

NOTICE OF CLAIM AND CLAIM

§ 893.80, Wis. Stats.

David L. LaGesse, Dawn A. LaGesse, and Brenda D. LaGesse, by and through their attorney, Brian M. Nodolf, of the law firm of Weld, Riley, Prenn & Ricci, S.C., of Eau Claire, Wisconsin, hereby file the following Notice of Claim and Claim against the Town of Cooks Valley, Chippewa County, Wisconsin.

1. David L. LaGesse, Dawn A. LaGesse, and Brenda D. LaGesse are real estate owners in the Town of Cooks Valley ("Town").
2. The Town has adopted and has indicated to the Claimants, its intent to enforce what it calls Chapter 19, Mining Ordinance.
3. The Town is, as of the date of this Notice of Claim and Claim, not a party to the Chippewa County Zoning Code.
4. Chippewa County has enacted and enforces a county-wide zoning ordinance under §59.69, Wis. Stats.
5. Chapter 19 of the Town Code constitutes a zoning ordinance insofar as it pervasively prohibits or limits the use of land within the Town and has not been adopted in accord with the substantive and procedural requirements of §60.62, Wis. Stats.; to-wit, upon information and belief it was not adopted following either a referendum vote of the electors of the Town or action of the Town Meeting, nor did the Chippewa County Board of Supervisors approve of the adoption and enforcement of said ordinance.
6. That to the extent it can be contended by the Town that Chapter 19 is not a zoning ordinance, it is an excess of limited delegation of police powers. General power ordinances may only be adopted by a Town Board subsequent to the Town Board's adoption of village powers pursuant to Wis. Stat. § 60.22(3). To date, the Town does not possess properly adopted village powers and therefore may not adopt Chapter 19.
7. Further, if it is determined that Chapter 19 is not a zoning ordinance and is not an excess of limited delegation of general police powers, Chapter 19 fails to contain reasonable standards against which the Town will exercise discretionary authority to grant or deny non-metallic mining permits and, as such, is arbitrary and capricious, constituting a denial of due process and is therefore unconstitutional.
8. Further, if it is determined that Chapter 19 is not a zoning ordinance, is not an excess of limited delegation of general police powers, and is not an unconstitutional police power ordinance, it is an invalid police power ordinance. Chapter 19 is an invalid police power ordinance as it was not adopted utilizing the required legal procedures, is a draft/preliminary version only, and does not include the required, properly adopted application and corresponding permit.

9. Finally, even if Chapter 19 is a valid and enforceable police power ordinance, which Claimants strenuously deny, Claimants have an 11.47 acre pit, as is referenced in their vesting documents, that pre-exists Chapter 19 and is therefore exempt from Chapter 19 pursuant to Section 2.08 of said Chapter.

10. That the Claimants have permitted non-metallic mining in their 11.47 acre pre-existing pit for financial benefit in the past, and desire and intent to do so in the future.

WHEREFORE, the Claimants request the following relief of and from the Town:

(A) That the Town acknowledge that Chapter 19 was adopted in violation of §60.62, Wis. Stats., and that it is inapplicable to the Claimants' use of their existing 11.47 acre pit.

(B) That the Town acknowledge that Chapter 19 is unconstitutional and invalid and therefore will not be enforced.

(C) That the Town acknowledge that the Claimants' 11.47 acre pit pre-exists Chapter 19 and is therefore exempt from Chapter 19 pursuant to Section 2.08 of said Chapter.

Further, that in lieu of the Town acknowledging the above, the Claimants intend to pursue a declaratory judgment action in Circuit Court for Chippewa County, seeking to invalidate Chapter 19, to enjoin the Town from enforcing it against the Claimants and seeking the Claimants' costs and disbursements of such an action.

Dated this 17th day of January, 2010.

WELD, RILEY, PRENN & RICCI, S.C.

By: 

Brian M. Nodolf
State Bar No. 1041814
Attorneys for Claimants

Mailing Address:

3624 Oakwood Hills Parkway
PO Box 1030
Eau Claire WI 54702-1030
715-839-7786

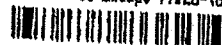
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Recorded
JULY 31, 2000 AT 03:55PM

Signed: *Marge L. Beissler*
MARGE L. BEISSLER
REGISTER OF DEEDS
CHIPPEWA COUNTY, WI

Fee Amount: \$12.00
Fee Exempt 77.25-(8)



A298-10
R298-04

QUITCLAIM DEED

Return: DAVID LAGESSE
4041 CTY RD A
BLOOMER WI 54724

THIS QUITCLAIM DEED, Executed this 30TH day of JULY , 2000 (year),

by first party, Grantor, DAVID L LAGESSE AND DAWN A LAGESSE, H & W SMP

whose post office address is 4041 CTY RD A, BLOOMER WI 54724

to second party, Grantee, BRENDA D LAGESSE, A SINGLE PERSON

whose post office address is 13401 STATE HWY 64, BLOOMER WI 54724

WITNESSETH, That the said first party, for good consideration and for the sum of
ZERO Dollars (\$ 0.00) paid by the said second
party, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim
unto the said second party forever, all the right, title, interest and claim which the said first party
has in and to the following described parcel of land, and improvements and appurtenances there-
to in the County of CHIPPEWA , State of WISCONSIN to wit:

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER (NW1/4) OF
SECTION 15, TOWNSHIP 30 NORTH, RANGE 10 WEST, TOWN OF COOKSVALLEY;
CHIPPEWA COUNTY WISCONSIN DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 826 FEET SOUTH OF THE NORTHEAST CORNER OF THE
NORTHWEST QUARTER OF SAID SECTION 15; THENCE SOUTH 500 FEET; THENCE
WEST 1,000 FEET; THENCE NORTH 500 FEET; THENCE EAST 1,000 FEET TO
THE PLACE OF BEGINNING

Parcel # 23010-1521-0700-0000

GRANTOR IS DEEDING 1/2 INTEREST TO GRANTEE

2001 (1)

Rev. 4/99

If your state requires 8 1/2" x 11" forms, cut off the bottom of this page at the dotted line.



0 53926*20040 5

IN WITNESS WHEREOF, The said first party has signed and sealed these presents the day and year first above written. Signed, sealed and delivered in presence of:

Signature of Witness

David L Lagesse
Signature of First Party

Print name of Witness

DAVID L LAGESSE
Print name of First Party

Signature of Witness

Dawn A Lagesse
Signature of First Party

Print name of Witness

DAWN A LAGESSE
Print name of First Party

State of WISCONSIN)
County of CHIPPEWA
On JULY 30, 2000 before me,

appeared DAVID L LAGESSE AND DAWN A LAGESSE
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Brenda Lagesse
Signature of Notary: BRENDA LA GESSE
EXPIRES 06/05/03
State of WISCONSIN
County of CHIPPEWA
On _____ before me,

Affiant Known XX Produced ID
Type of ID _____
(Seal)

appeared
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Signature of Notary

Affiant Known Produced ID
Type of ID _____
(Seal)

Brenda Lagesse
Signature of Preparer

BRENDA LAGESSE
Print Name of Preparer

13401 STATE HWY 64, BLOOMER
Address of Preparer

STAPLE
ATTACHMENTS
HERE

Wisconsin Real Estate Transfer Return – Confidential



To complete see *Instructions for Real Estate Transfer Return PE-500A.*

Submit original form to Register of Deeds with document(s) to be recorded. Completely fill in all appropriate areas. TYPE or PRINT clearly in BLACK INK, and use ALL UPPERCASE LETTERS. If typing form, type through vertical character lines.

I. GRANTOR (Seller) If more than ONE (1) grantor, check box at left and list on attached addendum. Note: Lines 67-72 must be completed with grantor's address.
 1. Your Last Name or Company Name **L A G E S S E** Note: For this purpose a married couple is one grantor if same last name (see line 2).
 2. Your First Name(s) and Middle Initial(s) – If a married couple, show both first names and middle initials. **D A V I D L**
 3. Social Security Number or FEIN

II. GRANTEE (Buyer) If more than ONE (1) grantee, check box at left and list on attached addendum.
 4. Your Last Name or Company Name **L A G E S S E** Note: For this purpose a married couple is one grantee if same last name (see line 5).
 5. Your First Name(s) and Middle Initial(s) – If a married couple, show both first names and middle initials. **B R E N D A D**
 6. Social Security Number or FEIN
 7. Street or Fire Number, if any **1 3 4 0 1** 7a. Street Name, PO Box, or Other Address (enter "PO Box" and Box Number) **S T A T E H W Y 6 4**
 8. City **B L O O M E R** 9. State **W I** 10. Zip Code **5 4 7 2 4**
 TO RECEIVE TAX BILL AT ANOTHER ADDRESS, check here and complete Section X, page 2.

III. PROPERTY TRANSFERRED 11. Indicate: City Village Town → Check if additional parcels and list on attached addendum.
 12. Name of the City/Village/Town **C O O K S V A L L E Y** 13. County Name **C H I P P E W A**
 14. Physical Property Address or Road Address (description) **C T Y R D A**
 15. Tax Parcel Number as it appears on Property Tax bill (see Instructions)
 16. Property Description: lot - block - plat, Certified Survey Map (CSM), or other designation; if description will not fit here, add attachment (see Instructions)
 17a. Section (primary) **1 5** 17b. Township (primary) **3 0 N** 17c. Range (primary) **1 0 W**
 Check here if more than one lot and block, or if legal description is metes and bounds or certified survey map; attach legal description as an addendum (see Instructions).

IV. COMPUTATION OF FEE OR STATEMENT OF EXEMPTION

18. Total value of REAL ESTATE transferred (round up to the nearest \$100) \$ 4 0 0 0 IN WHOLE DOLLARS	19. Transfer fee due (line 18 X .003) \$	DOLLARS	CENTS
20. Transfer Exemption Number, SEC 77.25 0 0 8	20a. If you enter "003" or "017," it is mandatory to provide your previous document number.	20b. Date of Original Land Contract	MONTH DAY YEAR
21. Value of personal property transferred but EXCLUDED from line 18. \$	IN WHOLE DOLLARS	22. Value of property exempt from local property tax INCLUDED on line 18. \$	IN WHOLE DOLLARS

V. TO BE COMPLETED BY AUTHORIZED COUNTY/LOCAL OFFICIAL

23. Document Number	24. Volume/Jacket	25. Page/Image	26. Date Recorded	27. Date of Conveyance
			MONTH DAY YEAR	MONTH DAY YEAR
28. Conveyance Code	Warranty/Condo Deed	Land Contract	Quit Claim Deed	Other (explain) →
29. County (1)	30. Municipality (1)	31. County (2)	32. Municipality (2)	
Check if more than two (2) municipalities; if so, refer to Instructions →				33. Is this a split parcel? (see instructions) Yes No
34. Enter number of acres for each parcel classification and check a preceding box to show predominant classification.	1 (Residential)	2 (Commercial)	3 (Manufacturing)	4 (Agricultural)
	5 (Swamp&Waste)	6 (Forest)	7 (Other)	
35. Assessment Year	36. Land	37. Improvements	38. Total Assessment	
\$	\$	\$	\$	

Wisconsin Real Estate Transfer Return



VI. TRANSFER

39. Grantor/Grantee relationship is: None Financial Partnership Corp./Shareholder/Subsidiary Family Other If Family or Other, Explain **P A R E N T - C H I L D**

40. Type of Transfer: Sale (includes original land contract) Exchange Gift Dead in satisfaction of land contract Other (explain)

41. Ownership interest transferred: Full Partial (explain) Other (explain) **1 / 2 I N T E R E S T**
 Ownership interest transferred may be a full interest of a full ownership; a full interest of a partial ownership; or other (explain).

42. Does grantor retain any of the following rights? None Life Estate Easement Other (explain)

43. Grantor is: Individual Partnership Corporation Limited Liability Company Trust Other (specify) **H U S B A N D & W I F E**

VII. GRANTEE'S FINANCING

44. Check boxes for all financing types that apply: Financial institution-Conventional Financial institution-Government Obtained from seller Assumed existing financing Other 3rd party financing No financing involved

VIII. PHYSICAL DESCRIPTION AND GRANTEE'S PRIMARY USE OF PROPERTY

45. Type of Property: Land only Condominium Other Land and building(s) Other (specify)

46a. Predominant Use: Single family Multi-family Commercial Miscellaneous Utility Manufacturing/Telephone Company **F I L L P I T**
 If any boxes at left are checked, explain use here ↓

46b. Check if Grantee's Primary Residence

47. Estimated land area: If condominium, check here and proceed to line 50. 47a. Lot Size (ROUND TO NEAREST WHOLE FOOT) **1 0 0 0 X 5 0 0** OR 47b. Total Acres 48. MFL/PFC/WTL Acres 49. Feet of Water Frontage

IX. ENERGY

50. Is this property subject to the Residential Rental Weatherization Standards, COMM67? Yes No (if No, provide exclusion code) 51. Exclusion Code If W-11, attach explanation **W- 7**

52. If W-12 provide document number where recorded

X. CERTIFICATION—We declare under penalty of law, this return has been examined by us and to the best of our knowledge and belief it is true, correct and complete.

53. Agent for Grantor/Grantee 54. Agent's Name (if agent involved in sale) 55. Telephone Number

56. Street or Fire Number, if any 56a. Street name, PO Box, or other address (enter "PO Box" and box number) AREA CODE

57. City 58. State 59. Zip Code

60. Preparer's Name or Firm Name 61. Telephone Number AREA CODE

SEND TAX BILL TO: 62. Name **DAVID & DAWN LAGESSE**

63. Street or Fire Number, if any **4 0 4 1** 63a. Street Name, PO Box, or Other Address (enter "PO Box" and Box Number) **C T Y R D A** 65. State **W I** 66. Zip Code **5 4 7 2 4**

64. City **B L O O M E R**

67. Grantor's Street or Fire Number, if any **4 0 4 1** 67a. Grantor (where grantor can be reached in the future) Street Name, PO Box, or Other Address (enter "PO Box" and Box Number) **C T Y R D A** 69. State **W I** 70. Zip Code **5 4 7 2 4**

68. City **B L O O M E R** 71. Dated **0 7 2 7 2 0 0 0** 72. Telephone Number **7 1 5 5 6 8 3 2 9 9** 73. Signature of Grantor or Grantor's Agent (PLEASE ATTEMPT TO KEEP SIGNATURE WITHIN BOX)

74. Dated **0 7 2 7 2 0 0 0** 75. Telephone Number **7 1 5 5 6 8 3 5 5 8** 76. Signature of Grantee or Grantee's Agent (PLEASE ATTEMPT TO KEEP SIGNATURE WITHIN BOX)

77. Signature of Grantee or Grantee's Agent (PLEASE ATTEMPT TO KEEP SIGNATURE WITHIN BOX)

David D. Lagesse