

December 12, 2019

VIA E-MAIL AND OVERNIGHT COURIER

David Neste
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
625 E. County Road Y, Suite 700
Oshkosh, WI 54901

Re: ChemDesign Products, Inc.
DNR BRRTS Activities # 02-38-583856

Dear Mr. Neste:

ChemDesign Products, Inc. (“ChemDesign”) is in receipt of the November 4, 2019, letter from the Wisconsin Department of Natural Resources (“WDNR”) contending that ChemDesign is a responsible party for the discharge of per- and polyfluoroalkyl substances (“PFAS”) from the Stanton Street facility where ChemDesign is a leaseholder, to the Marinette Wastewater Treatment Facility (“Marinette WWTF”). ChemDesign disputes and objects to any characterization of the company as a responsible party for PFAS-containing wastewater discharges to the Marinette WWTF. The ChemDesign wastewater discharged to the Marinette WWTF contains no PFAS. ChemDesign has not possessed or controlled any PFAS being discharged to the Marinette WWTF, nor has it caused any PFAS discharge to the Marinette WWTF.

We understand that the City of Marinette has sampled the sector of the sanitary sewer system where the Stanton Street facility discharges to the Marinette WWTF, but the mere status of ChemDesign as a tenant at the Stanton Street Facility does not establish that ChemDesign discharges PFAS-containing wastewater. Before the WDNR can declare ChemDesign a responsible party for PFAS in its wastewater discharge, it must have evidence that ChemDesign discharged PFAS in its wastewater discharge. The Stanton Street sewer sampled by the City of Marinette contained sanitary wastewater from ChemDesign, but it also contained some sanitary wastewater from other Stanton Street operations. ChemDesign is not in control of this sewer and it has no control over wastewater discharged to the sewer by any party other than ChemDesign itself. ChemDesign is meticulous about handling hazardous materials and it has taken numerous steps to ensure that no PFAS escapes into the environment or the sewer system. We are confident that once WDNR understands ChemDesign’s numerous processing controls, it will see that PFAS is not in the ChemDesign wastewater.

ChemDesign Does Not Discharge Process Wastewater

ChemDesign refers to its September 13, 2019, response to WDNR's Request for Information ("RFI Response"), for detailed information on ChemDesign's processes involving PFAS chemicals. ChemDesign handles PFAS chemicals as a toll manufacturer, but it does not discharge process wastewater from any process involving PFAS. The sewer discharge from the ChemDesign facility consists of sanitary waste from employee restrooms and showers, noncontact cooling water, and water from a noncontact heating system. There is no wastewater contact with any process chemicals.

At no point is any PFAS chemical discharged to the sewer system by ChemDesign. Process water and reactor rinse is recycled as product dilution water. All empty raw material containers that contained perfluoroalkyl iodine materials are refilled with the iodine water from the mercaptan synthesis process and returned to our customer. Solvents are collected and reused. Excess solvents or clean-out solvents are collected by bulk hazardous waste transporters and incinerated by licensed third party vendors. Surplus rinse waters that cannot be reused are transferred to above ground storage tanks directly, then transferred to a bulk tanker truck and incinerated by licensed third party waste vendors. Lab liquid samples are poured into liquid hazardous waste containers and incinerated by licensed third party vendors. The ChemDesign facility does not have drains from its process areas connected to the sewer. All process waters that contact chemicals are piped to above ground storage tanks or DOT approved containers collected and disposed of according to state and federal laws. Any PFAS contact water is collected and incinerated. The production units have impervious acid brick flooring with sealed trenches hence any wash down water is collected in an impervious sump then pumped to a tank for off-site disposal. ChemDesign has never had a spill of PFAS chemicals outside of containment.

The RFI Response provides additional details on ChemDesign's waste disposal process and it includes a list of the off-site facilities handling ChemDesign process waste materials. If WDNR needs additional information on the ChemDesign process waste procedures, we will provide that information. ChemDesign has taken extraordinary measures to ensure that no PFAS chemicals enter the environment from its operations and it certainly does not discharge any PFAS into the sewer.

WDNR Evidence to Establish ChemDesign Liability

It appears from the WDNR letter that the sewer sampling used in WDNR's contention that ChemDesign is a responsible party was not precise to a specific facility. ChemDesign's discharge was not isolated from wastewater contributed by others before sampling. For example, the sewer that services the ChemDesign facility historically contained water from the Tyco Fire Products, LP ("Tyco") foam blending building. In addition, storm water and/or ground water may enter this sewer. Tyco has recently (within the past 30 days) severed the known connection between the sewer servicing the ChemDesign facility and the sewer connected to the bathroom in the foam blending building, but that connection was in place at the time the City of Marinette sampled the wastewater from the Stanton Street facility. The sewer servicing the ChemDesign facility is not exclusive to ChemDesign and ChemDesign has no control over

that sewer. The sewer samples relied upon by WDNR in designating ChemDesign as a responsible party failed to isolate discharges from ChemDesign. That failure, combined with the process information contained in this letter and our RFI Response, demonstrates that ChemDesign is being designated an RP for PFAS sampling results originating entirely from others.

ChemDesign requests a copy of each and every document or other information in WDNR's possession on which WDNR is relying to support its contention that ChemDesign as a responsible party for PFAS sewer discharges. Before ChemDesign can reasonably evaluate the WDNR claim that ChemDesign is a responsible party, it must be able to understand the basis for this allegation. We make this request in accordance with the Wisconsin Public Records Act, Wis. Stat. sec. 19.21. We are prepared to pay statutory copy costs for any documents sent in response to this request.

Work Plan Deadline

After receiving the November 4, 2019 Letter, ChemDesign notified Tyco of the WDNR's requests. Tyco indicated that on November 13, 2019 it had already taken the lead on responding to the WDNR's requests by providing a Site Investigation Work Plan with regard to the same fields at issue in the November 4, 2019 Letter. We further understand that Tyco's work plan is currently under review by WDNR. ChemDesign should not be required to prepare a work plan separate from the plan already proposed by others that covers precisely the same area. Therefore, a separate Site Investigation Work Plan is not necessary at this time. Please let us know if you have any questions about this arrangement.

To the extent, however, that WDNR still considers ChemDesign a responsible party, we request that the work plan deadline be extended by at least 60 days to allow ChemDesign time to discuss the responsible party allegations with the responsible parties already identified by WDNR and for ChemDesign to evaluate any information provided by WDNR identifying ChemDesign as a responsible party.

At this point, all of ChemDesign's information and knowledge establishes that it did not discharge PFAS to the sewer system. We request the opportunity to review any information held by WDNR to the contrary. If there is information unknown to ChemDesign that supports WDNR's contentions about ChemDesign's liability, we request the opportunity to review and discuss it with you. If that information is valid, ChemDesign will cooperate with WDNR and it will also cooperate with the other responsible parties.

We reiterate our request to discuss with you any evidence you have indicating that ChemDesign possessed or controlled any PFAS being discharged to the Marinette WWTF. We would appreciate your prompt response to our Public Records Law document request. We also request a conference call or meeting to discuss. In the interim, if you need any additional information, please contact me at dmielke@chemdesign.com.

Very truly yours,



David Mielke
President & CEO