

LOWER WISCONSIN STATE RIVERWAY BOARD

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MINUTES OF THE FEBRUARY 14, 2013, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, February 14, 2013, at the Muscodia village hall to conduct a regular monthly business meeting. The meeting was called to order at 5:00 p.m. by Chairman Donald Greenwood. All members were present with the exception of Ritchie Brown. (NOTE: One vacancy exists.) Acknowledgment that the meeting was properly noticed was provided by Mark E. Cupp, Executive Director. Greenwood said that Matt Zine, Department of Natural Resources (DNR) State Natural Areas Manager, was unable to attend so there would be no guest speaker. A motion to approve the agenda was made by Fred Madison, seconded by George Arimond. **MOTION CARRIED.** The minutes of the January 10, 2013, meeting and the January 29, 2013, special meeting were considered. A motion to approve the minutes of both meetings was made by Jerry Dorscheid, seconded by Madison. **MOTION CARRIED.**

The Executive Committee report was presented by Greenwood who reviewed correspondence received regarding the frac sand mining applications before the LWSRB. A proposal to request that the Pattison Sand Company (PSC) and the four landowners included as co-applicants voluntarily withdraw the nonmetallic permit applications was considered. Ron Leys said he thought it would be appropriate to request the withdrawal because the proposed industrial sand mine is not consistent with the Riverway objectives. A memorandum drafted by Cupp was distributed. The memo requested that the permit applications be voluntarily withdrawn. A motion to approve sending the memo to Pattison and the landowners was made by Melody Moore, seconded by Leys. **MOTION CARRIED.**

Cupp then gave a PowerPoint presentation using digital images taken during a field inspection at the proposed mining site on January 17, 2013. Nick Morehouse, DNR Riverway Forester, assisted with compilation of waypoints. Cupp said the purpose was to give the board another perspective of the land from points visible from the river and points not visible from the river. Dorothy Stroschein, PSC attorney, noted there will be no mining within 500 feet of the river and asked about the relevance of leaf-off images when the law refers to leaf-on conditions for applicability of the regulations. Cupp said the images were not intended to define areas of visual concern or lack thereof or areas within or without of the 500 foot "no mining" zone. He said the images were meant to provide another look at the lay of the land for board members. He noted some of the images may be useful in viewshed analysis but that wasn't the reason for the field inspection.

Greenwood said it is questionable if the "not visible" standard is met for all phases on the maps and said there has been questionable methodology used to this point. He said assessment of the visual impacts from industrial sand mining should be different from methods used for assessment of visual impacts from timber harvesting or construction of new houses. Greenwood stated he has little confidence in the methodology used thus far on the nonmetallic mining applications. He said altering the landscape by removing trees, soil and rock may result in greater visual impacts than projected and a more systematic and scientific methodology is required. Greenwood said there are huge implications for scenic protection and board members should view the site from the river before a decision is made. He said PSC has skilled people on staff and should be able to produce a model that shows a before and after look of the site. Greenwood noted the board has heard at length from both sides of the issue and said the board's jurisdiction is limited to viewshed impacts but said a more scientific approach is needed before a decision is made. Moore agreed modeling would be useful as would an on-site visit. Leys asked about a board visit to the site or from the river. Greenwood said it should be done during leaf-on conditions. Greenwood asked Kyle Pattison if PSC could do a computer model. Pattison said the topographic maps show the contours of the land now. Greenwood said it doesn't show what it will look like after the material is removed. Pattison said the reclamation plan shows the contour lines after mining is complete. Greenwood said the PSC assumption is that there will be no visible impact to which he doesn't concur. Stroschein said the request for computer modeling at the 14th hour is unreasonable and the associated expense for doing

it is unreasonable. Stroschein said PSC has voluntarily eliminated areas visible from the river even when those areas are not within the boundary. Pattison said the board has images from the river during leaf-on conditions taken by Cupp. Greenwood said he was not satisfied with the information available. Arimond asked if there was an alternative to PSC providing the computer modeling, such as through DNR. Greenwood said he would be open to suggestions and said it would be worthwhile to speak to the DNR about it. He asked Kyle Pattison if the mining phase maps and reclamation plan maps would be sufficient for DNR to produce modeling of "before and after" for the site to better represent visual impacts. Pattison said additional information may be required and could possibly be provided by his surveyor. Pattison suggested that if you can't see through the hill now, you won't be able to see through it after the mining activity is completed. Pattison asked Greenwood if he had concerns about the visual impact of the mining activity to which Greenwood replied in the affirmative. Cupp said good lines of communication are important to assure unintended consequences are avoided. Cupp said he has tried to provide the board with adequate information on visibility issues. Leys said the LWSRB recognizes a decision on the permit applications has to be made at some point. Ms. Stroschein said the site has tree cutting going on now because DNR requested the activity be completed in the winter. She noted the Town of Bridgeport has not yet acted on the permit.

A motion was made by Moore, seconded by Arimond, to request the Department of Natural Resources provide the LWSRB with technical assistance regarding computer modeling to demonstrate the viewshed from the river both in the current form and as proposed for post-mining with additional information to be provided by Pattison Sand Company upon request. **MOTION CARRIED.**

The Operations Committee report was presented by Chairman Dorscheid. No action regarding the frac sand mining permit applications submitted by Pattison Sand Company and four landowners from the Town of Bridgeport, Crawford County, was taken pending receipt of additional information.

Dorscheid then discussed the permit application of Gerhardt Tetzlaff for a timber harvest in the Town of Millville, Grant County. Craig Hollingsworth is the consultant. Dorscheid said a field inspection was conducted by Cupp on January 23, 2013. Mr. Hollingsworth also was present for the field inspection. The property is enrolled in the Managed Forest Law (MFL) program. Plans call for a commercial timber harvest. Portions of the harvest area are visible from the Wisconsin River during leaf-on conditions. The harvest area includes the Bluff Zone, Riverview Zone and Resource Management Zone. Some small regeneration cuts are planned in the Riverview Zone and Resource Management Zone but are pockets of minimal size. Harvesting will be conducted when the ground is frozen or dry and the leaves are off the deciduous trees. Weather permitting, the harvest will be conducted in the late fall of 2013 or winter of 2013-2014. No new roads are planned at this time. The marking of trees slated for harvest in the Bluff Zone and Riverview Zone complies with the applicable performance standards. A PowerPoint presentation was shown.

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 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 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;

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- 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 Bluff 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.

Dorscheid said two permit applications had been received from Steve Williamson for a parcel in the Town of Eagle, Richland County. Craig Hollingsworth is the consultant. A 35-acre portion of the property is slated for a commercial timber harvest and timber stand improvement work so both a timber harvest permit and a management plan permit have been submitted for consideration. Dorscheid said an initial field inspection was conducted by Cupp on January 7, 2013. Mr. Williamson and Morehouse also were present for the field inspection. An additional field inspection was conducted by the Operations Committee on February 14th. Cupp, Morehouse, Williamson, Hollingsworth and LWSRB Chair Greenwood also were present for the field inspection. The area is covered by a DNR held scenic easement. Plans call for a light commercial harvest in conjunction with a timber stand improvement project to remove ironwood and other undesirable species and to open the canopy for regeneration. The area is visible from the Wisconsin River during leaf-on conditions and includes the Bluff Zone and Riverview Zone. Some small regeneration cuts are planned to enhance conversion to maple. Harvesting will be conducted when the ground is frozen or dry and the leaves are off the deciduous trees. Weather permitting, the harvest will be conducted in February and March of 2013. No new roads are planned at this time. A PowerPoint presentation was shown. Dorscheid there will be minimal visible impacts resulting from the timber harvest or TSI work.

Dorscheid made a motion, seconded by Leys, to approve issuance of a management permit for the TSI work 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.

Dorscheid made a motion, seconded by Madison, to approve a timber harvest 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, 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 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;

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- 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 Bluff 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 request for an extension to a previously issued timber harvest permit for Scott Yeomans was considered. The parcel is located in the Town of Bridgeport, Crawford County. The consultant is Don Stram. Dorscheid said a field inspection was conducted by Cupp on February 6, 2013. Mr. Stram also was present for the field inspection. Additional field inspections have been conducted in conjunction with previous permit activity at the site. Plans call for a commercial timber harvest of soft maple. Portions of the harvest area are visible from the Wisconsin River during leaf-on conditions. The harvest area includes the River Edge Zone, Riverview Zone and Resource Management Zone. The River Edge Zone was delineated by Cupp. Cupp issued a permit extension for the Resource Management Zone to allow the logger to take advantage of frozen ground conditions. The harvesting in the River Edge Zone and River View Zone will be conducted when the ground is frozen or dry. Weather permitting, the harvest will be conducted in February or March of 2013. No new roads are planned at this time. The marking of trees slated for harvest in the River Edge Zone and Riverview Zone complies with the applicable performance standards. A very light harvest will occur in the River Edge Zone. Some beaver damaged trees may be salvaged. Mature to over mature soft maple will be the focus of the harvest. Because the area is located in the bottomlands, weather conditions have to be appropriate for access by logging equipment, which is the reason the harvest wasn't completed under the previous permit.

Dorscheid made a motion, seconded by Moore, to approve a two-year extension to the permit with retention of 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 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 request of Nick Morehouse on behalf of DNR for an extension to a previously issued timber harvest permit and a new management application for the same parcel in the Town of Spring Green, Sauk County, was considered. Dorscheid said a field inspection was conducted by Cupp on February 11, 2013. Morehouse also was present for the field inspection. The site is not visible from the Wisconsin River during leaf-on conditions and is located near the intersection of STH 23 and Leone Road. Morehouse explained plans call for the harvest of all red pine in the plantation due to extensive red pine pocket decline. Non-native invasive species also will be removed. The objective is to retain the white pine and allow for natural regeneration of oak. No new roads are planned at this time. A PowerPoint presentation was shown.

Leys inquired about the reason for mortality of red pine in the area. Morehouse said it somewhat of a mystery but contributing factors may be climate change, drought and the fact the Riverway is on the southern edge of red pine range. He said red pine pocket decline is being studied. Root rot is another issue related to red pine health. Leys said white pine also is susceptible to disease. Morehouse commented that white pine is now thought to be less susceptible to disease so the red/white pine vulnerability to disease matrix has flipped for this area. Leys asked if global warming was a factor to which Morehouse replied that it could be and noted that there likely won't be large scale planting of red pine in southern Wisconsin any longer. Leys asked if the area targeted for the activity at this site involved an artificially established pine plantation to which Morehouse replied in the affirmative. Morehouse noted the invasive species control planned for the site is intended to create better conditions for white pine and oak to flourish.

Dorscheid made a motion, second by Leys, to approve issuance of a management permit for the invasive species control 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.

Dorscheid made a motion, seconded by Leys, to approve a two-year extension to the general permit for the red pine harvest with retention of the following conditions:

- The harvest shall be limited to areas not visible from the Wisconsin River during leaf-on conditions;
- 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 Meg Ziegler on behalf of DNR for management activities in the Riverway's Avoca Unit was considered. Dorscheid said field inspections have been conducted by Cupp and the Operations Committee in conjunction with previous permit activities at these sites. The sites are not visible from the Wisconsin River during leaf-on conditions. Plans call for the removal of woody invasive species, spraying of herbaceous invasive species and prescribed burning. An approximate schedule has been providing dependent on funding and availability of personnel. The permit would be issued for a two-year period. A PowerPoint presentation was shown.

Dorscheid made a motion, seconded by Arimond, to approve issuance of a management permit with the following conditions:

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- 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.

Extensions to permits for management activities at DNR State Natural Areas (SNA) in the Riverway were considered. Cupp explained that half of the SNA permits are considered for extensions each year. Typically, Matt Zine, DNR SNA Manager for the Riverway, would present an update to the board but he was unable to attend the meeting due to a family emergency. A PowerPoint presentation was shown that indicated the activities ongoing at each of the following sites.

- >Adiantum Woods SNA (Town of Millville, Grant County)
- >Avoca Prairie SNA (Town of Avoca, Iowa County)
- >Blue River Sand Barrens SNA (Town of Watterstown, Grant County)
- >Ferry Bluff SNA (Town of Prairie du Sac, Sauk County)
- >Mazomanie Bottoms SNA (Town of Mazomanie, Dane County)
- >Richwood Bottoms SNA (Town of Richwood, Richland County)
- >Tower Hill Bottoms SNA (Town of Arena, Iowa County)
- >Wauzeka Bottoms SNA (Town of Wauzeka, Crawford County)
- >Woodman Sand Prairie SNA (Town of Woodman, Grant County)
- >Wyalusing Hardwoods SNA (Town of Wyalusing, Grant County)
- >Wyalusing Walnut SNA (Town of Wyalusing, Grant County)

Dorscheid made a motion, seconded by Arimond, to approve two-year extensions with retention of the permit conditions for the aforementioned SNA locations. **MOTION CARRIED.**

Cupp said Scott Godfrey, Iowa County Planning & Development Director, had requested the LWSRB review a variance issued to Jakob Sobkowicz for modification of a structure in the floodplain in the Town of Arena, Iowa County. The cottage is located off of Witwer Road at "Trader's Island" and is not visible from the river during leaf-on conditions. The landowner replaced a deteriorating deck with a new deck that was significantly larger in size than the original. The Board of Adjustment had reviewed the request for a variance and partially granted the request. The deck must be deconstructed so that is the same size as the original deck. Another condition of the variance was that the LWSRB did not object. Cupp noted the repair/replacement of the deck that would be no larger in size or more visible from the river than the original would be considered a "routine maintenance activity" and would not require an LWSRB issued permit. A PowerPoint presentation was shown. Cupp recommended the LWSRB offer no objection to the variance. A motion to communicate the board's position (no objection) to Mr. Godfrey was made by Dorscheid, seconded by Madison. **MOTION CARRIED.**

Cupp reported a Riverway landowner had contacted him to express concern about a quarry proposal in the Town of Troy, Sauk County. An aerial photograph with Riverway boundary overlay was shown that demonstrated the proposed quarry site is outside the Riverway. Cupp said the proposal may be a source of local controversy and was providing the information to LWSRB members in the event a constituent would mention the issue. He said no action by the board is required.

Cupp reported on permit he had issued since the last meeting. A general permit for the harvest of timber on lands not visible from the river during leaf-on conditions was issued to Terry Shifflet for a parcel in the Town of Spring Green, Sauk County. The consultant is Jeremie Cooper. A management permit for removal of ironwood in conjunction with a timber stand improvement project was issued to Steve Williamson for a parcel in the Town of

Eagle, Richland County. The consultant is Craig Hollingsworth. Cupp noted he had consulted with individual Operations Committee members before issuing the interim management permit. A general permit was issued to ADT Farms/Dwight Kruickshank for a timber harvest on lands not visible from the river in the Town of Orion, Richland County. The consultant is Steve Smith of Riverside Sawmill. A general permit was issued to Lee Pulda for a timber harvest in the Town of Bridgeport, Crawford County. The consultant is logger Rex Day. A general permit for a timber harvest was issued to Scott Yeomans for a parcel in the Town of Bridgeport, Crawford County. The consultant is logger Don Stram.

The Budget Committee report was given by Chairman Greenheck who reviewed the status of the FY 13 budget.

The Personnel Committee report was given by Chairman Moore who said changes to the LWSRB Discretionary Merit Compensation (DMC) policy was needed. Cupp explained that the Department of Administration Human Resources (DOA HR) Director had recommended a minor language change to make the LWSRB policy consistent with the template policy presented by the Office of State Employment Relations (OSER). Moore made a motion to revise the LWSRB policy as presented, seconded by Madison. **MOTION CARRIED.** Moore said the committee recommended DMC awards be given to Cupp and Nachtigal. For Cupp, the DMC award would be \$1.322/hour. For Nachtigal, the DMC award would be a lump sum based on a four step increase, which would be equivalent of \$3240. Cupp said a review of the budget indicated the fiscal ability to absorb the costs via a transfer from the supplies and services line. Moore noted the recommendations must be forwarded to OSER for review. Moore made a motion to approve the DMC awards for Cupp and Nachtigal, seconded by Madison. **MOTION CARRIED.** Moore expressed the board's appreciation to both employees for their contributions to the Riverway project.

Moore said the committee had consulted with DOA HR Director Kim Pomeroy on the potential for a reclassification of Nachtigal's position. She reported the committee is near completion of the revised position description (PD) and will recommend reclassification from Office Associate to Office Management Specialist, based on advice from Pomeroy and others. She asked if the full board wished to see the revised PD before it is forwarded to DOA or if the committee should handle it. Madison suggested the committee should handle the matter, which was met with consensus by the full board. Cupp thanked Moore and Arimond for their assistance during the process and noted their knowledge and background with personnel matters had been invaluable.

The Executive Director's report was given by Cupp who reviewed the materials in the board members' packets. Cupp said he attended the Friends of the Lower Wisconsin State Riverway (FLOW) Annual Fun Day on January 26th and was pleased to participate in presenting the FLOW River Champion Award to Roger Reynolds. Cupp said he will assist with a FLOW presentation at Canoecopia on March 9th.

Under board members' business, Greenwood suggested the board have a strategic discussion on interaction with the Legislature regarding possible changes to the Riverway law. He said the discussion may occur at the next meeting on March 14th or could be delayed to a future meeting. Arimond suggested the LWSRB review the Strategic Plan and determine if updates or changes are required. Dorscheid asked if there had been any contacts with legislators since the last meeting. Cupp said he has had no contact with any legislators since he sent e-mails to all Riverway legislators offering to provide a briefing on the issue at the end of last year.

The DNR report was given. Dan Baumann, DNR West Region Director, introduced himself to the board and said his region includes Crawford County. He said water quality and quantity are major issues being studied in the West Region. He noted his deep connection to the Riverway as someone who grew up in Muscoda and still hunts, traps and recreates in the Riverway. He thanked the LWSRB for their work to protect the resources and for the thoughtful and deliberative approach to decision making on tough issues. Leys asked Baumann about mercury

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contamination of state waters. Baumann said the federal Environmental Protection Agency has jurisdiction in that area but agreed that mercury contamination is prevalent throughout Wisconsin waters.

DNR Riverway Forester Nick Morehouse noted the timber harvest on state owned lands at Monument Road in the Town of Spring Green, Sauk County, had been completed.

During the public comment session, the following persons spoke.

Rob Horwich of Gays Mills thanked the board for sending the letter to the nonmetallic mining applicants requesting voluntary withdrawal of the applications.

Edie Ehlert of the Crawford Stewardship Project echoed those sentiments again thanking the board for sending the letter to the applicants.

Carolyn Ford of Bear Creek thanked board members for their public service and said she appreciates the landscape and natural beauty of the area. She asked if there were ways to compensate landowners so that nonmetallic mining would not have to occur. Greenwood said the DNR can purchase the property or purchase an easement. Leys said there are programs that offer property tax incentives.

Timm Zumm of Spring Green said the Friends of the Lower Wisconsin State Riverway (FLOW) will have a booth at Canoeopia in Madison with presentations to be given on March 9th at 9:30 a.m. and March 10th at 1:30 p.m.

Roger Reynolds of Lone Rock challenged the Pattison Sand Company to develop a contract with the LWSRB or another entity that would require payment for violations and a voluntary agreement to shut down mining activity until problems have been resolved. He reviewed violations and fines received by PSC and provided the board with written documentation. He urged the board to include adequate conditions on any permits, if a permit must be issued, to assure the Riverway is protected. He also thanked the board for asking the applicants to voluntarily withdraw the applications.

A motion to adjourn until March 14th was made by Madison, 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:

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