

LOWER WISCONSIN STATE RIVERWAY BOARD

202 N. Wisconsin Avenue
P.O. Box 187
Muscodia, WI 53573
(608) 739-3188 or 1-800-221-3792

MINUTES OF THE SEPTEMBER 11, 2008, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, September 11, 2008, at the Spring Green Public Library 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 exceptions of Melody Moore and Ritchie Brown. Acknowledgment that the meeting was properly noticed was provided by Mark E. Cupp, Executive Director. A motion to approve the agenda was made by Jerry Dorscheid, seconded by Nick Nice. **MOTION CARRIED.** The minutes of the August 14, 2008, meeting then were considered. A motion to approve the minutes was made by Don Greenwood, seconded by Ron Leys. **MOTION CARRIED.**

The Executive Committee report was presented by Chairman Lundberg who reviewed correspondence. Cupp said Governor Jim Doyle will sign a proclamation declaring 2009 as the Year of the Lower Wisconsin State Riverway. Cupp said a schedule of special events will be developed and asked for board members to submit ideas to commemorate the 20 year milestone. He noted the Riverway law was signed by Governor Tommy Thompson in August of 1989 with the regulations becoming effective on October 31, 1989.

Lundberg said a letter had been received from a Town of Arena, Iowa County, landowner who expressed concerns about the possible re-zoning of property in the Town of Arena. Dorscheid said the Iowa County Planning and Zoning Committee held a public hearing on campground use at the Terry Askevold property and determined the camping should be grandfathered. Greenwood asked if a license was issued. Dorscheid said no license was issued. Cupp asked if there was any discussion of rezoning. Dorscheid replied in the negative. Dorscheid said the matter is on the town board meeting agenda.

Lundberg noted the Iowa County Planning and Zoning Committee had discussed the LWSRB's request to regulate wind turbines in order to protect the Riverway viewshed. Dorscheid said members of the committee had accompanied him and Cupp on a canoe trip on the river to achieve a better understanding of the viewshed issues. Leys asked if there is support for regulations of wind turbines for aesthetic protection purposes. Dorscheid said the committee's position has not been defined.

David Marshall then gave a presentation on Water Quality and Fishery Issues of Wisconsin River Backwaters. A PowerPoint presentation was shown. Marshall said floodplain lakes are important nurseries for fish and said there are many unusual species found in the sloughs. He said pirate perch, pugnose minnows and starhead top minnows are some of the unusual fish. Marshall said the backwaters also are home to game species such as pike and bass and panfish such as bluegills and perch. He said the bowfin or dogfish also is an important predator species. Cupp said Marshall's research is providing important data in an area where sound research is lacking. He said similar research should be done in all Riverway counties to fill the void in scientific information on the backwater lakes.

The Crystal/Fish/Mud Lake District pumping project was discussed. Lundberg said a conference call on the issue was held with participation from DNR officials, he and Cupp. The conference call was held at the request of the board. He said the emergency order to allow direct discharge to the river was explained by DNR. The discharge must meet background water quality standards for the river and data must be provided by the Lake District to show the background standards are being met. The emergency order expires on September 30th but a request to continue pumping until the end of December has been submitted by the Lake District. The request is under review. A LWSRB permit for the temporary discharge is required but has not been secured.

LWSRB MINUTES/SEPTEMBER 11, 2008

PAGE -2-

The Operations Committee report was presented by Chairman Dorscheid. The request for a utility permit on behalf of the Crystal/Fish/Mud Lake District in the Town of Roxbury, Dane County, was considered. A PowerPoint presentation was given. The digital images showed the pipes, riprap and discharge area. A green plume (algae) entering the Wisconsin River at the discharge site also was represented by the photographs. Cupp said the consultant had provided the specifications for the pipes that had been placed to accommodate the discharge. He said the activity would comply with the applicable performance standards for a utility facility and recommended issuance of a one-year permit.

Madison asked about the test cell. Dana White-Quam, DNR Riverway Manager, said the test cell demonstrated that the desired infiltration was not achieved. She said there is water quality monitoring ongoing to assure the water from lakes is meeting background standards for the river. Madison asked if the current temporary activity is a precursor to a permanent direct discharge system. Cupp replied in the affirmative. Leys noted great efforts have been made to assure boaters clean their trailers and boats to avoid spreading invasive species. He said the same principle should be applied to the discharge from the lakes to assure the water entering the river is clean and doesn't contain contaminants. Madison said any permit should not be for a full year but should be for six months at most. Greenwood noted the LWSRB has not approved a permit for the current activity. Cupp noted the specifications for the new activity have been submitted, albeit after the fact, and said the activity complies with the applicable performance standards for aesthetic protection.

Greenwood made a motion, seconded by Madison, to deny issuance of a permit for the activity on the basis of repeated incidents of doing activities first and then asking for a permit from the LWSRB. Lundberg said the activity did occur without a permit in place but noted the activity does comply with the applicable performance standards. Greenwood said the emergency order shouldn't have been issued because it was a different situation than other flooded areas. Leys said the situation is not a flooding event on a river such as occurred at many places in southern Wisconsin.

Cupp read the statutes related to the board's jurisdiction for issuance of utility permits and the associated performance standards. He said the activity meets the standards. Greenwood said the Lake District has not followed the rules and said he is tired of issuing permits after the fact. White-Quam said the land use agreement between DNR and the Lake District contained a provision requiring the Lake District to comply with the all other applicable regulations and obtain required permits. Madison said any permit issued by the LWSRB shouldn't go beyond September 30th to be consistent with the DNR emergency order. Greenwood said, if the board doesn't issue the permit, the pipes won't be pulled. Lundberg said it is not up to the board or the DNR to determine the validity of the project or whether it will work or not. He said the LWSRB should administer the regulations under the board's jurisdiction. Greenwood expressed concern about water quality as evidenced by the green plume entering the river at the discharge site.

A member of the public, Dave Marshall, said the algae represents a water quality issue but that more data is needed. He said the water entering the river should be no worse than the background standards of the river itself. He said there may be other things in the lake water that are not being measured. Marshall expressed concern that the direct discharge establishes a dangerous precedent.

Lundberg asked Cupp to again read the applicable statutes and associated performance standards. He asked for a roll call vote on the motion to deny issuance of a permit.

LWSRB MINUTES/SEPTEMBER 11, 2008

PAGE -3-

A roll call vote was taken. The motion to deny the permit was adopted on a vote of 5 “aye”, 2 “nay” and 2 members absent.

Lundberg – nay

Moore – absent

Nice – aye

Dorscheid – aye

Madison – aye

Leys – aye

Greenwood – aye

Greenheck – nay

Brown – absent

MOTION CARRIED.

Proposed modification of a walkway that provides access to the river on the Eric Rapp property in the Town of Clyde, Iowa County, was discussed. A PowerPoint presentation was shown. Dorscheid stated that field inspections have been conducted by Cupp and the Operations Committee in conjunction with previous permit activity at the site. In addition, Cupp conducted a field inspection at the site on August 22nd. Mr. Rapp was present for the field inspection. Plans call for extension of a ramp to an existing concrete structure that provides access to the river. The flooding event of June of 2008 caused damage to the existing structure. Repairs will be made and a ramp to accommodate discharge of water will extend from the end of the structure. Recovery of riprap or placement of new riprap may occur. The site is visible from the Wisconsin River during leaf-on conditions. A permit was issued by the LWSRB in 2005 for modifications to the former structure. Cupp said the consulting engineer was working on the specifications for the modification and said a meeting with DNR staff is planned. He requested authorization to proceed with issuance of an extension to the permit with retention of the existing conditions if the required information was received. A motion to authorize Cupp to issue the permit was made by Leys, seconded by Madison. **MOTION CARRIED.**

The permit request of Larry Davis for a timber harvest in the Town of Spring Green, Sauk County was considered. A preliminary field inspection was conducted by Brad Hutnik, DNR Riverway Forester, and Mike Ederer of Oakwood Forestry Consulting on July 29, 2008. Field inspections have been conducted by Cupp and the Operations Committee in conjunction with previous permit activity in the vicinity. Plans call for a timber harvest as directed under the Managed Forest Law (MFL) plan for the site. Hutnik confirmed oak wilt at the site and has marked the pockets slated for clear cutting as well as the aspen clear cut areas. In addition, miscellaneous hardwoods will be selectively harvested. No new logging roads are planned. An assessment of the visibility of the harvest area will occur in the fall of 2008.

Dorscheid made a motion, seconded by Leys, to approve issuance of a permit 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;

Davis conditions cont.:

- 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 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 approve of any modification of the plans as submitted.

MOTION CARRIED.

The request of Tom Hubl for an extension to a previously issued timber harvest permit was discussed. Dorscheid noted the parcel is located in the Town of Marietta, Crawford County. A field inspection was conducted by Cupp in conjunction with issuance of the original permit in 2000. The harvest was not completed. Field inspection revealed the harvest area is not visible from the Wisconsin River during leaf-on conditions. Plans call for the selective harvest of a small number of walnut, maple and miscellaneous other species on a 2.7 acre parcel. No new roads will be constructed. The harvest area is adjacent to Hubl's Motel & Building Mart.

Dorscheid made a motion, seconded by Greenwood, to approve issuance of a two-year extension to the permit with retention of original conditions:

- The harvest area shall occur on lands not visible from the Wisconsin River during leaf-on conditions;
- The LWSRB shall approve of any modification to the harvest plans, as submitted, and,
- The landowner or his/her agent shall notify the LWSRB upon initiation and completion of the project.

MOTION CARRIED.

The request of Jean Stewart for an extension to a previously issued timber harvest permit in the Town of Orion, Richland County was discussed. Dorscheid noted that a field inspection was conducted by Cupp on September 5, 2007. Hans Rudolf, DNR Forester, also was present for the field inspection. Other field inspections have been conducted by Cupp in conjunction with previous permit activity at the site. Portions of the parcel are visible from the Wisconsin River during leaf-on conditions. The amount of foliage present at the September 5, 2007, field inspection made viewshed identification difficult. The harvest area likely will include the Bluff, Riverview and Resource Management Zones. Plans call for the selective harvest of merchantable hardwoods to improve the quality of the woodlot. The harvest will be conducted pursuant to the Managed Forest Law (MFL) plan developed for the site. An existing logging road will be utilized. Rudolf has determined that the basal area requirements for the Bluff Zone will be met. The trees slated for harvest have been marked. The harvest will occur during the times when the leaves are off the deciduous trees and the ground is frozen or dry. Cupp said the logger expects to finish the harvest this fall.

LWSRB MINUTES/SEPTEMBER 11, 2008

PAGE -5-

Dorscheid made a motion, seconded by Madison, to approve issuance of a one-year extension to the permit with retention of original 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, all trees selected for harvest shall be appropriately marked and reviewed by the LWSRB for compliance with the applicable performance standards prior to initiation of the harvest;
- 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 review 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;
- The LWSRB shall review the location and design of all small regeneration cuts, if any, in the Riverview Zone to assure compliance with the applicable performance standards;
- If necessary, the various zones shall be delineated 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, if necessary, the LWSRB shall conduct a post-harvest field inspection; and,
- The LWSRB shall review modification of the plans, as submitted, for compliance with the applicable performance standards.

MOTION CARRIED.

The bank stabilization project at the Dingman mound group in the Town of Eagle, Richland County, was discussed. Cupp noted the project had been completed. A PowerPoint presentation was shown. White-Quam said she met with the contractor onsite and said Mark Dudzik, DNR Archeologists, had fenced off the closest mound to avoid any damage. She the project was completed in two days.

A potential structure violation in the Town of Prairie du Sac, Sauk County, was discussed. Cupp said a large enclosed deer stand was erected without a permit. Cupp said he is scheduled to meet with the landowner on September 16th. No action required at this time.

A project proposed by the Ferry Bluff Eagle Council to remove invasive species and plant trees on a small island near the eagle viewing station at Prairie du Sac was discussed. Cupp said a management permit would be required. Hutnik said the island is small and appears to have been ripped in the past. He said it looks like it could have been a power line crossing or bridge trestle site. The intent is to establish trees that will provide perching opportunities for eagles in the long term as the existing trees mature and die. Madison said it is a good idea. Cupp said the matter was presented for informational purposes. A permit application has not yet been received.

Cupp said there were no permits issued by the Executive Director since the last meeting.

The Budget Committee report was presented by Chairman Nice who reviewed the status of the FY 09 budget. Cupp said the committee had met by conference call to discuss the LWSRB budget request for the 2009-2011 biennium. Laura Muenich, Department of Tourism Budget Analyst, also participated in the conference call. A 0% increase with standard budget adjustments to the salaries and fringe benefits lines is proposed. The total request would be for \$209,700 in SEG funds for each year of the biennium. A motion to approve the budget request was made by Greenwood, seconded by Madison. **MOTION CARRIED.**

LWSRB MINUTES/SEPTEMBER 11, 2008

PAGE -6-

Cupp said the required 10% reduction in the board's budget also was provided. Leys expressed concern about the proposed reduction in the number of board meetings because it would affect the agency's ability to provide timely responses to landowners. There was general consensus that a cover letter would be sent expressing the board's concern with the adverse impact on the board's ability to provide services if the reductions were implemented.

There was no report from the Personnel Committee report.

The Executive Director's report was given by Cupp who reviewed the materials in the board members' packets. He noted a new book on the Wisconsin River recently had been published.

Under board members' business, Dorscheid reviewed the Iowa County Planning and Zoning Committee action to designate the campground in the Town of Arena mentioned earlier in the meeting as a legal nonconforming use. He said the campground is in the floodplain. White-Quam said the DNR is interested in the issue, particularly, if a rezoning request would be made.

Leys said he was impressed with Dave Marshall's research on backwater lakes and said area schools should invite Marshall to give a presentation. Marshall said there is a narrow window in the fall to give actual field demonstrations but that he is willing to talk to school groups about his research.

The DNR report was presented by White-Quam who said there trespass issues on DNR property in the Town of Mazomanie, Dane County. She said DNR officials are continuing to meet with Kevin Isenring to resolve the issues raised by Mr. Isenring. She said the debris clean-up from flooding yielded over 120 tons of debris. White-Quam said work continues to clear Morrey Creek north of the railroad tracks near Avoca in the Town of Pulaski, Iowa County.

No comments were provided during the public comment session.

A motion to adjourn until October 9th when the meeting will be held at the Crawford County Administration Building in Prairie du Chien was made by Madison, seconded by Greenwood. **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