



Environmental Funding for Municipal Projects

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Local governments are uniquely qualified under Wisconsin law and in Wisconsin Department of Natural Resources’ (DNR) policies to serve as environmental stewards and are therefore good bets for accelerating redevelopment of contaminated properties.

The mission of state regulators and Wisconsin municipal priorities are almost always directly aligned in valuing short- and long-term environmental and public health of the community as top priorities. The Wisconsin legislature has recognized this role of local governments through creating exceptions,¹ or liability exemptions, to certain environmental obligations exclusively for “local governmental units” – municipalities, counties, and tribes – recognizing that these entities are best suited to advance remedial action sites for economic redevelopment. The legislature has also provided exclusive fact gathering² and cost recovery³ powers for local governments, allowing them to pursue those responsible for the direct costs incurred at remedial action sites. These powers are enormously helpful tools for local governments and are greatly underutilized statewide.

Due to this recognized unique role, public municipalities, in contrast to various private entities are eligible to receive lucrative grants and loans. In the last two years, there have been major developments in the traditional funding sources for municipal projects to address environmental conditions so now these programs are fully funded and seeking applicants.

Federal Funding for Drinking Water Infrastructure Projects

The Bipartisan Infrastructure Law (BIL) was passed in 2021 and allocates more than \$35 billion toward safe drinking water infrastructure.⁴ Wisconsin’s share of the funding in 2022 includes:

- \$30.7 million for the Safe Drinking Water Loan Program and implementation of the Safe Drinking Water Act

- \$48.3 million for lead service line replacement, and
- \$12.9 million to address emerging contaminants, including perfluoroalkyl and polyfluoroalkyl substances (PFAS) in drinking water.

All of the above federal funding sources are to be administered by the DNR. Additional tranches of funding will be available each of the next five years.

State Grant Programs for Brownfield Redevelopment

While many grant and aid programs have deadlines that may have already passed for this calendar year, existing DNR grant programs strongly encourage outreach to discuss projects and can assist with assessment of viability.⁵ For brownfield redevelopment, the following programs have been extremely helpful to municipalities who engage these services.

- Wisconsin Assessment Monies (WAM)
- Ready for Reuse Loan & Grant Program
- Brownfield Site Assessment Grants
- Community Development Block Grants
- Federal Brownfields Assessment Grants
- Federal Brownfields Site Cleanup Grants

State Green Team Meetings for Brownfield Sites

A resource that is not used enough is the DNR’s Remediation and Redevelopment Program’s Green Team meetings. See DNR guidance document RR0128 for more details.⁶ These are free consultation meetings where DNR regional and central office staff can meet with your team to discuss funding options, liability exemptions, property acquisition and redevelopment planning best practices, and share overviews of site investigation and cleanup processes. If your municipality has a brownfield site, consider requesting one of these

1. Local Governmental Unit (LGU) Exemption under the Spills Law. Wis. Stat. § 292.11(9)(e). Wisconsin DNR Guidance LGU Exemptions in Wisconsin - RR055. <https://dnr.wi.gov/DocLink/RR/RR055.pdf>.

2. LGU “Umpire” Process. Wis. Stat. § 292.35.

3. LGU Cost Recovery Cause of Action. Wis. Stat. § 292.33.

4. Wisconsin Public Water Systems 2021 Drinking Water Report. June 2022. <https://dnr.wi.gov/files/PDF/pubs/DG/DG0045.pdf>

5. Wisconsin DNR Grant Programs website. <https://dnr.wisconsin.gov/aid/Grants.html>

6. Wisconsin DNR Green Team Meetings Guidance Document RR-0128 <https://dnr.wi.gov/doclink/rr/RR0128.pdf>

meetings. If you are uncertain whether your community has a brownfield site or are uncertain on location, please utilize DNR’s excellent RR Sites Map tool and “Search Municipality” function.⁷

Federal Renewable Energy Tax Credit Incentive at Brownfield Sites

The second enormous federal investment in environmental projects in the last year was the Inflation Reduction Act (IRA) passed in 2022. IRA provided several expansions of tax incentives for entities undertaking renewable energies projects. One incentive less talked about is related to renewable energy development at brownfield sites.

This lesser-known provision of IRA states that for projects beginning in January 2023, a project is eligible to receive an additional 10% to the amount of the investment tax credit (ITC) or production tax credit (PTC) for qualifying projects. An eligible entity may now receive up to 40% (up from 30%) of the project costs if they are located in an “energy community.” Any property meeting the definition of a “brownfield site” under CERCLA is considered an energy community.

Most importantly, IRA removed barriers of eligibility for this renewable energy tax credit (30% of eligible project costs; up to 40% on a brownfield site) allowing for municipalities to directly benefit. A municipality could alternatively direct the tax credit to a public-private partnership centered around these projects. For any specific follow-up questions, please feel free to request a meeting with Godfrey & Kahn’s environment and energy practice group.

Editor’s Note: Godfrey & Kahn attorneys Bill Nelson and Ned Witte have been retained by the League to provide updates on brownfield redevelopment and per- and polyfluoroalkyl substances (PFAS). This is the fourth in the series. Read the columns here: <https://lwm-info.org/1674/Remediation-and-Redevelopment>

7. Wisconsin DNR RR Sites Map website <https://dnrmwmaps.wi.gov/H5/?viewer=rrsites>.

About the Authors:

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