



May 27, 2020

Mr. Jeff Danko
Johnson Controls, Inc.
5757 North Green Bay Ave
Milwaukee, WI 54143

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

Subject: ACTION REQUIRED: Non-Compliance with Site Investigation Requirements
Site Investigation Deficiencies at the Fire Technology Center
2700 Industrial Parkway, Marinette, Wisconsin
DNR BRRTS Activity # 02-38-580694

Dear Mr. Danko and Wahl:

This letter constitutes a formal notice of noncompliance to Johnson Control Inc. and Tyco Fire Products, LP (JCI/Tyco) pertaining to the deficiencies associated with site investigation requirements for the above listed BRRRTS Activity. The Department of Natural Resources (DNR) has issued Responsible Party (RP) letters requiring JCI/Tyco to conduct a site investigation in accordance with ch. NR 700 Wisconsin Administrative Code to address the per- and polyfluoroalkyl substances (PFAS) discharged to the environment at the JCI/Tyco Fire Technology Center (FTC), located at 2700 Industrial Parkway, Marinette, Wisconsin. This letter outlines JCI/Tyco's non-compliance with site investigation requirements at the FTC, and the required actions needing immediate attention by JCI/Tyco to address site investigation deficiencies.

In May 2019, the DNR referred JCI/Tyco to the Wisconsin Department of Justice for JCI/Tyco's failure to report and failure to respond to the discharge of PFAS to the environment in accordance with Wis. Stat. §§ 292.11(2) and 292.11(3). The DNR has continued to document and report additional ongoing noncompliance issues at this site, including the failure to adequately address PFAS contamination in private water supply wells in accordance with Wis. Admin. Code § NR 716.13(16); a critical site investigation component required to rule out the consumption of PFAS-contaminated drinking water as the primary exposure pathway for PFAS within the site investigation area for the FTC.

DNR has discussed compliance concerns with JCI/Tyco on several occasions, including requesting specific actions to sample private potable wells in an expanded site investigation area (see attached map delineating expanded site investigation area). This request occurred at a meeting hosted by DNR and attended by JCI/Tyco and its consultants in January 2020, as well as requiring these activities in a letter to JCI/Tyco dated February 19, 2020. Additionally, at both the January meeting and in the February letter, DNR directed JCI/Tyco to take additional action to address areas impacted by PFAS contamination including the requirement to investigate all PFAS transport mechanisms as required by code in (e.g. air pathway, surface water pathway, and storm water pathway); NR 716.11(5), Wis. Admin code "the field investigation shall include an evaluation of the following items: (a) all potential pathways for migration of contamination, including drainage improvements, utility corridors, bedrock and permeable material or soil along which vapors, free product or contaminated water may flow."

In March 2020, DNR received a schedule from JCI/Tyco identifying project action items regarding the open site investigations at the FTC. While the JCI/Tyco schedule notes a variety of planned submittals to the DNR, neither the schedule nor the accompanying cover letter explicitly state actions or specific dates to address potential PFAS transport mechanisms other than groundwater. The schedule also does not address DNR's requirement for JCI/Tyco to sample private potable wells in the expanded site investigation area. To date, the requirements laid forth by the DNR at the January meeting and in the February 2020 letter have not been completed.

For reference, DNR is restating the requirements detailed in DNR's February 19, 2020 letter to JCI/Tyco, many of which JCI/Tyco has failed to complete; emphasis has been added to required actions and deadlines which remain unaddressed by JVC/Tyco:

- **Sample potable wells** in the study area which are **affected or potentially affected by PFAS contamination** from the Fire Technology Center (FTC). The study area is expanded as directed by DNR and is depicted on the attached figure titled *Expanded Site Investigation Area – JCI/Tyco Fire Technology Center (BRRTs # 02-38-580694)*. Wis. Admin. Code §§ NR 716.13(16)(a) and (b). Begin field investigation and sampling by **April 1, 2020**.
- Concurrent with the field investigation, **submit a site investigation work plan** per Wis. Admin. Code § NR 716.09(1) including a potable well survey, identifying proposed sampling locations within the study area identified on the attached figure prior to **April 1, 2020**.
- Submit an updated, long-term potable well sampling plan (Sampling Plan) for the study area. Wis. Admin. Code § NR 716.17(1). Submit a Sampling Plan semi-annually on April 1 and October 1 of each year; therefore, the first plan is due April 1, 2020. A semi-annual Sampling Plan is necessary for the DNR to understand the study area activities where potable wells will be sampled as depicted in maps and figures, the frequency of sampling events for all potable wells within the study area, the process for including and excluding potable wells with PFAS below detection limits, and other requirements determined by DNR.
- Submit a **surface water pathway site investigation work plan** within 60 days of receipt of [the] letter, by Monday, **April 20, 2020**. Wis. Admin. Code § NR 716.09(1).
- Submit a **storm water pathway site investigation work plan** by Monday, **April 20, 2020**. Wis. Admin. Code § NR 716.09(1).
- Submit an **air pathway site investigation work plan** by Monday, **April 20, 2020**. Wis. Admin. Code § NR 716.09(1).

Since receiving the letter from DNR in February 2020, JCI/Tyco has not submitted the work plans identified above nor commenced field work. While it is recognized that the State of Wisconsin "safer at home" orders may have made it challenging to conduct field work, the orders should not have affected JCI/Tyco's ability to draft and submit the required workplans. JCI/Tyco remains out of compliance with the above site investigation requirements.

It is in the interest of all parties for JCI/Tyco to implement the next steps of the site investigation to address private potable well sampling in the expanded site investigation area. These actions are critical in addressing and alleviating potential human health concerns. Failure to address the expanded well area of potentially affected and

actually affected potable wells is a violation of the obligations of a responsible party set forth in Wis. Admin. Code ch. NR 716 and ongoing noncompliance with Wis. Stat. § 292.11(3).

Given the complexity of this site, DNR requires that JCI/Tyco issue a response to this letter under Wis. Admin. Code § NR 716.17(1). In your response, include an updated project schedule detailing the proposed start date of private potable well sampling activities and all other project activities Arcadis has undertaken or will undertake for JCI/Tyco. **Provide the response and updated schedule by June 1, 2020.** Be advised that JCI/Tyco is out of compliance with the above-listed actions and will remain out of compliance as to the above-listed actions until the above noted actions are addressed. Of critical importance is the need for JCI/Tyco to immediately address private potable well sampling in the expanded site investigation.

If you fail to take the above actions to address this contamination, DNR will pursue additional enforcement measures and may take direct action under Wis. Stat. § 292.11(7)(a) within the expanded site investigation area with its environmental consultant. If DNR decides to take direct action, DNR will seek cost recovery under Wis. Stat. § 292.11(7)(b) with the Wisconsin Department of Justice for any costs incurred from a direct action.

If you have any questions about this letter, you may contact me at 608-250-0919 or at Darsi.foss@wisconsin.gov.

Sincerely,

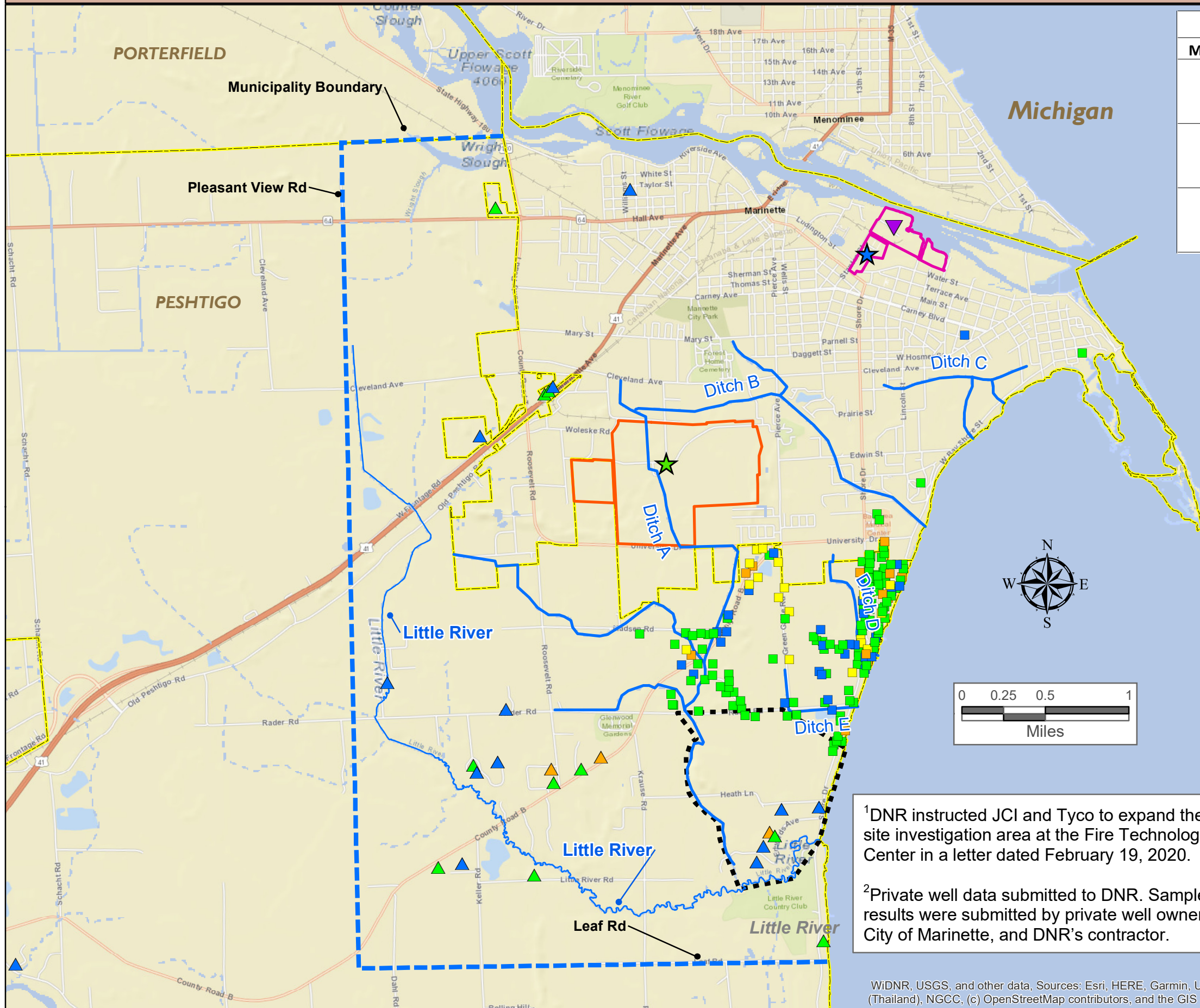
A handwritten signature in blue ink that reads "Darsi Foss". The signature is written in a cursive style and is underlined.

Darsi Foss, Administrator
Environmental Management Division

Enclosed: MAP: Site Investigation Area

cc: Christine Haag, DNR
William Nelson, DNR
David Neste, DNR
Roxanne Chronert, DNR
Jennie Pelzcar, DNR

JCI/TYCO FIRE TECHNOLOGY CENTER (BRRTS #: 02-38-580694) - SITE INVESTIGATION AREA



LEGEND		
Map Symbol	Facility/Site Name - Address	BRRTS Case
★	JCI/Tyco 1 Stanton St Marinette, WI	JCI/Tyco Stanton (PFAS) Case No. 02-38-581955
★	JCI/Tyco Fire Training Center 2700 Indsutiral Parkway Marinette, WI	JCI/Tyco FTC (PFAS) Case No. 02-38-580694
▼	ChemDesign 2 Stanton St Marinette, WI	ChemDesign (PFAS) Case No. 02-38-583852

--- Expanded Site Investigation Area¹
- - - - Approximate Extent of Southern Area
— Ditches
 JCI/Tyco FTC Property Boundary
 JCI/Tyco Stanton St Property Boundary
 Municipality Boundary

JCI/TYCO PRIVATE WELL SAMPLING DATA

- ND - 2 ppt PFOS/PFOA
- 2 - 20 ppt PFOS/PFOA
- 20 - 70 ppt PFOS/PFOA
- > 70 ppt PFOS/PFOA

DNR/PRIVATE WELL OWNER SAMPLING DATA²

- ▲ ND PFOS/PFOA
- ▲ 0 - 20 ppt PFOS/PFOA
- ▲ 20 - 70 ppt PFOS/PFOA

¹DNR instructed JCI and Tyco to expand the site investigation area at the Fire Technology Center in a letter dated February 19, 2020.

²Private well data submitted to DNR. Sample results were submitted by private well owners, City of Marinette, and DNR's contractor.



WiDNR, USGS, and other data. Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community