



October 16, 2019

Mr. Jeffery 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: Notice of Noncompliance for the Reported Contamination at the City of Marinette Waste Water Treatment Facility and Associated Fields Utilized for Landspreading of Biosolids Sludge; Marinette County, WI
DNR BRRTS Activity # 02-38-583856

Dear Mr. Danko and Mr. Wahl:

On July 3, 2019 the Department of Natural Resources (DNR) sent a Responsible Party (RP) letter requiring a site investigation (SI) workplan to address the fields associated with the land spreading of biosolids (the fields) from the City of Marinette Waste Water Treatment Plant. As you know, we have received correspondence from you and recently met with your representatives to discuss our request.

Our letter requested an SI workplan by September 3, 2019, as required by Wis. Admin. Code NR 716.09(1). As of October 15, 2019, the DNR has not received an SI workplan. Given the need to complete an SI, the DNR has developed an outline for a preliminary SI workplan to address the fields, private wells and surface water. Please note that this preliminary SI workplan does not constitute a full SI for the fields and wells but serves as a reasonable starting point for you to initiate the investigation that is already past due. Please be aware that additional site investigation activities may be required to determine to full degree and extent of contamination.

We are hopeful that we can continue a dialog with you and your consultant to commence the work outlined below. Our technical staff is available to meet with you and your consultant to discuss what may be needed to finalize the SI workplan. The DNR expects JCI and Tyco to submit an SI workplan to address the fields by **Friday, November 15, 2019**. If you do not submit an adequate SI workplan to address the fields by this date, the DNR will take direct action under Wis. Stat. §§ 292.31(1)(b) and 292.31(3)(b)1. to implement a SI workplan and evaluate further environmental enforcement actions and cost recovery under Wis. Stat. § 292.31(8).

Preliminary Biosolids SI Workplan Components

- Develop an SI workplan that complies with the requirements in Wis. Admin. Code, chs. NR 700 through NR 754. See the attached SI Workplan Checklist (form 4400-316) for assistance in developing the SI workplan.

October 16, 2019

Page | 2

Johnson Controls, Inc. & Tyco Fire Products, LP
Notice of Noncompliance for of Biosolids Sludge
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- The SI workplan must address sampling and investigation plans for a minimum of 15 fields; this includes the fields upon which biosolids were most frequently and recently landspread, according to available records (see Attachment – Fields to be Evaluated in Initial Site Investigation Workplan).
- In accordance with Wis. Admin. Code ch. NR 716, include detailed information for each field investigated. Also include information regarding crop type, crop rotations, and typical crop management practices.
- A plan to sample potable wells and residences on each of the 15 fields and on any parcel within a 1200-ft buffer of each of the fields.
- The SI work plan must include a plan for surface water sampling which may be collected from any standing water in fields, nearby drainage ditches, or intermittent streams within the designated fields.
- For all sampling conducted, provide detailed information regarding the density of sampling for a given field. For example, soil samples were collected at from 0-25 cm depth and 25-50 cm depth; the final SI report will need to include detailed maps and/or graphics illustrating sample locations.
- For all proposed sampling to be conducted, provide a detailed explanation of the procedures and methodology utilized in developing a sampling strategy for determining the degree and extent of PFAS contamination associated with landspreading of PFAS contaminated biosolids. This includes substantiation of the total depth profile selected for all soil sampling to be conducted, substantiation of the total depth profile selected for all groundwater samples to be collected, the lab methods that will be utilized in analysis, and the list of PFAS analytes that will be tested.

This outline is an effort to move this process forward. We expect JCI and Tyco to complete this work and, as noted above, we request you submit an SI workplan to the DNR by November 15, 2019 with associated Wis. Admin. Code NR 749 review fee. Please understand that if you fail to take the actions required by Wis. Stat. § 292.11 to address this contamination, the DNR will move forward under Wis. Stat. § 292.31 to implement the SI workplan and evaluate further environmental enforcement actions and cost recovery under Wis. Stat. § 292.31(8). If you have questions concerning the SI workplan, please do not hesitate to write or call David Neste at 920-424-0399. Thank you for your prompt attention to this matter.

Sincerely,



Roxanne N. Chronert
Team Supervisor, Northeast Region
Remediation and Redevelopment Program

Attachments:

1. Fields to be Evaluated in Initial Site Investigation Workplan
2. Site Investigation Work Plan Preparation Checklist Form 4400-316

cc: Darsi Foss, DNR
William J. Nelson, DNR
David Neste, DNR
Linda Benfield, Foley & Lardner

Fields to be Evaluated in Initial Site Investigation Workplan

DNR #	Site #	Field #	Owner	Latitude	Longitude	Municipality
32302	GW	119	A	45.1429389	-87.8609861	LAKE
32712	GW	123	A	45.1373765	-87.8661669	LAKE
38724	MN1	2	B	45.1082152	-87.7883596	PORTERFIELD
38727	NN	5	C	45.175575	-87.8340028	GROVER
38728	NN	3	C	45.175575	-87.8340028	LAKE
46051	MN1	1	B	45.1064861	-87.7913556	GROVER
51051	GW	124	A	45.1394528	-87.87125	LAKE
62081	NN	1	C	45.1447064	-87.8403047	LAKE
77299	SP	1	D	45.1081767	-87.7832009	PORTERFIELD
77300	SP	2	D	45.119033	-87.7931973	PORTERFIELD
77302	SP	5	D	45.1191643	-87.813617	PORTERFIELD
81386	GW	121	A	45.1410128	-87.8558495	PORTERFIELD
81402	GW	120	A	45.1410128	-87.8558495	LAKE
81403	GW	122	A	45.1375	-87.8712608	LAKE
81404	SP	3	D	45.1227443	-87.8084148	PORTERFIELD
89662	NN	2	C	45.1410223	-87.8296914	LAKE

Wisconsin DNR – NR 700 Process

Remediation and Redevelopment Program

April 2019

Purpose

This guidance is offered as an optional tool to help develop and review site investigation work plans for compliance with Wis. Admin. Code ch. NR 716 Site Investigation requirements. Consultants may choose to use this checklist as an outline for preparation of the site investigation work plan. Use of this checklist is not required. Rule citations are added for clarity. The checklist is meant for use with Wis. Admin. Code § NR 716.09 and other site investigation related guidance. For more comprehensive site investigation related information, visit our web page at dnr.wi.gov and search: "site investigation."

Receipt of Site Investigation Work Plan NR 716.09 (1)		Comments
<input type="checkbox"/> NR 716.09 (1)	Within 60 days of receipt of RP letter, or other notification that a site investigation is required	
<input type="checkbox"/> NR 716.09 (1), NR 700.11 (3g)	One paper copy	
<input type="checkbox"/> NR 716.09 (1), NR 700.11 (3g)	One electronic copy	
<input type="checkbox"/> NR 749	Review fee, if review by DNR is requested	
Purpose NR 716.01		Comments
<input type="checkbox"/> NR 716.01	Proposed investigation will define the nature, degree and extent of contamination	
<input type="checkbox"/> NR 716.01	Proposed investigation will define the source or sources of contamination	
<input type="checkbox"/> NR 716.01	Proposed investigation will determine the need for an interim and/or remedial action	
<input type="checkbox"/> NR 716.01	Proposed investigation will provide information needed to select an interim and/or remedial action	
Contents NR 716.09 (2)		Comments
<input type="checkbox"/> NR 716.09 (2) (a)	Site name and address	
<input type="checkbox"/> NR 716.09 (2) (a)	Site location – ¼ ¼ section, Township, Range, County	
<input type="checkbox"/> NR 716.09 (2) (a)	WTM coordinates	
<input type="checkbox"/> NR 716.09 (2) (b)	RP's name and address (May be more than one RP – current property owner, lessee, operator, other RP.)	
<input type="checkbox"/> NR 716.09 (2) (b)	Consultant or contractor's name and address	
<input type="checkbox"/> NR 716.09 (2) (c)	Site location on a USGS topo map	
<input type="checkbox"/> NR 716.09 (2) (c)	Site layout map(s) with: buildings, roads, discharge location & other relevant site features	
<input type="checkbox"/> NR 716.09 (2) (d)	Scoping of the Investigation:	
<input type="checkbox"/> NR 716.07 (1)	<ul style="list-style-type: none"> History of the site or facility, including land uses that may have one or more associated hazardous substance discharges or environmental pollution, including emerging contaminants such as PFAS 	
<input type="checkbox"/> NR 716.07 (2)	<ul style="list-style-type: none"> Type and amount of contamination, if known 	

Site Investigation Work Plan Preparation Checklist Wis. Admin. Code § NR 716.07

Form 4400-316 (R 07/19)

Page 2 of 3

Contents (continue) NR 716.09 (2)	Comments
<input type="checkbox"/> NR 716.07 (3)	• History of previous hazardous substance discharges or environmental pollution
<input type="checkbox"/> NR 716.07 (4)	• Environmental media affected or potentially affected by contamination
<input type="checkbox"/> NR 716.07 (5)	• Location of the site or facility and its proximity to other sources of contamination
<input type="checkbox"/> NR 716.07 (6)	• Need for permission from property owners to allow access to the site or facility and to adjacent or nearby properties
<input type="checkbox"/> NR 716.07 (7)	• Potential or known impacts to receptors, including buildings, utilities or other subsurface improvements, and water supply wells within 1,200 feet of outermost edge of contamination
<input type="checkbox"/> NR 716.07 (8) (a), (b), (c), (d)	• Potential for impacts to sensitive species, habitats or ecosystems, wetlands, resource waters, sites of historical/archaeological significance
<input type="checkbox"/> NR 716.07 (9)	• Potential interim and remedial actions applicable to the contamination
<input type="checkbox"/> NR 716.07 (10)	• Immediate or interim actions taken or in progress, including any evaluations made of whether an interim action is necessary
<input type="checkbox"/> NR 716.07 (11)	• Any other items, including climatological conditions and background water or soil quality info that may affect the scope or conduct of the investigation
<input type="checkbox"/> NR 716.07 (12)	• Need to gather data to determine the hydraulic conductivity of materials where contaminated groundwater is found
<input type="checkbox"/> NR 716.09 (2) (e)	Physiographical and geological setting of the site necessary to choose sampling methods and locations, including:
<input type="checkbox"/> NR 716.09 (2) (e) 1.	• Existing topography, including prominent topographic features
<input type="checkbox"/> NR 716.09 (2) (e) 2.	• Surface water drainage patterns and significant hydrologic features, such as surface waters, springs, drainage basins, divides, wetlands, floodplain or floodway
<input type="checkbox"/> NR 716.09 (2) (e) 3.	• Texture and classification of surficial soils
<input type="checkbox"/> NR 716.09 (2) (e) 4.	• Nature and distribution of geologic materials, including the thickness and type of unconsolidated materials and type and nature of bedrock
<input type="checkbox"/> NR 716.09 (2) (e) 5.	• General hydrogeologic information
<input type="checkbox"/> NR 716.09 (2) (e) 6.	• Potential hazardous substance migration pathways
<input type="checkbox"/> NR 716.09 (2) (f)	Sampling and analysis strategy to be used during the field investigation, including:
<input type="checkbox"/> NR 716.09 (2) (f) 1.	• Description of the investigative techniques to be used to characterize the site or facility
<input type="checkbox"/> NR 716.09 (2) (f) 2.	• Site layout map(s), in planimetric and vertical views, with locations from which samples of environmental media will be obtained or a description of the strategy to be used for determining sample locations

Site Investigation Work Plan Preparation Checklist Wis. Admin. Code § NR 716.07

Form 4400-316 (R 07/19)

Page 3 of 3

Contents (continue) NR 716.09 (2)	Comments
<input type="checkbox"/> NR 716.09 (2) (f) 3.	• Description of sampling methods to be used, including methods for collecting, preserving, and delivering samples and leak detection methods (for vapor sampling)
<input type="checkbox"/> NR 716.09 (2) (f) 4.	• List of the parameters for which samples will be analyzed, analytical methods to be used including method detection limits
<input type="checkbox"/> NR 716.09 (2) (f) 5.	• Description of quality control and quality assurance procedures to be used per sampling method, including the items listed in NR 716.13
<input type="checkbox"/> NR 716.09 (2) (f) 6.	• Description of procedures to prevent cross-contamination between samples
<input type="checkbox"/> NR 716.09 (2) (f) 7.	• Description of the type of investigative wastes that will be generated during the site investigation and how they will be collected, stored, transported, treated or disposed
<input type="checkbox"/> NR 716.09 (2) (f) 8.	• Discussion of how the sampling and analysis results will be related to previous investigations at the site or facility and how the results will be used to determine the degree and extent of contamination and the selection of a remedial action, including natural attenuation, where appropriate
<input type="checkbox"/> NR 716.09 (2) (g)	Description of other procedures to be used for site management, including erosion control and repair of structural, soil or ground disturbance
<input type="checkbox"/> NR 716.09 (2) (h)	Schedule for conducting the field investigation and reporting the results to the DNR
<input type="checkbox"/> NR 712	Certification of professional(s) that will conduct or supervise the work necessary to obtain data, develop conclusions and recommendations, and prepare the site investigation submittal, per Wis. Admin. Code NR 712

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