



## **Brownfields Toolbox:**

**DNR's Programs & Products to Help You Successfully  
Redevelop Brownfields**

**Barry Ashenfelter**

**Policy & Program Analyst, WDNR**

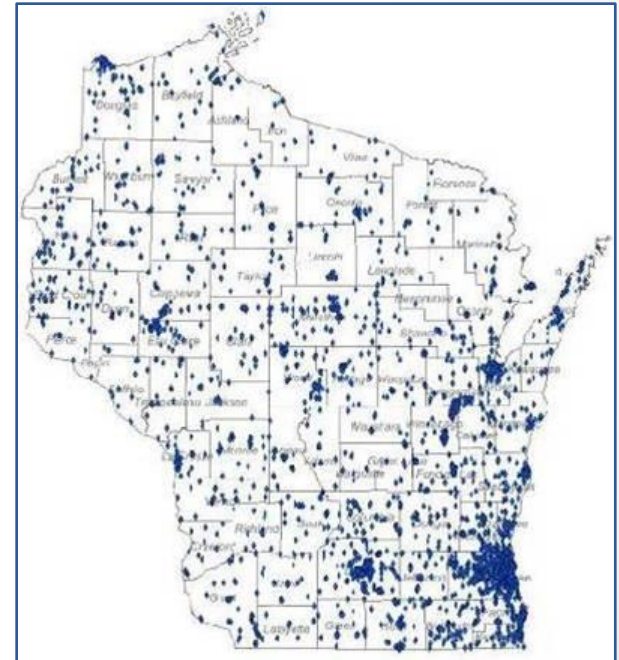
**Michael Prager**

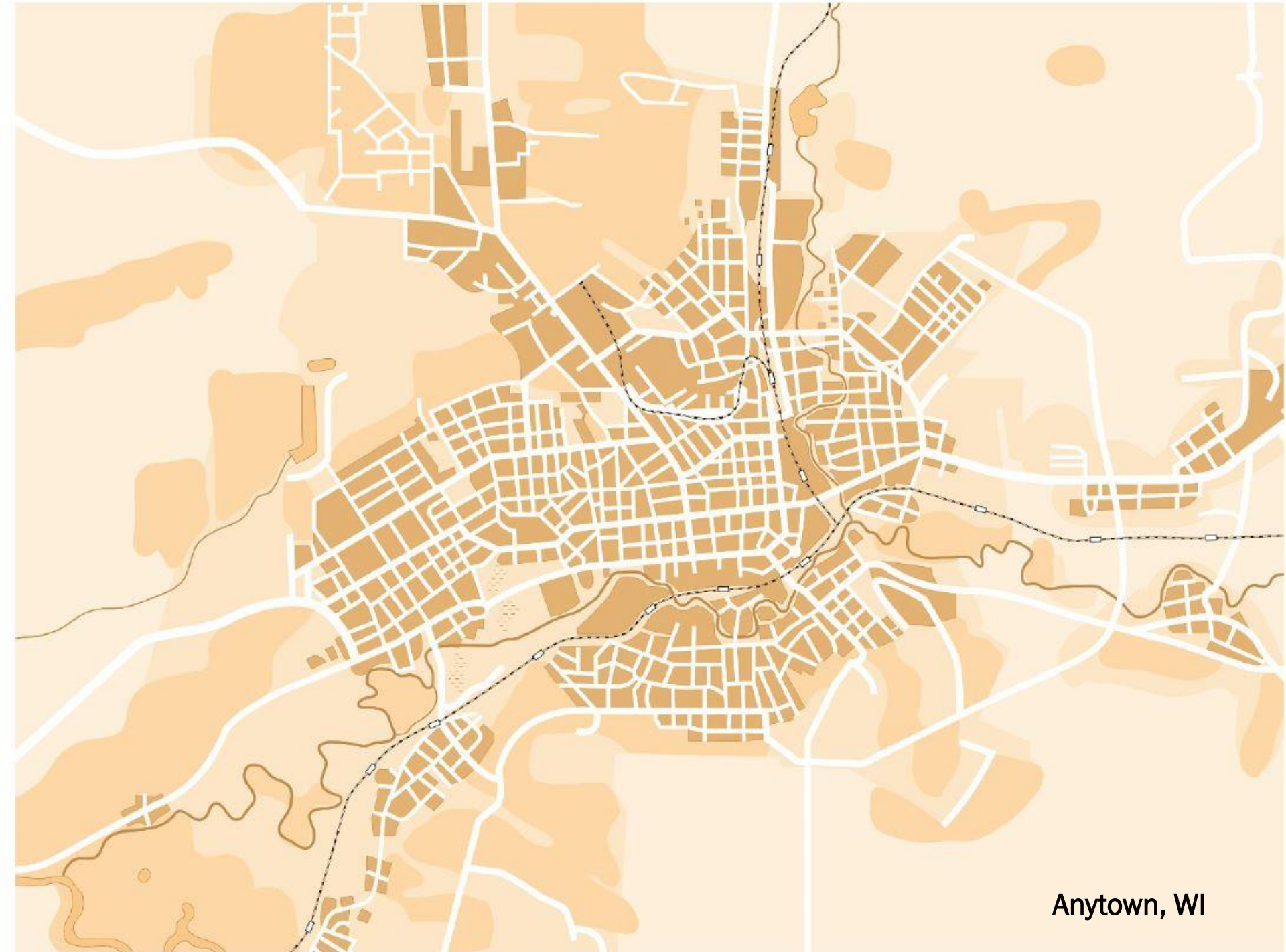
**Land Recycling Team Leader, WDNR**

# Remediation and Redevelopment Program

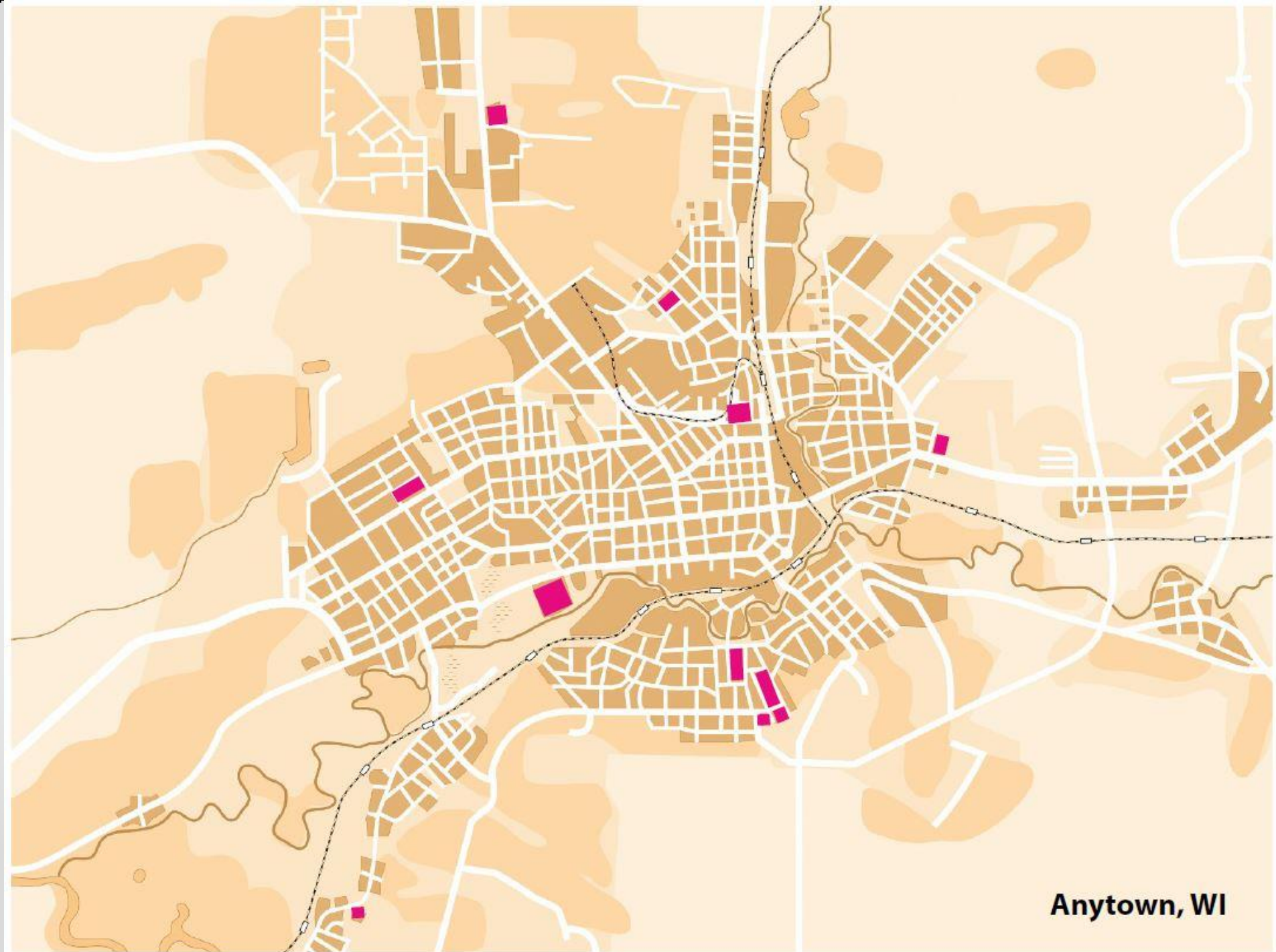
## 22-year anniversary of Land Recycling Act

- Activity in 72 counties
- 96% of municipalities
- 25,000 sites cleaned up
- 24,000 acres reused  
(since 2004)





Anytown, WI



**Anytown, WI**















LEWIS & CLARK TRUCK CENTER

STORAGE

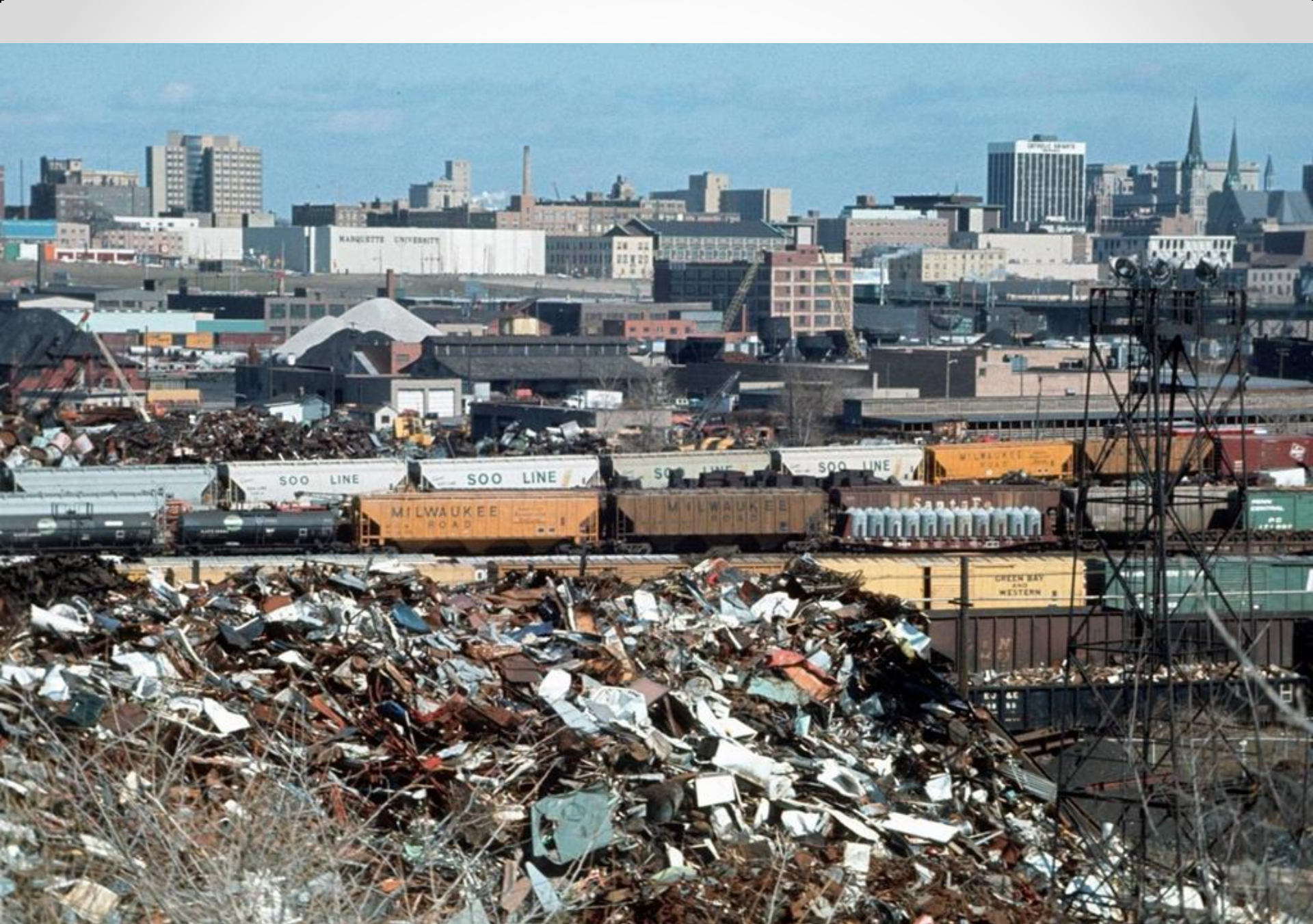
Yellow sign on a wooden post in the foreground.

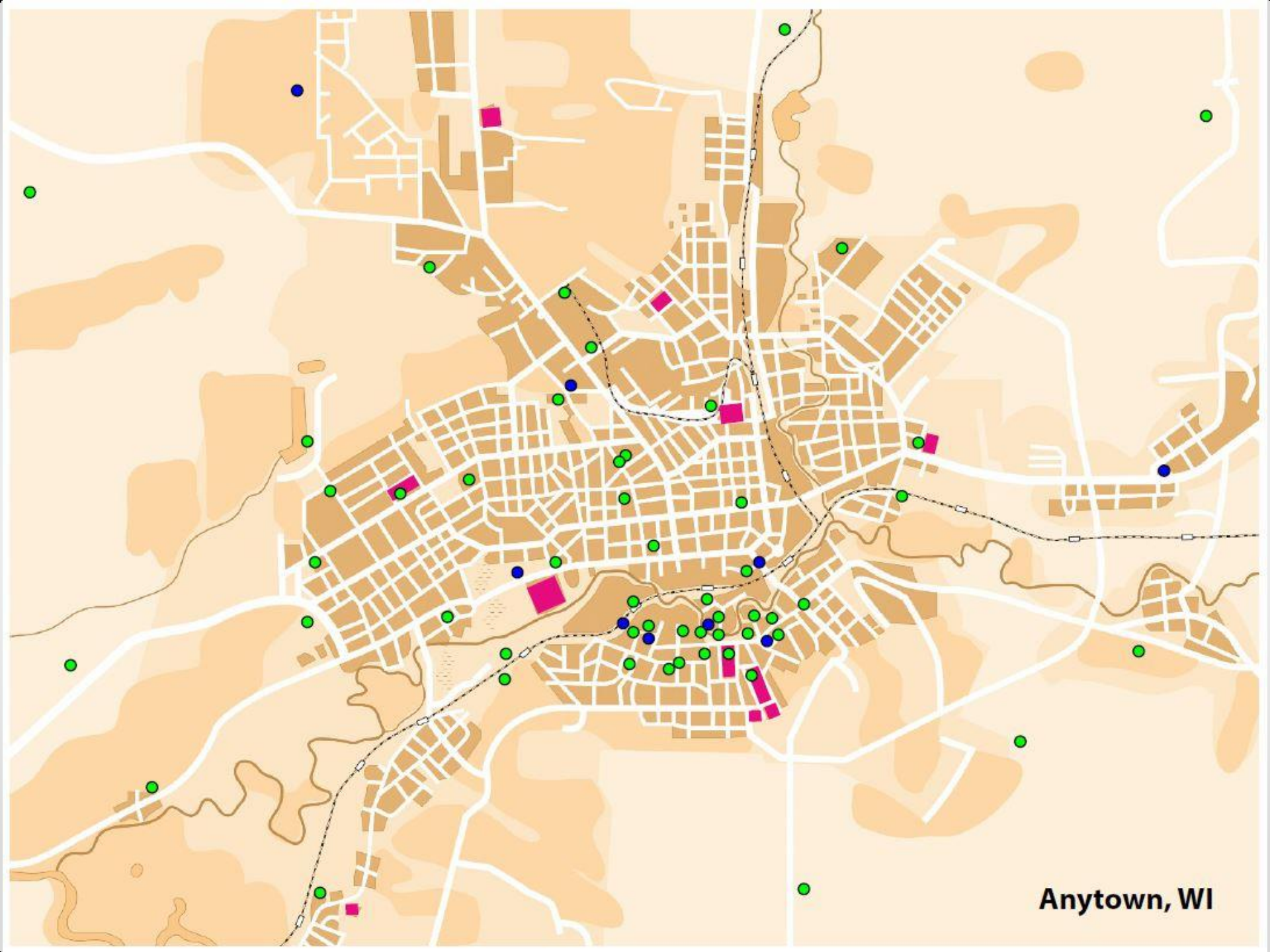












**Anytown, WI**



# Roles of DNR and EPA

- Brownfields are not Superfund sites
- State law and DNR govern work at almost all cleanup sites in Wisconsin
- Direct EPA involvement in cleanup activities limited by law and agreement
- EPA hazardous substance removals assistance

# Tools and Assistance

- **Liability Exemptions**
- **Technical Assistance**
- **Grant and Loan Programs**
- **Cost Recovery**
- **Negotiated Agreements**
- **Assurance Letters**
- **Green Team Meetings**
- **Hire a great consultant**



# State Spill Law

- **Wis. Stat. § 292.11**
- **Requires anyone who causes, possess or controls a hazardous substance discharge to soil, water or air to restore the environment**
- **All known discharges must be reported to DNR**
- **Emergency spills receive immediate attention**



# Spill Law Exemptions

**State law provides liability exemptions to:**

- **Local governments**
- **Lenders**
- **Legal representatives**
- **Off-site property owners**
- **Voluntary parties that complete cleanups**

Exempt from requirements to investigate and cleanup pre-existing hazardous substance discharges

# Local Gov. Exemption

- For local governments, the method of property acquisition determines if an exemption is obtained
- Wis. Stat. § 292.11(9)(e)(1m) lists the acquisition methods that must be used to obtain the Spill Law exemption



# Methods of Property Acquisition

- **Through tax delinquency proceedings** (including title transfer from a county)
- **Through order of a bankruptcy court**
- **Through condemnation proceedings**
- **For the purpose of blight elimination**
- **From another exempt local gov.**
- **Through escheat**
- **Using DNR Stewardship Fund**



# Exemption Limitations

## No Spill Law exemption for...

- **Discharges caused or made worse:**
  - By direct or indirect actions
  - By a failure to restrict access to the property
  - By not knowing what substances are in aboveground containers
  - By not removing and properly disposing of hazardous substances
  - By not transferring hazardous substances to containers that won't leak
- **Failing to take actions recommended by DNR to protect public health during redevelopment**

# Always Required

**Everyone, even exempt local governments, must always:**

- **Report known/discovered contamination to DNR**
- **Deal with underground storage tanks, if discovered, in accordance with DATCP requirements**
- **Properly handle asbestos, lead paint, and other hazardous materials if demolition is conducted**
- **Properly manage contaminated soil and water**



# Benefits of Spill Law Exemption

- Gives local government control of the property and potential purchasers can deal with a known entity
- No requirement to immediately investigate and clean up environmental contamination
- Only need to address “substantial threats to public health or safety” when property is redeveloped
- Local government has authority to recover costs from causer of contamination (if they can pay)
- Local gov ownership stops increase in delinquent taxes and penalties, which is good because huge back taxes owed is a big turnoff for developers

# Federal Liability Protections

- **Local governments can obtain protection from the federal CERCLA (Superfund) law**
- **Some types of “involuntary” acquisitions qualify for liability protection (but usually not condemnation)**
- **Conducting a Phase I environmental assessment that complies with EPA’s “all appropriate inquiries” criteria, within 180 days of acquisition obtains some liability protection**
- **Necessary to be eligible for some federal brownfields funding**

# Should we take title to a brownfield property?

- **Assess**
- **Investigate**
- **Clean up**
- **Redevelop**
- **Celebrate**



# First Steps

**Identify** brownfield properties in your community

**Plan** how to address the identified brownfields

**Learn** as much as you can about priority properties

## **A crucial decision is required to make progress**

- Assist or compel the current owner to return the property to productive use;
- Access the property by obtaining permission from the owner, a legal representative or a court;
- Acquire the property using a method that secures the local government liability exemption;
- Collaborate with a third party that is willing and able to access or acquire the property.

# Costs of Inaction

- **Continued health and safety risks**
- **Community curb appeal not enhanced**
- **Potential new tax revenue not received**
- **No new investment or jobs**





# Real Estate Transactions

- Most contamination is identified during routine due diligence research for commercial and industrial property transactions.
- Private parties often enter into indemnification and/or cleanup agreements;
- Financial assurance/ escrow;
- Lease to buy/ promissory note
- DNR can provide liability clarification and technical assistance letters



# Lender Liability Exemption

- In the past, lenders could be held responsible if they took title- law changed in mid 1990s
- Statutory liability exemptions for lenders and legal representatives dealing with real property
- Lenders protected when making real estate loans and foreclosing





# Voluntary Party Liability Exemption

- **164 Certificates of Completion issued**
- **Anyone is eligible (seller, RP, buyer, bank, local gov., etc)**
- **Current & future owners get liability exemption**
- **Applies to entire property (not just a cleanup “site”)**



# Why Choose VPLE?

- **No reopeners; finality - cleanup work is done for good**
- **Current and future owners get exemption from liability**
- **Corporate RP can sell their facility**
- **Cleanup approval for entire property**
- **Works well for larger, complex sites as well as small, simple sites**
- **Attorneys, lenders and tenants like it**

# Other Tools and Ideas

**What can local governments do?**



# Proactive Approach

- Research property history
- Bring stakeholders together and plan
- Talk with DNR about liability and funding help
- Own or access the brownfield property
- Investigate and clean up as needed; reuse



# Property Access Options besides ownership

- Obtain access agreement from owner
- County can legally enter, or authorize another local government to enter onto a tax delinquent property to investigate environmental pollution - Wis. Stat. § 75.377
- Special inspection warrant - Wis. Stat. § 66.0119
- Court order to raze building could include access authorization
- Environmental inspections could occur after building is razed

# Tax Delinquent Brownfields

- **Wis. Stat. § 75.105** (tax cancellation)
- **Wis. Stat. § 75.106** (tax judgment assignment)
- **Wis. Stat. § 75.17** (county transfer to LGU)

# Negotiated Agreements

- **292.11(7)(d), Stats.** (with DNR and others)



# Green Team Meetings

- **Personalized approach**
- **Topics include liability, process, financial assistance, etc.**
- **DNR, WEDC, others as needed**
- **Site specific or overall resources**
- **ALSO....Local Government handbook coming soon!**



# BRRTS and RR Sites Map

- **Bureau for Remediation and Redevelopment Tracking System (BRRTS) – the Database**
- **RR Sites Map - Online mapping program**
- **Good place to start property research**
- Only includes sites DNR knows about, other properties may have issues too, but currently unknown to DNR (e.g. brownfields)





## BRRTS on the Web

The Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web is a searchable database containing information on the investigation and cleanup of potential and confirmed contamination to soil and groundwater in the state of Wisconsin.

[BOTW Home](#) > Basic Search

### Basic Search

### Advanced Search

[HELP](#)

Activity Name ?	<input type="text"/>	Address ?	<input type="text"/>	Region ?	<input type="text"/>
Municipality ?	<input type="text"/>	County ?	<input type="text"/>	Status ?	<input type="text"/>
Activity Type ?	<input type="text"/>	Jurisdiction ?	<input type="text"/>		
Activity Number ?	<input type="text"/>	Facility ID ?	<input type="text"/>	PECFA Number ?	<input type="text"/>

Search

Reset

BRRTS data comes from various sources, both internal and external to DNR. There may be omissions and errors in the data and delays in updating new information. Please see the [disclaimers page](#) for more information.



[dnr.wi.gov](http://dnr.wi.gov)

The Official Internet site for the Wisconsin Department of Natural Resources  
101 S. Webster Street . PO Box 7921 . Madison, Wisconsin 53707-7921 . 608.266.2621

**PLEASE NOTE!** The results of your search may not represent a complete list of all activities and locations with environmental contamination in the state of Wisconsin. This may occur for such reasons as the criteria used in your search may not exist across all BRRTS database records (e.g. location zip code). In addition, there are some locations for which DNR has some limited information, but no confirmation of a discharge to the environment, these potentially contaminated sites do not appear in BRRTS on the Web until contamination has been confirmed. Also, the Wisconsin DNR may be unaware of contamination at some properties. Please see [BOTW Help](#) for additional information.

1,031 Activities found searching for:  
**Municipality begins with LA CROSSE**

Displaying Records 1 through 30 - Page 1 of 35  
 Grouped by Location - Sorted by Type, Status, Start Date

[NEXT PAGE >](#)

Activity Number & Name (Click to view details) Address	Type - Status	Start End	Juris	County
03-32-000094 NSP FRENCH ISLAND END OF BAINBRIDGE ST, LA CROSSE	CLOSED LUST	1988-11-16 1990-04-18	DNR	LA CROSSE
03-32-000119 NSP FRENCH ISLAND END OF BAINBRIDGE ST, LA CROSSE	CLOSED LUST	1988-11-16 1989-02-28	DNR	LA CROSSE
03-32-001361 NSP FRENCH ISLAND END OF BAINBRIDGE ST, LA CROSSE	CLOSED LUST	1994-11-29 1995-11-28	DNR	LA CROSSE
04-32-175915 STROH HEILEMAN BREWING CO INC 925 3RD ST S, LA CROSSE	CLOSED SPILL	1997-06-26 1997-07-03	DNR	LA CROSSE
04-32-553467 CITY BREWING CO INC SPILL 925 3RD ST S, LA CROSSE	CLOSED SPILL	2008-10-02 2009-04-03	DNR	LA CROSSE
02-32-000278 LA CROSSE FOOTWEAR PROCESS OIL 1407 ST ANDREW ST, LA CROSSE	CLOSED ERP	1989-06-30 1996-08-08	DNR	LA CROSSE
02-32-278838 TARKMAN ASSOCIATES INC 1407 ST ANDREW ST, LA CROSSE	CLOSED ERP	2001-08-10 2002-04-24	DNR	LA CROSSE
07-32-278848 TARKMAN ASSOCIATES INC 1407 ST ANDREW ST, LA CROSSE	GENERAL PROPERTY		DNR	LA CROSSE
03-32-001269 LA CROSSE FOOTWEAR NAPHTHA 1407 ST ANDREW ST, LA CROSSE	CLOSED LUST	1989-06-30 2000-03-31	DNR	LA CROSSE
03-32-001197 LA CROSSE FOOTWEAR #2 FUEL OIL 1407 ST ANDREW ST, LA CROSSE	CLOSED LUST	1994-04-14 1995-09-14	DNR	LA CROSSE
03-32-001351 PEPSI COLA OF LA CROSSE 1804 1900 WEST AVE S, LA CROSSE	CLOSED LUST	1994-11-28 1996-02-08	DNR	LA CROSSE
03-32-098325 PEPSI COLA OF LA CROSSE 1900 1900 WEST AVE S, LA CROSSE	CLOSED LUST	1995-07-05 1999-03-11	DNR	LA CROSSE
09-32-560781 PEPSI COLA OF LA CROSSE 1804	NO ACTION REQUIRED	2013-08-05	DNR	LA CROSSE


## BRRTS on the Web

Click the Location Name below to view the Location Details page for this Activity. Other Activities, if present, may be viewed from that page.

[BOTW Home](#) > [Basic Search](#) > [Search Results](#) > 02-32-000278 Activity Details

### 02-32-000278 LA CROSSE FOOTWEAR PROCESS OIL

**CLOSED ERP**

Location Name		County		WDNR Region		
LA CROSSE FOOTWEAR INC DBA TARKMAN ASSOC INC		LA CROSSE		WEST CNTRL		
Address			Municipality			
1407 ST ANDREW ST			LA CROSSE			
Public Land Survey System		Latitude	Google Maps	RR Sites Map		
SW 1/4 of the NE 1/4 of Sec 29, T16N, R07W		43.8353814	<a href="#">CLICK TO VIEW</a>	<a href="#">CLICK TO VIEW</a>		
Additional Location Description		Longitude	Facility ID	Size (Acres)		
NONE		-91.2348677	632022710	UNKNOWN		
Jurisdiction	PECFA No.	EPA Cerclis ID	Start Date	End Date	Last Action	
DNR RR			1989-06-30	1996-08-08	1996-08-08	
Characteristics						
PECFA Tracked?	EPA NPL Site?	Eligible for PECFA Funds?	Above Ground Storage Tank?	Drycleaner?	Co-Contamination?	On GIS Registry? 
No	No	No	No	No	No	No
Actions						
Place Cursor Over Action Code to View Description						
Date	Code	Name	Comment			
1989-06-30	1	Notification				
1996-08-08	11	Activity Closed				
Linked to Code 11: <a href="#">0232000278_Final_Closure.pdf</a> <small>Click to Download or Open</small>						
Impacts						
Type	Comment					
Soil Contamination	-					
Who						
Click name of Project Manager or File Contact to compose email						
Role	Name/Address					
Responsible Party	LA CROSSE FOOTWEAR 1407 ST. ANDREW ST LA CROSSE, WI 54601					
Project Manager	<a href="#">DOUG JOSEPH</a> 1300 W CLAIREMONT AVE EAU CLAIRE, WI 54701					

RR Sites Map

Search...

Basic Tools Identify Tools Drawing Tools Measuring Tools Find Location Maps & Data Help

Home Show Layers Layer Information Pan Zoom In Zoom Out Zoom to Wisconsin Back Forward Point Identify Rectangle Identify Scale: 1: 3,198 Jump to a map bookmark... Print Map

Results (1) View History View Selected

Refine Results Table View Charting View Export to Shapefile Select All Select None

LA CROSSE FOOTWEAR PROCESS OIL

- ★ Closed site (completed cleanup)
- BRRTS #: 0232000278
- DNR Facility ID #: 632022710
- Address: 1407 St Andrew St, La Crosse
- Start Date: 06/30/1989 12:00:00 AM
- Closed Date: 08/08/1996 12:00:00 AM
- X Coordinate (WTM91): 420722
- Y Coordinate (WTM91): 374330
- [View Activity Details on BOTW](#)

250ft 100m X: Y:

WI Dept. of Natural Resources, Division of Air, Waste and Remediation & Redevelopment, Bureau

Terms of Use Brownfields Home Page About RR Sites Map Search BOTW About BOTW Contact

# RR Sites Map

# Financial Incentives



**Assessment - Cleanup - Redevelopment**

# State Grants & Loans

## Assessment

- **WEDC Site Assessment Grant**
- **DNR Wisconsin Assessment Monies**

## Cleanup

- **DNR Ready for Reuse Grant and Revolving Loan Fund**
- **WEDC Brownfield Redevelopment Grant**



# DNR Funding Programs



# Wisconsin Assessment Monies (WAM)

**Since 2009:**

- **EPA has provided \$2.7 million for WAM**
- **59 sites have received assistance in 45 communities**
- **WAM has funded:**
  - **38 Phase I assessments**
  - **35 Phase II assessments**
  - **25 Partial Site Investigations**



# Wisconsin Assessment Monies (WAM) Contractor Services

- **Not a grant**: Free to awardee, DNR-administered assessments (Phase I/II, limited SI)
- For closed or closing manufacturing plants, vacant industrial sites
- Minimal paperwork for local governments
- High quality products
- Efficient and cost effective



# Ready for Reuse

- **R4R provides sub-grants and loans to help clean up environmental contamination**
- **Since 2004, DNR received \$12.5 million from EPA**
- **35 sites, in 20 communities received assistance (loans and grants)**
- **Funds can be used for cleanup of contamination from hazardous substances and petroleum**
- **No deadline to apply**

# Ready for Reuse Grants & Loans

- **GRANTS are generally limited to \$200,000**
  - **Applicant must own site**
  - **Applicant must be an eligible governmental entity, tribe or non-profit**
- **LOANS are generally \$250,000 or greater**
  - **Loans are zero interest**
  - **Applicant not required to own the site**
  - **Applicant must be an eligible governmental entity**

# TIF and ER-TIF

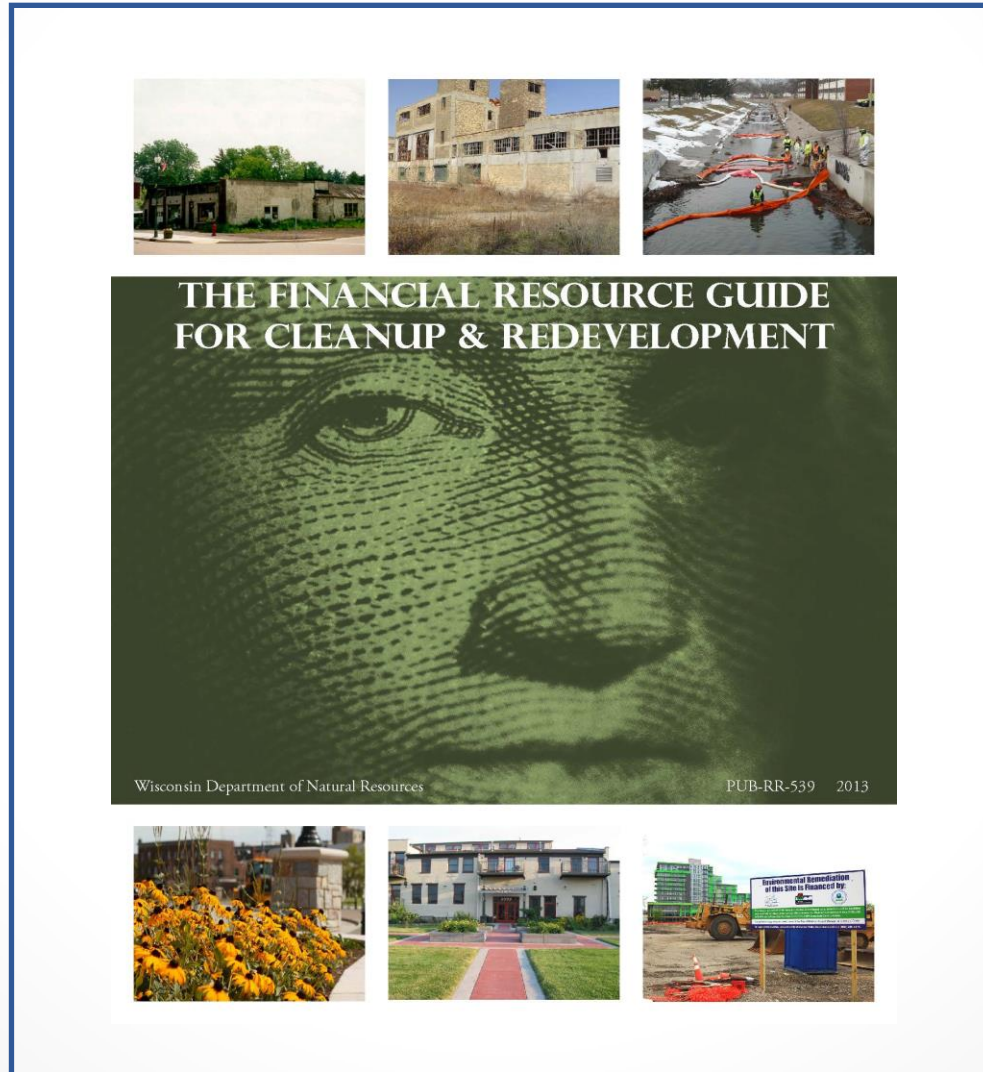
- **Tax Incremental Financing common economic development tool for local governments**
- **Can pay for many things including demolition and remediation**
- **Environmental Remediation Tax Incremental Financing (ER-TIF) unique kind of TIF for brownfields can be used for remediation and demolition**



# Other Financial Assistance

- **Stewardship funding can help with acquisition and development costs (and get an LGU exemption)**
- **US EPA has brownfield grants available**
- **USDA, HUD, and the US Commerce Dept's Economic Development Administration all have grant and loan funds available to help cleanup and redevelopment projects succeed.**
- **No one magic pot of money. Need to hunt and peck and cobble together different funding sources**

# For more information and programs, see...



# DNR Land Recycling Contacts

## DNR NORTHERN REGION

Carrie Stoltz

(715) 365-8942

## DNR NORTHEAST REGION

Tauren Beggs

(920) 662-5178

## DNR SOUTH CENTRAL REGION

Janet DiMaggio

(608) 275-3295

## DNR SOUTHEAST REGION

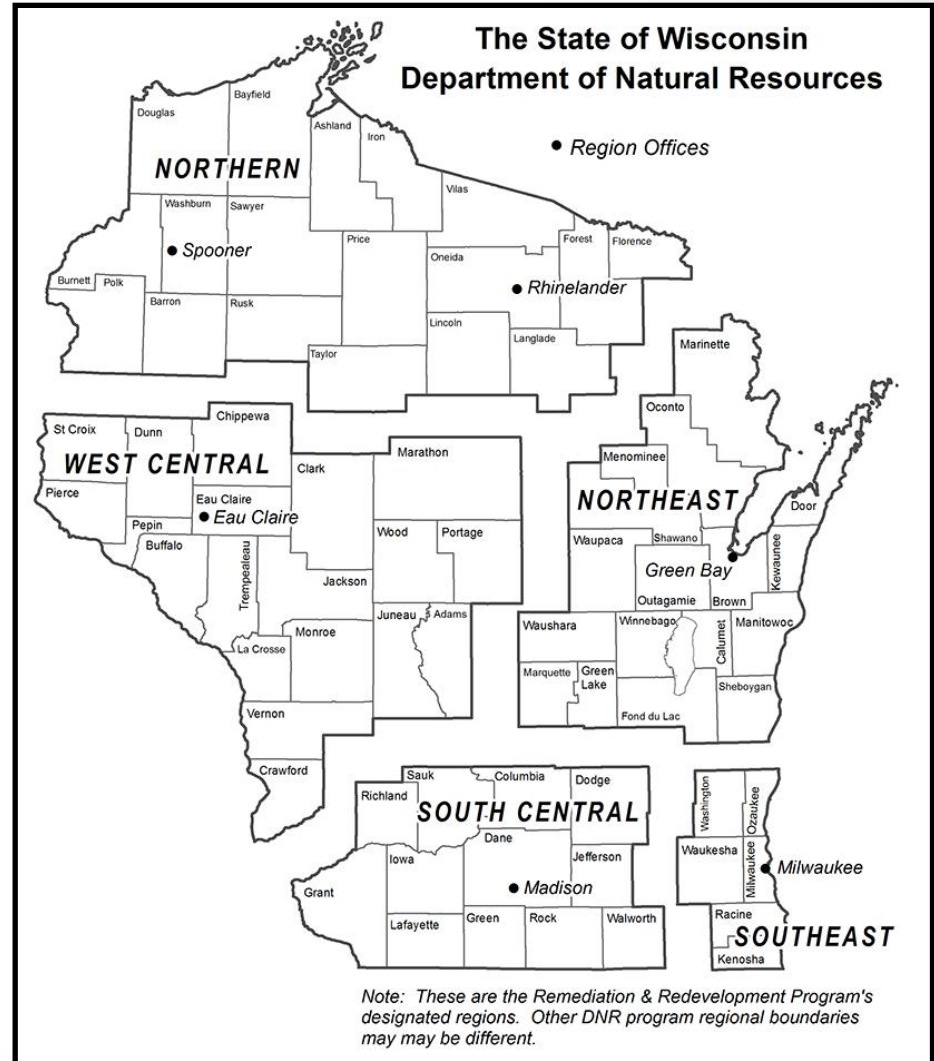
Margaret Brunette

(414) 263-8557

## DNR WEST CENTRAL REGION

Gina Keenan

(715) 839-3765



# Contact Info

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