



July 1, 2014

BRRTS#: 02-41-097173
FID #: 241239460

Mr. Timothy Rhode
City Administrator
4235 S. Nicholson Avenue
St. Francis, WI 53235

Subject: Request for clarification of environmental liability at D F Inc.

Dear Mr. Rhode:

The discharge of a hazardous substance has been reported to the Department of Natural Resources (Department) for property located at D F Inc., 2517 E. Norwich Avenue, St. Francis, referred to as the "Property." Based on our earlier conversation, it is our understanding that the City of St. Francis is the owner of this Property.

This letter requests a response within 30 days of receiving this letter. Your governmental unit may be eligible for a liability exemption from Wisconsin's Hazardous Substance Discharge Law (the "Spill Law"), s. 292.11, Wis. Stats., depending on how the contaminated property was acquired. This letter contains information to help you decide whether this Property qualifies for that exemption, and how to provide that information to the Department.

Wisconsin's Spill Law defines a responsible party as a person who is in possession or control of a hazardous substance discharge (e.g., owns a property where a discharge has occurred or been discovered) or who causes the discharge of a hazardous substance. To provide liability relief to local governmental units (LGUs), the Wisconsin legislature amended the Spill Law to include an exemption to some provisions of the Spill Law for LGUs that meet certain specified conditions in s. 292.11(9)(e), Wis. Stats.

How is an LGU eligible for the exemption?

There are four general conditions an LGU must meet in order to demonstrate eligibility for the LGU exemption:

1. LGU Definition: An LGU is defined in the Spill Law as any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewage district, a redevelopment authority created under s. 66.1333, Wis. Stats., a public body designated by a municipality under s. 66.1337(4), Wis. Stats., a community development authority, or a housing authority."

2. Acquisition method: A local government is eligible for the exemption from portions of the Spill Law if it acquires the contaminated property by one of the following means:

- result of an order by a bankruptcy court
- tax delinquency proceedings
- from a local governmental unit that had the exemption
- escheat

- condemnation or other proceeding under chapter 32
- for the purpose of slum clearance or blight elimination
- Stewardship funds with a signed agreement with the Department.

3. Action or Inaction: The LGU exemption does not apply at a property where the discharge of a hazardous substance was caused by any of the following:

- An action taken by the LGU.
- A failure of the LGU to take appropriate action to restrict access to the property
- A failure of the LGU to sample and analyze unidentified substances in containers stored above ground on the property.
- A failure of the LGU to remove and properly dispose of, or to place in a different container and properly store, any hazardous substances stored in a container that is leaking or is likely to leak, stored above ground on the property.

4. Intended Development or Use: If the LGU retains the Property, the intended development or use of the Property should be discussed with one of the Department staff named below to ensure that the proposed development or use is consistent with the protection of public health and safety. If the Department determines that action is needed to reduce substantial threats to acceptable levels, the LGU will need to take necessary actions to make the development and use plans compatible with on-site risks, in order to retain the exemption.

While this exemption applies to certain portions of the Spill Law, the LGU must still comply with other portions of the Spill Law, such as the spill reporting requirements. In addition, an LGU must still comply with other applicable environmental laws, such as Solid and Hazardous Waste Program requirements.

What does the LGU need to do?

If you believe this Property meets the conditions of the LGU exemption, please respond to the Department within 30 days of receiving this letter with sufficient information to demonstrate your conclusion. In particular, you will need to address the four conditions outlined in this letter, and other statutory requirements, pertaining to: (1) LGU definition; (2) acquisition method; (3) action or inaction; and (4) intended development or use, if any. The Department will review this information to assist in determining your liability under the Spill Law. If you choose not to submit this information, or the data is not adequate to determine your eligibility, the Department may issue you a letter advising that you are responsible under the Spill Law to begin a site investigation of this Property.

If the exemption conditions are met, this information will be placed in the site file and tracked in a Department database that is available on the Internet at <http://dnr.wi.gov/topic/Brownfields/clean.html>. Select "BRRTS on the web". If you need specific written information about your liability for the Property, a request for a general liability clarification letter (with the required \$700 fee) can be made to the Department.

I have enclosed a fact sheet providing further details on the LGU exemption. Other information and a copy of the Spill Law can also be found on the Department's web page at: <http://dnr.wi.gov/topic/Brownfields/>.

Please feel free to contact Dan Kolberg at (608) 267-7500 or Paul Grittner at (414) 263-8541 or by email at paul.grittner@wisconsin.gov with any questions. Thank you.

D F Inc.
2517 E. Norwich Avenue, St. Francis, WI
WDNR BRRTS #: 02-41-097173
FID #: 241239460

Sincerely,



Paul Grittner
Hydrogeologist
Remediation & Redevelopment Program

Enclosure

- RR 579 LGU Exemption Fact Sheet #7