

Thompson, Matthew A - DNR

From: Thompson, Matthew A - DNR
Sent: Thursday, August 10, 2023 10:26 AM
To: Connie.beyersdorff@co.marathon.wi.us
Subject: Notice of Potential Foreclosure - Unity C Store
Attachments: 20230713090822204.pdf; RR579.pdf

Connie,

Good talking this morning, attached is the notice our central office (Madison) staff received. This property is heavily contaminated and is currently listed an EPA Superfund site as well as a DNR clean up site. If the County takes this property without the proper due diligence, the County could be held liable for the contamination. Acquisition through tax delinquency is a method that can ensure liability protection for the County. We can talk in more detail if the County chosed to move forward with acquisition.

Unfortunately, most of the documents with information regarding the contamination are too large to send via email. I've included links to websites where the reports can be downloaded

EPA Superfund link: <https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0505544>

DNR project link: <https://apps.dnr.wi.gov/botw/GetActivityDetail.do?dsn=33836&siteId=7153400&crumb=1>

I understand the County is looking a larger suite of properties, the link below will take you to our online site viewer called RR Sites Map. All properties with contamination known the DNR are shown on this viewer. The search feature can be cumbersome but the rest of viewer works great. Please let me know if you have questions about using it.

RR Sites Map: <https://dnrmaps.wi.gov/H5/?viewer=rrsites>

Please reach out with questions in the future, I can help answer them or know whom at the DNR can help.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Matt Thompson

Hydrogeologist – Remediation and Redevelopment
Wisconsin Department of Natural Resources
1300 W. Clairemont Ave., Eau Claire, WI 54701
Office: 715-492-2304
matthewa.thompson@wisconsin.gov



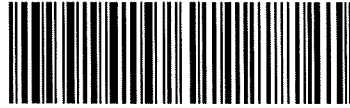
MARATHON COUNTY TREASURER
500 FOREST ST
WAUSAU WI 54403-5568

\$6.85 **US POSTAGE**
FIRST-CLASS
Jul 05 2023
Mailed from ZIP 54403
1 OZ FIRST-CLASS MAIL LETTER
RATE
11923275



062S0001442145

USPS CERTIFIED MAIL



9414 8118 9876 5419 0108 04

DEPARTMENT OF NATURAL RESOURCES
REMEDICATION & REDEVELOPMENT PROGRAM
PO BOX 7921
MADISON WI 53707-7921



186-2702-062-1004

FOLD ALONG THIS LINE



Connie Beyersdorff, Marathon County Treasurer
Michael Puerner – Corporation Counsel
Marathon County Courthouse
500 Forest Street
Wausau, WI 54403
715.261.1150 (Telephone)
Connie.Beyersdorff@co.marathon.wi.us
Michael.Puerner@co.marathon.wi.us

To: ARTHUR SHAFFER, 102 N FRONT ST UNITY, WI 54488
OCCUPANT, 102 N FRONT ST UNITY, WI 54488
DEPARTMENT OF NATURAL RESOURCES, REMEDIATION & REDEVELOPMENT PROGRAM, LEAN DOCUMENT# 1754585, PO BOX 7921, MADISON, WI 53707

Marathon County is in the process of commencing tax foreclosure proceedings pursuant to Wisconsin Statutes Sec. 75.521.

Our records indicate that there are 2011 AND 2013 - 2018 taxes due on your property.

YEAR OF TAX	TAX CERTIFICATE DATE:	CERTIFICATE #	FACE OF CERTIFICATE	Interest	Penalty	Notice Fee:
2011	9/1/2012	237	\$389.76	\$545.66	\$272.83	
2012	9/1/2013	-	-	-	-	
2013	9/1/2014	549	\$265.00	\$307.40	\$153.70	
2014	9/1/2015	793	\$283.00	\$294.32	\$147.16	
2015	9/1/2016	1153	\$1,808.99	\$1,664.27	\$832.13	
2016	9/1/2017	1692	\$1,354.01	\$1,083.21	\$541.60	
2017	9/1/2018	2415	\$72.57	\$49.35	\$24.67	\$325
2018	9/1/2019	4246	\$74.80	\$41.89	\$20.94	
Total Due: \$10,552.26						

LEGAL DESCRIPTION:

That part of the South one-half (S 1/2) of the Northwest fractional quarter (NW fr'1/4) of Section six (6), Township twenty-seven (27) North, Range two (2) East, in the Village of Unity, Marathon County, Wisconsin, described as follows:

Beginning at a point 21 feet North of the Northwest corner of Lot 9 in Block 1 of the Village of Unity; running thence West to the East line of U.S. Highway 13; thence South along the East line of said U.S. Highway 13 to the North line of Clark Street; thence East, along the North line of Clark Street, 120 feet; thence North 9 feet to the South line of Lot 8 in Block 1 of the Village of Unity; thence West, along the South line of said Lot 8 in Block 1, 30 feet to the Southwest corner thereof; and thence North, along the West line of Lots 8, 9 and 10 in said Block 1 to the point of beginning.

ALSO

The West thirty (30) feet of Lots eight (8) and nine (9); and

The South twenty-one (21) feet of the West thirty (30) feet of Lot ten (10), all in Block one (1) of the Village of Unity, Marathon County, Wisconsin; EXCEPTING those parts thereof used for highway purposes.

PIN #: Parcel# 186-2702-062-1004

SITE ADDRESS: 102 N FRONT ST UNITY, WI 54488

The intent of this notice is to alert you that the process and the potential loss of ownership rights. Full payment of 2011 AND 2013-2018 and/ or prior years taxes, including interest and penalty, must be made to stop the process of foreclosure.

The enclosed statement shows the amount of taxes, interest, and penalty due if paid on or before September 30, 2023. For proper credit, please enclose the statement with your remittance.

If payment is not made by September 30, 2023, additional interest, and penalty, as well as legal fees and related costs, will continue to accrue.

On or about October 1, 2023, official foreclosure documents will be filed with the Marathon County Circuit Court. The Court will be statutorily authorized to enter a Judgement that will divert ownership of the property from you and vest said ownership to Marathon County.

If you have any questions, please contact our office at (715) 261-1150.

Future payments must be made in the form of cash, cashier's check, or money order. If paying prior to the 3 months redemption period, contact the Marathon County Treasurers office for payoff before September 30, 2023.

FUTHER NOTICE IS HEREBY GIVEN THAT AFTER THE EXPIRATION OF 3 MONTHS FROM THE DATE OF SERVICE OF SUCH NOTICE THE COUNTY WILL APPLY FOR FORCLOSURE THROUGH IN REM – MARATHON COUNTY COURT SYSTEM.

Dated at Wausau, Wisconsin, this July 3, 2023.

By: Connie Beyersdorff

Connie Beyersdorff – County Treasurer

By: Michael Puerner

Michael Puerner, Corporation Counsel

Enclosures

Marathon County

Owner (s):
SHAFFER, ARTHUR

Location:
S1/2 NW FRL1/4, Sect. 6, T27N, R2E

Mailing Address:
**ARTHUR SHAFFER
102 N FRONT ST
UNITY, WI 54488**

School District:
1162 - COLBY

Tax Parcel ID Number: Tax District: Status:
186-2702-062-1004 186-VILLAGE OF UNITY Active

Alternate Tax Parcel Number: Government Owned: Acres:
58-0400-001-009-00-00 0.0000

Description - Comments (Please see Documents tab below for related documents. For a complete legal description, see recorded document.):

MAP OF UNITY PHILLIPS & COLBY PLAT W 30' OF LOTS 8 & 9 BLK 1 ALSO S 21' OF W 30' OF LOT 10 BLK 1 ALSO PT OF FRL S1/2 NW 1/4 SEC 6-27-2 COM 21' N OF NW COR OF LOT 9 BLK 1 SD AD W TO E LN OF HWY -13- S TO N LN OF CLARK ST E ALG SD ST 120' N 9' TO S LN OF LOT 8 BLK 1 SD AD W 30' TO SW COR OF SD LOT 8 N ALG W LN OF LOTS 8, 9 & 10 TO BEG EX VOL 419M-15 (HWY '13')

Site Address (es): *(Site address may not be verified and could be incorrect. DO NOT use the site address in lieu of legal description.)*
102 N FRONT ST UNITY, WI 54488

Taxes

0 Lottery credits claimed

Tax History

* Click on a Tax Year for detailed payment information.

Tax Year*	Omitted	Tax Bill	Taxes Paid	Taxes Due	Interest	Penalty	Fees	Total Payoff
2022	<input type="checkbox"/>	\$1,089.06	\$1,089.06	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2021	<input type="checkbox"/>	\$883.29	\$883.29	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2020	<input type="checkbox"/>	\$441.63	\$441.63	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2019	<input type="checkbox"/>	\$75.66	\$75.66	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2018	<input type="checkbox"/>	\$74.80	\$0.00	\$74.80	\$41.89	\$20.94	\$0.00	\$137.63
2017	<input type="checkbox"/>	\$72.57	\$0.00	\$72.57	\$49.35	\$24.67	\$325.00	\$471.59
2016	<input type="checkbox"/>	\$1,354.01	\$0.00	\$1,354.01	\$1,083.21	\$541.60	\$0.00	\$2,978.82
2015	<input type="checkbox"/>	\$1,808.99	\$0.00	\$1,808.99	\$1,664.27	\$832.13	\$0.00	\$4,305.39
2014	<input type="checkbox"/>	\$566.22	\$283.22	\$283.00	\$294.32	\$147.16	\$0.00	\$724.48
2013	<input type="checkbox"/>	\$531.64	\$266.64	\$265.00	\$307.40	\$153.70	\$0.00	\$726.10
2012	<input type="checkbox"/>	\$431.73	\$431.73	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2011	<input type="checkbox"/>	\$389.76	\$0.00	\$389.76	\$545.66	\$272.83	\$0.00	\$1,208.25
Total								\$10,552.26

'PAY TAXES' button may be used to pay the **SECOND** installment for all municipalities except for the City of Wausau. It may also be used to pay past year delinquent taxes for all municipalities. If the first installment is not received by the municipality by January 31 of the year due, interest and penalty will also be due. Please contact the County Treasurer's Office at (715) 261-1150 for exact amount due if after January 31 or if taxes are 3 years or more delinquent.

NOTE: Current year tax bills may not be processed by the county.

Interest and penalty on delinquent taxes are calculated to **September 30, 2023.**



State & Federal Liability Protections for Local Governmental Units

RR-579

October 2013

Introduction

Local Governmental Units (LGUs) in Wisconsin have an important role in the cleanup and redevelopment of brownfields, which are defined as “abandoned, idle or underused commercial or industrial properties, where expansion or redevelopment is hindered by real or perceived contamination.”

Fortunately, state and federal laws provide incentives for LGUs to acquire and redevelop brownfield properties, without incurring liability for the contamination. A table summarizing these state and federal liability protection incentives is included in this fact sheet (see p.5).

This fact sheet offers a concise overview of how state and federal liability protections work, and what LGUs can do to safely acquire and transform these properties. Also included is a brief discussion on the importance of CERCLA (federal Superfund Law) liability protections for LGUs applying for federal cleanup funding—either federally or state administered upon acquiring a contaminated property.

State Liability Protections

LGU Liability Exemption from Wisconsin’s Spill Law

Assuming the LGU did not cause the contamination, it can be eligible for the Local Governmental Liability Exemption by acquiring a contaminated property in accordance with state law (s. 292.11(9)(e)1m, Wis. Stats.). The eight eligible methods of acquisition include:

- Tax delinquency;
- Bankruptcy proceedings;

- Condemnation;
- Eminent domain (according to Ch. 32, Wis. Stats.);
- Escheat (no legal property heirs);
- For the purposes of slum clearance or blight elimination (according to s. 66.1333, Wis. Stats.);
- By using Stewardship funds; or,
- Acquiring from another eligible LGU.

Who qualifies as an LGU under the Wisconsin Spill Law?

The following entities qualify as Local Governmental Units (LGU) for Spill Law liability exemptions:

- city;
- town;
- village;
- county;
- county utility district;
- town sanitary district;
- public inland lake protection and rehabilitation district;
- metropolitan sewage district;
- redevelopment authorities created for blight elimination;
- other public bodies designated by a municipality for urban renewal;
- a community development authority; or,
- a housing authority.

The state liability exemption protects an LGU from investigation and clean up responsibilities, *unless* the spill is caused by an action taken by the LGU, or by the LGU’s failure to take “limited actions” to prevent further spills. Those limited actions are:



- Restricting access to the property in order to minimize costs or damages that may result from unauthorized persons entering the property;
- Sampling and analyzing unidentified substances in containers stored above-ground on the property; and,
- Removing and disposing, or properly storing, any hazardous substances in above-ground containers that are leaking or likely to leak.

An LGU planning to redevelop and re-use a contaminated property that it owns, is advised to work closely with the DNR, starting early in the process, to determine what actions should or should not be taken on the property. The DNR can help the LGU avoid actions that could cause or exacerbate discharges of hazardous substances on the property. Together these parties can also evaluate and select site development plans and construction techniques that will protect health and safety associated with onsite risks, and ensure the LGU retains the liability exemption. Even exempt LGUs are required to:

- Remove any abandoned or unused underground storage tanks that are present on the property;
- Mitigate public health threats if deemed necessary by the DNR with regard to future development; and
- Notify the DNR immediately about the discharge of any hazardous substances on the property.

The liability exemption cannot be transferred to another party, except for another eligible LGU.

Liability Clarification Letters

The DNR's Remediation and Redevelopment Program can assist LGUs by clarifying environmental liability at a property with soil or groundwater contamination. Upon request, DNR can provide a fee-based (\$700) liability clarification letter that explains how the LGU exemption applies to a specific property. Use our [Technical Assistance and Environmental Liability Clarification Request \(Form 4400-237\)](#) to request a liability clarification letter, or contact your DNR project manager for details.

Solid Waste Exemption

There are several thousand known properties in Wisconsin where past disposal of solid waste has occurred. Many local governments are reluctant to take title to a property with an unlicensed landfill on it (e.g., an historic foundry sand disposal site), due to concerns about the long-term environmental liability and costs. Section 292.23(2)(a-f), Wis. Stats. exempts the local government from certain parts of the Wisconsin Solid Waste Law (ch. 289, Wis. Stats.) if an LGU acquires an unlicensed landfill through any of the eight methods listed within the statute (see pg. 1 for a list).

The properties must contain solid waste sites or facilities that have never been licensed by the DNR. The LGU cannot have owned, operated, or taken waste to the site. The exemption is modeled after the LGU Liability Exemption under the Spill Law. However, the LGU would be responsible for maintaining pre-existing systems (e.g., landfill cover, gas or leachate collection, monitoring, etc.)

The local government is required to prevent any unacceptable exposures to wastes or contamination when the property is put to its intended use. Written approval from DNR is required for building on an abandoned landfill. See publications RR-683, RR-684, and RR-685 for more information on this process. The LGU would also be required to maintain and monitor any existing environmental control systems for the landfill. Communities that are landlocked may be able to use these past disposal properties for public purposes and green space, as well as economic development purposes.

Hazardous Waste Exemptions

Section 292.24, Wis. Stats., exempts LGUs from certain hazardous waste requirements with respect to hazardous waste discharges on property acquired through any of the methods listed in ch. 292.11, Wis. Stats.(see pg. 1), if all the following conditions have been met:

- DNR-approved investigation is conducted that identifies hazardous waste discharges;
- hazardous waste discharges are cleaned up;
- LGU receives an approval from the DNR that the hazardous waste has been satisfactorily cleaned up;

- LGU maintains and monitors the property;
- LGU did not cause the hazardous waste discharge; and
- Hazardous waste treatment, storage, or disposal facility is not operated on the property after the date that the LGU acquired the property.

The DNR and the US EPA have also discussed additional ways to strengthen the Resource Conservation and Recovery Act (RCRA) hazardous waste exemption for sites that have a history of hazardous waste management activities. On October 26, 2009, DNR received EPA approval for a permanent program authorizing the DNR to exercise enforcement discretion, on a case-by-case basis, at sites with hazardous waste back-grounds. The EPA approval for this policy is dated December 6, 2006.

To request a RCRA enforcement discretion determination letter for a site with hazardous waste contamination, the LGU must request a general liability clarification letter from the DNR for a property they intend to acquire under the provisions of s. 292.11(9)(e), Wis. Stats. The DNR will then have the case-by-case discretion to determine whether or not to apply the Wisconsin hazardous waste regulations to that property. Where applicable, this letter will provide the LGU with an even stronger protection against long-term financial liabilities for the property when combined with the state’s hazardous waste exemption (s. 292.24, Wis. Stats.) described above.

Federal Liability Protections

CERCLA Liability Protections for Local Governments

In addition to state law protections, there are liability protections for LGUs under the federal law known as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund. Unlike state law, under federal law, a school district is also considered an LGU.

CERCLA liability protections, discussed in further detail below, may be available to a local government when it:

- Acquires contaminated property involuntarily by virtue of its function as a sovereign, CERCLA § 101(20)(D);
- Qualifies as a bona fide prospective purchaser (BFPP) when it acquires the contaminated property, CERCLA §§ 101(40), 107(r)(1);
- Qualifies for a third party defense or innocent land owner liability protection, CERCLA §§ 107(b)(3), 101(35)(A); or
- Is conducting or has completed a clean-up of a contaminated property in compliance with a state cleanup program, CERCLA § 128(b) (Courtesy US EPA).

Involuntary Acquisition

According to the Superfund law (CERCLA § 101(20)(D)), a “unit of state or local government which acquired ownership or control *involuntarily* through bankruptcy, tax delinquency, abandonment or other circumstances in which the government *involuntarily* acquires title by virtue of its function as a sovereign” is not considered to be an “owner” or “operator.” It is not necessary for the municipality to be completely passive in order for the acquisition to be considered “involuntary” for purposes of CERCLA.

This exemption does not apply to a municipality that caused the spill. A municipality should exercise “due care” to ensure that it does not cause or contribute to an actual or potential release at a property that it has acquired involuntarily. See the EPA fact sheet on CERCLA Liability and Local Government Acquisitions and other Activities at www.epa.gov/oecaerth/resources/publications/cleanup/brownfields/local-gov-liab-acq-fs-rev.pdf

Bona Fide Prospective Purchaser (BFPP)

BFPP certification provides a local government with CERCLA liability protection in the event that they knowingly purchase a property with environmental contamination. The following bullet points must be true in order for an LGU to meet BFPP certification:

- Property must be acquired after January 11, 2002;

- Purchaser must perform All Appropriate Inquiries (AAI) prior to the purchase of the property (must be completed within 180 days prior to acquisition)¹;
- Contamination must have occurred before purchaser acquired property; and
- Purchaser has no “affiliation” with a liable or potentially liable party.

Additionally, once acquisition is complete, local governments must comply with the following continuing obligations in order to maintain BFPP status; including:

- Comply with land use restrictions;
- Take “reasonable steps” to prevent the release of hazardous substances;
- Provide full cooperation, assistance and access;
- Comply with information requests; and
- Provide legally-required notices.

For more information on Bona Fide Prospective Purchaser, please see the EPA website at: www.epa.gov/oecaerth/cleanup/revitalization/bfpp.html.

Third Party Defense or Innocent Landowner Defense

Under Superfund, one private party often sues another to obtain money to assist with cleanup costs. This is known as a “third-party” lawsuit. A municipality that acquires property involuntarily, through the exercise of eminent domain by purchase or condemnation, or through direct purchase using the AAI process can be protected from “third-party” liability under CERCLA § 107(b)(3), if they meet certain minimum requirements. These requirements pertain to:

- The absence of any contractual relationship between the municipality and the causer;
- Showing that due care was exercised with respect to the contamination;

¹ AAI is defined by US EPA as “a process of evaluating a property’s environmental conditions and assessing the likelihood of any contamination.” The AAI Final Rule states that the standards set forth in the ASTM-E1527-05 Phase I Environmental Site Assessment Process satisfy the statutory requirements for all appropriate inquiries.

- Showing that the municipality took precautions against foreseeable acts or omissions, and the consequences thereof, by the third party that caused the contamination; and
- Meeting the specific criteria laid out in the applicable section of CERCLA that pertains to the innocent landowner defense being claimed.

A careful reading and study of CERCLA is necessary to assert and defend the third party liability defense effectively. Legal assistance is highly recommended.

Enforcement Bar

Local governments are protected from EPA enforcement under Superfund while they are conducting, or after they have completed a response action in compliance with a state response program at brownfield sites. This protection is referred to as the “enforcement bar.” This is a protection provided by federal law.

One Cleanup MOA

EPA and DNR entered into a Memorandum of Agreement (MOA), dated November 24, 2006, which clarifies EPA’s non-enforcement intentions at sites enrolled in Wisconsin’s voluntary cleanup program known as the Voluntary Party Liability Exemption (VPLE) Program. The MOA encourages the voluntary cleanup of brownfields without undue fear of EPA intervention.

CERCLA Liability and Federal Brownfields Grant Funding

EPA brownfields grant funds cannot be used to pay response costs (i.e. the cost of cleanup activities) at a brownfield site for which the grantee is potentially liable under CERCLA § 107. Applicants for federal brownfield grant funds, including Wisconsin’s Ready for Reuse cleanup funding, must document that they qualify for one of the CERCLA liability protections listed above in order to be considered eligible for funding. The Department recommends that a local government contact the Department brownfields staff prior to acquiring a site to discuss the appropriate steps.

The DNR recommends that LGUs consider using property acquisition methods that will provide both state Spill Law and federal CERCLA liability protections when acquiring contaminated properties.

Table # 1 – Liability Protection Summary

The following table summarizes both state and federal liability protection incentives as discussed in this fact sheet.

	Methods of Property Acquisition									
	Tax Foreclosure	Bankruptcy Order	Escheat	Eminent Domain (slum or blight; condemnation)	Purchase	Inheritance or Bequest	Abandonment	Gift / Donation	Stewardship	From an eligible LGU
<ul style="list-style-type: none"> ● <i>Could apply to local governments</i> ○ <i>Could apply to local governments if state and federal law and requirements under both are followed</i> 										
Key CERCLA Provisions										
Involuntary Acquisition § 101(20)(D)	●	●	●	○			●			○
Bona Fide Prospective Purchaser §§ 101(40) and 107(r)(1)	●	●	●	●	●	●	●	●	●	●
Third Party and Innocent Landowner Defenses §§ 107(b)(3) and 101(35)(A)			●	●	○	●				
Enforcement Bar § 128(b)	●	●	●	●	●	●	●	●	●	●
Key Wisconsin Provisions										
Spill Law § 292.11(9)(e)	●	●	●	●					●	●
Solid Waste § 292.23	○	○	○	○					○	○
Hazardous Waste § 292.24 and RCRA	○	○	○	○					○	○

For More Information

Information and frequently asked questions about liability protections for LGUs can be found at dnr.wi.gov, search [LGU](#).

Questions about the Local Government Liability Exemption should be directed to the brownfield specialist in your local DNR regional office - dnr.wi.gov/topic/Brownfields/Contact.html

This document contains information about certain state statutes and administrative rules but does not necessarily include all of the details found in the statutes and rules. Readers should consult the actual language of the statutes and rules to answer specific questions. The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240. This publication is available in alternative format upon request. Please call 608-267-3543 for more information.