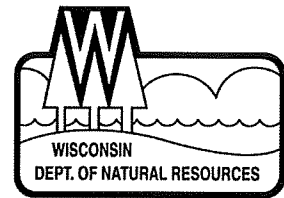


State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee WI 53212-3128

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
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December 9, 2019

BRRTS#: 02-30-583151

County of Kenosha
c/o County Clerk
1010 56th Street
Kenosha, WI 53140

Subject: Request for property acquisition documentation related to state statutory local governmental unit environmental liability exemptions potentially available at: 2019 91st St., 2019 91st St., Pleasant Prairie, WI 53158
County Tax Parcel # 9341231830440

Dear County of Kenosha:

The discharge of a hazardous substance to the land, air, or water of the state (i.e. the presence of environmental contamination) has been reported to the Department of Natural Resources (DNR) on property located at 2019 91st Street, Pleasant Prairie, WI, subsequently referred to in this letter as the "Property." The reported discharge occurred on June 5, 2018. DNR attempted to contact the then property owners several times (letters attached). The discharge reported to the DNR was concerning diesel fuel releasing from a generator on the property, of which the exact location is unknown.

Based on information available to us, it is our understanding that the County of Kenosha is the owner of the Property. The DNR seeks to determine whether this property ownership information is accurate and, if so, to find out whether the Property was acquired in a manner consistent with Wis. Stat. §§ 292.11(9)(e)(1m) and 292.23, which authorize the local government Spill Law and Solid Waste Management liability exemptions.

Request for Information

Please respond within 30 days to avoid having the County of Kenosha automatically identified as a party responsible for environmental investigation and remediation at the Property.

Please let DNR know in the next 30 days if the County of Kenosha currently owns the Property, and, if so, how the County of Kenosha acquired the Property. Review the enclosed DNR fact sheets, RR-055 and RR-579, and use RR-055 to guide your preparation of a response to DNR. Include appropriate documentation with your response to demonstrate compliance with the statutory requirements necessary to obtain the Spill Law and Solid Waste Management liability exemptions at the Property.

If the County of Kenosha does not currently own the Property, please notify DNR of this fact within 30 days of the date of this letter and identify the current owner. Also, please inform us of the dates of past ownership, if any, of the Property by the County of Kenosha.

DNR Acknowledgement of Your Response

DNR staff in the Remediation and Redevelopment Program will review your response to this letter and the documentation that you provide. If DNR determines that your documentation is sufficient, you will receive a letter from DNR acknowledging your submittal. A corresponding notation for the Property will be entered into the Bureau for Remediation and Redevelopment Tracking System (BRRTS) database, which is accessible at <http://dnr.wi.gov/topic/Brownfields/wrrd.html>.

If a property acquisition scenario is significantly complicated or unclear, an in-depth DNR review may be needed to make an agency determination. In these situations, it may be necessary for a local governmental unit to request a fee-based liability clarification letter. DNR will inform you if this situation should arise.

If you do not provide timely documentation, or if DNR determines that your documentation clearly makes your local government not eligible for the LGU exemption, then, as is standard procedure, the County of Kenosha will receive a Responsible Party letter from DNR that outlines next steps related to the required environmental investigation and remediation of the Property.

DNR Liability Clarification Letters

If the County of Kenosha would like a written determination from DNR about the applicability of the statutory environmental liability exemptions available to local governmental units at the Property, or any property, you can request a liability clarification letter by completing DNR Form 4400-237, available at <http://dnr.wi.gov/files/PDF/forms/4400/4400-237.pdf>, and submitting the corresponding fee.

DNR can provide liability clarification letters before or after property acquisition. Letters issued before acquisition can act as guidance and letters issued after acquisition document DNR's determination.

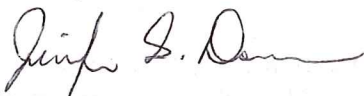
Public Availability of Documents

Information you submit to DNR in response to this letter will be placed in DNR's file for the Property, and tracked in a publicly available DNR database called BRRTS on the Web, which is available at <http://dnr.wi.gov/topic/Brownfields/wrrd.html>.

Please direct your replies to this letter, and any questions to: Barry Ashenfelter, DNR-RR/5, 101 S. Webster St., Madison, WI 53707-7921. Phone: (608) 267-3120;
Email: barry.ashenfelter@wisconsin.gov.

Thank you for your attention and prompt response to this inquiry.

Sincerely,



Jennifer S. Dorman
Remediation & Redevelopment Program

County of Kenosha, December 9, 2019
2019 91st Street, BRRTS # 02-30-583151

Enclosures

- RR 055: LGU Liability Exemption Fact Sheet
- RR 579: State & Federal Liability Protections for Local Governmental Units
- Notice of Non-Compliance Letter sent to Joshua & Amy Jabs

ECopy – Riley Neumann & Barry Ashenfelter, DNR



Local Government Environmental Liability Exemptions in Wisconsin

The Hazardous Substance Spills Law, [Wis. Stat. § 292.11](#), requires any person or entity that causes, possesses or controls a hazardous substance discharge to take action to restore the environment to the extent practicable.

[Wis. Stat. § 292.11\(9\)\(e\)](#) exempts counties, municipalities, and other “local governmental units” from environmental investigation and cleanup responsibilities at properties they own when the local government obtains title to a contaminated property in a specific way, and other conditions are satisfied.

In addition, [Wis. Stat. § 292.23](#) exempts local governmental units from solid waste management standards and rules. [Wis. Stat. § 292.26](#) provides civil immunity to local governmental units for hazardous substances discovered at certain properties formerly owned by the local governmental unit.

The term local governmental unit (LGU) is defined as any county, city, town, village, town sanitary district, county utility district, public inland lake protection and rehabilitation district, metropolitan sewage district, a redevelopment authority created under Wis. Stat. § 66.1333, a public body designated by a municipality under Wis. Stat. § 66.1337(4), a community development authority, or a housing authority.

The method used to acquire the property is crucial

To obtain state law environmental liability exemptions at a specific property, a local government must acquire title to the property in one of the following ways: a) through tax delinquency proceedings; b) through an order of a bankruptcy court; c) from another local governmental unit that is exempt; d) through condemnation under Wis. Stat. Ch. 32; e) for the purpose of blight elimination (using a state or federal process law); f) through escheat; or g) with a DNR Stewardship grant.

The state’s local government liability exemption has limits and conditions

The local government liability exemption applies to pre-existing contamination in soil, groundwater, sediment and surface water on the property that was caused by an individual or entity other than the local governmental unit. No liability exemption is available for those hazardous substance discharges caused or exacerbated, either actively or negligently, by the local governmental unit. Wis. Stat. §§ 292.11(9)(e)(2) and (4) detail these limitations.

The DNR recommends that a local government analyze unidentified substances in containers stored above ground on the property, and properly secure or dispose of these containers. Further, when property reuse is planned, a local government should notify the DNR and work together to ensure that any substantial health threats are mitigated during the redevelopment activities. Failing to do so may end the exemption.

The state local government environmental liability exemption only applies to the investigation and cleanup of contaminated property and solid waste management. Local governments are not exempt from other environmental laws, such as reporting requirements for newly discovered discharges, removing underground tanks, etc.

The DNR can provide liability clarification letters

The local government environmental liability exemption is automatically conferred when statutory conditions are satisfied. No approval from the DNR is required. However, the DNR can provide a written liability clarification opinion letter if desired. A fee is required for all types of Wisconsin law environmental liability clarification letters. Use the DNR Form 4400-237 to request a liability clarification letter. Visit the U.S. EPA’s website for information about federal landowner liability protections,

<https://www.epa.gov/enforcement/landowner-liability-protections>.

Local governmental unit exemption - verification information to provide to the DNR

When requesting a liability clarification letter from the DNR, or asserting fulfillment of the statutory requirements that confer a local government environmental liability exemption at a specific property, the DNR requests that local governments instruct their municipal attorney to submit and verify the following information. The DNR will use this documentation to inform the agency's determination.

1. Identify how or why the property was acquired.

- Through tax delinquency foreclosure proceedings
- Through condemnation or other eminent domain proceedings under Wis. Stat. Chapter 32
- For the purpose of blight elimination (as described in a state or federal process law)
- From another local governmental unit that previously acquired an exemption at the property
- Through an order of a bankruptcy court; or through escheat
- With the proposed use of Knowles-Nelson Stewardship grant funds

2. Provide documentation of the property acquisition method.

Along with a memo summarizing the acquisition, provide one or more of the following documents, or other relevant documentation, to verify the method used to acquire title to the property.

For tax delinquency acquisitions

- Court order assigning title; the new deed; an explanation of county's transfer to the LGU

For acquisition via condemnation

- Memo outlining the steps followed under Wis. Stat. Ch. 32; a copy of the deed assigned to the LGU; and a copy of any negotiated agreement involved in the transfer

For acquisitions for the purpose of blight elimination

- Blight determination documentation based on a Wis. Stat. Ch. 66 definition of blighted property or area and a related process, public hearing results and a municipal resolution approving the blight determination; Or a local resolution approving the creation of a tax incremental financing district for blight elimination; Or evidence of a blight designation via a federal law process.

For title transfers from another exempt local governmental unit

- Documentation of the prior LGU owner's method of property acquisition and the process used to transfer property to the current LGU owner

For acquisition through bankruptcy

- Bankruptcy court order, with language assigning property to the LGU highlighted

For acquisition by escheat or with Stewardship grant funds

- Contact the DNR-RR LGU specialist for assistance. Contact information is listed below.

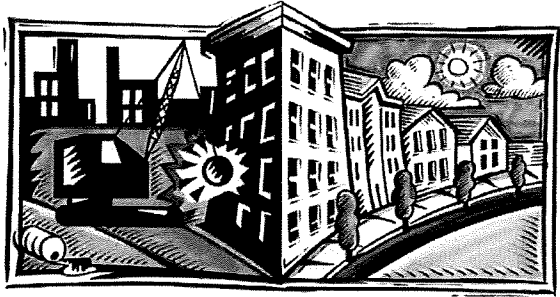
3. Provide other property data.

- Property address, legal description and/or the PLSS 1/4, 1/4 section description
- A map or aerial photo of the property and a summary of current uses
- Name of current and previous owner (title holder)
- List of intended or potential new uses for the property
- Description of any environmental investigations at the property
- Summarize the DNR license history if the property was previously used as a dump or landfill
- The date, or proposed date, of title transfer and property acquisition

Send materials to: Barry Ashenfelter, DNR RR/5, 101 S. Webster St., Madison, WI 53707-7921.

Contact Barry at 608-267-3120 or barry.ashenfelter@wisconsin.gov with questions and comments.

This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the DNR. Any regulatory decisions made by the DNR in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts. The DNR provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Chief, Public Civil Rights, Office of Civil Rights, U.S. Department of the Interior, 1849 C. Street, NW, Washington, D.C. 20240. This publication is available in alternative format (large print, Braille, etc.) upon request. Please call for more information. Note: If you need technical assistance or more information, call the Accessibility Coordinator at 608-267-7490 / TTY Access via relay - 711



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:



Wisconsin Department of Natural Resources
P.O. Box 7921, Madison, WI 53707
dnr.wi.gov, search “brownfield”



- 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

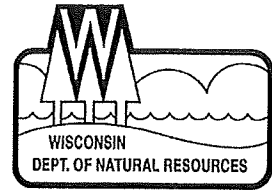
Information and frequently asked questions about liability protections for LGUs can be found at dnr.wi.gov, search [LGU](#).

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.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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Milwaukee WI 53212-3128

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



August 21, 2019

CERTIFIED MAIL

Mr. & Mrs. Joshua & Amy Jabs
2019 91st Street
Pleasant Prairie, WI 53158

Subject: Notice of Non-Compliance: Action Required by September 20, 2019
2019 91st Street, Pleasant Prairie, WI
BRRTS #: 02-30-583151, FID #: 230220980

Dear Mr. & Mrs. Jabs:

This letter is to notify you that you are out of compliance with Wisconsin Statutes (Wis. Stat.) chapter 292 and Wisconsin Administrative Code (Wis. Admin. Code) chapters NR 700 through NR 754. On June 5, 2018, the Wisconsin Department of Natural Resources (Department) notified you of your responsibilities to remediate the discharge of a hazardous substance on your property. Additionally, on April 2 and May 1, 2019, the Department sent letters notifying you of your responsibilities to investigate the degree and extent of contamination and clean up the above-referenced site. These letters are attached for your reference. As of the date of this letter, the Department has not received a response from you.

Please be aware that the Department may initiate enforcement action against you for failure to comply with Wis. Stat. chapter 292. Your legal responsibilities are defined both in Wis. Stat. chapter 292 and Wis. Admin. Code chapters NR 700 through 754 and are also described in the April 2 and May 1, 2019, letters. In particular, Wis. Stat. § 292.11(3), states:

RESPONSIBILITY. 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 the state.

Our information indicates that you have not responded to previous requests for information regarding a hazardous substance discharge on your property, occurring on June 4, 2018.

Wis. Admin. Code chapters NR 700 through NR 754 establish requirements for emergency and interim actions, public information, site investigations, design and operation of remedial action systems, and case closure. Chapter NR 708 includes provisions for immediate actions in response to limited contamination. Wis. Admin. Code chapter NR 140 establishes groundwater quality standards for contaminants that reach groundwater.

The Department is requesting that within 30 days of the date of this letter, by September 20, 2019, you contact the Department to provide documentation regarding the cleanup of the hazardous substance discharge.

Please understand that you are in noncompliance and will remain in noncompliance until you fulfill all requirements of the statute. Failure to take the actions required by Wis. Stat. § 292.11 to address this contamination will cause the Department to review this case for enforcement actions. Additionally, please be advised that the Department is authorized under Wis. Stat. § 292.94 to assess non-reimbursable fees for any reports you are required to submit as part of additional enforcement actions.

If you are experiencing problems selecting an environmental consultant or if you have other questions concerning the cleanup process, please do not hesitate to write or call me, Department Project Manager, at (414) 263-8699, or via email at riley.neumann@wisconsin.gov. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Riley D. Neumann', with a long horizontal flourish extending to the right.

Riley D. Neumann
Hydrogeologist / Project Manager
Remediation & Redevelopment Program

Enclosed:

- April 2, 2019, Site Status Update Letter
- May 1, 2019, Site Status Update Letter

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee WI 53212-3128

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
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April 2, 2019

Certified Mail

Certified Mail No.: 7017 1000 0001 1261 6034

Mr. & Ms. Joshua & Amy Jobs
2019 91st Street
Pleasant Prairie, WI 53158

Subject: Site Status Update Request
2019 91st Street, Pleasant Prairie, WI
BRRTS #: 02-30-583151, FID #: 230220980

Dear Mr. and Ms. Jobs:

The Wisconsin Department of Natural Resources (DNR) was notified of a discharge of a hazardous substance at the property described above on June 4, 2018. Attempts were made to contact you regarding the cleanup, but to date, the DNR has not received confirmation of the cleanup of this discharge. On February 19, 2019, the DNR sent a letter describing your responsibility to address the contamination at the property described above.

Based on the available information that has been received by the DNR; we believe you are responsible for investigating and restoring the environment to the extent practicable per Wis. Stats. § 292.11, known as the hazardous substances spill law. This law 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 the state.”

The DNR would like to assist you in bringing this case to closure. Within 30 days of the date of this letter, by May 2, 2019, inform the DNR of the status of this discharge and provide any cleanup documentation. If a response is not received, the DNR will consider initiating enforcement actions.

If you have questions, contact me, the DNR Project Manager, at (414) 263-8699, or via email at riley.neumann@wisconsin.gov.

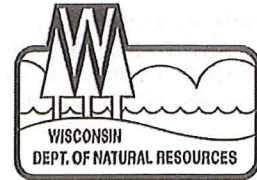
Sincerely,

A handwritten signature in black ink, appearing to read 'Riley D. Neumann', is written over a horizontal line.

Riley D. Neumann
Hydrogeologist/Project Manager
Remediation & Redevelopment Program

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee WI 53212-3128

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



May 1, 2019

Mr. & Ms. Joshua & Amy Jabs
2019 91st Street
Pleasant Prairie, WI 53158

Subject: Site Status Update Request
2019 91st Street, Pleasant Prairie, WI
BRRTS #: 02-30-583151, FID #: 230220980

Dear Mr. and Ms. Jabs:

The Wisconsin Department of Natural Resources (DNR) was notified of a discharge of a hazardous substance at the property described above on June 4, 2018. Attempts were made to contact you regarding the cleanup, but to date, the DNR has not received confirmation of the cleanup of this discharge. On February 19, 2019, the DNR sent a letter describing your responsibility to address the contamination at the property described above. In addition, the DNR sent a letter via certified mail on April 2, 2019. This letter was returned, unclaimed, to the DNR. The envelope indicated that you were notified of the certified mail.

Based on the available information that has been received by the DNR, we believe you are responsible for investigating and restoring the environment to the extent practicable per Wis. Stats. § 292.11, known as the hazardous substances spill law. This law 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 the state.”

The DNR would like to assist you in bringing this case to closure. Within 30 days of the date of this letter, by May 31, 2019, inform the DNR of the status of this discharge and provide any cleanup documentation. If a response is not received, the DNR will consider initiating enforcement actions.

If you have questions, contact me, the DNR Project Manager, at (414) 263-8699, or via email at riley.neumann@wisconsin.gov.

Sincerely,

Riley D. Neumann
Hydrogeologist/Project Manager
Remediation & Redevelopment Program