

## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary  
Gloria L. McCutcheon, Regional Director

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May 10, 2007

Mr. Ward D. Phillips  
Leece & Phillips, S.C.  
P.O. Box 710  
Elkhorn, WI 53121

Mr. Sam Tapson, Jr., City Administrator  
City of Elkhorn  
9 South Broad Street, Box 920  
Elkhorn, WI 53121

Subject: Former Elkhorn Metal Finishers' Property at 205 W. Centralia St., Elkhorn,  
Wisconsin 53121. **FID#265008590 BRRTS#02-65-001069**

Dear Mr. Phillips and Mr. Tapson:

The Wisconsin Department of Natural Resources ("Department") received on May 4, 2007 a request from Attorney Ward D. Phillips, dated May 3, 2007, for clarification of the Department's February 22, 2007 general liability clarification letter. The request asked whether the "Donation Agreement", as drafted, meets the terms under "liability determinations" at subsection (d) on pages 3 and 4 of the Wisconsin Department of Natural Resources' letter.

The Department's February 22, 2007 letter stated in the referenced subsection (states in part):

**"D. Terms of Negotiated Agreement.**

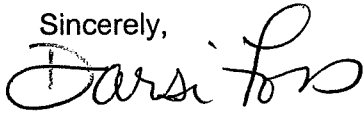
The City's acceptance of the proposed settlement terms is conditioned upon the full approval of this Property resolution by the Wisconsin Department of Natural Resources. The Wisconsin Department of Natural Resources must approve this settlement and accept the City as an exempt "local governmental unit" as defined by Wis. Stats., s.292.11(9)(e)1m."

The Department has reviewed the proposed Donation Agreement provided with the May 3, 2007 request letter. Based upon review of the proposed agreement, the Department concludes as follows.

1. The agreement will transfer title for the Property to the City of Elkhorn.
2. The agreement will effectively conclude the property condemnation process initiated by the City.
3. Acquiring the Property through condemnation will qualify the City as an exempt "local governmental unit" as defined by Wis. Stats., s.292.11(9)(e)1m."
4. The language of the agreement is sufficient to meet the terms that the Wisconsin Department of Natural Resources required in the February 22, 2007 letter.

The Department looks forward to working with the City of Elkhorn to carry out remediation and future redevelopment of the Property. We also hope this letter provides the needed assurances concerning the local governmental unit liability exemption. Should you have questions regarding technical issues please contact Mark Drews at (262) 574-2146, or contact Dan Kolberg at (608) 267-7500 regarding liability exemption issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Darsi Foss". The signature is written in a cursive, flowing style.

Darsi Foss, Chief  
Brownfields and Outreach Section  
Wisconsin DNR

CC: SER site file  
Jim Schmidt – SER, Milwaukee  
Mark Drews - SER, Waukesha  
Dan Kolberg – RR  
Judy Ohm – LS/5

Document Number

# Notice of Lien

Under the authority of s. 292.11(7) (a), Wis. Stats. the Department of Natural Resources (" the Department") has expended funds to investigate and remediate hazardous substances on the following property, owned by 205 West Centralia St. LLC:

The property located at 205 West Centralia St., City of Elkhorn, Property Tax Key Number YUSW00053B, Walworth County, Wisconsin, in the SW1/4 of the NE ¼ of Section 1, Town 2 North, Range 16 East, with the following legal description:

Commencing at a point that is 215.1 feet west of and 66.0 feet south of the intersection of the west line of South Church Street, and the north line of Centralia Avenue of the City of Elkhorn, Walworth County, Wisconsin; thence west along the south line of said Centralia Avenue, 120.0 feet to a point thence south 369.56 feet to a point in the northerly line of the Chicago, Milwaukee, St. Paul & Pacific Railroad, right of way, thence N 70 degrees 45' E., along said right of way line 127.1 feet to a point, thence North 327.6 feet to the place of beginning.

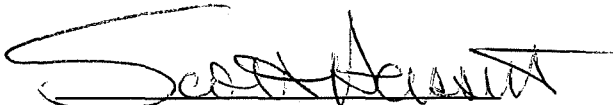
Under s. 292.81 (3), Wis. Stats., when the Department expends funds to investigate and remediate hazardous substance contamination, the Department may file a lien for the amount expended for such purposes with the Register of Deeds in the county where the contaminated property is located.

The amount expended by the Department in this case, between December 31, 2004 and November 30, 2005, is approximately \$17,058.00. The Department previously filed a lien against this property in the amount of \$69,352.00. That lien was recorded on May 31, 2005, at the Register of Deeds office for Walworth County. The Department expects to expend additional funds for the remediation of this property in the future. Another Notice of Lien will be filed when the amount of the additional funds expended is known. The property remains subject to this lien, and the lien recorded on May 31, 2005, until the amount owed is paid in full. This lien and the lien recorded on May 31, 2005, are superior to all other liens that are or have been filed against the property, except that if the property is residential property, as defined in s. 895.52 (1) (i), Wis. Stats., the lien does not affect any valid prior lien, as defined in s. 292.81 (1), Wis. Stats., on that residential property.

The Department certifies that to the best of its knowledge and belief, all information contained in this Lien is correct, and this lien represents a legal encumbrance upon the property. Based on the above information and the authority of s. 292.81 (3), Wis. Stats., the Department claims a lien against the interest which the owners have in the above-described property in the amount of \$17,058.00.

Department of Natural Resources

By:



Scott Hassett,  
Secretary

### AUTHENTICATION OR ACKNOWLEDGEMENT

Signed and sworn to before me this

17<sup>th</sup> day of February, 2006.

Audith Mills Olson

State of Wisconsin, County of Dane

My Commission is permanent.

This document was drafted by the Department of Natural Resources

Recording Area

Name and Return Address

Mark Drews  
Department of Natural Resources  
141 NW Barstow St., Room 180  
Waukesha, WI 53188

Parcel Identification Number (PIN)