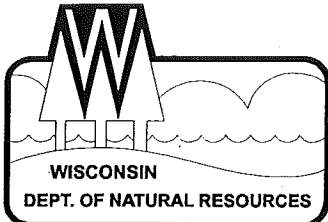


BF Chisno file



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary  
William R. Selbig, Regional Director

Northeast Region Headquarters  
1125 N. Military Ave., P.O. Box 10448  
Green Bay, Wisconsin 54307-0448  
Telephone 920-492-5800  
FAX 920-492-5913  
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February 1, 1999

Mr. Pete Mann  
City of Oconto Falls  
Box 70  
Oconto Falls, WI 54154

07-43-231434

• requested exemption before fee rule went into effect (summer 98)  
• no fees were charged

SUBJECT: Clarification of Local Government Unit Liability Exemption; Falls Auto Salvage; 201/205 North Main Street; Oconto Falls, Wisconsin

In your correspondence dated December 22, 1998, you requested written notification from the Department of Natural Resources (DNR) stating whether further environmental work is required at this site. This letter is intended to clarify the status of this site and to outline the requirements and conditions of the Local Government Unit (LGU) Liability Exemption. Additionally, I have included answers to commonly asked questions regarding environmental liability.

As you know, the City of Oconto Falls acquired the Falls Auto Salvage Property via tax deed in 1998. This method of acquisition meets the requirements for the LGU Liability Exemption. Based on (1) the Phase I and II investigations conducted by DNR staff as part of the Brownfields Environmental Assessment Program and (2) the City of Oconto Falls' proposed use of this property as a paved lot, the City of Oconto Falls is eligible for the LGU Liability Exemption without a requirement for further environmental work.

The scope of any investigation that the DNR can direct the LGU to undertake under this liability exemption depends on the intended use and development of the property and whether the contaminants on the property may pose a substantial threat to public health and safety. The City of Oconto Falls' plan (to use this property as a parking lot) meets the requirements of the liability exemption because the pavement will serve as a barrier which will "reduce to acceptable levels any substantial threat to public health or safety when the property is developed or put to that intended use" [section 292.11(9)(e)4, Wis. Stats.]. In order for the City of Oconto Falls to remain eligible for the liability exemption, any change in the proposed use of the property in the future must be approved by the DNR. Please note that under section 292.11(9)(e)2, Wis. Stats. the Municipal Liability Exemption does not apply to a discharge of a hazardous substance caused by an action taken by the LGU.

The following are answers to commonly asked questions regarding the Municipal Liability Exemption:

1. Can the municipal liability exemption be transferred to any other parties?

No. The limited exemption provided under s. 292.11(9)(e), Wis. Stats. applies only to LGU's and certain economic development corporations. The exemption cannot be transferred to a private party purchasing the properties.



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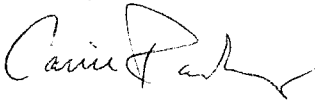


2. **Is there a way to protect future owners of the property from environmental liability?**

If a future owner of the property elects to investigate and clean up the property, the owner could enter into the Voluntary Party Liability Exemption (VPLE) Program and ultimately receive a liability exemption for environmental releases as long as the future owner did not recklessly or intentionally cause the release of hazardous substances. The VPLE program can offer the participants protection from future liability under the Spill Law once the investigation and cleanup are approved by the Department, as provided under s. 292.15, Wis. Stats. This limited liability exemption can be assigned to future purchasers of the property, whereas the exemption to municipalities under s. 292.11(9)(e), Wis. Stats., cannot be assigned to future private party purchasers.

The Department appreciates your efforts and participation in the Municipal Liability Exemption Program. If you have any questions regarding this letter, please contact Kathy Erdmann in Green Bay at (920) 492-5798.

Sincerely,



Carrie Rackey  
Waste Management Specialist  
Bureau of Remediation and Redevelopment

cc: Kathy Erdmann  
Mike Netzer  
Darsi Foss  
File