

Statement by Mark Cupp, LWSRB Executive Director

Special LWSRB meeting on August 22, 2013

“We will be known forever by the tracks we leave.” Native American proverb

For nearly 24 years, I have served as Executive Director of the Lower Wisconsin State Riverway. My history with the project goes back even further to my years working as a legislative staffer at the State Capitol when I attended many meetings of the DNR’s Citizen Advisory Committee for the Riverway and the Local Officials Advisory Committee set up by area legislators during the planning process. I participated in the negotiations that created the compromise resulting in creation of the Riverway and helped in the writing of the original legislation. At that time, I had no idea I would end up as Executive Director of the Riverway Board, let alone serving in that capacity for the next 24 years. Clearly, my professional legacy, the tracks that I have left and hopefully will continue to leave, are connected to the Lower Wisconsin State Riverway.

Because of my job, I have had the privilege of seeing and experiencing many amazing sights and sounds. While some folks have a life list for birds, I have a life list of Wisconsin River bluffs and the list of bluffs I haven’t been on from Prairie du Sac to Prairie du Chien is short. Stunning views of the river and the bottomlands, the agricultural fields, the distant hills. I have been on the river at dawn and have seen a doe and her spotted fawn amidst the willows on a fog shrouded sandbar as I paddled by mere feet away. I have been on the river at dusk as several families of sandhill cranes flew in together to congregate on sandbar trilling that primordial call with the sky lit up in roseate glow and the feeling of magic in the air. I have gazed in awe at eagles soaring overhead, osprey diving for fish, flocks of cedar waxwings gathered on the shoreline brush before departing for warmer climes in the fall. I have wondered at a bottomlands roadway covered in salamanders, gaped at the size of ancient snapping turtles and smiled at the deafening chorus of spring peepers. I have watched silently as a rainbow formed over the backwaters with egrets and ducks flying in the foreground. I have paddled by emerald bound shores on a blue ribbon of sparkling, twinkling water winding through tawny sand islands. I have stood amidst 1000 year old effigy mounds and felt the power and energy that remains.

I love this river and this valley and anyone who thinks otherwise simply doesn’t know me very well. The Riverway is my life. Any sacrifices I have made have been paid back in full by the life experiences that I have accumulated.

There have been many challenging times over the past quarter century and now the board is faced with another challenge; the nonmetallic mining applications submitted by the Pattison Sand Company and landowners Marifilius, Pulda, Pulda, and Flansburgh for the Town of

Bridgeport, Crawford County. Some attempts have been made to vilify the applicants. I want the board to know that I've spent time with each of the landowners on their property and I think they are good people. They have reached decisions that they feel are in the best interest of their families and I respect that. Also, Kyle Pattison and his team have been cooperative and professional in my dealings with them, which I also appreciate.

Since my very first meeting with Kyle Pattison at the Riverway Board office in Muscoda to review maps and discuss regulations, I have been straightforward in stating I believe a large scale frac sand mine is not consistent with the Riverway objectives. At the first onsite meeting with the landowners, I again stated that I disagreed with establishment of a nonmetallic mine in that area. I also have told the board that I don't like the idea of a frac sand mine in the Riverway.

However, a strength of the Riverway Board and a major reason for the success of the project to this point has been the strict interpretation of the law with minimal subjectivity in decision making. I have taken my direction from the board's Strategic Plan.

1. To effectively administer the law, the LWSRB shall pursue literal interpretations of the applicable statutes and administrative codes.

10. A major aspect of the duties and responsibilities of the LWSRB shall be to provide information and technical assistance to Riverway landowners regarding the impact of the Riverway law on the operations or activities of landowners..... All reasonable efforts shall be taken to assure a landowner may accomplish his/her goals and objectives within the constraints of the Riverway law.

Therefore, whether or not I liked the idea of a frac sand mine, I felt compelled to literally interpret the law and to work with the applicants to assure compliance with the scenic protection standards.

I recognize some may consider my Riverway legacy tainted by the forthcoming recommendation but I must refer to another old adage, this one from the ancient Greek, "*Live to fight another day.*" Again referring to the board's Strategic Plan,

4. Through biennial reports, appearances at public/legislative hearings, and direct contact with individual legislators and appropriate committee chairpersons, the LWSRB shall assure that the Wisconsin Legislature is informed of the effectiveness of all aspects of the Riverway law. Emphasis shall be given to providing information to legislators with portions of their districts within the Riverway or to legislators who directly express an interest in the Riverway.
5. The LWSRB shall develop recommendations for changes to the statutes or administrative rules where deficiencies are identified in the existing performance standards, procedures, prohibitions, or other regulations governing activities within the Riverway. The LWSRB shall direct the Executive Director to provide the recommendations to the Governor and appropriate members of the Wisconsin Legislature. As requested by the Executive or Legislative branches of state government, the LWSRB and/or Executive Director shall assist in drafting of appropriate language for legislation and/or administrative rule revisions.

I recommend the board develop a report on the nonmetallic mining regulations and the experience with the Bridgeport applications and convey that information to the Governor and the Legislature. Certainly, I am prepared to work with the Riverway Board, Governor Walker and interested legislators to craft revisions to existing state law in order to close the perceived loophole in the nonmetallic mining regulations for the Riverway.

And so, with a heavy heart but a clear conscience, I offer the board my recommendation for action on the four applications submitted for frac sand mining in the Town of Bridgeport, Crawford County.