

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 NOVEMBER 8, 2012, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, November 8, 2012, 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 exception of Melody Moore. 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 Don Greenwood. **MOTION CARRIED.** The minutes of the October 11, 2012, meeting were considered. A motion to approve the minutes was made by Greenwood, seconded by Ron Leys. **MOTION CARRIED.**

The Executive Committee report was presented by Chairman Lundberg. A group of children from the River Valley Elementary Studio School were introduced and sang an original composition about the Wisconsin River. Lundberg then was honored for his years of service to the board. Acknowledgement was received from Governor Scott Walker, Brian Hefty representing the Department of Natural Resources, Denny Caneff of the River Alliance of Wisconsin, Timm Zumm of Friends of the Lower Wisconsin Riverway (FLOW) and Cupp. (Note: Later in the meeting, State Senator Dale Schultz arrived and presented a Senate citation to Lundberg.) Lundberg offered remarks about the rewarding experience of serving on the LWSRB and presented Cupp and the board with a framed eagle photograph.

The guest speaker for the evening was Rob Danielson of EPIC who spoke about high voltage transmission line expansion in Wisconsin. A PowerPoint presentation was shown. Danielson questioned the need for American Transmission Company's (ATC) expansion proposals. He pointed to a potential transmission line route from Dubuque to Middleton that would pass through Spring Green and cross the Wisconsin River. Cupp noted an ATC official had contacted him about the Dubuque to Middleton route and said the Wisconsin River crossing was off the board. The proposed route instead will follow the Hwy. 151 corridor to Montfort. Danielson said it is imperative that local units of government and citizens remain engaged in the process.

Under correspondence, Lundberg noted Cupp had sent a letter to Mark Berg of Nelson Hardwoods and Jeff and Eugene Neuheisel regarding the timber harvest violation on property in the Town of Spring Green, Sauk County. The board had directed Cupp to send a letter to Mr. Berg regarding the violation, which entailed harvesting timber without a valid permit. The previously issued permit had expired and the consultant did not notify the board upon initiation or completion of the harvest.

Lundberg then reviewed correspondence received on the frac sand mining issue in the Town of Bridgeport, Crawford County.

The Operations Committee report was presented by Chairman Dorscheid who noted four applications for non-metallic mining (frac sand mining) in the Town of Bridgeport, Crawford County, had been tabled at the October meeting. The co-applicant is Kyle Pattison of Pattison Sand Company (PSC) of Iowa. The landowners are Lee Pulda, Earl Pulda, Rod Marfilius and Alan Flansburgh. Cupp said the reclamation plan filed with the Town of Bridgeport had withdrawn the reference to the Flansburgh property because an agreement between PSC and the landowner had not been reached. Cupp noted Pete Flesch, Crawford County Board Chair, had requested that the November 8th meeting be held in Crawford County to allow for additional participation by local citizenry. Cupp told Mr. Flesch the meeting had been moved from Muscodia to Spring Green due to the transmission line presentation. Greenwood suggested the December 13th meeting should be moved to Prairie du Chien or somewhere else in Crawford County to accommodate Mr. Flesch's request. A motion was made by Nick Nice, seconded by Leys, to hold the December 13th meeting in Crawford County. **MOTION CARRIED.**

Cupp said a tour of the Badger Mining Company operation near Taylor had been set for November 13th. LWSRB members going on the tour included Lundberg, Dorscheid and Ritchie Brown. Board member in waiting George Arimond also will join the group.

Cupp gave a PowerPoint presentation describing the applicable regulations and the board's regulatory purview and responsibilities. Aerial photographs, mining phase maps and digital images of the vicinity as seen from the river were included in the presentation. Cupp said state law requires the board to approve issuance of a permit for an activity if the applicable performance standards are met. For non-metallic mining, the performance standard requires the excavation and any stockpiled material or structures to not be visible from the river during leaf-on conditions. He said the applications submitted by the co-applicants indicate compliance with the "not visible" standard will be achieved. An opinion from legal counsel on board powers and duties also was reviewed. Cupp noted Beth Regan of Pattison Mining Company was available to respond to questions. Public comment on the sand mining permit applications was heard.

William Kean – Madison stated opposition to the mine and said an Environmental Impact Statement is needed. Ms. Regan responded first by introducing her colleagues in attendance and reviewed the environmental documents filed with the Town of Bridgeport. The reports included information on archeological and cultural sites, endangered and threatened species, wetlands, borings, well testing, air quality, stormwater, etc.

Timm Zumm – Spring Green (FLOW Chair) said it is important for people to become involved at the local town government level. He said the Riverway is important to many people in Wisconsin, but not necessarily to PSC. Zumm noted STH 60 is a Wisconsin Scenic Byway and expressed concern for adverse impacts on scenic beauty as seen from the road. He said the board action in this case will set a precedent. He urged PSC to go elsewhere to operate a frac sand mine.

Kathy Byrne – Ferryville said she is affiliated with the Crawford Stewardship Project. She noted a meeting on the topic will be held in the Town of Bridgeport on November 14th. She expressed opposition to the frac sand mining proposal.

Linda Meadowcroft – Baraboo discussed the importance of the region to Native Americans, including the effigy mounds builders and said the area is appropriate for a World Heritage Site designation. She said a frac sand mine may destroy archeological resources and is inappropriate for the Riverway.

Bill Mertens – Lone Rock asked the board to do the right thing and deny the permit.

Tom Kelly – Spring Green questioned the legal opinion received by the board regarding the section of the administrative code dealing with frac sand mining in the Riverway. He said the rule has not been repealed and technically remains on the books. Kelly noted s. 30.45(5m), Stats, prohibits nonmetallic mining on lands visible from the river. He urged the board to obtain a formal opinion from the Attorney General or to let the courts decide.

Carrie Chesnik – Grantsburg said a resource like the Riverway should be treasured and the board should have the authority to protect it. She said once it is gone, you don't get it back. She expressed concern over water quality.

Ryan Schmudlach – Spring Green said he represented the canoe livery operators from the Riverway, who cumulatively have over 18,000 clients annually that use the river because of the scenic beauty and natural character. He urged the board to take the steps necessary to protect the Riverway.

Marilyn Chesnik and Jerry Dorff – Grantsburg said they have been canoe rental outfitters on the St. Croix River and Namekagon River for many years. They discussed the impact of a Grantsburg frac sand mine on the environment and said the noise was quite loud. Local roads were impacted as well. They encouraged the board to keep frac sand mines out of the Riverway.

Bill Howe – Prairie du Chien thanked the board for agreeing to hold the next meeting in Crawford County.

Ernie Michael – Lone Rock said he has been an avid paddler on the Wisconsin River for many years. He described an experience with kayaking off the coast of Maine and the terrible noise from an industrial site. He urged the board to avoid a similar occurrence in the Riverway.

Roger Reynolds – Lone Rock said there are many legal questions to be answered before the board proceeds. He said the board's mission is to protect the scenic beauty and natural character of the Riverway. Reynolds said no one will want to camp or recreate along that stretch if the mine goes through. He noted four candidates for the Assembly all agreed that frac sand mining should not be allowed in the Riverway. He said the mine would adversely affect the tourism industry.

Keith Symon – Spring Green noted the difference between a sand pit and a sandstone quarry operation, like a frac sand mine. He urged the board to work with local governments to assure adequate regulations are in place to address frac sand mining in the future. Symon noted he and Howe were Co-Chairs of the Citizens Advisory Committee that helped set up the Riverway. He said industrial sand mining was anticipated or something would have been done about it at that time.

Rebecca Alwin and Glen Benjamin – Madison, known as the Raging Grannies, then sang a song in opposition to the mining proposal.

Denny Caneff – Madison, Executive Director of the River Alliance of Wisconsin, said industrial sand mining is an inappropriate activity in the Riverway. He said it diminishes the integrity of the Riverway and that of the many landowners who comply with the law. He said clarification regarding the legal questions should be obtained. If the permits are approved, there should be sufficient conditions on the permits to assure impacts on the Riverway are minimized. He encouraged the board to work with local governments and said the issue is much bigger than just the Town of Bridgeport.

Jane Furchgott – Lone Rock said she is opposed to frac sand mining in the Riverway. She said there is no other place like the Riverway and it should not become an industrial sand mining corridor. Furchgott said the board should take a strong stand against the mine.

Mary Zenker – Sauk City noted her son is engineer in North Dakota working on hydraulic fracking. She said that doesn't make it right and expressed her opposition to the frac sand mining proposal. She said the environmental damage will be severe. Air quality will be compromised. Heavy truck traffic will increase and roads will be affected.

Donna Schmitz – Sauk City (Citizens for Safe Water Around Badger) thanked the board for the opportunity to speak and expressed opposition to the mining proposal. She said the regulations should be improved to give the board more authority to regulate industrial sand mining in the Riverway.

Linda Atkins – Prairie du Sac said as a landowner and farmer she has had to do some soul searching on the issue but ultimately felt that, as a farmer, she needs to be a proper steward of the land for future generations. She expressed concern about silicosis and other long term human health issues. She urged the board to stand up against the frac sand mining company.

Deb Schwarz – Richland Center asked what permits PSC has obtained. Regan said PSC has obtained a driveway permit from the Department of Transportation. Following town approval, a stormwater permit and air permit or variance will be sought. Schwarz asked if any federal permits would be required. Regan said no federal permits would be required at this time. Schwarz asked about the archeological report. Regan said the Executive Summary has been provided but the full study is withheld for security reasons.

LWSRB MINUTES/NOVEMBER 8, 2012

Page -4-

Annette Waitzman – (no city given) asked if the public could see the correspondence received by the board and the reports filed by the mining company. Cupp said the LWSRB website would be updated to include the requested information.

Alan Green – Spring Green said he really loves the area and suggested the Driftless Area should be designated as a National Park. He said it would foster ecotourism and job creation.

Mary Prisby – Boscobel said she moved to the area from Chicago because of the scenic beauty. She lamented the increase in heavy truck traffic on beautiful Hwy. 60. She said the frac sand mine will have adverse effects on tourism. She said the board should fight for the good of the cause to protect the Riverway.

Ned Hodgson – Spring Green noted the corridor is part of the Fox Wisconsin Heritage Parkway project.

Rod Marfilius – Prairie du Chien said he is a farmer and one of the landowners seeking a permit for the nonmetallic mining activity. He purchased the farm from his parents in 2004 and hopes to pass it on to his children someday. Marfilius said the land will be better suited for farming after the mining is done. He said it won't be seen from the river and barely from the road. The activity will bring jobs and economic development to the area. He said the reclamation plan will be followed. Marfilius said it should be up to the landowner to decide what to do.

Lundberg thanked everyone for their attendance and noted the board will meet on December 13th in Crawford County to further consider the applications.

Dorscheid then discussed the permit application of James Rider for a timber harvest in the Town of Wauzeka, Crawford County. Brian Nelson of Nelson Hardwoods is the consultant. A PowerPoint was shown. A field inspection was conducted by Cupp on November 5, 2012. Brian and Steve Nelson of Nelson Hardwoods and Nick Morehouse, DNR Riverway Forester, also were present for the field inspection. Field inspection revealed that the harvest area is not visible from the Wisconsin River during leaf-on conditions. Plans call for the selective harvest of merchantable hardwoods. No new roads will be constructed. The harvest will occur when the leaves are off the deciduous trees and the ground is frozen or dry. The standard permit conditions for a general timber harvest permit would be applicable. Dorscheid made a motion, seconded by Madison, 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 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 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 permit request of Joel Fait for management of aspen in the Town of Wyoming, Iowa County, was considered. TD Hawkereid is the consultant. A PowerPoint presentation was shown. A field inspection was conducted by Cupp on October 30, 2012. Nick Morehouse, DNR Riverway Forester, also was present for the field inspection. Previous field inspections have been conducted by Cupp and Morehouse with Mr. Hawkeried present. The LWSRB issued a permit for the timber harvest on the property and the marking of the Bluff Zone, Riverview Zone and Resource Management Zone has transpired. During the marking of the various zones, discussion took place on aspen management in the Bluff Zone. The opportunity of issuance of a management permit for clear cuts in the Bluff Zone for aspen regeneration purposes was discussed. Mr. Hawkereid identified aspen clones targeted for clear cut, which were reviewed by Cupp and Morehouse. Some sites may not be appropriate for the activity due to aesthetic considerations. The Operations Committee visited the site on November 8th. Leys thanked Cupp and Morehouse for their work on the permit application. Dorscheid made a motion, seconded by Leys, to approve issuance of a 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 Bill Ishmael on behalf of the Department of Natural Resources for an extension to a previously issued management permit in the Town of Mazomanie, Dane County, was discussed. A PowerPoint presentation was shown. Field inspections have conducted by Cupp and the Operations Committee in conjunction with previous activities at the site. Plans call for management of native plant communities at the Mazomanie Unit of the Lower Wisconsin State Riverway. Activities will occur seasonally at sites not visible from the Wisconsin River during leaf-on conditions. Use of Fecon equipment would occur in winter months to cut woody vegetation while spraying, cutting and burning will be done in other seasons. The intent is to control invasive species and native plant communities for the benefit of wildlife and natural aesthetics. Dorscheid made a motion, seconded by Madison, to approve 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 structure permit issued to Kevin and Jackie Bartels for a new house in the Town of Orion, Richland County, was reviewed. A PowerPoint presentation was shown that demonstrated the new house will comply with the conditions of the permit. The need for a planting plan will be evaluated in the spring. Leys said it is an ideal "Riverway" house with good exterior colorization and a low profile. He noted the long involvement in working with the landowners on the site and design paid dividends. Lundberg said implementation of a planting plan will be a challenge due to the site conditions.

Cupp said he and Nick Morehouse, DNR Riverway Forester, had reviewed the trees slated for harvest on the Darlene Williams property in the Town of Marietta, Crawford County. Brian Nelson of Nelson Hardwoods is the consultant. Cupp said the marking will comply with the applicable performance standards.

Cupp said he issued a general permit to Vivid, Inc., for a timber harvest in the Town of Wyoming, Iowa County. Mark Berg of Nelson Hardwoods is the consultant. The property is better known as the House on the Rock Resort (formerly, The Springs). Cupp said the harvest will occur on lands not visible from the river during leaf-on conditions. No new roads will be constructed.

Dorscheid said the Operations Committee conducted a field inspection at the Frank Lloyd Wright Visitor Center in the Town of Wyoming, Iowa County. The management plan for vegetative removal on the riverbank had

LWSRB MINUTES/NOVEMBER 8, 2012

Page -6-

been implemented. The next phase will be evaluation during leaf-on conditions to determine if planting of additional screening vegetation will be required.

The Budget Committee report was given by Chairman Nice who reviewed the status of the FY 13 budget. Cupp noted the lapse requirements directed by the Department of Administration do not apply to the LWSRB.

There was no report from the Personnel Committee but Cupp noted the committee will function as the Nominating Committee for filling the Chair and Vice-Chair slots at the December meeting. Interested board members should contact Cupp or Melody Moore, Personnel Committee Chair. He said Leys and Greenwood have expressed interest in the Chair position and Madison has indicated interest in the Vice-Chair slot.

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

Under board members' business, Leys said he was impressed by the civil discourse and interaction of the public during the frac sand mining discussion.

The DNR report was given by Brian Hefty, DNR Riverway Manager, who noted the recent murder investigation near Lone Rock occurred on public lands in the Riverway. Brad Hutnik, DNR Silviculturalist, congratulated Nick Morehouse on his recent appointment as Riverway Forester.

During the second public comment period, Timm Zumm and Bill Mertens noted the LWSRB is a model of how governmental agencies should operate.

A motion to adjourn until December 13th when the meeting will be held in Crawford County 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