



December 18, 2019

Mr. Jeffrey Danko
Johnson Controls, Inc.
5757 North Green Bay Avenue
Milwaukee, WI 53209

Mr. Scott Wahl
Tyco Fire Products, LP
One Stanton Street
Marinette, WI 54143

Subject: Response to Wis. Admin. Code ch. NR 722 Draft Remedial Action Options Report
Action: Request for Summit Meeting on January 23, 2020
JCI/Tyco Fire Technology Center, 2700 Industrial Parkway South, Marinette
DNR BRRTS # 02-38-580694

Dear Mr. Danko and Mr. Wahl:

On October 4, 2019, the Wisconsin Department of Natural Resources (DNR) received a report titled *Remedial Action Options Report for Long-Term Drinking Water Supply, Town of Peshtigo, Wisconsin*, dated September 2019 (RAOR) for the Fire Technology Center (FTC) site (Property).

Arcadis U.S., Inc. (Arcadis) submitted the Wis. Admin. Code ch. NR 722 RAOR on the behalf of Tyco Fire Products, LP (Tyco) and we assume on behalf of Johnson Controls, Inc. (JCI) who is also a responsible party at the Property. This revised RAOR is in response to DNR comments provided on July 9, 2019 to the May 2019 RAOR. The DNR requested additional information and requiring revisions to the proposed RAOR in accordance with Wis. Admin. Code § NR 722.15. In November 2019, JCI/Tyco verbally requested DNR to hold off on responding to this RAOR as they worked through deficiencies identified. Specifically, Mr. Tom Lachcik of Arcadis, on behalf of JCI and Tyco, verbally stated that an addendum to the RAOR would be prepared and submitted to the DNR to address the technical comments and incorporate the feasible path forward agreed upon by the municipalities. To date, an addendum has not been submitted and DNR is providing this response in order to facilitate and coordinate a meeting to discuss concerns about the site investigation and timely provision of a permanent water supply to affected off-site residents.

After review, additional information and revisions to the proposed RAOR are required and the RAOR is not approved. The DNR has made the following determinations with respect to the RAOR's compliance with Wis. Admin. Code ch. NR 722:

- 1) **Items Remaining Outstanding from July 9, 2019 Comments from DNR.** This draft RAOR is presented in its second iteration for DNR review. DNR provided extensive technical commentary in a previous review dated July 9, 2019. The review criteria identified in the July submittal have not yet been adequately addressed in the October 2019 RAOR. The following tasks are still considered incomplete:
 - a. *Provide DNR with both the methodology and the results for surveying impacted parties on the preferred alternative.*
 - i. While the report contains the methodology for surveying impacted areas, the DNR understands that no survey has yet been completed. JCI/Tyco has made a verbal request to the DNR for assistance in crafting survey questions.

- b. *Communicate with the Wisconsin Public Service Commission (PSC) to evaluate the technical feasibility and implementability of the proposed options.*
 - i. While a complete review of the proposed options by PSC has not yet taken place, DNR understands that that JCI/Tyco is seeking to schedule a meeting including the DNR, PSC, City of Marinette, and potentially the Town of Peshtigo to discuss the path forward. DNR is willing to attend any such meeting upon request.
 - c. *Submit finalized fact sheets summarizing water supply options and evaluation criteria.*
 - i. DNR understands that once JCI/Tyco and its representatives have completed the evaluation, that the fact sheets will be finalized upon final approval of the RAOR.
 - d. *Hold a public comment period to solicit comments on the RAOR.*
 - i. DNR understands that once JCI/Tyco and its representatives have completed the evaluation, the public comment period will be opened following final approval of the RAOR.
- 2) **Administrative Feasibility Not Evaluated.** The DNR cannot evaluate the technical feasibility or implementability of the RAOR under Wis. Admin. Code § NR 722.07:
- a. *Implementability is not addressed adequately.*
 - i. In particular, administrative feasibility is not addressed in accordance with Wis. Admin. Code § NR 722.07(4)(a).3.e. The issues facing the considerable administration feasibility of this proposed RAOR are presented as an assumption of the RAOR rather than as an evaluation of a potential municipal water expansion project.
 - ii. DNR understands both the City of Peshtigo and City of Marinette have not nor have the capacity or budget to self-evaluate the feasibility of an expansion of their municipal water systems. DNR understands the City of Marinette and City of Peshtigo would prefer JCI/Tyco to pay for an independent evaluation of whether their respective water systems can bear the additional load required by an expansion to even consider such a proposal. DNR recommends JCI/Tyco to work directly with the City of Marinette and City of Peshtigo to conduct each technical evaluation to fulfill this administrative feasibility requirement of the RAOR.
 - iii. Additional administrative feasibility should include but is not limited to discussion and recommendation of maintenance of expanded water line systems, long-term maintenance of water lines, implementing a program to connect residential properties to new water lines, and the necessity or alternatives to annexation and the accompanying costs of sewerage and waste services therein.
- 3) **Site Investigation Incomplete and Delayed.** In accordance with Wis. Admin. Code § NR 722.05 (4), a complete site investigation conducted under NR 716 must be completed in order for a remedial action to be implemented.

- a. *The delayed timeline for completion of the investigation on which this remedial action is based is not addressed by the RAOR.*
- i. Based on informal discussions in the weekly JCI/Tyco technical call, JCI/Tyco and Arcadis have represented that the RAOR and the site investigation of the off-site affected area of the FTC were being conducted in parallel with the expectation that a site investigation report would be submitted in close proximity to the finalized RAOR. This timeline has changed by JCI/Tyco and Arcadis at least three times; JCI/Tyco and its representatives initially expected a site investigation report for the FTC to be submitted to the DNR in “fall 2019,” then “early 2020,” and the most recent expectation is the site investigation report is to be submitted “fall 2020.”
 - ii. The DNR requires greater insight into how JCI and Tyco are prioritizing Arcadis’ work at this and other site investigations in the Marinette area. A conceptual site model (CSM) for these site investigations has not been shared with the DNR at this time.

Next Steps

In lieu of providing lengthy technical comments for iterative submittals, the DNR invites JCI and Tyco and its representatives from Arcadis to a meeting to discuss the JCI and Tyco’s approach to addressing PFAS contamination in the Marinette and Peshtigo area.

The meeting will be held in **Madison, Wisconsin** on **January 23, 2020** from 9 AM to 4 PM. An agenda will be forwarded at a later date; however, we would like to cover the following topics, at minimum:

- **Review of technical criteria and expectations for the RAOR.**
- **Site investigation for the JCI/Tyco FTC facility - BRRTS #02-38-580694.**
 - Last submittal from JCI/Tyco: November 6, 2019 surface water sampling work plan.
- **Site investigation for the JCI/Tyco Stanton Street facility - BRRTS #02-38-581955.**
 - Last submittal: March 19, 2019 groundwater sampling work plan.
- **Site investigation for the City of Marinette Waste Water Treatment Facility and Associated Fields Utilized for Landspreading of Biosolids – BRRTS #02-38-583856.**
 - Last submittal: November 15, 2019 investigation work plan.
- **Additional items of information that DNR has requested and not yet received.**

In preparation for this meeting, please provide a narrative and visual explanation (e.g. a conceptual site model) of the data collected to date, extent of contamination, evaluation of media and known impacts to receptors for each of the three site investigations mentioned above. At the meeting, each CSM will be discussed to understand JCI and Tyco’s approach at each site investigation. Prior to the January 23 meeting, if there are any specific items that warrant a check-in meeting with DNR staff, please request those to Roxanne Chronert and Dave Neste via email.

Please let us know if you will be able to attend and who from your team will be in attendance. This meeting is an opportunity for DNR, JCI and Tyco and its representatives to coordinate on schedules and expectations to ensure that the site investigation and remedial actions options for the PFAS contamination in the Marinette and Peshtigo areas are managed expeditiously in 2020 and beyond.

Thank you for the opportunity to review the RAOR. Please contact Project Manager David Neste with any questions by phone at 920-424-0399 or by email at david.neste@wisconsin.gov.

Sincerely,

A handwritten signature in black ink that reads "Christine Haag". The signature is written in a cursive, flowing style.

Christine Haag
Bureau Director
Remediation & Redevelopment Program

cc: Mike Bedard, Arcadis (via email: Michael.Bedard@arcadis.com)
Ben Verburg, Arcadis (via email: Ben.Verburg@arcadis.com)
Roxanne Chronert, DNR
David Neste, DNR