

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

JENNIFER M. GRANHOLM, Attorney
General for the State of Michigan, *ex rel*,
MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiffs,

File No. 88-34734-CE

v

Honorable Donald E. Shelton

GELMAN SCIENCES, INC.,
a Michigan corporation,

Defendant.

ORDER PROHIBITING GROUNDWATER USE

At a session of said Court held in the City of Ann Arbor, County of Washtenaw, Michigan, on the _____ day of _____, 2005.

PRESENT: HONORABLE DONALD E. SHELTON
Circuit Court Judge

On December 17, 2004, this Court issued its Opinion and Order Regarding Remediation of the Contamination of the "Unit E" Aquifer. That Opinion and Order resolved a dispute between the Parties regarding the September 1, 2004 Decision Document issued by the Michigan Department of Environmental Quality (MDEQ) regarding remediation of the "Unit E" groundwater contamination emanating from the Pall Life Sciences (PLS) (formerly known as Gelman Sciences, Inc.) facility in Scio Township, Washtenaw County.

Among other things, this Court determined that in order to satisfy the requirements of MCL 324.20118(6)(d) and MCL 324.20120b(5) for institutional controls preventing

unacceptable exposure to 1,4-dioxane in the groundwater, it is necessary and appropriate to supplement the Washtenaw County Rules and Regulations for the Protection of Groundwater adopted February 4, 2004, with a legally enforceable order of this Court prohibiting certain groundwater uses in specifically defined areas and addressing the relevant conditions identified in the MDEQ's September 1, 2004 Decision Document.

ACCORDINGLY, pursuant to the December 17, 2004 Opinion and Order, based upon further information provided by the Parties, for the reasons stated by the Court in its May 4, 2005 ruling on Plaintiffs' Motion to Enter Order Prohibiting Groundwater Use, and in the exercise of this Court's statutory and inherent authority to enforce its orders and judgments,

IT IS HEREBY ORDERED:

1. The prohibitions imposed by this Order apply to the zone identified in the map attached hereto as Figure 1 (Prohibition Zone).
2. The installation by any person of a new water supply well in the Prohibition Zone for drinking, irrigation, commercial, or industrial use is prohibited.
3. 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.
4. The consumption or use by any person of groundwater from the Prohibition Zone is prohibited.
5. The prohibitions listed in paragraphs 2, 3, and 4 do not apply to the installation and use of:

(a) groundwater extraction and monitoring wells as part of response activities approved by MDEQ or otherwise authorized under Parts 201 or 213 of NREPA, or other legal authority.

(b) 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.

(c) 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.

(d) emergency measures necessary to protect public health, safety, welfare or the environment.

(e) 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 PLS facility. Such wells shall be monitored for 1,4-dioxane by PLS at a frequency determined by the MDEQ.

6. PLS shall provide, at its expense, connection to the City of Ann Arbor municipal water supply to replace any existing private drinking water wells within the Prohibition Zone. Within thirty (30) days after entry of this Order, PLS shall submit to MDEQ for review and approval a work plan for identifying, or verifying the absence of, any private wells within the Prohibition Zone, for the abandonment of any such private wells and for replacement of private drinking water wells with connection to the municipal water supply. Well abandonment and replacement shall be performed in accordance with all applicable regulations and procedures at the expense of PLS. PLS shall implement the work plan and schedule approved by MDEQ.

7. This Order shall be published and maintained in the same manner as a zoning ordinance.

8. This Order shall remain in effect in this form until such time as it is amended or rescinded by further order of this Court, with a minimum of thirty (30) days prior notice to all Parties.

9. Either Party may move to amend the boundaries of the Prohibition Zone to reflect material changes in the boundaries or fate of the groundwater contamination plume as described by future hydrogeological investigation or MDEQ approved monitoring of the fate of the groundwater contamination.

10. In the event the boundary of the Prohibition Zone is expanded, PLS shall, within thirty (30) days after entry of such an Order, submit to the MDEQ for review and approval, a work plan for identifying, or verifying the absence of any private wells within the modified Prohibition Zone, for the abandonment of any such private wells, and for the connection to the municipal water supply to replace any drinking water wells within the modified Prohibition Zone.

11. Either Party or a local unit of government having jurisdiction within the Prohibition Zone may seek enforcement of this Order by the Court.

12. This Order shall not affect the rights, liabilities, or defenses of any party in any other legal or administrative proceeding, nor shall it constitute evidence of either the presence or absence of 1,4-dioxane at any location inside or outside the Prohibition Zone in any such proceeding.

HONORABLE DONALD E. SHELTON
Circuit Court Judge

APPROVED AS TO FORM:

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Gelman Sciences Inc. Prohibition Zone Boundary

