State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
2984 Shawano Avenue
Green Bay WI 54313-6727

Tony Evers, Governor
Adam N. Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711

April 21, 2023

TECUMSEH PRODUCTS COMPANY
JASON SMITH
5683 HINES DRIVE
ANN ARBOR, MI 48108

[*Via Electronic Mail Only to jason.smith@tecumseh.com*]

SUBJECT: DNR Response to Remedial Action Standards Documentation Report, Revision 1
Hayton Area Remediation Project, BRRTS # 02-08-281506

Dear Mr. Smith:

Thank you for submitting the Remedial Action Standards Documentation Report, Revision 1 (RASDR) for the Hayton Area Remediation Project (HARP) in accordance with the Negotiated Agreement of November 2018. The DNR has reviewed the RASDR and provides you with two options for how you may proceed, which are outlined in this letter.

As you are aware, the RASDR was a requirement in Section III, Paragraph N of the 2018 Negotiated Agreement:

> …. Tecumseh shall use the results of that [Ordinary High Water Mark (OHWM)] determination to prepare a report which documents that the remedial action standards in Wis. Admin. Code chs. NR 720 and 722 for soil and sediment have been achieved. If the standards have not been achieved, Tecumseh will submit a Remedial Action Options Report to address those media and pathways of exposure to ensure that they are protective of public health, safety, welfare and the environment.

The RASDR does not demonstrate that residual contamination in either soil or sediment achieves the past Remedial Action Levels (RALs) or standards in Wis. Admin. Code chs. NR 720 and 722. There are numerous samples above RALs and Wis. Admin. Code ch. NR 720 and 722 standards. Using the OHWM determined by DNR in accordance with the Negotiated Agreement, residual sediment contamination remains above the RAL of 1 ppm total PCBs in sediment in approximately 280 samples of the 687 sediment samples collected throughout OU1-4. Of the 280 sediment samples that were greater than 1 ppm total PCBs, 88 sediment samples were greater than 3 ppm total PCBs, and 12 were greater than 5 ppm, with the highest residual sediment analytical result being 8.8 ppm total PCBs. Additionally, the highest residual soil analytical result is 9.1 ppm total PCBs.

Because the RASDR does not demonstrate that residual contamination achieves RALs or standards in Wis. Admin. Code ch. NR 720 and 722, Tecumseh may proceed by submitting a Remedial Action Options Report (RAOR) that addresses soil and sediment contamination and pathways of exposure to ensure that the work completed in OU1-4 is protective of public health, safety, welfare and the environment. A RAOR would address remedial action options that Tecumseh has evaluated and identify Tecumseh's preferred remedial action option. The contents of a RAOR are set forth in Wis. Admin. Code § NR 722.13. If Tecumseh proceeds by preparing a RAOR, a RAOR is requested to be submitted within 60 days, by June 21, 2023, with the appropriate fee as set forth in Wis. Admin. Code ch. NR 749.

Alternatively, Tecumseh may decide not to proceed with a RAOR at this time and instead proceed with the mutually agreed upon long term monitoring of sediment, surface water, and fish tissue. Section III, Paragraph L of the Negotiated Agreement states that the following long-term natural recovery fish tissue monitoring is required:

> …Tecumseh shall perform or cause to be performed fish tissue monitoring on an every three-year basis until the Wis. Admin. Code ch. NR 726 and the Fish Consumption Response Action Goal is met for the Site…Following the third event of fish tissue monitoring (to be conducted every three years with an additional year granted for developing and submitting a report analyzing fish tissue data (the end of ten (10) years)), the fish sampling data shall be compared to the Fish Consumption Response Action Goal. If there are two (2) consecutive monitoring events that meet the Fish Consumption Response Action Goal for all human health receptor species, then Tecumseh may apply for Wis. Admin. Code ch. NR 726 case closure assuming all other criteria in Wis. Admin. Code ch. NR 700 rule series have been met or achieved. If following the third event of fish tissue monitoring conducted pursuant to this Agreement (to be conducted every three years with an additional year granted for developing and submitting a report analyzing fish tissue data (the end of ten (10) years)), the PCB concentrations do not show a declining trend or show an ascending trend, Tecumseh shall conduct a Department approved focused site investigation of soil, surface water, sediment or a combination of those media to determine if additional Remedial Actions are required…At a minimum, the Department will require Tecumseh to continue with the long-term natural recovery fish tissue monitoring every 3 years until the Fish Consumption Response Action Goal is achieved.

Section III, Paragraph H.iv, of the Negotiated Agreement defines the Fish Consumption Response Action Goal as follows:

> Tecumseh shall collect fish tissue to assess the effectiveness of the Response Actions completed at the Site, as provided for in Section III(M) hereof and to evaluate whether the long-term recovery of fish is within the reasonably anticipated timeframes based on similar PCB contaminated sediment sites. Such sampling shall be conducted every three years until the state's fish consumption advisory for the Site allows for acceptable consumption of fish, as determined by the Department, prior to case closure under Wis. Admin. Code ch. NR 726, such that women of child-bearing age (under 50) and all children under 15 years of age may safely consume one serving per week of bluegill, crappies, yellow perch, sunfish, bullheads and inland trout and one serving per month of walleye, pike, bass, catfish and all other species (the "Fish Consumption Response Action Goal") pursuant to *Choose wisely - 2016, a healthy guide for eating fish in Wisconsin.* DNR Publication PUB-FH-824 2016.

Additionally, Section III, Paragraph M of the Negotiated Agreement requires long-term natural recovery monitoring of surface water and sediment:

> Tecumseh shall perform or shall cause to be performed long-term natural recovery monitoring of the Site via surface water and sediment sampling pursuant to the Natural Recovery Monitoring Plan, in accordance with Wis. Admin. Code ch. NR 724. Tecumseh shall perform the monitoring until the Site is granted case closure pursuant to Wis. Admin. Code ch. NR 726…

In deciding how to proceed, Tecumseh may want to consider whether the Fish Consumption Response Action Goal is likely to be met through long term natural recovery monitoring, given the number of soil and sediment samples significantly above RALs and Wis. Admin. Code ch. NR 720 and 722 standards. If Tecumseh decides to proceed with long term monitoring as specified in the Negotiated Agreement, Tecumseh should be aware that in the event the PCB concentrations do not show a declining trend in fish tissue within the designated timeframe, Tecumseh is required to conduct a DNR approved focused site investigation of soil, surface water, sediment, or a combination of those media, to determine if additional remedial actions are required at the Site. The Wis. Admin.

Code ch. NR 720 and 722 standards apply to any future site investigation and remedial action. Tecumseh should also be aware that the Site may not be closed until the State's fish consumption advisory for the Site allows for acceptable consumption of fish, as determined by DNR in accordance with the Negotiated Agreement, and other applicable requirements in Wis. Admin. Code ch NR 700-799 are met, including applicable closure requirements in Wis. Admin. Code ch. NR 726.

If you wish to discuss the options for how to proceed as outlined in this letter, or any other matter related to this letter, please contact me at (920) 510-8277 or at sarah.krueger@wisconsin.gov

Sincerely,

Sarah E Krueger

Sarah Krueger
HARP Project Manager
Remediation & Redevelopment Program

cc: Chris Harvey, TRC – charvey@trccompanies.com
Audra Felix, DNR – audra.felix@wisconsin.gov