



**Environmental Quality Office
Sustainability, Environment & Safety
Engineering**

**Ford Motor Company
Fairlane Plaza North
290 Town Center Drive, Suite 800
Dearborn, MI 48126**

March 17, 2020

VIA EMAIL

Brandon Alger
Michigan Department of Environment, Great Lakes & Energy
Remediation & Redevelopment Division
27700 Donald Court
Warren, MI 48092
AlgerB@michigan.gov

Re: Ford Livonia Transmission Plant – COVID-19 Force Majeure

Dear Brandon:

On behalf of Ford Motor Company (Ford), this letter requests to temporarily halt off-site vapor intrusion sampling and mitigation work in residential homes and commercial businesses, due to the spread of COVID-19, pursuant to the Force Majeure provisions contained in the Consent Decree entered on July 27, 2017 in Michigan Department of Environmental Quality v. Ford Motor Company, Case No. 2:1712372-GAD-RSW.

As you know, Ford has conducted extensive investigation, characterization, and mitigation work since the Consent Decree was entered, including taking thousands of groundwater, indoor air, and sub-slab soil vapor samples at off-site commercial and residential properties. Arcadis has also installed or is in the process of installing mitigation systems in 32 homes.

On August 30, 2018, EGLE approved (with modifications) a Response Activity Plan – Vapor Intrusion Evaluation (“RAP-VI”) for the Livonia Transmission Plant. In the next month, Arcadis’ scope of work required by the Consent Order and RAP-VI includes entering:

- 3 homes to install mitigation systems (these homes already have temporary air infiltration units to protect residents)
- ~20 commercial buildings to perform routine air and/or sub-slab soil-gas monitoring
- ~10 residential properties to perform routine monitoring of the existing mitigation systems performance

The work can be extensive and involve multiple teams of subcontractors at a particular time, operating in close proximity to each other and occupants of residential homes and commercial properties. They often go directly from one residence or commercial property to another. Given ongoing testing shortages throughout the U.S., there is no way of knowing whether any Arcadis personnel, subcontractor, home resident, or other involved party is currently affected by COVID-

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19 and whether Arcadis' work may therefore spread it between properties. Ford and Arcadis have discussed the risks posed by Arcadis' work pursuant to the RAP-VI and both have concluded that, in light of the spread of COVID-19, it poses too great a risk to the health and safety of residents and Arcadis workers to continue at present. Importantly, Arcadis has raised concerns as to whether the safety of its personnel against COVID-19 can be protected as is required under the Occupational Safety and Health Act ("OSHA").

This constitutes a Force Majeure under the Consent Decree. Article X, Section 10.2 of the Consent Decree defines a Force Majeure event as "any event arising from causes beyond the control of and without the fault of [Ford] ... or of [Ford's] contractors, that delays or prevents the performance of any obligation under this Decree despite [Ford's] 'best efforts to fulfill the obligation.'"

The spread of COVID-19 qualifies as a Force Majeure. The number of COVID-19 cases in the State of Michigan has risen to 54 in less than one week. The State has closed schools, bars and restaurants to limit the spread of COVID-19. The Mayor of Livonia has announced that one of the confirmed cases of COVID-19 is a resident in the city. Ford and Arcadis have no way of knowing where that individual lives and if they may be located within or have had contact with residents in the LTP Project Area of Concern. It is in the best interests of the State, residents of Livonia, and all Arcadis workers to suspend vapor intrusion work in the LTP Project Area of Concern until more is known about the risks posed by interpersonal contact through Arcadis' work there.

Accordingly, Ford respectfully request that EGLE determine that the spread of COVID-19 in Michigan is a Force Majeure event as defined in the Consent Decree, and suspend Ford's off-site vapor intrusion sampling and mitigation activities under the RAP-VI for a period of thirty (30) days. We respectfully request a response as soon as possible in light of the urgent health and safety issues presented by COVID-19. If you have any questions, please feel free to contact me.

Sincerely,



Todd M. Walton
Manager, Global Site Assessment & Remediation

cc: Mr. Kris Hinskey, Arcadis
Mr. Paul Owens, EGLE
Ms. Beth Vens, EGLE
Ms. Cynthia Mollenhour, EGLE
Mr. Brian Negele, MDAG