

**Issue Paper on Tax Agreements**  
**SS. 75.105 & 75.106, Stats.**  
**Brownfields Study Group Meeting – Dec. 3, 2008**

**Background-** Sections 75.105 (tax cancellation) and 75.106 (assignment of tax foreclosure judgment), Wis. Stats., were passed in 1997 and 1999, respectively, to aid the redevelopment of tax delinquent brownfields. These sections provide favorable handling of delinquent property taxes in exchange for agreements with the DNR to investigate and clean up the property.

The 75.105 and 75.106 agreements can be effective tools for redevelopment of tax delinquent brownfields. Twenty-five agreements have been developed throughout the state since the enabling pieces of legislation were passed. However, a number of significant issues and shortcomings associated with these agreements have also been identified. These shortcomings are the topic of this issue paper.

Key issues with the tax agreements as currently structured include:

1. No enforceable schedule is included.
2. Taxes are cancelled, but clean ups languish.
3. Info sharing is poor between the property owner, the DNR, and the tax authority.
4. The DNR tax agreements are misunderstood. They address clean up but not redevelopment of the property.
5. More guidance and education for all parties is needed.

**Discussion of Issues-** A check of BRRTS records for the 25 past agreements shows, in many cases, no progress towards closures for periods of 5-9 years. Yet many of the properties have been redeveloped and are being used for new purposes. A review of the agreement language reveals a commitment to investigate and clean up the properties, but without a specific schedule, or enforcement ramifications.

The new property owners have all presumably benefited from their delinquent tax incentives, but may not have lived up to their environmental clean up responsibilities. Follow-ups by DNR or the taxing authorities have been limited. None of the involved parties seem to share a uniform understanding of how the whole process was supposed to work. Some local governments have required separate agreements (apart from the DNR agreements) with the property owners. Others have not. Some have assumed that DNR would follow-up on all issues, both environmental and development oriented. The written DNR agreements address only environmental issues.

The DNR's research into how the programs have been working indicates that improvements are needed to strengthen results. Deliberate plans are needed to explain the desired roles and relationships of all parties, and the preferred methods of sharing needed information. Alternative methods for awarding tax write-offs could be considered to facilitate property clean ups too. Wording changes for the DNR agreements should be evaluated to enhance timely environmental work and required progress reporting.

A short discussion of several potential alternatives to strengthen the 75.105 and 75.106 processes follows.

**Alternatives to Consider-** The Brownfields and Outreach Section of the DNR would like feedback and comments from the Brownfields Study Group on the following, or other, alternatives for improving the performance of the 75.105 and 75.106 tax incentive processes. Potentially helpful alternatives identified include:

1. a) Schedules and progress reports should be required in all new agreements.  
b) DNR should use modified agreements or notices of non-compliance and/or violation on languishing current agreements.
2. a) The 75.105 and 75.106 statutes should be modified to address responsible party, enforceability, and tax cancellation escrow options.  
b) The DNR should revise its model agreements and instructions to address responsible party, enforceability, and tax cancellation escrow options.
3. The taxing authorities should consider escrowing the tax benefits of the agreements until the required site investigation and clean up activities are completed.
4. a) The local taxing authority should be encouraged to develop a separate agreement with the property owner concerning the redevelopment and use of the property.  
b) The DNR should change its model agreements and instructions to address the redevelopment and use of the property in addition to the environmental issues.