater back to the Wagner Road facility for treatment is losing water back into the D2 aquifer channel in which the pipeline is located. When this occurred, PLS had to cease operating the Evergreen extraction wells while PLS examined the condition of the transmission pipeline. The temporary unavailability of the transmission line prevented PLS from operating its Evergreen Subdivision groundwater extraction system as required by the Consent Judgment and Judge Shelton's July 17, 2000 Remediation Enforcement Order. Pursuant to paragraph XIV.B of the Consent Judgment, Pall will provide further written description of these circumstances, the expected duration of the delay, the measures to be taken to minimize the delay, and a timetable for implementing these measures.

The DEQ's suggestion that it might pursue an enforcement action regarding this issue is absurd. The deterioration of the pipeline is a maintenance issues that is obviously beyond PLS' control, as is the fact that PLS was required to place the transmission line at a depth that is unaccessible. As you will recall, the City of Ann Arbor refused to grant PLS access to place the line in the City right-of-way, requiring PLS to put the line deep underground with the horizontal well. The transmission line could have been easily repaired if PLS had been allowed to place it in the City right-of-way as originally requested. But now, because of the City's intransigence, PLS will have to spend hundreds of thousands of dollars to repair or replace the transmission line. To the extent the DEQ is now "rattling its saber" in response to pressure from the City, that pressure should be ignored.

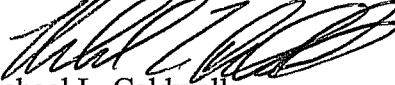
Zausmer, Kaufman, August & Caldwell, P.C.  
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Page Two  
October 21, 2005

Please call me if you have any questions regarding this correspondence.

Very truly yours,

ZAUSMER, KAUFMAN, AUGUST & CALDWELL, P.C.

  
Michael L. Caldwell

cc: Mr. Farsad Fotouhi  
Allen D. Wasserman, Esq.