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March 1, 2021

**VIA EMAIL TO [denise.danelski@wisconsin.gov](mailto:denise.danelski@wisconsin.gov)**

Denise D. Danelski  
Environmental Program Associate  
Wisconsin Department of Natural Resources  
2984 Shawano Ave.  
Green Bay, WI 54313-6727

**Re: Reported Contamination at Skrzypek Property (former), Parcel #251-00782-0000, County Highway B and State Highway 23, Montello, WI  
DNR BRRTS Activity # 02-39-001676**

Dear Ms. Danelski:

Our firm represents Marquette County and Ms. Jody Myers has referred to us your letter of February 19, 2021. My partner Natalie Bussan is temporarily of the office on medical leave and has asked me to review and respond.

It is my opinion that the Marquette County Property Committee acted within its authority when it rescinded through Quit Claim Deed the earlier transfer to Whitemarsh Properties LLC. Marquette County Code of Ordinances § 2.09(F)(4) provides that the Property Committee “shall order the County Clerk to take tax deeds on tax delinquent property, have jurisdiction over all matters pertaining to County property taken by tax deed, and the sale thereof”. The County took the Skrzypek property via tax deed and the Property Committee, therefore, had full jurisdiction over disposition of the parcel. That authority extended to the transfer to Whitemarsh, and the subsequent rescission of that transfer.

Under Wisconsin law, the effect of a rescission is to restore the parties to the position they occupied had the contract never been made. HBN P’ship v. Schappe, 1995 Wis. App. LEXIS 118, 191 Wis. 2d 824, 532 N.W.2d 144. The rescission voided the transfer to Whitemarsh and placed the county in the position it was in before the 2011 transfer. The County’s ownership of the parcel was still the result of a tax delinquency proceeding and accordingly, the County is still entitled to the liability exemption provided by Section 292.11(9)(e)1m.a.

Ms. Denise Danelski

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In reaching this conclusion, I am mindful of the earlier opinion of Attorney William Nelson of the DNR Bureau of Legal Services that the 2013 Quit Claim Deed rescinding the 2011 transfer to Whitemarsh back constituted a new conveyance, not part of the original tax delinquency proceeding. Though I disagree with this conclusion, I do agree that if it is correct, then the Property Committee did not act within its authority when it rescinded the 2011 transfer. In that event, the 2013 Quit Claim Deed was invalid as not properly authorized or executed and title to the property would still be with Whitemarsh Properties, LLC.

Although I am advising Marquette County that it remains entitled to exemption under the statute, we do wish to cooperate in any way we can to prevent environmental harm. My understanding is that earlier, efforts were made to obtain funding for environmental studies. We remain interested in applying for any such aid that might be available and ask that you advise as to any possibilities in this regard.

Very truly yours,

**CROSS JENKS MERCER & MAFFEI LLP**



Wayne L. Maffei

WLM:acr

c: Ms. Jody Myers (*via email*)  
Mr. Gary Sorenson (*via email*)  
Atty. Natalie Bussan (*via email*)