

September 16, 2019

Darsi Foss, Administrator
Environmental Management Division
Wisconsin Department of Natural Resources
625 E. County Road Y, Suite 700
Oshkosh, WI 54901

Subj: Response to Wisconsin Department of Natural Resources Letter of Sept. 12, 2019
WDNR BRRTS Activity #02-38-583856

Dear Ms. Foss:

Thank you for your letter of September 12, 2019. As you know from working with us for several years now, Tyco Fire Products LP has proactively addressed a wide range of environmental issues confronting the communities in Marinette and Peshtigo, including biosolids. We appreciate the offer to meet with us on this important issue. We will contact you to set that meeting up and will provide a formal response to WDNR's July 3 letter within no more than 30 days of that meeting.

In the meantime, we want to take this opportunity to explain more specifically how Tyco has, in fact, been the leader on biosolids in this community. To start, since March 2018, Tyco has voluntarily suspended all foam wastewater discharges to the City of Marinette wastewater treatment plant, and we will continue that voluntary suspension. We also voluntarily and immediately engaged in a comprehensive program to seal the wastewater lines leading to the treatment plant from both of our properties in order to eliminate the potential for PFAS-contaminated groundwater to enter those lines between our property and the treatment plant. We can confirm that the program is now complete, at a cost of approximately one million dollars that Tyco expended voluntarily and without necessity of any intervention by WDNR.

When WDNR asked the City of Marinette to cease land-spreading of biosolids, Tyco also worked with the City to devise a plan to remove, treat, and dispose of those existing biosolids in a responsible and environmentally sound manner. We anticipate that all of the existing biosolids Marinette has been holding since 2017 when it suspended land-spreading will be treated and disposed of in the next couple of weeks. This is all being accomplished—again, voluntarily—under a reimbursement agreement Tyco entered with the City of Marinette that we anticipate will cost Tyco more than three million dollars.

Tyco has taken all of these actions despite the concerning fact that, to our knowledge, WDNR has not taken steps to identify any other potential sources of PFAS contributing to these biosolids and waterways. We know that it is nearly certain that multiple potential sources of PFAS exist in these areas because, as WDNR itself has acknowledged, these chemicals “have been used in industry and

consumer products worldwide since the 1950's."¹ As a result, numerous and substantial sources of PFAS potentially at issue do not include Tyco.

On July 7th, 2019, Tyco asked WDNR to identify other potential sources of PFAS contributing to the biosolids and soon thereafter began asking WDNR to meet with us so that we could discuss this issue. WDNR has neither answered our letter, nor agreed to meet with us. There are other parties that need to be included in this comprehensive solution. While other PFAS sources remain unidentified, their contributions to contamination continue unabated and unaddressed, precluding any **comprehensive** solution to this issue, which is what the people of Marinette and Peshtigo need.

In addition, the September 12th letter has several legal deficiencies. First, WDNR still has not issued a responsible party letter to Tyco itself on this issue. Second, WDNR continues to identify legal entities that are not and cannot be responsible parties under Wisconsin law. Lastly, the Spill Statute does not grant WDNR authority to order Tyco to submit a Site Investigation Plan for the issues you present in the July 3rd letter. We respectfully submit that further letter exchanges on legal issues is not productive.

Our track record over the last three years demonstrates Tyco is willing to work in a reasonable manner with WDNR on these important issues. We look forward to meeting with you as we have for the last several years.

Sincerely,



John Perkins

On behalf of Tyco Fire Products LP

Copy to: Honorable Preston Cole,
Todd Ambs,
Cheryl Heilman,
William Nelson,
Steve Sisbach

¹ <https://dnr.wi.gov/topic/Contaminants/PFAS.html>; *see also* <https://dnr.wi.gov/topic/Contaminants/documents/pfas/Presentation20190409.pdf>.