

# Michigan Supreme Court Orders the Michigan DEQ to Pay \$3.8 Million to Manufacturing Company

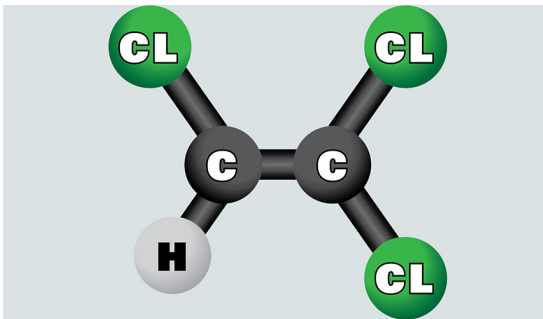
Environmental Advisors

A Client Success Story

A manufacturer (The Company) of a globally-distributed household product has their main manufacturing plant in northern Michigan. They have operated at this location (in an industrial park) for decades. The city municipal water supply (groundwater), which is below the industrial park shared by The Company and several other companies, became contaminated with TCE.

## Company Addresses TCE in Groundwater

The Company accepted partial responsibility for the problem. They voluntarily installed and operated a groundwater pump-and-treat system to remedy their part of the problem. However, several years later, the State of Michigan filed a lawsuit against The Company claiming that The Company's remediation system was not adequately working and that a new TCE plume had "escaped" from their plant.



## Peer Review

Based on a "gut" feeling that The Company was not the source of this new plume, The Company's new corporate counsel retained Dragun to conduct a peer review of (a) the project data

files, and (b) the findings and conclusions of the State and The Company's consultant.

- First, The Company provided Dragun with three project reports for our review. We prepared a peer review letter that outlined 20 "unaddressed" critical technical questions related to the remedial investigation and remedial actions.
- Second, The Company asked Dragun to conduct a Freedom of Information Act request, which resulted in Dragun obtaining 27 banker boxes of data and information related to The Company's plant and surrounding properties.
- Third, we found a major flaw in the interpretation of the data by the State and The Company's consultant. They did not "connect the dots." There were multiple, non-remediated TCE plumes from other companies that were present in the vicinity of their plant. However, these sources were ignored.
- Fourth, we conducted our own analysis and modeling of groundwater flow and TCE transport in groundwater.

Based on our technical work, The Company decided to stop investigating this "new plume." Not surprisingly, legal action ensued.

## District & Supreme Court

The District Court ruled that (a) The Company was not the responsible party for the "new plume," and (b) the State must pay The Company



sanctions of **\$3.8 million**, which includes the defense costs of The Company for environmental consulting services and outside legal counsel.



The State regulators appealed. The Michigan Supreme Court's UNANIMOUS decision upheld the initial ruling and the sanctions.

What started as a gut feeling led to a peer review and, eventually, a significant "win" for our client.

#### Client Testimonials:

*"I have had the pleasure of working with a number of staff of the Dragun Corporation on a wide variety of projects...whatever the project, one thing all had in common was the quality, creativity and technical competency Dragun was able to offer to get the job done. I would not hesitate to recommend Dragun*

*Corporation to any organization interested in achieving the best possible outcomes for their environmental projects and strategic environmental decision making."* (Corporate EHS Manager)

*"I have been impressed with the technical knowledge that Dragun has brought to this project...This project has involved major time and staff commitments, and Dragun has consistently delivered. The end product has always been first rate. I wish to commend Dragun staff personnel at all levels, who are highly professional, but also friendly and a pleasure to deal with."* (Lawyer)

*"We know it's no secret, your technical ability and industry knowledge at Dragun is second to none. However, your sensitivity to customer related details is far and away better than any environmental consulting firm we have worked with nationally."* (VP Property Management Firm)



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