



Green Bay Location

2121 Innovation Court, Suite 300
P.O. Box 5126
De Pere, WI 54115-5126
(920) 497-2500 • Fax: (920) 497-8516
www.foth.com

January 9, 2019

RR Program Assistant
Wisconsin Department of Natural Resources
2984 Shawano Ave.
Green Bay WI 54313

Dear RR Program Assistant:

RE: Request for Post Closure Modification
Marinette Marine Corporation, 1600 Ely Street, Marinette, WI
BRRTS #: 02-38-260867

On behalf of Marinette Marine Corporation (MM), of Marinette, Wisconsin, Foth Infrastructure & Environment, LLC (Foth), is requesting that the Wisconsin Department of Natural Resources (WDNR) modify the case closure requirements for Bureau for Remediation and Redevelopment Tracking System (BRRTS) case number 02-38-260867. Under the closure requirements, a performance standard in the form of a cap maintenance plan is required under a deed restriction attached to the property. It covers the entire portion of the MM property located between the railroad spur and the Menominee River. See attached Figure 1.

The cap maintenance plan was intended to protect workers and the public from exposure to arsenic impacted soils (0-4 feet in depth). At the time of closure, the recognized background arsenic concentration in Wisconsin was 0.67 milligrams per kilogram (mg/kg). Presently, the background threshold value for arsenic in Wisconsin is 8.3 mg/kg which also represents the non-industrial direct contact residual cleanup level. The soil arsenic concentrations reported for this case were near or below the current background threshold value of 8.3 mg/kg. Based on current standards, MM believes the soil cap maintenance plan is no longer necessary and is requesting that the WDNR modify the case closure requirements to remove the ongoing cap maintenance plan requirements from the deed restriction. A WDNR Form 4400-237 (Technical Assistance, Environmental Liability Clarification or Post-Closure Modification Request Form) is attached along with a review fee check in the amount of \$1,350.

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Based on conversations with the WDNR, MM understands that it is not possible at this time to get the groundwater protection portion of the deed restriction modified without the collection of new groundwater quality samples. However, MM also understands that this portion of the deed restriction only applies to the construction of new drinking water wells on the property, which are not contemplated.

Please contact Robert Meller or Denis Roznowski, of Foth, at (920) 497-2500, if you have any questions regarding the request included herein.

Sincerely,

Foth Infrastructure & Environment, LLC



Robert Meller, P.G.
Licensed in WI
Lead Geologist



Denis Roznowski, P.E.
Licensed in WI
Project Director

cc: Mr. Ed Swanson, Marinette Marine Corporation
Ms. Steve Ales, Wisconsin Department of Natural Resources
Mr. Dave Neste, Wisconsin Department of Natural Resources

attachments

Notice: Use this form to request a **written response (on agency letterhead)** from the Department of Natural Resources (DNR) regarding technical assistance, a post-closure change to a site, a specialized agreement or liability clarification for Property with known or suspected environmental contamination. A fee will be required as is authorized by s. 292.55, Wis. Stats., and NR 749, Wis. Adm. Code., unless noted in the instructions below. Personal information collected will be used for administrative purposes and may be provided to requesters to the extent required by Wisconsin's Open Records law [ss. 19.31 - 19.39, Wis. Stats.].

Definitions

"Property" refers to the subject Property that is perceived to have been or has been impacted by the discharge of hazardous substances.

"Liability Clarification" refers to a written determination by the Department provided in response to a request made on this form. The response clarifies whether a person is or may become liable for the environmental contamination of a Property, as provided in s. 292.55, Wis. Stats.

"Technical Assistance" refers to the Department's assistance or comments on the planning and implementation of an environmental investigation or environmental cleanup on a Property in response to a request made on this form as provided in s. 292.55, Wis. Stats.

"Post-closure modification" refers to changes to Property boundaries and/or continuing obligations for Properties or sites that received closure letters for which continuing obligations have been applied or where contamination remains. Many, but not all, of these sites are included on the GIS Registry layer of RR Sites Map to provide public notice of residual contamination and continuing obligations.

Select the Correct Form

This form should be used to request the following from the DNR:

- Technical Assistance
- Liability Clarification
- Post-Closure Modifications
- Specialized Agreements (tax cancellation, negotiated agreements, etc.)

Do **not** use this form if one of the following applies:

- Request for an **off-site liability exemption or clarification** for Property that has been or is perceived to be contaminated by one or more hazardous substances that originated on another Property containing the source of the contamination. Use DNR's Off-Site Liability Exemption and Liability Clarification Application Form 4400-201.
- Submittal of an Environmental Assessment for the **Lender Liability Exemption**, s 292.21, Wis. Stats., **if no response or review by DNR is requested**. Use the Lender Liability Exemption Environmental Assessment Tracking Form 4400-196.
- Request for an **exemption to develop on a historic fill site** or licensed landfill. Use DNR's Form 4400-226 or 4400-226A.
- **Request for closure** for Property where the investigation and cleanup actions are completed. Use DNR's Case Closure - GIS Registry Form 4400-202.

All forms, publications and additional information are available on the internet at: dnr.wi.gov/topic/Brownfields/Pubs.html.

Instructions

1. Complete sections 1, 2, 6 and 7 for all requests. Be sure to provide adequate and complete information.
2. Select the type of assistance requested: Section 3 for technical assistance or post-closure modifications, Section 4 for a written determination or clarification of environmental liabilities; or Section 5 for a specialized agreement.
3. Include the fee payment that is listed in Section 3, 4, or 5, unless you are a "Voluntary Party" enrolled in the Voluntary Party Liability Exemption Program **and** the questions in Section 2 direct otherwise. Information on to whom and where to send the fee is found in Section 8 of this form.
4. Send the completed request, supporting materials and the fee to the appropriate DNR regional office where the Property is located. See the map on the last page of this form. A paper copy of the signed form and all reports and supporting materials shall be sent with an electronic copy of the form and supporting materials on a compact disk. For electronic document submittal requirements see: <http://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>

The time required for DNR's determination varies depending on the complexity of the site, and the clarity and completeness of the request and supporting documentation.

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Section 1. Contact and Recipient Information

Requester Information

This is the person requesting technical assistance or a post-closure modification review, that his or her liability be clarified or a specialized agreement and is identified as the requester in Section 7. DNR will address its response letter to this person.

Last Name Swanson	First Edward	MI	Organization/ Business Name Marinette Marine Corporation
Mailing Address 1600 Ely Street			City Marinette
			State WI
			ZIP Code 54143
Phone # (include area code) (715) 735-9341	Fax # (include area code)	Email edward.swanson@us.fincantieri.com	

The requester listed above: (select all that apply)

- Is currently the owner
- Is currently considering selling the Property
- Is renting or leasing the Property
- Is currently considering acquiring the Property
- Is a lender with a mortgagee interest in the Property
- Other. Explain the status of the Property with respect to the applicant:

Contact Information (to be contacted with questions about this request) Select if same as requester

Contact Last Name Swanson	First Edward	MI	Organization/ Business Name Marinette Marine Corporation
Mailing Address 1600 Ely Street			City Marinette
			State WI
			ZIP Code 54143
Phone # (include area code) (715) 735-9341	Fax # (include area code)	Email edward.swanson@us.fincantieri.com	

Environmental Consultant (if applicable)

Contact Last Name Meller	First Robert	MI J	Organization/ Business Name Foth Infrastructure & Environment, LLC
Mailing Address 2121 Innovation Court, Suite 300, P.O. Box 5126			City De Pere
			State WI
			ZIP Code 54115-5126
Phone # (include area code) (920) 496-6866	Fax # (include area code)	Email bob.meller@foth.com	

Section 2. Property Information

Property Name Marinette Marine Corporation	FID No. (if known) 438005480
BRRTS No. (if known) 02-38-260867	Parcel Identification Number 251-00933.002; 251-00935.000; 251-04269.000
Street Address 1600 Ely Street	City Marinette
	State WI
	ZIP Code 54143
County Marinette	Municipality where the Property is located <input checked="" type="radio"/> City <input type="radio"/> Town <input type="radio"/> Village of Marinette
	Property is composed of: <input type="radio"/> Single tax parcel <input checked="" type="radio"/> Multiple tax parcels
	Property Size Acres

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1. Is a response needed by a specific date? (e.g., Property closing date) Note: Most requests are completed within 60 days. Please plan accordingly.

No Yes

Date requested by: _____

Reason: _____

2. Is the "Requester" enrolled as a Voluntary Party in the Voluntary Party Liability Exemption (VPLE) program?

No. **Include the fee that is required for your request in Section 3, 4 or 5.**

Yes. **Do not include a separate fee.** This request will be billed separately through the VPLE Program.

Fill out the information in Section 3, 4 or 5 which corresponds with the type of request:

Section 3. Technical Assistance or Post-Closure Modifications;

Section 4. Liability Clarification; or Section 5. Specialized Agreement.

Section 3. Request for Technical Assistance or Post-Closure Modification

Select the type of technical assistance requested: [Numbers in brackets are for WI DNR Use]

- No Further Action Letter (NFA) (Immediate Actions) - NR 708.09, [183] - **Include a fee of \$350.** Use for a written response to an immediate action after a discharge of a hazardous substance occurs. Generally, these are for a one-time spill event.
- Review of Site Investigation Work Plan - NR 716.09, [135] - **Include a fee of \$700.**
- Review of Site Investigation Report - NR 716.15, [137] - **Include a fee of \$1050.**
- Approval of a Site-Specific Soil Cleanup Standard - NR 720.10 or 12, [67] - **Include a fee of \$1050.**
- Review of a Remedial Action Options Report - NR 722.13, [143] - **Include a fee of \$1050.**
- Review of a Remedial Action Design Report - NR 724.09, [148] - **Include a fee of \$1050.**
- Review of a Remedial Action Documentation Report - NR 724.15, [152] - **Include a fee of \$350**
- Review of a Long-term Monitoring Plan - NR 724.17, [25] - **Include a fee of \$425.**
- Review of an Operation and Maintenance Plan - NR 724.13, [192] - **Include a fee of \$425.**

Other Technical Assistance - s. 292.55, Wis. Stats. [97] (For request to build on an abandoned landfill use Form 4400-226)

- Schedule a Technical Assistance Meeting - **Include a fee of \$700.**
- Hazardous Waste Determination - **Include a fee of \$700.**
- Other Technical Assistance - **Include a fee of \$700.** Explain your request in an attachment.

Post-Closure Modifications - NR 727, [181]

- Post-Closure Modifications: Modification to Property boundaries and/or continuing obligations of a closed site or Property; sites may be on the GIS Registry. This also includes removal of a site or Property from the GIS Registry. **Include a fee of \$1050, and:**
 - Include a fee of \$300 for sites with residual soil contamination; and
 - Include a fee of \$350 for sites with residual groundwater contamination, monitoring wells or for vapor intrusion continuing obligations.

Attach a description of the changes you are proposing, and documentation as to why the changes are needed (if the change to a Property, site or continuing obligation will result in revised maps, maintenance plans or photographs, those documents may be submitted later in the approval process, on a case-by-case basis).

Skip Sections 4 and 5 if the technical assistance you are requesting is listed above and complete Sections 6 and 7 of this form.

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Section 4. Request for Liability Clarification

Select the type of liability clarification requested. Use the available space given or attach information, explanations, or specific questions that you need answered in DNR's reply. Complete Sections 6 and 7 of this form. **[Numbers in brackets are for DNR Use]**

"Lender" liability exemption clarification - s. 292.21, Wis. Stats. [686]

❖ **Include a fee of \$700.**

Provide the following documentation:

- (1) ownership status of the real Property, and/or the personal Property and fixtures;
- (2) an environmental assessment, in accordance with s. 292.21, Wis. Stats.;
- (3) the date the environmental assessment was conducted by the lender;
- (4) the date of the Property acquisition; for foreclosure actions, include a copy of the signed and dated court order confirming the sheriff's sale.
- (5) documentation showing how the Property was acquired and the steps followed under the appropriate state statutes.
- (6) a copy of the Property deed with the correct legal description; and,
- (7) the Lender Liability Exemption Environmental Assessment Tracking Form (Form 4400-196).
- (8) If no sampling was done, please provide reasoning as to why it was **not** conducted. Include this either in the accompanying environmental assessment or as an attachment to this form, and cite language in s. 292.21(1)(c)2., h.-i., Wis. Stats.:
 - h. The collection and analysis of representative samples of soil or other materials in the ground that are suspected of being contaminated based on observations made during a visual inspection of the real Property or based on aerial photographs, or other information available to the lender, including stained or discolored soil or other materials in the ground and including soil or materials in the ground in areas with dead or distressed vegetation. The collection and analysis shall identify contaminants in the soil or other materials in the ground and shall quantify concentrations.
 - i. The collection and analysis of representative samples of unknown wastes or potentially hazardous substances found on the real Property and the determination of concentrations of hazardous waste and hazardous substances found in tanks, drums or other containers or in piles or lagoons on the real Property.

"Representative" liability exemption clarification (e.g. trustees, receivers, etc.) - s. 292.21, Wis. Stats. [686]

❖ **Include a fee of \$700.**

Provide the following documentation:

- (1) ownership status of the Property;
- (2) the date of Property acquisition by the representative;
- (3) the means by which the Property was acquired;
- (4) documentation that the representative has no beneficial interest in any entity that owns, possesses, or controls the Property;
- (5) documentation that the representative has not caused any discharge of a hazardous substance on the Property; and
- (6) a copy of the Property deed with the correct legal description.

Clarification of local governmental unit (LGU) liability exemption at sites with: (select all that apply)

- hazardous substances spills - s. 292.11(9)(e), Wis. Stats. [649];
- Perceived environmental contamination - [649];
- hazardous waste - s. 292.24 (2), Wis. Stats. [649]; and/or
- solid waste - s. 292.23 (2), Wis. Stats. [649].

❖ **Include a fee of \$700, a summary of the environmental liability clarification being requested, and the following:**

- (1) clear supporting documentation showing the acquisition method used, and the steps followed under the appropriate state statute(s).
- (2) current and proposed ownership status of the Property;
- (3) date and means by which the Property was acquired by the LGU, where applicable;
- (4) a map and the ¼, ¼ section location of the Property;
- (5) summary of current uses of the Property;
- (6) intended or potential use(s) of the Property;
- (7) descriptions of other investigations that have taken place on the Property; and
- (8) (for solid waste clarifications) a summary of the license history of the facility.

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Section 4. Request for Liability Clarification (cont.)

Lease liability clarification - s. 292.55, Wis. Stats. [646]

❖ **Include a fee of \$700 for a single Property, or \$1400 for multiple Properties and the information listed below:**

- (1) a copy of the proposed lease;
- (2) the name of the current owner of the Property and the person who will lease the Property;
- (3) a description of the lease holder's association with any persons who have possession, control, or caused a discharge of a hazardous substance on the Property;
- (4) map(s) showing the Property location and any suspected or known sources of contamination detected on the Property;
- (5) a description of the intended use of the Property by the lease holder, with reference to the maps to indicate which areas will be used. Explain how the use will not interfere with any future investigation or cleanup at the Property; and
- (6) all reports or investigations (e.g. Phase I and Phase II Environmental Assessments and/or Site Investigation Reports conducted under s. NR 716, Wis. Adm. Code) that identify areas of the Property where a discharge has occurred.

General or other environmental liability clarification - s. 292.55, Wis. Stats. [682] - Explain your request below.

❖ **Include a fee of \$700 and an adequate summary of relevant environmental work to date.**

No Action Required (NAR) - NR 716.05, [682]

❖ **Include a fee of \$700.**

Use where an environmental discharge has or has not occurred, and applicant wants a DNR determination that no further assessment or clean-up work is required. Usually this is requested after a Phase I and Phase II environmental assessment has been conducted; the assessment reports should be submitted with this form. This is not a closure letter.

Clarify the liability associated with a "closed" Property - s. 292.55, Wis. Stats. [682]

❖ **Include a fee of \$700.**

- Include a copy of any closure documents if a state agency other than DNR approved the closure.

Use this space or attach additional sheets to provide necessary information, explanations or specific questions to be answered by the DNR.

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Section 5. Request for a Specialized Agreement

Select the type of agreement needed. Include the appropriate draft agreements and supporting materials. Complete Sections 6 and 7 of this form. More information and model draft agreements are available at: dnr.wi.gov/topic/Brownfields/Igu.html#tabx4.

Tax cancellation agreement - s. 75.105(2)(d), Wis. Stats. [654]

❖ **Include a fee of \$700, and the information listed below:**

- (1) Phase I and II Environmental Site Assessment Reports,
- (2) a copy of the Property deed with the correct legal description; and,
- (3) a draft 75.105 agreement based on the DNR's model (dnr.wi.gov/topic/brownfields/documents/mod75-105agrmt.pdf).

Agreement for assignment of tax foreclosure judgement - s.75.106, Wis. Stats. [666]

❖ **Include a fee of \$700, and the information listed below:**

- (1) Phase I and II Environmental Site Assessment Reports,
- (2) a copy of the Property deed with the correct legal description; and,
- (3) a draft 75.105 agreement based on the DNR's model (dnr.wi.gov/topic/brownfields/documents/mod75-106agrmt.pdf).

Negotiated agreement - Enforceable contract for non-emergency remediation - s. 292.11(7)(d) and (e), Wis. Stats. [630]

❖ **Include a fee of \$1400, and the information listed below:**

- (1) a draft schedule for remediation; and,
- (2) the name, mailing address, phone and email for each party to the agreement.

Section 6. Other Information Submitted

Identify all materials that are included with this request.

Include one copy of any document from any state agency files that you want the Department to review as part of this request. The person submitting this request is responsible for contacting other state agencies to obtain appropriate reports or information.

Phase I Environmental Site Assessment Report - Date: _____

Phase II Environmental Site Assessment Report - Date: _____

Legal Description of Property (required for all liability requests and specialized agreements)

Map of the Property (required for all liability requests and specialized agreements)

Analytical results of the following sampled media: Select all that apply and include date of collection.

Groundwater Soil Sediment Other medium - Describe: _____

Date of Collection: _____

A copy of the closure letter and submittal materials

Draft tax cancellation agreement

Draft agreement for assignment of tax foreclosure judgment

Other report(s) or information - Describe: _____

For Property with newly identified discharges of hazardous substances only: Has a notification of a discharge of a hazardous substance been sent to the DNR as required by s. NR 706.05(1)(b), Wis. Adm. Code?

Yes - Date (if known): _____

No

Note: The Notification for Hazardous Substance Discharge (non-emergency) form is available at:
dnr.wi.gov/files/PDF/forms/4400/4400-225.pdf.

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Section 7. Certification by the Person who completed this form

I am the person submitting this request (requester)

I prepared this request for: _____
Requester Name

I certify that I am familiar with the information submitted on this request, and that the information on and included with this request is true, accurate and complete to the best of my knowledge. I also certify I have the legal authority and the applicant's permission to make this request.

Edward A. Swenson
Signature

1-8-18
Date Signed

Facilities Improvement Manager
Title

715-735-9341 (Ext 6339)
Telephone Number (include area code)

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Section 8. DNR Contacts and Addresses for Request Submittals

Send or deliver one paper copy and one electronic copy on a compact disk of the completed request, supporting materials, and fee to the region where the property is located to the address below. Contact a [DNR regional brownfields specialist](#) with any questions about this form or a specific situation involving a contaminated property. For electronic document submittal requirements see:

<http://dnr.wi.gov/files/PDF/pubs/rr/RR690.pdf>.

The State of Wisconsin Department of Natural Resources

• **Region Offices**

DNR NORTHERN REGION

Attn: RR Program Assistant
Department of Natural Resources
223 E Steinfest Rd Antigo, WI 54409

DNR NORTHEAST REGION

Attn: RR Program Assistant
Department of Natural Resources
2984 Shawano Avenue
Green Bay WI 54313

DNR SOUTH CENTRAL REGION

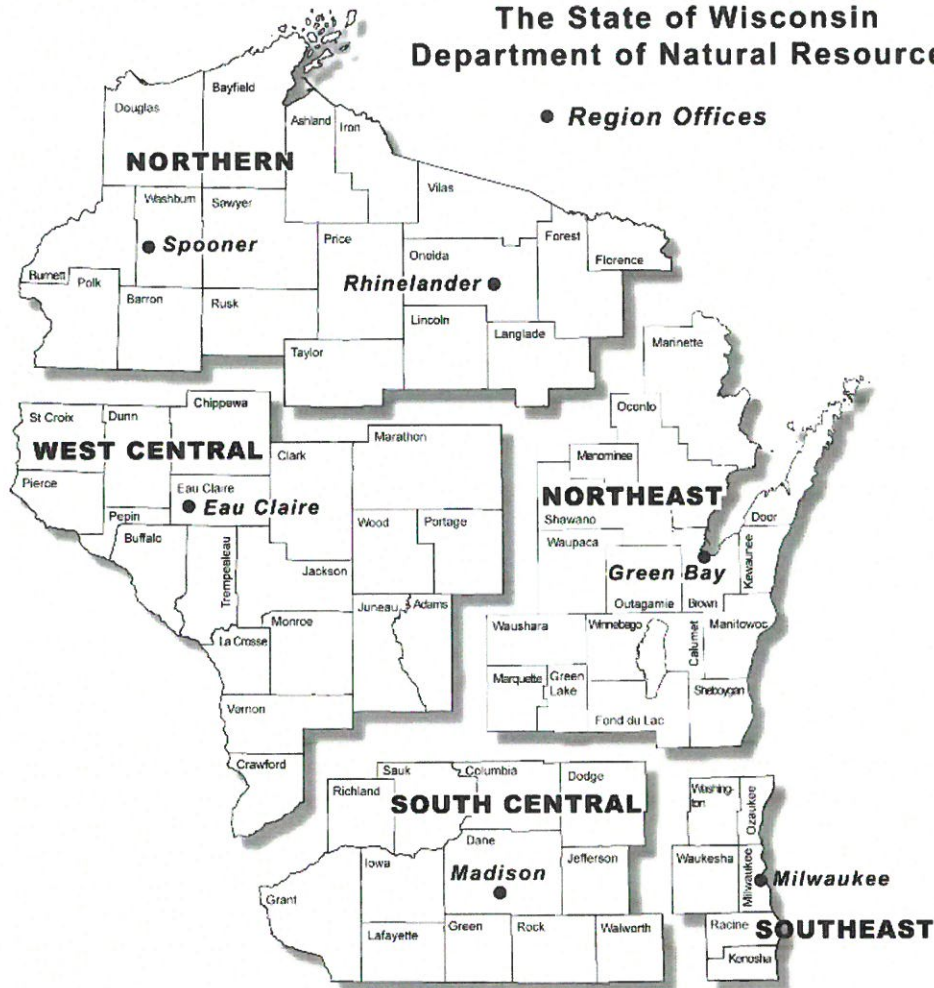
Attn: RR Program Assistant
Department of Natural Resources
3911 Fish Hatchery Road
Fitchburg WI 53711

DNR SOUTHEAST REGION

Attn: RR Program Assistant
Department of Natural Resources
2300 North Martin Luther King Drive
Milwaukee WI 53212

DNR WEST CENTRAL REGION

Attn: RR Program Assistant
Department of Natural Resources
1300 Clairemont Ave.
Eau Claire WI 54702



Note: These are the Remediation and Redevelopment Program's designated regions. Other DNR program regional boundaries may be different.

DNR Use Only			
Date Received	Date Assigned	BRRTS Activity Code	BRRTS No. (if used)
DNR Reviewer		Comments	
Fee Enclosed? <input type="radio"/> Yes <input type="radio"/> No	Fee Amount \$	Date Additional Information Requested	Date Requested for DNR Response Letter
Date Approved	Final Determination		

