

LOWER WISCONSIN STATE RIVERWAY BOARD

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MINUTES OF THE JANUARY 11, 2007, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, January 11, 2007, at the village hall in Muscodia to conduct a regular monthly business meeting. The meeting was called to order at 5:00 p.m. by Chairman Bill Lundberg. All members were present with the exception of Nick Nice. Acknowledgment that the meeting was properly noticed was provided by Mark E. Cupp, Executive Director. A motion to approve the agenda was made by Ritchie Brown, seconded by Melody Moore. **MOTION CARRIED.** A motion to approve the minutes of the December 14, 2006, meeting was made by Jerry Dorscheid, seconded by Brown. **MOTION CARRIED.**

The Executive Committee report was presented by Chairman Lundberg who reviewed correspondence. Cupp noted the packets contained an article from an outdoors writers journal on global warning and the observations of longtime nature photographer and writer Leonard Lee Rue III.

Cupp then said Effigy Mounds National Monument (EMNM) was engaged in a planning process to direct developments and management of the park for the next 15-20 years. Cupp noted he and LWSRB member Don Greenwood had attended a public informational meeting on the plan alternatives on January 10th. Cupp described the alternatives. Alternative A would retain the status quo. Alternative B would expand educational outreach and development new interpretative programs and add buildings, trails and other infrastructure. Alternative C would expand educational and interpretative outreach but would focus on retention of the natural character of the park and would only add minimal trail development. Cupp said he would like to offer comments from the LWSRB endorsing a version of Option B that would include establishment of a mounds research facility, visitor center or other "outpost" of EMNM. The comments also would request EMNM staff assume a leadership role in creation of a new designation for the mounds building region, including the Riverway, such as a National Historic District or National Heritage Area.

Greenwood's written comments provided at the January 10th EMNM public meeting were reviewed. Greenwood noted the comments were made as a private citizen. Greenwood also endorsed a version of Alternative B to include expanded educational and interpretative efforts and designation of a new National Historic District. Greenwood cited the Kewaunee Historic District in Michigan's Upper Peninsula as an example. Greenwood said there is a great challenge to provide education to local people about the effigy mound building culture of this region. He cited his personal journey of understanding as an example and said he thought EMNM was the only place where mounds were located until just a few years ago when he was enlightened regarding the many mounds in the Riverway. Moore concurred and said she was surprised to learn of the many mounds in the vicinity after growing up in Richland Center and not knowing about the effigy mound culture. Greenheck said there are mounds on private lands that need protection and noted the mounds on Point Jude in the Town of Buena Vista, Richland County, had been disturbed in the past. Cupp said newspaper accounts indicated a local Boy Scout troop opened the mounds in the 1920's. Cupp said he finds many local people are unaware of the significance of the mound culture in the Muscodia area and throughout the lower Wisconsin River valley. Brown said the influence of the mound builders actually extends all the way up the river and is an important part of our history. Leys said it would be a good idea for the LWSRB to offer formal comments on the EMNM 20 year plan.

A motion directing Cupp to prepare written comments endorsing a version of Alternative B and including comments on expanded educational/interpretative programs, consideration of a National Heritage Area or Historic District designation for the region, and establishment of a mounds research facility/visitor center or outpost at Muscodia was made by Brown, seconded by Leys. **MOTION CARRIED.**

The Operations Committee report was presented by Chairman Dorscheid. The permit request of John Adams for construction of a stairway to provide access to the river in the Town of Eagle, Richland County, was considered. Dorscheid said a field inspection was conducted by Cupp on December 15, 2006. Mr. Adams and the contractor were present for the field inspection. Previously, field inspections were conducted by Cupp and the Operations Committee in conjunction with construction of a new house at the property.

Plans call for construction of a wooden stairway to provide access to the river. The stairway will traverse the highbank to the shoreline. Minimal disturbance of the existing vegetation will occur. The exterior colorization will harmonize with the natural surroundings during leaf-on conditions. The stairway will be 36 inches with a railing. At some point in the future, a wharf may be constructed. (NOTE: Construction of a wharf up to 3 feet wide and 20 feet long is allowed without an LWSRB permit.)

Dorscheid made a motion, seconded by Greenwood, to approve issuance of a permit for the activity with the following conditions:

- The stairway shall be visually inconspicuous;
- The stairway shall have sufficient safeguards to prevent erosion;
- The stairway shall be for pedestrian use only;
- The activity shall comply with all other applicable federal, state and local regulations;
- The LWSRB shall review modifications to the plans, as submitted, for compliance with the applicable performance standards; and,
- The landowner shall notify the LWSRB upon initiation and completion of the project.

MOTION CARRIED,

The permit request of Peter Pomerening for an extension to a previously issued timber harvest permit was discussed. Dorscheid noted the parcel is located in the Town of Wauzeka, Crawford County east of the intersection of STH 60 and STH 131. Dorscheid said an initial field inspection was conducted on July 30, 1999, by Cupp. Bill Carlson, former DNR Riverway Forester, also was present for the field inspection. Due to the dense foliage, a determination of visibility to/from the river was not possible. However, the field inspection revealed portions of the harvest area are within the Riverway boundary and may include the Bluff Zone, Riverview Zone and Resource Management Zone. Plans call for the selective harvest of merchantable hardwoods, mainly, red oak. A subsequent field inspection during leaf-off conditions enabled Cupp to determine the locations of the various zones. A portion of the harvest was completed. In December of 2002, Mr. Pomerening indicated his desire to complete the harvest in the uplands area and, potentially, conduct a harvest in the bottomlands not visible from the river and an extension was granted. Mr. Pomerening now wishes to conduct another light selection harvest. Cupp said a field inspection would be conducted at the site prior to initiation of the harvest. The conditions of the original permit would remain in effect and would include the following:

- The harvest shall comply with the basal area limits for the residual stand for the Riverview Zone and Bluff Zone as detailed in NR 37, Wisconsin Administrative Code;
- In the Riverview Zone and Bluff Zone, the harvest shall be limited to the times when the ground is frozen or dry and the leaves are off the deciduous trees;
- The LWSRB shall approve of the location and design of any small regeneration cuts in the Riverview Zone;
- The LWSRB shall approve the location and design of any new logging roads in the Riverview Zone and Bluff Zone;
- If necessary, the Resource Management Zone, Riverview Zone and Bluff Zone shall be delineated prior to initiation of the harvest;
- All trees selected for harvest shall be appropriately marked and approved by the LWSRB prior to initiation of the harvest;
- The landowner or his/her agent shall notify the LWSRB upon initiation of the harvest and within 10 working days upon completion of the harvest and the LWSRB shall conduct a post-harvest field inspection; and,
- The LWSRB shall approve of any modification of the plans as submitted.

Dorscheid made a motion, seconded by Leys, to approve issuance of an extension to permit for a period of one year.

MOTION CARRIED.

The permit request of Kay Neman for a timber harvest in the Town of Orion, Richland County, was considered. Dorscheid noted the logger is Ron Ringlestetter, Grell Lumber, Gotham. Dorscheid said an initial field inspection was conducted by Cupp on September 22, 1999. The former consultant, Peter Bremmer and Bill Carlson, former DNR Riverway Forester, also were present for the field inspection. The Operations Committee also conducted a field inspection at the site. An extension was granted in 2001.

An additional field inspection was conducted by Cupp on January 4, 2007. Mr. Ringlestetter, the new consultant/logger, was present for the field inspection. Field inspection revealed portions of the harvest area are highly visible from the Wisconsin River. Plans call for the selective harvest of merchantable hardwoods. The trees slated for harvest have been marked. Some oak wilt pockets exist and are marked for a clear cut. The 40 acre portion of the parcel slated for harvest recently was enrolled in the Managed Forest Law (MFL) program. Cupp spoke with Todd Kennefick, Richland County Forester, regarding the MFL entry. Kennefick said the marking is not consistent with the management plan and will have to be redone. Kennefick is scheduled to meet with Ringlestetter at the property next week. The management plan calls for a "thinning from below" whereas the marking done by the logger was more of a traditional commercial hardwood harvest. Some aspen may be cut as well. No new roads will be constructed in the Bluff Zone or Resource Management Zone. Dorscheid noted a field inspection was conducted by the Operations Committee, LWSRB members Bill Lundberg and Don Greenwood, Brad Hutnik, DNR Riverway Forester, and Cupp on January 11, 2007. Cupp noted Hutnik and Kennefick also would conduct a field inspection at the site on January 16th. Hutnik said the MFL plan calls for a thinning from below and that the stand is relatively young. He said some small pockets of aspen may be targeted for harvest and regeneration. Cupp noted there was oak wilt present that may require some clear cutting.

Dorscheid made a motion, seconded by Brown, to approve issuance of a permit for the activity with the following conditions:

- The harvest shall comply with the basal area limits for the residual stand in the Bluff Zone and Riverview Zone, as detailed in Chapter NR 37, Wisconsin Administrative Code;
- In the Bluff Zone and Riverview Zone, the harvest shall be limited to the times when the ground is frozen or dry and the leaves are off the deciduous trees;
- The LWSRB shall approve of the location and design of all small regeneration cuts or shelterwood cuts, if any, in the Riverview Zone;
- The LWSRB shall approve the location and design of all new logging roads, if any, in the Bluff Zone and Riverview Zone;
- The new logging roads, if any, shall comply with the applicable performance standards regarding grade and erosion control and shall be re-seeded upon completion of the harvest;
- If necessary, the Bluff Zone, Riverview Zone and Resource Management Zone shall be delineated prior to initiation of the harvest;
- All trees selected for harvest in the Bluff Zone and Riverview Zone shall be appropriately marked and approved by the LWSRB prior to initiation of the harvest;
- The landowner or his/her agent shall notify the LWSRB within 10 working days upon completion of the harvest and the LWSRB shall conduct a post-harvest field inspection; and,
- The LWSRB shall review modifications to the plans, as submitted, for compliance with the applicable regulations.

MOTION CARRIED.

A timber harvest on lands owned by Jack Kinney in the Town of Watterstown, Grant County, was discussed. Cupp explained that a permit was issued by the LWSRB in November of 2006. He said the item was placed on the agenda for the January 11th meeting because he expected an amendment to be required to include another harvest area. However, upon conducting a field inspection, it was determined the additional harvest area did not fall within the Riverway boundary. Cupp said he and consultants Gary and Andrew Nelson had conducted another field inspection at the original harvest site and had reviewed the oak wilt pocket for which a clear cut was prescribed and had delineated a protection zone around the conical mound. In addition, another oak wilt pocket was delineated by Cupp. Gary Nelson

had “unmarked” some trees in the Bluff Zone to offer additional aesthetic protection since the oak wilt pockets are in or adjacent to the Bluff Zone. Cupp noted a conference call with Hutnik was held prior to the field inspection. Cupp said board action was not required.

A violation of the Riverway timber harvest regulations that occurred on land owned by Greg Nedland in the Town of Richwood, Richland County, was discussed. Cupp noted the logger is Jack Frazier. Cupp said he conducted an initial field inspection in 2004. Brad Hutnik, DNR Riverway Forester, also was present for the field inspection. A second field inspection was conducted by Cupp on January 5, 2007. Mr. Nedland was present for the field inspection. A third field inspection was conducted on January 8, 2007, by Cupp, Hutnik and Steve Williamson, DNR Forestry Technician. Field inspections revealed the harvest area includes the Bluff Zone and Resource Management Zone. The largest viewshed is several miles distant and a minor small viewshed is closer.

Cupp said he received information that a harvest was ongoing and confirmed the activity was undertaken without an LWSRB permit. Cupp contacted the landowner who indicated that he was aware that a portion of the parcel (6 of the 12 acres) fell within the Riverway boundary and also was covered by a scenic easement that had been sold to DNR by the previous landowner. Mr. Nedland indicated the logger was supposed to take care of all permits. Cupp contacted Mr. Frazier who said that he had been told by Cupp two years ago that a permit wasn't required. Cupp then contacted Hutnik to confirm his personal recollection of events to which Hutnik concurred. Cupp said, in 2004, the harvest was slated to occur near the bottom of the small bluff, the area outside the Riverway boundary. At that time, he informed Mr. Frazier that a permit would not be required.

Cupp noted the recent harvest included the portion of the parcel that falls within the boundary. Therefore, a permit should have been obtained. Initially, Cupp reviewed the basal area of the residual stand for compliance with the applicable performance standards and found the harvesting to be in compliance with those standards. These findings were confirmed by Hutnik during the January 8th field inspection. Cupp expressed concern that the new road/skid trail did not comply with the road building standards and would require mitigation to include establishment of water bars. Cupp discussed the need for water bars with the landowner who said he also was interested in minimizing erosion and stabilizing the roads. Hutnik concurred that water bars are needed on the steeper sections of the road. Hutnik provided the landowner with a seed mixture for the roads.

Cupp said the DNR purchased a scenic easement from the previous landowner. The perpetual easement transferred with the property. A typical scenic easement would require development of a management plan before cutting timber. A management plan does not exist for the parcel. The easement also typically requires compliance with the Riverway regulations. Cupp noted a copy of the original easement has not been provided to LWSRB by DNR although a prototypical easement was provided. Cupp recommended the LWSRB forego issuance of a written warning because no aesthetic damage was done by the timber harvest but did recommend issuance of a permit with special conditions to address the roads/skid trails and to assure any future harvesting complies with the regulations. Leys commended Cupp for following up on the matter and reviewing all aspects of the case carefully. Lundberg said a daily log of activities or other type of paper trail may be useful in these situations. Cupp then reviewed the proposed special conditions of the permit including mitigation of the skid trails by May 1, 2007, and a recommendation for development of a management plan for the parcel.

Dorscheid made a motion, seconded by Madison, to approve issuance of a permit for the activity with the following conditions:

- Further harvesting shall comply with the basal area limits for the residual stand in the Bluff Zone, as detailed in Chapter NR 37, Wisconsin Administrative Code;
- In the Bluff Zone, further harvesting shall be limited to the times when the ground is frozen or dry and the leaves are off the deciduous trees;
- The LWSRB shall approve the location and design of all new logging roads, if any, in the Bluff Zone;
- The new logging roads, if any, shall comply with the applicable performance standards regarding grade and erosion control and shall be re-seeded upon completion of the harvest;

Nedland conditions (continued):

- The logging roads/skid trails installed prior to issuance of the permit shall be repaired to comply with Best Management Practices for roads with the mitigation to occur under the supervision and direction of the Riverway Forester;
- The road mitigation shall occur by May 1, 2007, unless ground conditions prevent the use of heavy equipment, in which case, an extension must be requested by the landowner and the board will consider issuance of the extension;
- If necessary, the Bluff Zone and Resource Management Zone shall be delineated prior to initiation of further harvesting;
- All trees selected for harvest in the Bluff Zone shall be appropriately marked and approved by the LWSRB prior to initiation of further harvesting;
- An on-site meeting between the consultant and the DNR Riverway Forester shall occur prior to initiation of further harvesting;
- Development of a forest management plan for the parcel is recommended;
- The landowner or his/her agent shall notify the LWSRB within 10 working days upon completion of the harvest and the LWSRB shall conduct a post-harvest field inspection;
- The LWSRB shall review modifications to the plans, as submitted, for compliance with the applicable regulations; and,
- The activity shall comply with all other federal, state and local regulations.

MOTION CARRIED.

Proposed improvements and associated removal of trees and woody vegetation at the Boscobel Airport were discussed. Cupp said an onsite meeting is slated for January 25th. A cross section of state and federal regulators and local and state officials are expected to attend. The revisions to the vegetative removal plan will be evaluated and the need for revisions to the proposed re-vegetation plan developed by Huntik will be considered. Cupp said he was encouraged that the amount of vegetation targeted for removal had been reduced.

The Crystal/Fish/Mud Lake District pumping project was discussed. Cupp noted Bud Styer was unable to attend due to a medical condition. He said the lake district had developed a new proposal to create two cells for discharge of water from the pumping project. The site is on state owned property managed by the DNR in the Town of Roxbury, Dane County, at STH 188 and Clifton Drive. One cell would be north of the access road and one would be south of the access road. Vegetation would be clear cut and topsoil removed from each cell. Cupp said the aesthetic impacts when viewed from the river would be minimal. However, Cupp said the proposal first must be approved by DNR. Cupp noted the board action at the November – 2006 meeting was to delay issuance of a warning for violation of the original permit until January – 2007. Cupp said he recommended that, rather than proceed with issuance of a warning; the board should simply withdraw the original permit or consider it null and void. The original permit is no longer in effect because the proposal was changed and the alterations have not been approved by the LWSRB. The new proposal would require a new permit from the board, as well as from DNR. Madison said he would support the action and noted the lake district should come back to the board with a new permit application once the engineering studies have been completed and a formal proposal has been developed and approved by DNR. Madison asked if that would be communicated to the lake district. Cupp said he would include a description of the process in the letter to the lake district regarding the board's action to withdraw the existing permit. A motion to consider the existing permit "null and void" was made by Greenwood, seconded by Dorscheid. **MOTION CARRIED.**

A new proposal for creation of a mineral extraction site (sand pit) in the Town of Spring Green, Sauk County, was discussed. Cupp said a Sauk County Board supervisor had proposed that a sand pit be established in the Sauk County Community Forest east of Lone Rock near the intersection of USH 14 and Porter Road. Long term plans would call for creation of a 30 acre pond, beach and housing development. Cupp noted the site is not located within the Riverway boundary. Greg Greenheck asked for clarification on location. Cupp said the site is located north of USH 14 and west of Porter Road according to newspaper reports.

Cupp said a logger, John Udelhoven, had contacted him on January 10th about a light selective harvest on two parcels in the Town of Marietta, Crawford County. The landowners are David Jones and Al Zinkle. Plans call for the harvest of 6 walnut trees on the Jones parcel and 12-15 trees on the Zinkle parcel. Cupp said he had issued a general permit for a walnut harvest on the Jones parcel. The additional trees slated for harvest are likely to be located on lands visible from the river. An additional field inspection will be required. Cupp requested authority to proceed with issuance of the permits if compliance with the applicable performance standards was achieved. He noted the permit requests were not received in time to be included in the public meeting notice, hence, his request for authority to issue the permits rather than board action to issue the permits. A motion to provide Cupp with authority to issue the permits was made by Madison, seconded by Moore. Lundberg asked about road building. Cupp said the logger indicated no new roads would be needed.

Greenwood said he was concerned about compliance with public meeting notice and didn't think the board should take any action. Lundberg said the LWSRB has authorized Cupp to take similar actions in the past. Greenwood said he supported board efforts to accommodate permit applicants but was uncomfortable with acting on the request since it wasn't on the public meeting notice. Cupp reviewed language on the agenda that indicates the board may act on matters deemed "urgent" by the board. Greenwood said he didn't feel this situation met that test. Cupp said the Executive Committee could schedule a special meeting to take action following publication of a meeting notice. Madison and Moore then withdrew the motion. An Executive Committee was tentatively scheduled for January 16th to consider the permit requests.

Cupp said he had issued one permit since the December meeting. A general permit was issued to Dave Jones and the logger, John Udelhoven, for a timber harvest on lands not visible from the river in the Town of Marietta, Crawford County.

The Budget & Office Committee report was presented by Acting Chairman Greenheck who reviewed the status of the FY 07 budget.

The Personnel Committee report was given by Chairperson Moore who said the annual performance evaluation of Executive Director Cupp had been completed. She said all nine board members had completed the evaluation forms. Moore said Cupp received a 54+ score out of a possible 54 points. She read some of the comments that provided accolades for Cupp's performance. Moore said the committee recommended Cupp be given an "excellent" rating. A motion to that effect was made by Greenheck, seconded by Madison. **MOTION CARRIED.** Moore said Peter Olson, Human Resources Director with Department of Administration, had joined the committee by telephone and had said that Cupp would be eligible for a two step increase for merit. An additional two step increase could be requested based on exceptional performance if adequate justification was provided. A motion to provide Cupp with a two step increase for merit was made by Moore, seconded by Greenwood. **MOTION CARRIED.** A motion to pursue an additional two step increase for exceptional performance was made by Moore, seconded by Madison. **MOTION CARRIED.** Cupp thanked the board for the continued confidence noting it had been 17 years since he was hired as the first director of the agency. He also thanked former board members, landowners and staff for their cooperation. Cupp noted Office Associate Marsha Nachtigal plays an important role in the success of the project as well. Cupp then thanked his family for their continued support and the sacrifices made so that he can attend to Riverway business, especially evening meetings and weekend events.

The Executive Director's report was presented by Cupp who reviewed the materials in the board members' packets. He noted river flow was higher than it had been for several months. He said progress on the scenic byways project continues and noted meetings with Chambers of Commerce and municipalities have been scheduled. Cupp said volunteer work days on Dingman and Jonas sites were conducted in December. A work day will be held at the Hornung site in the Town of Roxbury, Dane County, when ground conditions are favorable. Cupp said a Muscoda area mounds tour with the C4C group from Spring Green is slated for February 3rd.

Under board members' business, Leys reported the proposed revision to the Crawford County tower siting ordinance has been approved at the committee level and will be going to the full county board for action in February. He said there are modest changes to setback requirements. Leys noted a bond is secured for all new towers to assure the tower will be dismantled when it is no longer in use. Leys said the ordinance requires space on the tower for a minimum of 4 co-locations with those spaces made available at reasonable costs to other providers.

Lundberg asked Cupp about board policy statements. Cupp said the biennial report contains information on resolutions, policies and other board actions. Lundberg said the Executive Committee may wish to discuss the matter at a future meeting.

The DNR report was presented by DNR Riverway Manager Steve Colden who said a scenic easement was acquired on 88 ½ acres of the Vince Limmex property in the Town of Wyoming, Iowa County.

During the public comment session, Kevin Isenring of Sauk City asked about the number of airboats operating on the river that would be affected by the proposed new noise regulations. Cupp said he was aware of two airboat operators that advertised tours and had heard there was another airboat operator on the west end but emphasized he had no firm numbers. Mr. Isenring asked if Cupp would get those numbers. Cupp said the information would be available from DNR and said Mr. Isenring should contact the DNR regarding the request. Mr. Isenring asked if the board would support regulation of other noise sources. Cupp said the board supported uniform application of the noise regulations to all motorized watercraft in the Riverway. Mr. Isenring asked if the board has solicited comments from airboat operators prior to taking a position. Cupp said the rule revision was a DNR process, not an LWSRB process. Cupp said the board had participated in the public hearing process as an advisory agency. Mr. Isenring said the board also should be concerned about other noise sources such as low flying airplanes, hunting, gun clubs, boom boxes, etc.

A motion to adjourn until February 8th when the meeting will be held in Muscoda was made by Madison, seconded by Moore. **MOTION CARRIED.**

END

For further information, corrections, additions or deletions to the minutes, contact Mark Cupp, Executive Director, at (608) 739-3188 or 1-800-221-3792.

Minutes submitted by:

Mark E. Cupp, Executive Director
Lower Wisconsin State Riverway Board