

February 16, 2023

Via Email

Alyssa.Sellwood@wisconsin.gov

Alyssa Sellwood, PE
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Remediation & Redevelopment Program
Wisconsin Department of Natural Resources
101 South Webster Street
P.O. Box 7921
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Re: Tyco (Biosolids)
BRRTS # 02-38-583856

Dear Ms. Sellwood:

As you know, Tyco Fire Products LP has partnered with the Wisconsin Department of Natural Resources (WDNR) to assess, evaluate and address potential impacts in the Marinette area from historic Fire Training Center (FTC) operations. Among its many efforts, Tyco has sought to study and understand the potential impact of biosolids in that part of the WDNR-designated “biosolids area” that may have relevance to Tyco’s historic activities at the FTC. Specifically, under a workplan approved by the WDNR, Tyco has been attempting to develop scientific data to understand what, if any, impact biosolids spread by the City of Marinette prior to 2018 (at which point the City of Marinette no longer land-applied biosolids) may have had in the area. It has become clear, however, that other entities commonly known to be sources of or impacted by PFAS, under permit by the WDNR, continue to apply biosolids to the biosolids area, compromising the research Tyco was to undertake.

To remind of important history here, Tyco ceased industrial discharges to the City of Marinette wastewater treatment plan from the FTC in 2019 and invested in expansive efforts first to capture and truck wastewater out of state to a facility specially licensed to treat for PFAS. Then, Tyco invested \$11M to build a state-of-the-art Advanced Research and Testing facility inclusive of a best-in-class water treatment system. Unfortunately, other entities have continued to discharge PFAS and are still discharging PFAS to this day.

Coming back to Tyco’s biosolids research workplan for the biosolids area, Tyco obtained several datasets via public records requests made to the WDNR and other public entities. These documents detail permitted land applications of biosolids in Marinette and Oconto Counties. The documents bring to light facts about the WDNR’s biosolids program that, together with other concerns detailed below, necessitate a pause in the research being undertaken by Tyco in the biosolids area.

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Specifically, the documents make clear that WDNR has allowed biosolids application to continue from industrial and municipal sources commonly known to be sources of or impacted by PFAS. It appears that the WDNR has not required testing for PFAS nor has it enforced a limit on PFAS concentrations in the waste materials from some or all of these sources.

The quantities at issue here are vast. In crop year 2022 alone, some two million gallons were applied pursuant to WDNR permits in Marinette County. Fully 87% of these waste materials came from industrial sources (with 31% from paper manufacturing) and 13% from municipal sources.

The WDNR's practice in this regard is concerning and seems to contradict the WDNR's public statements that PFAS in biosolids is a matter of public concern. Further, these actions undermine the scientific basis of the research Tyco was to conduct since it is impossible to isolate impacts, if any, from historic landspreading by the City of Marinette when application directly on and near the fields that were supposed to be studied by Tyco (see attached figure) has continued.

Another reason necessitating a pause in Tyco's research is the landowners' response (or lack thereof) to Tyco's inquiries to them related to the research. The landowners' reaction and direct communication to Tyco and the WDNR makes clear they are concerned with potential testing on their property. Even if the WDNR conveys that it will exercise enforcement discretion with regard to these landowners, that assurance will fall well short of what likely would be necessary to address landowner concerns. For example, the WDNR cannot ensure that the landowners would not now or in the future be found by a regulatory agency or a court to be "responsible parties" under the Spill Statute or other state or federal laws that may be or become applicable. Additionally, the WDNR also cannot address other potential commitments that the landowners may have that could require reporting or other action if the landowners give permission for testing. And the lack of any state or federal standards to give context to sampling results would leave the landowners without guidance for the continued use of their property.

In summary, the continuous introduction of PFAS-containing biosolids into the environment in the biosolids area makes it impossible to understand if there might have been an adverse effect from historic biosolids application associated with the City of Marinette. For this reason and in light of the concerns expressed by landowners, compounded by the lack of any federal or state standards related to PFAS from biosolids, Tyco respectfully must pause work under the biosolids work plan. Tyco has been providing bottled water to over 100 homes in this area, without regard to whether those homes have actually been affected by biosolids from the City of Marinette. Tyco will continue this service.

We are, as always, available at your convenience to discuss this important matter. And we of course look forward to your continued support of the many actions Tyco is taking to stop PFAS from the FTC at its source and to deliver long-term, good drinking water to our neighbors.

Sincerely,



Denice K. Nelson
Senior Director – Remediation & Strategy

Enc. Figure 1. WDNR Permitted Biosolids Landspreading Applications