

Christine Haag  
Bureau Director  
Remediation & Redevelopment Program  
Wisconsin Department of Natural Resources  
101 South Webster Street  
Madison, Wisconsin 53707-7921

Arcadis U.S., Inc.  
126 North Jefferson Street  
Suite 400  
Milwaukee  
Wisconsin 53202  
Tel 414 276 7742  
Fax 414 276 7603  
www.arcadis.com

Subject:

Response to December 18, 2019 WDNR Letter  
Wis. Admin. Code ch NR 722 Remedial Action Options Report for Long-Term  
Drinking Water Supply, Town of Peshtigo, Wisconsin  
Tyco Fire Technology Center, 2700 Industrial Parkway South, Marinette,  
Wisconsin, WDNR BRRTS # 02-38-580694

Date:  
January 21, 2020

Dear Ms. Haag:

Contact:  
Tom Lachcik

On behalf of Tyco Fire Products LP (Tyco), Arcadis U.S., Inc. (Arcadis) submits the following responses to the December 18, 2019 Wisconsin Department of Natural Resources (WDNR) letter regarding the *“Remedial Actions Options Report for Long-Term Drinking Water Supply, Town of Peshtigo, Wisconsin”* (RAOR) dated September 2019. Each WDNR comment is summarized in italic text below, followed by Tyco’s response.

Phone:  
847.805.1048

Email:  
Tom.Lachcik@arcadis.com

Tyco has been working expeditiously to provide a permanent drinking water solution to the residents of the affected area in the Town of Peshtigo. Relevant documents and other communications between Tyco and DNR include the following:

- Conducted weekly progress calls with DNR since early 2018
- Submitted the original version of the RAOR for long-term drinking water supply, Town of Peshtigo, Wisconsin, to the DNR on May 16, 2019
- Responded to the DNR’s July 9, 2019 comments on the original version of the RAOR, on September 10, 2019
- Submitted Draft Fact Sheet to the DNR on August 12, 2019
- Submitted the updated RAOR to the DNR on September 10, 2019
- Submitted Updated Fact Sheet to the DNR on September 10, 2019.

Tyco has been working and continues to work directly with the City of Marinette and the Town of Peshtigo to seek concurrence from both parties for the City of Marinette to provide water to the Town of Peshtigo through the expansion of the

City's municipal water system to the affected area in the Town. Tyco has had extensive conversations with the various key stakeholders (City of Marinette, Town of Peshtigo, DNR, PSC), and in the past 12 months alone, Tyco has attended or held more than 24 meetings with the City of Marinette and Town of Peshtigo officials. DNR has not taken part in or assisted in any of the pertinent discussions with Tyco and the City of Marinette or the Town of Peshtigo. We have worked diligently to be in a position to inform the DNR that conditional agreements had been reached with the municipalities for the implementation of the proposed project before the DNR requested revisions to the RAOR; however, given the complexity of these discussions, that has not yet been achieved. Tyco continues to make every effort to seek agreements with the City of Marinette and the Town of Peshtigo, so that municipal drinking water can be provided to the residents in the affected area before the end of year 2020. We remain committed to the belief that sourcing the safe drinking water supply from the City of Marinette provides the most appropriate, effective and timely alternative for the impacted area.

**1) Open Items from July 9, 2019 DNR Comments**

- 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.*

**Tyco Response:**

As noted in the DNR's comments on July 9, 2019, DNR requested Tyco submit a fact sheet to be "used by JCI and the DNR to solicit input from the impacted public in the Town of Peshtigo. JCI will provide a 30-day public comment period for the RAOR. The DNR will host a public meeting in September to allow the public an opportunity for comment on the RAOR and fact sheets." On August 12, 2019 Tyco submitted the draft fact sheet to the DNR and an updated fact sheet on September 10, 2019 so that this could be used during the DNR listening session that was scheduled for September 18, 2019 in the City of Marinette. However, the DNR did not present the fact sheet at the listening session and therefore the DNR did not provide the public the opportunity for comment on the fact sheet or the RAOR at that September meeting as Tyco understood it would. Nevertheless, Tyco previously prepared an options summary and analysis that Tyco sent to the residents in the affected area, as well as the Town of Peshtigo Board of Supervisors, on May 15, 2019. Tyco is planning to conduct meetings with the affected residents to discuss the options and address their questions and concerns. Tyco also proposes that the 30-day comment period on the RAOR be used as the means of obtaining feedback from the community.

- 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.*

**Tyco Response:**

Communications have been on-going with the PSC and we appreciate their initial review and comments on the May 2019 RAOR and September 2019 RAOR for Long-Term Drinking Water Supply to the Town of Peshtigo. Tyco has been trying to schedule a pre-application meeting with the DNR, PSC, City of Marinette and potentially the Town of Peshtigo, so that a more formal review of the long-term drinking water supply options and recommendation can proceed. To this end, Tyco continues to work to obtain conditional agreements with the City of Marinette and the Town of Peshtigo, so that this process can move forward.

- 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.*

**Tyco Response:**

On September 10, 2019, Tyco completed and submitted to DNR the updated draft fact sheet that summarizes the water supply options, evaluation criteria and the pros and cons of each option, along with the RAOR for long-term drinking water supply for the Town of Peshtigo. DNR posted that fact sheet with the RAOR on the Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web. In addition, Tyco has sent correspondence with the same information contained in the fact sheets to the Town of Peshtigo Board of Supervisors and to affected residents. Tyco is seeking conditional agreements with the City of Marinette and the Town of Peshtigo upon which, the fact sheet can be finalized, with the recommended option and included in the RAOR for approval by DNR.

- 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.*

**Tyco Response:**

Tyco completed and submitted to DNR the updated RAOR for long-term drinking water supply for the Town of Peshtigo on September 10, 2019 for preliminary approval. Once the conditional agreements with the City of Marinette and the Town of Peshtigo are obtained, the fact sheet can be finalized, then DNR can provide its preliminary approval of the RAOR for long-term drinking water supply to the Town of Peshtigo and the public comment period will be opened.

**2) Administrative Feasibility**

- 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.*

**Tyco Response:**

Tyco has addressed the administrative feasibility associated with the implementability of the remedial action options, including activities and time needed to obtain necessary licenses, permits or approvals, as stated in Wis. Admin. Code § NR 722.07(4)(a).3.e. and shown in the anticipated implementation schedule in Figure 6-10 of the RAOR. However, as a result of the complexities associated with obtaining conditional agreements with the City of Marinette and the Town of Peshtigo the anticipated implementation schedule has taken longer than planned. To this end, Tyco continues to work to obtain conditional agreements with the Town of Peshtigo and the City of Marinette, so that the activities and time needed for approvals from the DNR, PSC, City of Marinette, Town of Peshtigo and County of Marinette Highway Department can be more formally defined.

- 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.*

**Tyco Response:**

Tyco has been working directly with the City of Marinette and has agreed to support their independent counsel/consultant to conduct a technical evaluation of the expansion of their water system into the impacted area of the Town of Peshtigo. The City of Peshtigo water system has also been evaluated in the RAOR, but due to the activities and time need to obtain the necessary approvals to implement the expansion of the water system, and other substantial challenges, further evaluation by the City of Peshtigo counsel/consultant is not warranted at this time.

- 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.*

**Tyco Response:**

Tyco has been discussing these items with the City of Marinette and the Town of Peshtigo and continues to work with the stakeholders to address the path forward on each these additional administrative items.

### **3) Site Investigation**

- 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.”*

#### **Tyco Response:**

Given the importance of providing a clean reliable source of drinking water, Tyco believes it is critical to focus efforts on the water line. While completion of the site investigation and submission of the *Site Investigation Report* (SIR) is another critical step, DNR should not condition the approval of the RAOR on the SIR. Instead, it is critical that these two initiatives move in parallel. The intent discussed by DNR and Tyco was to provide a RAOR to propose a final remedy for drinking water to the Town of Peshtigo residents in the affected area. That drinking water RAOR was, and remains, limited to drinking water, and does not and was not intended to address the site investigations for the FTC and other environmental media (other groundwater, surface water, soils, etc.).

The proposed area of service for the new drinking water supply has been presented to DNR several times, before and during the RAOR submittal/review process. The areal extents of the affected areas are based on a significant amount of data that Tyco has regularly shared with DNR, and based on that data, there is no indication that those areal extents will change.

The schedule for the SIR submittal, however, has changed, because of the time needed to complete the SIR and the more immediate focus on the need to provide a new long-term drinking water source for the affected area as part of the interim remedial measures, rather than the final remedy that would occur after DNR approval of an associated SIR.

If a new long-term drinking water source for the affected area is pursued as a partial interim remedial measure, then DNR approval of such an interim remedial measure would not depend on the SIR submittal and approval schedule. This approach would allow DNR to approve a drinking water solution in a more timely manner, while still preserving DNR’s right of review of the SIR and the areal extents of the solution.

The schedule for completing the site investigation has been modified to allow for collecting of Green Bay surface water and pond fish tissue samples, which are the final investigative measures to be performed before the completion of the SIR. The *Green Bay Surface Water Investigation Work Plan* was submitted to DNR on November 6, 2019. The *Fish Tissue Sampling Work Plan* was submitted to DNR on December 18, 2019. The Green Bay surface water sampling and pond fish tissue sampling are planned to occur in the spring through fall of 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.*

**Tyco Response:**

Tyco remains committed to providing a drinking water solution for the affected area as soon as possible. This is Tyco's highest priority. A CSM is being prepared for inclusion in the SIR, which will be submitted to DNR for review and approval. As noted above, Tyco believes it would be most efficient and beneficial to consider the drinking water solution for the affected area as an interim remedial measure, which would separate SIR approval from interim remedial measure approval. This approach would allow for more timely DNR approval of a drinking water solution for the affected area.

**CONCLUSION**

Tyco continues to diligently work with the City of Marinette and the Town of Peshtigo, so that safe drinking water can be provided to the residents in the affected area before the end of 2020. We remain committed to sourcing a safe drinking water supply from the City of Marinette, as this provides the most timely alternative for the impacted area. Tyco would be pleased to meet with DNR in Madison, Wisconsin to further discuss these responses and additional information, and looks forward to finalizing the meeting details and agenda with DNR. In the meantime, Tyco will continue to engage with DNR during our weekly calls (and at other times as the DNR requests) on the status of our work to advance the RAOR and the drinking water supply alternative.

If you have any questions regarding these comment responses, please don't hesitate to contact us.

Sincerely,



Thomas F. Lachcik, PE  
Principal Project Director

Copies:  
Rick Bethel, Jeff Danko, Scott Wahl