



Legislation Text

File #: 19-0887, **Version:** 2

Resolution Directing City Administrator to Take Steps to Organize Meeting with State-Lawsuit Intervenor to Explore Requesting Environmental Protection Agency's Active Involvement with the Gelman Site and its Listing as a "Superfund" Site

The City and its residents have worked for decades to require Gelman to delineate and clean up City ground water contaminated by 1,4-dioxane that originated at the Gelman Sciences Wagner Road facility, and to protect City ground water from further spreading of the Contamination. As part of that effort, the City sued Gelman in state and federal court more than 10 years ago, before agreeing to settle the lawsuit. Separately, the State has for decades litigated against, and otherwise regulated, Gelman to enforce State environmental laws that apply to the Contamination. Those parties have operated under various versions of a consent judgment over the years.

Following the State's recent tightening of its standards for dioxane groundwater pollution, the City, with others, intervened in the State's ongoing lawsuit against Gelman pending in Washtenaw County Trial Court. Since its intervention was allowed in 2017, the City has engaged in settlement negotiations over a potential new consent judgment. Those negotiations aside, however, the City is simply not satisfied with the progress of the delineation, containment and remediation of the contamination. The City believes that delineation, containment and remediation will be bolstered by EPA's active involvement and enforcement of the Superfund law at this site. At this time, the EPA has a single employee assigned to closely monitor this situation and work with the State. Unless the EPA's involvement moves beyond the preliminary assessment that it's completed, that employee may be reassigned.

Prepared by: Kathy Griswold, Councilmember

Reviewed by: Matt Rechten, Senior Assistant City Attorney

Whereas, The City and its residents have worked for decades to require Gelman to delineate, and clean up City ground water contaminated by 1,4-dioxane ("Dioxane") that originated at the Gelman Sciences ("Gelman") Wagner Road facility (the "Contamination"), and to protect City ground water from further spreading of the Contamination;

Whereas, As part of that work, The City sued Gelman in state and federal court more than 10 years ago, and ultimately agreed to settle that lawsuit;

Whereas, The State of Michigan ("State") has for decades separately litigated against, and otherwise regulated, Gelman to enforce State environmental laws that apply to the Contamination;

Whereas, Following the State's recent tightening of its standards for Dioxane groundwater pollution, as part of the City's continuing efforts, it, along with others, intervened in the State's ongoing lawsuit against Gelman pending in Washtenaw County Trial Court;

Whereas, Since its intervention was allowed in 2017, the City has engaged in settlement negotiations over a potential new consent judgment;

Whereas, Negotiations aside, the City is not satisfied with the progress of the delineation, containment and remediation of the Contamination;

Whereas, The City recognizes that the Contamination may pose a long-term threat to public health and the security of the City's municipal water system; and

Whereas, The City believes that delineation, containment and remediation of the Contamination may be bolstered by the United States Environmental Protection Agency's ("EPA") active involvement and enforcement of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), the "Superfund" Act, as it applies to the Contamination;

RESOLVED, That the City Council directs the City Administrator, by July 1, 2019, to take all reasonable steps to convene a meeting with the other State-Lawsuit intervenors to explore requesting EPA's active involvement with the Gelman site and its listing as a "Superfund" site under CERCLA by, among other things, soliciting a concurrence letter from the Governor; and,

RESOLVED, That the City Council authorizes the City Administrator to take such further actions that are consistent with the purposes of this resolution.

Sponsored by: Councilmembers Griswold, Bannister, Hayner, Eaton, Ramlawi, Ackerman and Mayor Taylor

As Amended and Approved by Ann Arbor City Council on May 6, 2019