

# LOWER WISCONSIN STATE RIVERWAY BOARD

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## MINUTES OF THE SEPTEMBER 10, 2009, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, September 10, 2009, 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 Fred Madison 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 Lundberg, seconded by Greg Greenheck. **MOTION CARRIED.** The minutes of the August 13, 2009, meeting then were considered. A motion to approve the minutes was made by Jerry Dorscheid, seconded by Greenheck. **MOTION CARRIED.**

The Executive Committee report was presented by Chairman Lundberg. Lundberg introduced Gene Van Dyck, Department of Natural Resources (DNR) Fisheries Manager, for a presentation on the lower Wisconsin River fishery. Van Dyck reviewed populations and growth rates for the sport fishery on the river and discussed management challenges for rare species. He noted fluctuations in river levels due to operations at the Prairie du Sac dam have adverse impacts on fish due to disruption of habitat and erosion. Van Dyck advocated for changes to size limits on small mouth bass and walleye to improve the fishery. He discussed VHS rule changes and ongoing research by John Lyons. He also expressed concern about impacts of flathead catfish populations due to the amount of harvesting that occurs during the bank pole season noting the number of years required for a catfish to reach the 25-50 pound size class. Van Dyck also discussed the pros and cons of a fish passage at the Prairie du Sac dam.

Correspondence was reviewed. Lundberg said Cupp had been contacted by a recreational user, Thomas Ferrella, who complained about DNR Conservation Wardens enforcement actions with a drug dog and the operation of their watercraft, which he alleged created a large wake that was dangerous for canoeists. The response provided by Chuck Horn, DNR Warden Supervisor, also was reviewed. Horn noted the wardens work with local enforcement for occasional actions on the river using a drug dog. He said the actions are taken in response to complaints from river users regarding drug use on the river. Cupp said he provided the correspondence to the board at the request of Dr. Ferrella.

Leys said he disagrees with the use of drug sniffing dogs in the context of the Riverway and felt it was unconstitutional. Lundberg said he had not been aware of a major drug problem on the river. Greenwood said he doesn't agree with drug dog use by wardens on the river because of the probable cause aspect. Leys said sometimes the solution is worse than the problem and expressed concern with heavy handed law enforcement in certain instances. Greenwood said he would like to know the number of complaints received regarding drug use on the river. Melody Moore said she believes alcohol abuse is more of a problem than illegal drugs on the river. Moore said she would hate to see the recreational use of the river by law abiding citizens diminished because of an adverse experience with law enforcement. Leys said he felt a visual presence on the river was acceptable and that wardens did have an important role to play. A member of the public, Timm Zumm of Spring Green, Co-Chair of the Friends of the Lower Wisconsin (FLOW), agreed that alcohol abuse is a larger problem than illegal drug use on the river and said the wardens should use observation techniques to determine if someone is using drugs rather than using a drug sniffing dog.

DNR Regional Warden Barb Wolf was in attendance and spoke. She said she would ask Horn about the number of complaints received. Wolf said wardens have a responsibility to enforce all laws on

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the river. She said use of a drug dog is not considered an invasive search. Greenwood said it can be perceived as harassment and noted it becomes a question of priority; does the degree of the problem warrant the level of response.

Cupp said he had contacted Don Bates, DNR Acting Riverway Manager, to request a meeting between DNR, LWSRB and canoe livery operators to discuss recreational use issues. Topics would include user numbers, glass violations, human waste disposal, river safety, etc. Cupp said his own anecdotal observations were that river use was up considerably this year. Bates said he would arrange a meeting with Cupp and law enforcement to set a date and agenda for the meeting. Leys said an updated recreational user survey is needed. Brad Hutnik, DNR Riverway Forester, noted a new Master Plan for the Riverway may be developed in a few years and said a user study could be part of it. Cupp said a user study is needed to assure resource decisions are being made based on good science.

Cupp then provided an update on the Year of the Riverway. He said the next field trip would be conducted by Hutnik at the Prairie du Bay site near Boscobel where forest management techniques in the bottomlands would be the topic.

A Memorandum of Understanding (MOU) between DNR and the LWSRB regarding enforcement of the LWSRB administered aesthetic protection guidelines was considered. Cupp said the document before the board represents the final version. Wolf and Horn provided comments and minor changes were implemented since the first draft was presented to the board in June. Wolf said the DNR South Central Region Director and the Chief Warden have reviewed and approved the language. The West Central Region Director also must sign the document since Crawford County falls within that administrative jurisdiction. A motion to approve the MOU was made by Greenwood, seconded by Dorscheid.  
**MOTION CARRIED.**

The Operations Committee report was presented by Chairman Dorscheid. The request for construction of a handicapped accessible hunting blind by Colin Paiva in the Town of Mazomanie, Dane County, was considered. A field inspection was conducted by Cupp in conjunction with previous permit activity at the site. Field inspection revealed the site is not visible from the Wisconsin River during leaf-on conditions. Mr. Paiva has been working with Bates to identify a site at the Black Hawk Unit. Mr. Paiva is doing the project to attain his Eagle Scout rank within the Boy Scouts.

Paiva was present and provided the board with background on the project. The inspiration for the Eagle Scout project came from spending time with a person with physical disabilities for his Disability Awareness Merit Badge. He said the funding for the wildlife blind will come from DNR but the labor will be provided by the Boy Scouts and adult leaders. The blind will be 6 ft. x 8. x 8 ft. (height) and could be used for hunting or wildlife observation. Leys asked if use would be open to everyone. Paiva said a reservation system would be in place for disabled persons but, if it wasn't reserved, it could be reserved by anyone. Bates noted the location provides safe shooting angles and the blind could be used for deer, turkey or small game. Paiva noted the design for the structure is to accommodate a person in a wheel chair accompanied by an able-bodied person, if necessary. Bob Paiva (father) said he and Colin hope others will follow suit and that numerous handicapped accessible hunting blinds will be constructed on public lands within the Riverway. Greenwood said it is a very commendable project. A motion to approve the permit with the following conditions was made by Greenwood, seconded by Dorscheid:

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- The height of the structure shall be limited so that the structure does not become visible from the Wisconsin River during leaf-on conditions;
- The LWSRB shall approve any modifications to the plans, as submitted;
- The landowner or his/her agent shall notify the LWSRB upon initiation and completion of the project

### **MOTION CARRIED.**

Brad Hutnik, DNR Riverway Forester, discussed permit applications for proposed timber harvests on state owned lands in the Riverway and extension requests for permits previously issued. Hutnik gave a power point presentation and described the harvest plans for the following parcels:

- Town of Buena Vista, Richland County
- Town of Muscodia, Grant County
- Town of Troy, Sauk County
- Town of Troy, Sauk County
- Town of Orion, Richland County
- Town of Mazomanie, Dane County
- Town of Muscodia, Grant County

A motion was made by Leys, seconded by Dorscheid, to approve issuance of permits with the standard conditions for the proposed harvests for which permits had not been previously issued. **MOTION CARRIED.** A motion to approve two year extensions for the other two harvest sites was made by Greenwood, seconded by Moore. **MOTION CARRIED.**

The Crystal/Fish/Mud Lake District pumping project in the Town of Roxbury, Dane County, was discussed. Dorscheid noted he, Lundberg and Cupp had visited with DNR officials and Lake District representatives at the site prior to the board meeting. Lundberg said the erosion problem continues to escalate at the discharge site. He said there was a bluish green plume entering the Wisconsin River from the discharge site. Dorscheid said the Lake District should be responsible for addressing the erosion problem. Leys said he still felt a daylighted pipe to the river was a better solution. He said the Lake District should be responsible for addressing the concerns. Greenheck asks who pays for the project. Cupp said the Lake District pays through taxing authority and loans. Moore made a motion, seconded by Leys, to require the Lake District to present a solution to the erosion control problem to the Riverway Board at the October 8<sup>th</sup> LWSRB meeting in Wauzeka. **MOTION CARRIED.**

Additional discussion followed. Dave Marshall, FLOW member, said algae blooms can occur throughout the year. He expressed concern regarding water quality impacts as well as adverse effects on the aquatic insect community. He said FLOW will oppose any surface to surface discharge of untreated water from the lakes to the river. Marshall said the nutrients in the lake water create an ecological disturbance when pumped to the river. Zumm suggested the Lake District receive a fine for failing to comply with the conditions of the permit.

The USH 14 Spring Green Bridge was discussed. Cupp said he had reviewed a test panel for the staining of the concrete at the new bridge. The staining may occur yet this fall but, if temperatures are too low, the job will have to be finished next year.

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Cupp said he had issued one permit since the August meeting. A general permit was issued to Scott Ladd for the construction of a cabin in the Town of Spring Green, Sauk County.

The Budget Committee report was presented by Acting Chairman Greenheck who reviewed the final report for FY 09. Greenheck then reviewed the status of the FY 10 budget.

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.

There were no items reported under board members' business.

The DNR report was presented by Don Bates who said 124 acres in the Town of Arena, Iowa County, had been acquired for the Riverway.

No comments were provided during the public comment session.

A motion to adjourn until October 8<sup>th</sup> when the meeting will be held at the Wauzeka Village Hall was made by Greenwood, seconded by Greenheck. **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:

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