



February 21, 2023

Roers Companies
c/o: Mr. Shane LaFave
110 Cheshire Lane, Suite 120
Minnetonka, MN 55305
Via Email Only to shane@roerscompanies.com

Subject: Technical Assistance Provided - Review of Updated Commissioning Plan
Community Within the Corridor – East Block
2748 N 32nd Street, Milwaukee, WI 53210
BRRTS #02-41-263675, FID #241025400

Dear Mr. LaFave:

On January 23, 2023, the Wisconsin Department of Natural Resources (DNR) received *Proposed Vapor Mitigation System Commissioning Plan* without a technical assistance review fee for the above-referenced site. On January 23, 2023, the DNR provided a response email indicating that the plan was not approved and provided feedback on required next steps. On February 21, 2023, *Response to Vapor Commissioning Plan Review and Updated Vapor Mitigation System Commissioning Plan Review* (Report) was submitted to the DNR on your behalf by K. Singh & Associates, Inc. to address the feedback provided in the January 23, 2023, DNR email. The Report was presented with a technical assistance fee of \$700 for DNR review and response. The DNR reviewed the Report for regulatory compliance with Wis. Admin. Code chs. NR 722 and NR 724, and generally approves the commissioning plan with comments.

Report Review

The DNR provides the following comments and recommendations pertaining to the commissioning plan presented in the Report:

- The DNR understands that, depending on sampling results, the responsible party plans to occupy the building following the first round of commissioning. In consideration of public health, safety, and welfare, the DNR strongly recommends completing all necessary rounds of commissioning prior to any occupancy to avoid potentially exposing future residents to indoor air contamination that may present acute health risks that are associated with the relevant contaminants of concern (COCs), primarily trichloroethene (TCE) (see attached letter, dated March 25, 2021, from the Department of Health Services (DHS) to the DNR). Additionally, the DNR strongly recommends delaying occupancy until any indoor air exceedances identified in the first round commissioning data have been investigated and mitigated as appropriate.
- The indoor air sampling plan, as displayed in Attachment A of the Report, does not include any indoor air sampling locations in the residential units on the third floor of the site building. The DNR recommends that indoor air sample points be included in residential units on the third floor.
- The Report indicates that the second round of commissioning is scheduled for May 2023. The DNR recommends that this round occur instead in early- to mid-April 2023, as sampling in this time period has a higher probability of identifying maximum indoor air concentrations of COCs.

- The Report indicates that a commissioning report will be submitted following each round of commissioning. Each commissioning report should include an evaluation of the results to determine whether system modifications may be necessary and/or additional sampling locations are necessary during future commissioning events. Following the submittal of the commissioning results, the DNR may request additional or alternate commissioning sample locations.
- The schedule presented in the Report states that the final (i.e., third) round of commissioning is scheduled for August 2023. Following the third round of commissioning, additional commissioning may be required to demonstrate that the vapor mitigation/soil vapor extraction system is effectively mitigating the vapor intrusion risk at the site.

Next steps

In consideration of administrative code requirements, the DNR is requesting the implementation of the following schedule:

- Per Wis. Admin. Code § NR 716.14, submit all sampling results within 10 days (on appropriately formatted tables) of receiving laboratory data. Given the fast-paced development timeline indicated in the Report, the DNR recommends submitting these results as soon as is feasible. Please note that **immediate notification of results upon receipt** is justified under Wis. Admin. Code §§ NR 708.05 and 714.07 when the building is occupied and there is exposure to an acute (immediate) health risk (e.g., TCE is present above the VAL and women of child-bearing age are present). These notifications must be sent to both the occupants of the building and the DNR, as may be applicable.
- In accordance with the Report, provide a commissioning report after each round of commissioning.
- Per Wis. Admin. Code § NR 724.15, submit a construction documentation or as—built report within 60 days after the vapor mitigation/soil vapor extraction system commissioning is completed. This report should include comprehensive documentation of the commissioning of the system. Include an operation, maintenance, and monitoring report within the construction documentation report, per Wis. Admin. Code § NR 724.13.

The DNR appreciates the actions you are taking to restore the environment at this site. If you have any questions concerning the site or this letter, please contact me at (414) 435-8021, or by email at jane.pfeiffer@wisconsin.gov.

Sincerely,



Jane K. Pfeiffer
Project Manager – Hydrogeologist
Remediation & Redevelopment Program

cc: Mr. Que El-Amin, Scott Crawford, Inc., que@scott-crawford.com
Mr. Robert Reineke, K. Singh & Associates, Inc., reineke@ksinghengineering.com
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Attachments:

DHS response to Request for Assistance: Actions for Trichloroethylene at Acute Risk Levels letter, dated March 21, 2021

Tony Evers
Governor

Karen E. Timberlake
Secretary



State of Wisconsin
Department of Health Services

DIVISION OF PUBLIC HEALTH

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March 25, 2021

Christine Haag
Program Director
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
101 S. Webster Street, P.O. Box 7921
Madison, WI 53707-7921

Subject: DHS response to Request for Assistance: Actions for Trichloroethylene at Acute Risk Levels

Dear Ms. Haag:

The Wisconsin Department of Health Services (DHS) received your letter dated October 18, 2019 requesting clarification on the definition of acute risk and timeline justifications for responding to various scenarios where the acute risk is related to volatile organic compounds (VOCs) and vapor intrusion (VI).

This request for clarification is intended to augment a December 7, 2017 DHS letter to the Wisconsin Department of Natural Resources (DNR) providing recommendations for when immediate action is needed in response to written comments on proposed revisions to the RR-800 document. Specifically, DHS concurred with DNR's position that immediate action is justified when indoor air is found to be present at three (3) times the indoor air vapor action level (VAL) or sub-slab vapor risk screening level (VRSL) for a non-carcinogen or ten (10) times the VAL or VRSL for a carcinogen. In addition, DHS supported the DNR's position that immediate action be taken when trichloroethylene (TCE) is present in indoor air above the VAL and when women of child-bearing age are present.

DHS response:

DHS clarification statements defining acute risk and justifying timelines for responding to acute risk follow for each of the DNR scenarios presented in the request letter:

1. Clarification from DHS that acute risk necessitates immediate action as defined in s. NR 700.03(28), Wis. Admin. Code.

To reinforce the finding in the December 7, 2017 letter, DHS is in agreement that DNR's immediate action as defined in s. NR 700.03(28), Wis. Admin. Code is warranted when acute risk is observed as discussed in DNR's Vapor Intrusion Guidance RR800 (2018). For all contaminants with the exception of trichloroethylene (TCE) when women of childbearing years (age 15 to 44) are present, acute risk is defined as indoor air concentrations that are three times over the vapor action limit (VAL) for non-carcinogens

or ten times over the VAL for carcinogens. For TCE where people who are or may become pregnant occupy a dwelling, acute risk is defined as indoor air concentrations that are equal to or over the VAL ($HI \geq 1$). These immediate action guidelines are in agreement with EPA guidance. The following statement is from the EPA OSWER Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air (EPA 2015): “Although the indoor air concentrations may vary temporally, an appropriate exposure concentration estimate (e.g., time-integrated or time-averaged indoor air concentration measurement in an occupied space) that exceeds the health-protective concentration levels for acute or short-term exposure (i.e., generally considered to be a hazard quotient (HQ) greater than one for an acute or short-term exposure period) indicates vapor concentrations that are generally considered to pose an unacceptable human health risk.”

2. Clarification from DHS that trichloroethylene (TCE) present in indoor air above the applicable VAL qualifies as an acute risk to women of child-bearing years.

DNR basis its VAL and VRSL values on EPA regional screening levels (RSLs) for indoor air. These values are developed using reference concentrations (RfCs) from EPA's toxicological assessments developed for its Integrated Risk Information System (IRIS). The non-cancer chronic inhalation RfC of 2×10^{-3} mg/m³ in EPA's toxicological assessment for TCE (2011) is based upon two rodent drinking water exposure studies. One study (Kiel et al., 2009) reported an immunotoxic effect of TCE presenting as a reduced thymus weight in female mice. The other study reported an increased incidence of fetal cardiac malformations (Johnson et al., 2003). The cardiac malformation developmental endpoint drives the concern over short term exposure to TCE. Although some limitations were reported with the Johnson et al. study (2003), the cardiac malformations finding has been confirmed by several reviews since, including the EPA Office of Solid Waste and Emergency Response (2014), ATSDR (2014), the Massachusetts Department of Environmental Protection (MADEP, 2014), a group of EPA researchers (Makris et al, 2016), and the North Carolina Department of Environmental Quality (NC DEQ, 2018). These reviews found that a two- to three-fold increase in congenital heart defects were observed in multiple animal studies and that the most frequently observed heart defects were also reported in humans exposed to TCE-containing VOCs in several epidemiological studies (Brender et al. 2014, Dawson et al. 1993). These reviews also found that mechanistic support exists with studies in avian and mammalian cells demonstrating that TCE exposure alters processes that are critical to normal valve and septum formation. Although a recent EPA TSCA Risk Evaluation for TCE (2019) used the immunotoxic end point and not the fetal cardiac malformation end point for their risk determinations, the EPA Science Advisory Committee on Chemicals (SACC) was split on whether to use the fetal heart malformations endpoint for risk consideration and the TSCA Risk Evaluation was not allowed to consider epidemiological evidence or the effects of TCE exposure from air, contaminated waste sites, groundwater used for drinking water, and food in their evaluation.

The EPA identifies that a single exposure at any of several developmental stages may be sufficient to produce an adverse developmental effect (EPA, 1991). In humans, the cardiac system is the second to develop following fertilization, with cardiac development beginning at approximately 3 weeks following implantation. Substantial cardiac system development continues through 8 to 9 weeks post implantation, with the most sensitive period of cardiac development occurring in 3 to 6 weeks (Smart and Hodgson, 2018). These critical fetal heart development windows occur during a time period when an individual may not yet know they are pregnant. Rapid actions should be taken to minimize the potential for TCE exposures during these timeframes (EPA 2014, EPA Region V, 2020).

3. Health-based recommended responses including the definition of critical exposure windows with scientific justification to help inform DNR determination of time lines for immediate (s. NR 700.03(28), Wis. Admin. Code) and interim (s. NR 700.03(29), Wis. Admin. Code) actions in the following scenarios:

a. TCE is present beyond the envelope of a building at or above the applicable Vapor Risk Screening Level (VRSL);

DHS recommends an evaluation of the demographics for the building. If persons of childbearing years occupy the dwelling, indoor air samples should have a quick turnaround time (24 to 72 hours, EPA Region 9, 2014). Women in the sensitive demographic should be consulted about the potential TCE developmental toxicity risk so they may make informed decisions in terms of staying in the dwelling during the timeframe of the indoor air assessment. DHS or local health can assist with this consultation. If the indoor air TCE sample result exceeds the VAL, DHS recommends interim action (carbon filter unit) and rapid installation of sub-slab depressurization system within two weeks. If the indoor air TCE sample result is less than the VAL, mitigate and monitor indoor air in interim to ensure exposure is not occurring and move toward installation of a mitigation system within 4 to 8 weeks, depending upon the building's complexity and need for system design.

b. Non-carcinogenic compounds are present beyond the envelope of a building at or above three (3) times the applicable VRSL;

The U.S. EPA defines a reference concentration (RfC) as an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure of a chemical to the human population through inhalation (including sensitive subpopulations), that is likely to be without an appreciable risk of deleterious effects during a lifetime (IRIS Glossary, 2020). When a non-carcinogenic VOC is three times above the applicable VRSL, the risk of that VOC being present in indoor air at levels that can cause an adverse health effect is high enough to warrant urgent action including indoor air sampling with 24 to 72 hour turnaround time and mitigation within 4 to 8 weeks, or sooner where indoor air sampling results indicates a VAL exceedance.

- c. Carcinogenic compounds are present beyond the envelope of a building at or above ten (10) times the applicable VRSL;**

VRSLs are established in Wisconsin with a 10^{-5} cancer risk. When a carcinogenic compound is present in indoor air at or above ten times the applicable VRSL, the cancer risk exceeds 10^{-4} cancer risk. The risk of cancer occurrences from continuous exposure is therefore high enough to warrant the installation of a mitigation system within 4 to 8 weeks, depending upon the building's complexity and need for system design.

- d. TCE is present in indoor air below the applicable VAL**

Review sub-slab results when available. If sub-slab TCE data is also below VRSL, additional assessment should take place with normal laboratory turnaround time to confirm results are below action levels. If women of childbearing years occupy the building, an additional sampling round should take place as soon as feasible to ensure levels above VAL/VRSL is not present.

- e. Non-carcinogenic compounds are present in indoor air between the applicable VAL and three (3) times the applicable VAL;**

Move toward mitigation system installation within 4 to 8 weeks, depending upon complexity and need for system design. Perform indoor air sampling to confirm mitigation system is effective.

- f. Carcinogenic compounds are present in indoor air between the applicable VAL and ten (10) times the applicable VAL;**

Move toward mitigation with a recommended timeframe of 4 to 8 weeks, depending upon complexity and need for system design. Perform indoor air sampling to confirm mitigation system is effective.

- g. TCE is present in indoor air at or above the applicable VAL;**

DHS recommends an evaluation of the demographics for the building. If women of childbearing years occupy the building, implement interim actions such as carbon filtration units to interrupt the TCE exposure. Move toward installation of a mitigation system within two weeks. Women in the sensitive demographic should be consulted about the potential TCE developmental toxicity risk so they may make informed decisions in terms of staying in the dwelling during the timeframe of the indoor air assessment.

- h. Non-carcinogenic compounds are present in indoor air at or above three (3) times the applicable VAL;**

The U.S. EPA defines a reference concentration (RfC) as an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure of a chemical to the human population through inhalation (including sensitive subpopulations), that is likely to be without an appreciable risk of deleterious effects during a lifetime (IRIS Glossary, 2020). When a non-carcinogenic VOC is three times above the applicable VAL, the risk of adverse health effects occurring from continuous exposure is high enough to warrant the installation of a mitigation system within 4 to 8 weeks, depending upon the building's complexity and need for system design. Depending upon how far above the VAL the concentration is, more urgent actions may be needed, and the local health officer should be consulted for potential abatement orders, placarding, and temporary relocation of occupants per Section 254 Wis. Admin. Code.

i. Carcinogenic compounds are present in indoor air at or above ten (10) times the applicable VAL.

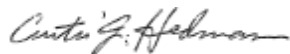
When a carcinogenic compound is present in indoor air at or above ten times the applicable VAL, the cancer risk exceeds 10^{-4} cancer risk. The risk of cancer occurrences from continuous exposure is therefore high enough to warrant the installation of a mitigation system within 4 to 8 weeks, depending upon the building's complexity and need for system design. Depending upon how far above the VAL the concentration is, more urgent actions may be needed, and the local health officer should be consulted for potential abatement orders, placarding, and temporary relocation of occupants per Section 254 Wis. Admin. Code.

4. Health-based recommendations for when sampling indoor air at commercial or industrial businesses is necessary in light of the recent Department of Defense study on sewers and utility tunnels as preferential pathways (*Sewers and Utility Tunnels as Preferential Pathways for Volatile Organic Compound Migration into Buildings: Risk Factors And Investigation Protocol*, ESTCP Project ER-201505).

DHS agrees with the finding in the DoD study that indoor air should be part of the VI assessment where evidence of preferential pathways might be feasible. This evidence may include detection of VOCs in sewer lines or utility corridors. Recent experience has shown instances where indoor air levels are found at high levels due to preferential pathway contamination through open sumps, openings in foundations, and poorly sealed conduits. DHS also recommends sampling indoor air when environmental sampling (groundwater, soil, or soil gas) indicates that indoor air action levels could be exceeded. When TCE is the contaminant of concern, indoor air should always be evaluated to assist with the risk assessment and be able to interrupt exposures as soon as possible to sensitive populations to prevent the known reproductive/developmental endpoint. When commercial or industrial businesses are users of the VOCs being studied, those chemicals may need to be temporarily removed prior to the indoor air assessment, where feasible.

Thank you for the opportunity to provide feedback on this topic. Please contact me at (608) 266-6677, or curtis.hedman@wisconsin.gov if you have any follow up questions or comments about this response.

Sincerely,



Curtis Hedman, Ph.D.
Toxicologist
Bureau of Environmental and Occupational Health

Cc: Jennifer Borski, Vapor Intrusion Team Leader, DNR R&R Program
Judy Fassbender, NR Program Manager, DNR R&R Program
Roy Irving, Chief, DHS Hazard Assessment Section, BEOH
Mark Werner, Chief, DHS BEOH

Enc: Summary of DHS response to Request for Assistance: Actions for Trichloroethylene at Acute Risk Levels

References:

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Enclosure: Summary of DHS response to Request for Assistance: Actions for Trichloroethylene at Acute Risk Levels

DNR Ask	DHS Response	Supporting Reference(s)
<p>1) Clarification from DHS that acute risk necessitates immediate action as defined in s. NR 700.03(28), Wis. Admin. Code.</p>	<p>A) Immediate action as defined in NR 700.03(28) warranted if: for compounds except TCE = 3x VAL, or 10x VAL carcinogens; TCE w/ women age 15-44 = VAL</p>	<p>A) December 7, 2017 DHS letter and EPA OSWER Tech Guide (2015)</p>
<p>2) Clarification from DHS that trichloroethylene (TCE) present in indoor air above the applicable VAL qualifies as an acute risk to women of child-bearing years</p>	<p>A) VALs&VRSLs based on EPA RSLs B) RSL for TCE is based on immunotox. and fetal cardiac development endpoints C) findings confirmed by reviews D) also consistent with epi study findings E) single exposure during development can have harmful effect F) critical development window 3 to 6 weeks G) rapid action warranted for TCE > RSL</p>	<p>A) EPA tox assessment TCE (2011) B) Kiel et al. (2009) Johnson et al. (2003) C) EPA OSWER (2014), ATSDR (2014), MADEP (2014), Makris et al (2016), NC DEQ (2018) D) Brender et al. (2014), Dawson et al. (1993) E) EPA (1991) F) Smart and Hodgson (2018) G) EPA 2014, EPA Region V (2020)</p>
<p>3) Health-based recommended responses including the definition of critical exposure windows with scientific justification to help inform DNR determination of time lines for immediate (s. NR 700.03(28), Wis. Admin. Code) and interim (s. NR 700.03(29), Wis. Admin. Code) actions in the following scenarios:</p>		
<p>a) TCE is present beyond the envelope of a building at or above the applicable Vapor Risk Screening Level (VRSL)</p>	<p>A) evaluate demographics in building B) sample indoor air with 24-72 hour TAT C) consult w/ women 15-44 about TCE D) if TCE >VAL, carbon filtration w/in 48 hours and sub-slab system w/in 2 weeks E) if TCE <VAL, perform another indoor air sample and sub-slab system w/in 4-8 weeks</p>	<p>B) EPA Region 9, (2014) WI DNR RR800 (2018), EPA Reg V (2020)</p>
<p>b) Non-carcinogenic compounds are present beyond the envelope of a building at or above three (3) times the applicable VRSL</p>	<p>A) RfC is estimate, ca. order of magnitude, of concentration w/o harm over lifetime B) >3x that level cuts significantly into that safety factor C) indoor air sampling with 24-72 hour TAT D) sub-slab system w/in 4-8 weeks if >VAL</p>	<p>C) EPA Region 9, (2014) WI DNR RR800 (2018), EPA Reg V (2020)</p>
<p>c) Carcinogenic compounds are</p>	<p>A) VRSLs est. w/ 10⁻⁵ cancer risk</p>	<p>WI DNR RR800 (2018), EPA Reg. V (2020)</p>

Enclosure: Summary of DHS response to Request for Assistance: Actions for Trichloroethylene at Acute Risk Levels

<p>present beyond the envelope of a building at or above ten (10) times the applicable VRSL</p>	<p>B) >10x that exceeds 10^{-4} cancer risk C) sub-slab system w/in 4-8 weeks if >10x VRSL</p>	
<p>d) TCE is present in indoor air below the applicable VAL</p>	<p>A) verify TCE in sub-slab is not >VRSL B) If TCE also <VRSL; one more sampling event C) do follow up samples soon as possible if women age 15-44 live in building</p>	<p>WI DNR RR800 (2018), EPA Reg. V (2020)</p>
<p>e) Non-carcinogenic compounds are present in indoor air between the applicable VAL and three (3) times the applicable VAL</p>	<p>A) sub-slab system w/in 4-8 weeks B) sample to confirm system is effective</p>	<p>WI DNR RR800 (2018), EPA Reg. V (2020)</p>
<p>f) Carcinogenic compounds are present in indoor air between the applicable VAL and ten (10) times the applicable VAL</p>	<p>A) sub-slab system w/in 4-8 weeks B) sample to confirm system is effective</p>	<p>WI DNR RR800 (2018), EPA Reg. V (2020)</p>
<p>g) TCE is present in indoor air at or above the applicable VAL</p>	<p>A) evaluate demographics in building B) consult w/ women 15-44 about TCE C) carbon filtration w/in 48 hours and sub-slab system w/in 2 weeks</p>	<p>WI DNR RR800 (2018), EPA Reg. V (2020)</p>
<p>h) Non-carcinogenic compounds are present in indoor air at or above three (3) times the applicable VAL</p>	<p>A) RfC is estimate, ca. order of magnitude, of concentration w/o harm over lifetime B) >3x that level cuts significantly into that safety factor C) sub-slab system w/in 4-8 weeks D) if >>VAL, consult health officer for actions available under Section 254 WI Administrative Code</p>	<p>WI DNR RR800 (2018), EPA Reg. V (2020)</p>
<p>i) Carcinogenic compounds are present in indoor air at or above ten (10)</p>	<p>A) VRSLs est. w/ 10^{-5} cancer risk B) >10x that exceeds 10^{-4} cancer risk C) sub-slab system w/in 4-8 weeks</p>	<p>WI DNR RR800 (2018), EPA Reg. V (2020)</p>

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<p>times the applicable VAL</p>	<p>D) if >>VAL, consult health officer for actions available under Section 254 WI Administrative Code</p>	
<p>4) Health-based recommendations for when sampling indoor air at commercial or industrial businesses is necessary in light of the recent Department of Defense study on sewers and utility tunnels as preferential pathways (<i>Sewers and Utility Tunnels as Preferential Pathways for Volatile Organic Compound Migration into Buildings: Risk Factors And Investigation Protocol</i>, ESTCP Project ER-201505)</p>	<p>A) DHS agrees with DOD study findings B) DHS recommends sampling indoor air when soil gas results suggest indoor air levels may be exceeded C) Indoor air should always be assessed where TCE is contaminant of concern due to acute reproductive endpoint D) when assessing indoor air in commercial buildings, may need to relocate COCs that are used in production during sampling</p>	<p>US DOD ESTCP Project ER-201505 (2018)</p>