

LOWER WISCONSIN STATE RIVERWAY BOARD

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MINUTES OF THE JANUARY 12, 2012, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, January 12, 2012, by teleconference 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 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 Fred Madison, seconded by Jerry Dorscheid. **MOTION CARRIED.** The minutes of the December 8, 2011, meeting then were considered. A motion to approve the minutes was made by Dorscheid, seconded by Melody Moore. **MOTION CARRIED.**

The Executive Committee report was presented by Chairman Lundberg who noted the scheduled guest speaker for the evening had postponed her presentation due to inclement weather. A report on a groundwater meeting held in the Town of Spring Green, Sauk County, was heard. John McKenna, Mike Birr and Timm Zumm, all Town of Spring Green residents, were present for the discussion. McKenna, a town board supervisor, gave the report. He noted a full house attended the meeting with Mike Stanek of the Sauk County Land Conservation Department serving as the main speaker. Stanek recommended including the agricultural sector in discussions regarding nitrates in groundwater as well groundwater quantity issues. McKenna noted Dave Marshall has applied for a grant to obtain a nitrate meter for measuring pollutants in backwater sloughs. He said monthly meetings on the groundwater topic are slated to be held on the first Monday of each month. Ron Leys asked what has prompted the recent interest in the issue. McKenna said an increase in alga growth (scum) in sloughs and well contamination have created increased awareness and concern among the public. Zumm noted use of Stewardship Fund monies to acquire land and easements to serve as buffers around sloughs is an important tool. Lundberg asked if high nitrate concentrations in groundwater was a widespread problem. Madison replied in the affirmative and said a study in the Arena area documented the problem.

A letter to Terry Askevold regarding the proposed development of a parcel in the Town of Mazomanie, Dane County, was discussed. Cupp said Mr. Askevold has proposed use of a parcel upstream of the CTH Y Town of Mazomanie public access site as a place for expansion of his canoe/kayak/tube rental business. He has requested a letter from the LWSRB to address questions raised by the town board. Cupp said the letter would include comments about the applicable regulations. Based on a preliminary review of the concept, Cupp said the plans would comply with the applicable performance standards. Cupp said Mr. Askevold also is considering development of a site in the Town of West Point, Columbia County, and operation of stern wheeled paddleboats for tours on the river. Leys asked about the size of the paddle boats. Cupp said there are different sizes; between 10-20 passengers may be accommodated depending on the design. Madison noted the West Point plans are very preliminary. Moore said the Mazomanie town board felt more information was needed and feedback from neighbors was warranted before action was taken. She said the property would have to go through a re-zoning process.

The Operations Committee report was presented by Chairman Dorscheid. The permit request of Daniel Frey for a timber harvest in the Town of Prairie du Sac, Sauk County, and an associated violation of the Riverway law was considered. Lee Gates was identified as the consultant. Dorscheid said a field inspection was conducted by him, Lundberg, Cupp and Brad Hutnik, Department of Natural Resources (DNR) Riverway Forester, earlier in the day. A previous field inspection was conducted by Cupp and Hutnik on January 3, 2012. Also, other field inspections were conducted in conjunction with timber harvests conducted in the past. Field inspection revealed portions of the harvest area are visible from the river during leaf-on conditions. The viewshed is narrow and distant but the bluff is visible from vicinity of the Mazomanie Wildlife Area (Mazo Beach). No new roads were constructed but there was a small aspen clear cut in the Bluff Zone.

Hutnik initially noticed logs in the field below the bluff visible from STH 60. Cupp indicated there were no active permits for the property and requested assistance from DNR Conservation Warden John Buss. Warden Buss contacted the landowner, Daniel Frey, who indicated the consultant was Lee Gates. Mr. Gates had marked the sale and sold the timber to Joe Bagnowski of Meister Log & Lumber. Mr. Frey said he thought the permits were taken care of by Mr. Gates. The harvest began in the fall of 2010 and then was started again in the fall of 2011 and continues. However, the area currently being harvested is not visible from the river. The harvest is close to completion.

In 1998, a warning was issued to Lee Gates & Paul Gates for harvesting timber without a permit on the Matt Elsing property, which is a short distance from the Frey property. Also, mitigation was ordered by the board including the development of a forest management plan and planting of 50 oak seedlings in tubes. The remedy ordered by the board was implemented. At that time, Lee Gates indicated he had marked trees on the Frey property. An application was submitted and a field inspection was conducted by Cupp on April 7, 1998. The field inspection revealed the proposed harvest area encompassed the Bluff Zone, Riverview Zone and Resource Management Zone. In addition, the trees marked for harvest in the Bluff Zone did not comply with basal area requirements for the residual stand so some trees were “unmarked”. A permit with standard conditions was issued by the LWSRB on April 9, 1998. The harvest was conducted and the permit expired in 1999.

Dorscheid said Cupp’s recommendation, concurred in by the Operations Committee, was to issue a written warning to Mr. Gates for harvesting timber without a permit and cutting below the basal area standards in the Bluff Zone. Recently, the LWSRB has not issued a warning to the landowner (Rapp and Ramsden) because of the landowners’ statements that they thought the respective loggers/consultants were attending to the permit/regulatory requirements. In this case, because the aesthetic damage is not egregious, a written warning to the consultant is in order. Cupp further recommended the board consider adoption of a written policy that clarifies which parties should receive a written warning to remove subjectivity in issuance of warnings. An aspect of that policy may be warnings from the point of adoption of the policy forward should be issued to all parties involved, including the landowner. If the policy is adopted, communication with landowners, consultants, loggers, timber buyers, etc. would be initiated to raise awareness about the LWSRB policy. In the Frey/Gates matter, pursuit of a “knowing violation of the law” is not recommended by the LWSRB Executive Director, Warden Buss and Forester Hutnik.

Dorscheid said the committee felt planting of additional trees was not required to remedy the violation. The committee recommends a condition that prohibits cutting in the clear cut area, except for firewood removal. Leys noted the firewood removal is for downed material only. Madison concurred that development of a written policy was a good idea. Lundberg said it will be important to assure the public has access to proper information. Cupp said he envisioned reaching out to landowners, timber industry types and the general public with details of the new policy and contact information following board adoption of a policy.

Dorscheid then made a motion for issuance of a permit to Mr. Frey with the following conditions:

- The harvest shall comply with the basal area limits for the residual stand in the River Edge Zone and Riverview Zone, as detailed in Chapter NR 37, Wisconsin Administrative Code;
- In the River Edge 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 River Edge 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 River Edge 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;
- The River Edge Zone and Riverview Zone shall be delineated prior to initiation of the harvest, if necessary;
- The aspen clear cut area in the Bluff Zone shall remain undisturbed, except for firewood extraction of downed material, until sufficient aspen regeneration occurs, as determined by the DNR Riverway Forester;
- 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 request of Walter Mirk for an extension to a previously issued management permit was considered. The parcel is located in the Town of Millville, Grant County. Dorscheid noted a field inspection was conducted by Cupp on an adjacent state owned parcel where Paul Brandt, former DNR Wildlife Biologist, was engaged in a prairie/oak savanna restoration effort. The project on the Mirk property will complement and adjoin the work on the DNR parcel. The previous field inspection revealed the site is not visible from the Wisconsin River during leaf-on conditions. The area is located on the side of the bluff facing CTH C. Plans call for removal of brush and walnut, basswood, cherry, elm and miscellaneous other species. Populations of wild quinine, prairie petunia, yellow gentian, purple milkweed are among the plants on the endangered/threatened species list which will benefit. Overall, the project also will benefit the existing oak savanna/prairie ecosystem. Dorscheid noted that the Operations Committee has conducted a field inspection at the site in conjunction with previous permit extensions. Work continues at the site. Mr. Mirk indicated about 4 acres remain to be completed. The initial permit was issued in 2001 and extensions have been granted on a two-year cycle since that time. Dorscheid made a motion, seconded by Leys, to approve issuance of a two year extension of the current permit with the following conditions:

- No existing structure(s) shall become visible from the river as a result of the activity;
- The LWSRB shall approve of any modification to the plans, as submitted; and,
- The landowner or his/her agent shall notify the LWSRB upon initiation and completion of the activity.

MOTION CARRIED.

The request of Brian Hefty, DNR Riverway Manager, for an extension to a previously issued management permit for a parcel of state owned lands in the Town of Orion, Richland County, was considered. Dorscheid said a field inspection was conducted by Cupp in conjunction with previous permit activity at the site. The Operations Committee also has visited the site, which is not visible from the Wisconsin River during leaf-on conditions. Plans call for ongoing tree cutting and brush removal to maintain an effigy mound group at the site, known as the Troller Mound Group.

A motion was made by Dorscheid, seconded by Madison, to approve a two year extension with the following conditions:

- No existing structure(s) shall become visible from the river as a result of the activity;
- The LWSRB shall approve of any modification to the plans, as submitted; and,
- The landowner or his/her agent shall notify the LWSRB upon initiation and completion of the activity.

MOTION CARRIED.

The pumping project of the Crystal/Fish/Mud Lake District was discussed. Cupp said plans for pumping from high capacity wells had been abandoned but plans continue to pump from Crystal Lake to Roxbury Creek, which discharges to the Wisconsin River in the Town of Roxbury, Dane County. Dorscheid asked why the well idea was shelved. Madison said it was determined that the wells wouldn't work. Leys asked if this means that Crystal Lake is not a groundwater lake. Madison said it is a possibility and that additional study is warranted. Madison noted there could be adverse impacts on agricultural practices from pumping directly out of Crystal Lake into Roxbury Creek, another issue which requires additional research.

Cupp said a consultant working with the Department of Transportation (DOT) on the STH 60 bridge at Prairie du Sac had contacted the LWSRB regarding recommendations for painting of girders. The deck and approaches also will be redone. Cupp recommended a brown or gray color for the girders but LWSRB members felt a color similar to the new USH 14 bridge at Spring Green would be appropriate. Cupp mentioned the existing sidewalk may be removed at the request of local officials who feel it is not used. Leys said he would like more information on the sidewalk removal proposal. Cupp noted the sidewalk is not visible from the river. He said he would follow up with the consultant.

The Budget Committee report was presented by Chairman Nice who reviewed the status of the FY 12 budget.

The Personnel Committee meeting was presented by Chairman Moore who said the annual performance evaluation of the Executive Director had been completed. The committee had reviewed all evaluations completed by board members and recommended issuance of an "excellent" rating. Moore made a motion to that effect, seconded by Nice. **MOTION CARRIED.**

Moore said the committee had met by teleconference with a Department of Administration (DOA) official to discuss development of a policy to make additional compensation available. The Discretionary Merit Compensation (DMC) program replaces the former Discretionary Compensation Award (DCA) program which was eliminated last year and which had been unavailable to agencies for years prior. Moore described the proposed policy and said any awards would have to be reviewed by the Office of State Employment Relations (OSER). Also, agencies must assure that adequate funds are available before an award may be made. Moore said the draft policy will be forwarded to OSER for review. The committee hopes to present the final draft for board consideration at the February meeting.

The Executive Director's report was given by Cupp who reviewed the materials in the board members' packets.

Under board members' business, Leys expressed appreciation to staff for facilitating the teleconference so that members did not have to travel in the inclement weather.

Under DNR report, Ryder Will, DNR Riverway Recreation Specialist, noted the ice fishing numbers are up and roads to selected sites continue to be plowed. He reviewed Fish Trap Flowage roadwork and Ferry Bluff signage. Will noted Hutnik had received the statewide DNR Forester of the Year award. Board members and Cupp congratulated Hutnik on the recognition.

Hutnik reported that there is one active timber harvest on public lands in the Riverway. The harvest should be completed soon.

During the public comment session, Timm Zumm, Friends of the Lower Wisconsin State Riverway (FLOW) Chair, offered congratulations to Hutnik for his award and to Cupp for the performance evaluation. He said Eagle Watching Days continues in Sauk Prairie and that FLOW will have a booth. He said January 28th is the FLOW annual meeting and winter fun day. Zumm said FLOW will show the Rhythm of the River documentary at Canoeopia.

Mike Birr of Spring Green thanked the board for the opportunity to participate by teleconference.

A motion to adjourn until February 9, 2012, when the meeting will be held in Muscoda was made by Madison, seconded by Dorscheid. **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