

November 15, 2019

Ms. Roxanne N. Chronert
Team Supervisor, Northeast Region
Remediation & Redevelopment Program
State of Wisconsin
Department of Natural Resources
2984 Shawano Avenue
Green Bay, WI 54313-6727

Re: Reported Contamination at the City of Marinette Waste Water Treatment Facility and Associated Fields Utilized for Landspreading of Biosolids; Marinette, WI
DNR BRRTS Activity # 02-38-583856

Dear Ms. Chronert:

I am enclosing a Work Plan for an investigation of the 16 private fields identified by the Wisconsin Department of Natural Resources (“WDNR”). This Work Plan details the steps necessary to evaluate the 16 fields and develop an appropriate sampling program. This work can be conducted now, in preparation for a subsequent field sampling plan that Tyco Fire Products, LP (“Tyco”)¹ will author and submit based on the findings of the enclosed Work Plan.

Because these fields are not under the control of Tyco, and because Tyco has no right of access to them, WDNR, a state government agency, is uniquely positioned to obtain the necessary approvals from local government and owners to conduct the Phase I work in this Work Plan in conjunction with a consultant working under WDNR direction. By utilizing the same consultant working at WDNR’s direction in both Phase I and II, the Phase I work and the follow-on Phase II work can be completed more efficiently and thereby avoid any undue delay.

Tyco will fully fund—either directly or through reimbursement to WDNR—the costs of the independent third-party consultant to perform this Phase I work. Tyco will also support development, drafting, and submission of a work plan for Phase II based on the results obtained in Phase I for the 16 identified fields. Tyco is willing to agree to an Order documenting these agreements. This process follows the iterative, scientific process outlined in Wis. Admin. Code NR 700. The Work Plan is consistent with the Department’s procedures for remedial activities conducted at other sites, and Tyco is committed to working with the Department to continue to follow and implement the standards developed under NR 700.

¹ As previously discussed, the WDNR’s continued assertion that JCI is “a parent company of Tyco Fire Products, LP” is simply inaccurate.

Tyco shares the WDNR's interest in expediting this work. We also share the WDNR's concern that the investigation of these properties should be based on robust science and research, just as Tyco's previous work to address issues in Peshtigo and Marinette were based on robust, phased science and research that—with WDNR's approval—followed the precise phased sequence outlined in this enclosed Work Plan. This approach allows the WDNR to focus directly on a Work Plan that is based on research and data, and then conduct the work efficiently. This approach allows time to develop the sampling plan during the winter months when weather conditions will not allow complete sampling or evaluation of planting practices or run off patterns, for example. Having the WDNR then perform the Phase II sampling plan similarly avoids lengthy negotiations over access agreements between Tyco and private parties that will undeniably delay the work.

Tyco reserves all rights and its offer to fund this Phase I work cannot be taken as an admission of any fact or liability. To the contrary, Tyco has significant defenses to the WDNR's assertions under the Wisconsin Spill Statute. Most significantly, as the WDNR has repeatedly acknowledged, there are many potential sources of PFAS that may be present on the identified fields. Only the WDNR has the means, indeed the legal obligation, to identify those parties and bring them into this discussion so that a comprehensive solution can be put in place that fully addresses this issue. Nevertheless, Tyco provides the enclosed Work Plan and the commitments outlined above in order to resolve this issue with WDNR and best serve our local community.

Sincerely,

A handwritten signature in black ink, appearing to read "John Perkins". The signature is fluid and cursive, with a large initial "J" and "P".

John Perkins
On behalf of Tyco Fire Products LP