



April 10, 2023

MS. DENICE NELSON
JOHNSON CONTROLS, INC
5757 N. GREEN BAY AVENUE
MILWAUKEE, WI 53209

Via Email Only to denice.karen.nelson@jci.com

SUBJECT: Notice of Noncompliance and Offer to Assist with Communications to Landowners
JCI/Tyco Biosolids – Multiple Landspreading Fields
BRRTS #02-38-583856

Dear Ms. Nelson:

On Feb. 16, 2023, the Wisconsin Department of Natural Resource (DNR) received your letter (the “Letter”) notifying the DNR that Johnson Controls, Inc., and Tyco Fire Products, LP (JCI/Tyco) will pause work under the December 2021 *Land Applied Biosolids Preliminary Assessment/Site Investigation Work Plan* (the “Preliminary Assessment Plan”).

By delaying the completion of the field investigation outlined in the Preliminary Assessment Plan, JCI/Tyco is out of compliance with Wisconsin Statutes (Wis. Stat.) ch. 292.11 and Wisconsin Administrative Code (Wis. Admin. Code) ch. 716.11. This is the third notice of noncompliance (NON) to JCI/Tyco for BRRTS 02-38-583856; the previous NONs were issued on Oct. 16, 2019, and Sept. 14, 2021.

In prior correspondence, the DNR laid out the facts leading to JCI/Tyco being named a responsible party for discharge of per- and polyfluoroalkyl substances (PFAS) to 61 fields where city of Marinette’s biosolids impacted with PFAS from JCI/Tyco industrial operations were landspread (the “Site”). The DNR has evidence of discharges of PFAS-impacted water from JCI/Tyco’s Fire Training Center and Stanton Street facilities to the city of Marinette’s sanitary sewer. Testing by the city of Marinette found high levels of PFAS in its wastewater treatment plant’s biosolids that could be traced back to the sanitary lines servicing JCI/Tyco’s two facilities.

In the Letter, you indicate other *potential* sources for PFAS contamination as a reason to delay the site investigation. Citing other *potential* sources of contamination is not a basis for JCI/Tyco to delay a field investigation where it has been identified as a responsible party under Wis. Stat. ch. 292.11 for discharges of contamination. Further, at this time, the DNR has not received information to suggest that other biosolids landspread in Marinette County, and specifically at or near the Site, contain PFAS levels that may cause adverse environmental impacts.

The DNR has developed an *Interim Strategy for Land Application of Biosolids Containing PFAS* (“Interim Strategy”) with recommendations for landspreading pending the completion of the US Environmental Protection Agency’s risk assessment of land application of biosolids containing PFAS. The DNR is encouraging permitted facilities to sample for PFAS and consider the recommendations in the Interim Strategy for land applications or other disposal methods. The Interim Strategy outlines for municipalities the levels of PFAS compounds found in municipal biosolids that have the potential to cause adverse environmental impacts and human health impacts if land applied. In accordance with the Interim Strategy, the city of Marinette’s biosolids that were impacted by

discharges from JCI/Tyco would be considered “Industrial Impacted Biosolids” not suitable for landspreading. If other sources of PFAS contamination are identified and confirmed at, or near, the Site, the DNR may pursue those responsible parties.

In the Letter, JCI/Tyco also cites landowners’ concerns as a reason to delay the investigation. The DNR understands there may be questions and concerns from owners of fields where these biosolids were previously landspread, and has offered to assist JCI/Tyco in its communications with landowners. However, JCI/Tyco has not requested assistance from the DNR in communications with landowners. The DNR reiterates its offer to assist JCI/Tyco in communications with landowners and is available to participate in a meeting with JCI/Tyco to coordinate this effort upon request.

By delaying the start of the field investigation, JCI/Tyco is in non-compliance with Wis. Stat. ch. 292.11 and Wis. Admin. Code ch. 716.11 and will remain in non-compliance until the requirements of statute and code are fulfilled. The goal of the investigation is to understand how much contamination is present, how far the contamination has spread, who is at risk and if cleanup or other response actions are needed. Delaying an investigation leaves these questions unanswered, which limits an understanding of who is at risk and delays any response actions to limit the spread and exposure to the contamination. The DNR encourages JCI/Tyco to make a good faith effort to gain access to fields comprising the Site and to begin the Wis. Admin. Code ch. NR 716 field investigation required for BRRTS 02-38-583856 without further delay.

If you have any questions about this letter, or wish to set up a meeting, please contact me, the DNR Project Manager, at (608) 622-8606 or Alyssa.Sellwood@wisconsin.gov.

Sincerely,



Alyssa Sellwood, PE
Complex Sites Project Manager
Remediation & Redevelopment Program

cc: Christine Sieger, DNR (via email: Christine.Sieger@wisconsin.gov)
Jodie Peotter, DNR (via email: Jodie.peotter@wisconsin.gov)