

Schultz, Josie M - DNR

From: Beggs, Tauren R - DNR
Sent: Friday, January 18, 2019 10:12 AM
To: dcampbell@co.marquette.wi.us
Cc: Ashenfelter, Barry J - DNR; Nelson, William J - DNR; Schultz, Josie M - DNR
Subject: Clarification on the LGU Exemption Determination for the Skryzpek Property in Montello, BRRTS # 02-39-001676

Hi Diana,

The DNR Remediation & Redevelopment (RR) Program Attorney and the DNR Real Estate Section's Closing Officer have both reviewed the tax deed and supporting documentation you provided for the property at the intersection of County Hwy B and Hwy 23 in Montello (parcel # 251007820000), hereinafter referred to as the "property." Both of them have informed me that the title evidence demonstrates Marquette County initially acquired the property through tax delinquency proceedings, in May 2011, and this method of acquisition, per Wis. Stat. § 292.11(9)(e)(1m), secured the local governmental unit (LGU) environmental liability exemption for the county at that time. The county then transferred title for the property to Properties LLC, in October 2011, and the local government liability exemption was no longer in effect at the property.

Our attorney and closing officer are of the opinion that the January 2013 quit claim deed, which stated it was rescinding the October 2011 quit claim deed to Properties, LLC, is not a method of acquisition listed in Wis. Stat. § 292.11(9)(e)(1m), and, therefore, the local government environmental liability exemption is not in effect for the property at this time.

Wis. Stat. § 292.11(3), titled "Responsibility," states: "A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of this state."

With no liability exemption in effect, Marquette County is automatically a responsible party through its status as possessor/controller of the property. Persons and entities meeting the definition of "responsible party" must follow applicable law to address the discharge of a hazardous substance to the environment or other environmental pollution. Wis. Stat. ch. 292 and Wis. Admin. Code chs. NR 700 through NR 754 provide specific requirements for undertaking appropriate response actions to address contamination, including requirements for emergency and interim actions, public information, site investigations, remedy selection, design and operation of remedial action systems, and case closure.

If the County would like to appeal this determination, please provide additional documentation to support a re-evaluation of the LGU exemption determination for the property. If you have any questions or would like to discuss this matter further, please feel free to contact Barry Ashenfelter – RR LGU Specialist at 608-267-3120, Bill Nelson – RR Program Attorney at 608-267-7456, or me at my number below.

Regards,

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Tauren R. Beggs

Hydrogeologist & Northeast Region Land Recycling Expert

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