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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



DAN WYANT
DIRECTOR

October 10, 2011

VIA E-MAIL and U.S. MAIL

Mr. Farsad Fotouhi
Corporate Vice President
Environmental Engineering
Pall Life Sciences, Inc.
600 South Wagner Road
Ann Arbor, Michigan 48103-9019

Mr. Michael L. Caldwell
Zausmer, Kaufman, August & Caldwell, P.C.
31700 Middlebelt Road, Suite 150
Farmington Hills, Michigan 48334-2301

Dear Mr. Fotouhi and Mr. Caldwell:

SUBJECT: Gelman Sciences, Inc. Remedial Action
Western Area Groundwater Monitoring Plan (WAGMP)
DEQ Proposed Resolution of Dispute Pursuant to
Section XVI of Consent Judgment in Response to
Letter from Mr. Michael L. Caldwell dated September 12, 2011

By letter dated September 12, 2011, Mr. Michael L. Caldwell, on behalf of Pall Life Sciences, Inc. (PLS), invoked the dispute resolution process found in Section XVI of the Consent Judgment, in response to the Department of Environmental Quality's (DEQ) August 16, 2011, letter directing PLS to begin implementing the DEQ-approved WAGMP, as specified in the DEQ's letter dated May 25, 2011. The DEQ and PLS mutually agreed to extend the time for informal dispute resolution to allow further discussion for a short time beyond that called for in Section XVI of the Consent Judgment. This letter serves as the DEQ's response and resolution of the dispute.

BACKGROUND

The Consent Judgment, as amended, requires the establishment of a compliance monitoring well network and monitoring plan that is adequate to monitor the non-expansion objective of the Western Area. Under the Consent Judgment, PLS now has the ability to terminate the remediation, and leave contaminated groundwater in place, when it can demonstrate that groundwater contamination will not expand beyond its current extent. PLS has already decreased the volume of purging, as allowed by the amended Consent Judgment. Therefore, it is essential that a long-term monitoring program be established that can detect any expansion that would jeopardize the protectiveness of the remedy. Previously approved monitoring plans were based on purging of contaminated groundwater that was intended to shrink and eliminate all groundwater contamination. Given the revised remedial approach, including the ability to cease active remediation and leave groundwater contamination in place, any monitoring plan for the Western Area must necessarily be more rigorous than previous monitoring plans. The DEQ-approved WAGMP will monitor the effect of the reduced purging, as well as the effect when purging is terminated, as anticipated by the revised remedial approach. It will also allow for timely contingent remedial action to commence if needed, as also required by the revised remedial approach.

The DEQ's May 25, 2011, letter responded to PLS's proposed WAGMP, dated April 18, 2011, and contains the justification for and details of the DEQ-approved WAGMP. That letter also expressed the DEQ's willingness to explore with PLS, possible alternatives to the DEQ-approved WAGMP.

At PLS's request, the DEQ and PLS voluntarily discussed possible alternatives in meetings and by telephone. The parties could not agree on an alternative that the DEQ believed would satisfy the objectives of the Consent Judgment. The DEQ then sent PLS its August 16, 2011, letter, which Mr. Caldwell responded to as referenced above, to initiate the dispute resolution process.

The parties discussed the subject of this dispute in a telephone conference on September 22, 2011; however, no mutually acceptable alternative resolution was identified.

RESOLUTION

To ensure that the non-expansion objective for the Western Area will be met, an adequate compliance monitoring network that is part of an overall monitoring plan is required. The DEQ-approved WAGMP contains the required elements to measure compliance with that component of the Consent Judgment, as discussed above and in the DEQ's May 25, 2011, letter. Therefore, Pall Life Sciences, Inc. must begin implementing the DEQ-approved WAGMP, as specified in the DEQ's May 25, 2011, letter. Figure 1, attached to that letter, depicts the DEQ-approved compliance monitoring well network that defines the boundary beyond which any expansion of 1,4-dioxane groundwater contamination would be considered non-compliance with the non-expansion cleanup objective for the Western Area. Figure 1 includes the approximate location for the installation of five additional monitoring well nests required for the compliance well network. Table 2, also attached to that letter, provides the complete list of monitoring wells and frequency of sample collection and static water level measurements.

The five new monitoring well nests required by the DEQ-approved WAGMP must be installed using roto-sonic drilling, with vertical profiling at ten-foot intervals throughout the saturated zone, to bedrock. Each boring must also be gamma-logged.

Should you require further information, please contact me at 517-780-7937; kolons@michigan.gov; or the DEQ Jackson District Office, 301 East Louis Glick Highway, Jackson, Michigan 49201.

Sincerely,

Sybil Kolon
Senior Environmental Quality Analyst
Gelman Sciences Project Coordinator
Remediation Division

SK/ja

cc: Ms. Celeste Gill, Department of Attorney General
Mr. Jim Sygo, DEQ
Ms. Lynelle Marolf, DEQ
Mr. Mitchell Adelman, DEQ
Gelman File