

State of Wisconsin
DEPARTMENT OF NATURAL
RESOURCES
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Tony Evers, Governor
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Telephone 608-266-2621



February 6, 2020

Mayor Satya Rhodes-Conway
City of Madison
210 Martin Luther King Blvd., #403
Madison, WI 53703

Subject: DNR BRRTs Activity #02-13-584369 and the December 6, 2019 letter from the City of Madison to DNR discussing Truax Field PFAS Contamination

Dear Mayor Rhodes-Conway:

Thank you for your letter dated December 6, 2019. First, the Department of Natural Resources (DNR) would like to thank you for the public outreach efforts by the Mayor's office, Public Health Madison & Dane County, and city engineering to coordinate and implement a public outreach plan for people living along or visiting Starkweather Creek. These actions will increase public awareness of PFAS contamination in the creek and help minimize exposure. We also appreciate the City of Madison's ("City") commitment to identifying other potential sources of PFAS contamination along Starkweather Creek and encourage the City to continue these activities.

Second, we'd like to respond to your letter that states you believe the City should not be named as a responsible party for contamination from the former burn pit and fire training area located at Darwin Road and International Lane, nor the former burn pit and fire training area owned by Dane County and located along Pearson Street. DNR considered the information you and City staff provided, as well as other information available to the DNR. As discussed below, DNR maintains that the City is a responsible party under Wis. Stat. ch. 292 by virtue of causing, possessing or controlling a hazardous substance discharge or otherwise responsible for environmental pollution with respect to these sites.

Darwin Road Fire Training Area and Burn Pit

The City owned the fire training area and burn pit located along Darwin Road until 1974. In addition, the Madison Fire Department was responsible for operating the Truax Field Crash Rescue Station at least as early as July 1, 1968. This included staffing the Truax Field fire station with City firefighters and operating several foam trucks at Truax Field. In 1969, the Department of Defense issued Mil-F-24385 that dictated the specification and performance of all AFFFs. Following this, AFFF manufacturers added PFOS and PFOA to their firefighting foam in order to meet the specifications.

You state in your letter that you believe the City never used the Darwin burn pit for training and that firefighting foams used at the time of City ownership of what is now the Dane County airport were protein-based foams and did not contain PFAS compounds. You did not, however, provide any supporting documentation to demonstrate that the foams did not contain PFAS compounds. As noted above, DNR understands that PFAS-containing firefighting foams were used at civilian airports as well as at military installations by the late 1960s and likely would have been discharged in fire training areas at Truax Field prior to 1974.

As owners of the Darwin Road burn pit during the time when firefighting training activities likely caused a discharge of a hazardous substance to the environment or resulted in environmental pollution, as well as the operator of the Truax Field Crash Rescue Station during the same period, you are considered a responsible party under Wis. Stat. §§ 292.11 and 292.31.

Pearson Street Fire Training Area and Burn Pit

You also discuss the burn pit located at 1750 Pearson Street in your letter and indicate the City trained at this burn pit. Based on the training activities, DNR believes the City is a responsible party because it caused a hazardous substance discharge at this location. You also state that many other fire departments in addition to the City of Madison trained at the Pearson Street burn pit. We agree that training activities by other fire departments also may have caused discharges to the environment of PFAS contamination. We will be working with you, the Wisconsin Air National Guard, and Dane County such that you can share any information on other persons who may have caused PFAS contamination on this site.

Share of Environmental Liability

You state in your letter that “appropriate legal channels for determining proportional responsibility” should be utilized if the City has responsibility at the burn pit sites. Please be aware that DNR does not have the legal authority or obligation to determine percentage of liability or contribution of funds from each party responsible for investigation and remedial action at a site or facility. However, the City could consider using a statutory methodology available pertaining to a third-party determining the contribution of funds. This provision in state law is called the local governmental unit negotiation and cost recovery process (also referred to as the “umpire” process) and may be found in Wis. Stat. § 292.35. A site investigation and remediation action plan would need to be completed in order to activate the umpire process.

We look forward to continuing to meet with the identified responsible parties to discuss the plans for interim remedial action to halt the continued movement of PFAS into Starkweather Creek, as well as plans to complete site investigation and remedial action. Coordination and cooperation among Dane County, the Wisconsin Air National Guard, and the City of Madison is crucial to address the PFAS issues around Truax Field and in Starkweather Creek.

If you have any questions regarding this letter, please do not hesitate to contact the DNR Project Manager for this site, Michael Schmoller at Michael.Schmoller@wisconsin.gov or call him directly at 608-275-3303.

Sincerely,



Christine Haag, Director
Remediation and Redevelopment Program

cc: Christie Baumel, City of Madison Office of the Mayor
Michael Kirchner, Dane County Regional Airport
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