

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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**THIRD AMENDMENT TO CONSENT JUDGMENT**

A Consent Judgment was entered in this case on October 26, 1992. The Consent Judgment requires Defendant, Gelman Sciences, Inc., to implement various remedial actions

to address environmental contamination in the vicinity of Defendant's property in Scio Township, subject to the approval of the Michigan Department of Environmental Quality ("DEQ").

The Consent Judgment was amended by stipulation of the parties and Order of the Court on September 23, 1996 ("First Amendment of Consent Judgment").

The Consent Judgment was amended a second time by stipulation of the parties and Order of the Court on October 20, 1999 ("Second Amendment of Consent Judgment").

Since the entry of the Consent Judgment, state environmental laws relevant to this action, including the former Michigan Environmental Response Act, 1982 PA 307, as amended, have been recodified and amended as Part 201 of the Natural Resources and Environmental Protection Act ("NREPA"), 1994 PA 451, as amended, MCL 324.20101 et seq. ("Part 201"). Those amendments have changed cleanup criteria.

Effective December 20, 2002, the DEQ promulgated administrative rules pursuant to Part 201, at R 299.5101-51021 (the "Administrative Rules"). The Administrative Rules contained further revisions to the cleanup criteria for 1,4-dioxane.

MCL 324.20120a and MCL 324.20102a required the DEQ to approve requests by persons implementing response activities to change plans for such response activity to be consistent with the new cleanup criteria.

Since the entry of the Consent Judgment, a new area of groundwater contamination was discovered in the "Unit E" aquifer. PLS' obligations to address this area of groundwater contamination are set forth in the December 17, 2004 Opinion and Order Regarding Remediation of the Contamination of the "Unit E" Aquifer (the "Unit E Order").

Amendment of the objectives of the Evergreen System is necessary to insure that the objectives are consistent with the original intent of the parties and do not conflict with the Unit E Order.

THEREFORE, the Parties agree to this Third Amendment to the Consent Judgment (“Third Amendment of Consent Judgment”) and such Third Amendment of Consent Judgment is ordered, adjudged, and decreed as follows:

FIRST, modify Sections III.G and N to read as follows:

G. “Groundwater Contamination” or “Groundwater Contaminant” shall mean 1,4-dioxane in groundwater at a concentration in excess of 85 micrograms per liter (“ug/l”) as determined by the sampling and analytical method(s) described in Attachment B.

N. “Soil Contamination” or “Soil Contaminant” shall mean 1,4-dioxane in soil at a concentration in excess of 1700 ug/kg as determined by the sampling and analytical method(s) described in Attachment C or other higher concentration limit derived by means consistent with Mich Admin Code R 299.5711(2) or MCL 324.20120a.

SECOND, modify the last clause of Section V.B.2 to read as follows:

(c) the discharge level for 1,4-dioxane in groundwater to be reinjected in the Core Area shall be established based upon performance of further tests by Defendant on the treatment technology and shall, in any event, be less than 85 ug/l.

THIRD, modify Section V.D.1 as follows:

Change 77 ug/l to 85 ug/l.

FOURTH, modify Section V.E.1 as follows:

Change 77 ug/1 to 85 ug/1.

FIFTH, modify the first paragraph of Section VI as follows:

Change 2000 ug/1 to 2400 ug/1 in both subsections (b) and (c).

SIXTH, modify Section VI.A.1 as follows:

Change 2000 ug/1 to 2400 ug/1.

SEVENTH, modify Section VI.B.1 as follows:

Change 2000 ug/1 to 2400 ug/1.

EIGHTH, modify the last clause of Section VI.D.2 as follows:

Change 1500 ug/kg to 1700 ug/kg.

NINTH, modify Section V.A.1 to read as follows:

A. Evergreen Subdivision Area System  
(hereinafter "Evergreen System")

1. Objectives. The objectives of this system shall be: (a) to prevent groundwater contamination that is present north of Valley Street and west of Evergreen Street within the Evergreen Subdivision area from migrating east of Evergreen Street, except to the extent such groundwater contamination may migrate east of Evergreen Street, but remains within the capture zone of the extraction well or wells located in the immediate vicinity of Evergreen Street; (b) to remove the

contaminated groundwater from this portion of the affected aquifer; and (c) to remove all groundwater contaminants from the affected aquifer or upgradient aquifers within the Site that is not otherwise removed by the Core System provided in Section V.B or the GSI Property Remediation Systems provided in Section VI. The objectives of the Evergreen System shall not apply to groundwater contamination that is addressed by this Court's December 17, 2004 Order and Opinion Regarding Remediation of the "Unit E" Aquifer.

No changes in the Consent Judgment other than those specified above are intended by this Amendment, all provisions of the Consent Judgment remain in force to the extent they are not specifically and affirmatively altered by this Amendment, and – unless expressly stated otherwise – all provisions of the Consent Judgment not altered by this Amendment apply to it.

IT IS SO ORDERED.

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Donald E. Shelton  
Circuit Court Judge