

# LOWER WISCONSIN STATE RIVERWAY BOARD

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## MINUTES OF THE APRIL 11, 2013, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, April 11, 2013, at the Sauk City Public Library 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 Fred Madison. Acknowledgment that the meeting was properly noticed was provided by Mark E. Cupp, Executive Director. A motion to approve the agenda was made by Melody Moore, seconded by George Arimond. **MOTION CARRIED.** The minutes of the March 14, 2013, meeting were considered. A motion to approve the minutes with a minor amendment was made by Ron Leys, seconded by Jerry Dorscheid. **MOTION CARRIED.**

Cupp said the appointments for the Iowa County representative and Richland County representative will expire on May 1, 2013. Greg Greenheck has decided not to seek re-appointment as the Richland County representative. Dorscheid has applied for re-appointment. Fred Madison, at-large member, also has applied for re-appointment. Cupp said committee structure for the board should be altered on a short-term basis to reflect the recent appointment of Bob Cary as Grant County representative. Committee membership will be revised following the election of officers at the June meeting. Greenwood suggested Cary be appointed to the Budget Committee in place of Arimond. A motion to that effect was made by Dorscheid, seconded by Ritchie Brown. **MOTION CARRIED.**

The guest speaker for the evening was introduced. Jean Unmuth of the Department of Natural Resources and Don Barrette, Aquatic Invasive Species Coordinator for the SW Badger RC&D, gave a presentation on aquatic invasive species concerns in the Riverway. Unmuth spoke about zebra mussels and identified populations discovered in the Riverway. Barrette discussed invasive plants including concerns about Japanese knotweed and Japanese hops.

The Executive Committee report was presented by Greenwood who reviewed correspondence received regarding the frac sand mining applications before the LWSRB. Cupp said citizen comments and media reports have been forwarded to LWSRB members electronically. Greenwood expressed concerns with the scoping statement provided by Asst. Attorney General Mark Bromley regarding repeal of Chapter RB 2.07, Wisconsin Administrative Code. Greenwood suggested he and Cupp meet with Bromley before the board takes action. Greenwood also said the draft report to the Legislature on the non-metallic regulations in the Riverway law will be discussed by the Executive Committee. LWSRB should feel free to offer comments. Cupp said he continues to research the status of local governmental units' initiatives related to moratoria or adoption of ordinances related to non-metallic mining.

AJ Wortley and Josh Gregg from the State Cartographer's Office gave a presentation on the computer modeling for viewshed analysis related to the Pattison Sand Company applications to establish an industrial sand mine in the Town of Bridgeport, Crawford County. Wortley discussed the parameters of the projects, as requested by the LWSRB, and showed maps of the affected area and projected visible areas. Greenwood noted there may be additional information requested from Pattison Sand Company and additional computer modeling may be needed before the board acts on the permit requests. The consensus among board members was that the computer modeling provided additional important information for the decision making process.

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 Thomas Kuczarski for modification of an existing structure in the Town of Buena Vista, Richland County. Dorscheid said Cupp and the Operations Committee conducted a site visit earlier in the day. Plans call for the addition of a carport on the side of house facing away from the river. The height of the carport will not be greater than the peak of the existing house. The exterior colorization will harmonize with the natural

surroundings during leaf-on conditions. Dorscheid made a motion, seconded by Leys, to approve issuance of a structure permit with the following standard conditions:

- The existing screening vegetation shall be maintained and replaced if damaged or destroyed;
- The height of the structure shall be limited so that the structure does not become visible from the Wisconsin River during leaf-on conditions and shall not exceed 18 feet;
- The exterior colorization of the structure shall harmonize with the natural surroundings during leaf-on conditions and shall be reviewed for compliance with the Riverway regulations and approved prior to initiation on construction;
- The use of glass or other reflective material shall be limited and the amount of glass shall be approved by the LWSRB prior to initiation of construction;
- The LWSRB shall review any modifications to the plans, as submitted, for compliance with the applicable performance standards;
- The landowner or his/her agent shall notify the LWSRB upon completion of the project; and,
- The activity shall comply with all other federal, state and local regulations.

**MOTION CARRIED.**

The permit request of Meg Ziegler on behalf of DNR for a management permit to control invasive species and enhance the native plant community at the Lone Rock Unit; Town of Buena Vista, Richland County, was considered. Dorscheid said Cupp and the Operations Committee visited the site earlier in the day. Portions of the Lone Rock Unit are visible from the Wisconsin River. No structures will become visible from the river as a result of the activity. Plans call for the removal of woody invasive species, spraying of herbaceous invasive species and girdling of other species to restore the native plant community. An approximate schedule has been provided dependent on funding and availability of personnel. The permit would be issued for a two-year period. Dorscheid made a motion, seconded by Leys, to approve issuance of a management 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.**

Four permit applications submitted by Nick Morehouse on behalf of DNR for timber harvest and management activities were considered. The application for removal of mixed hardwoods at the Burnt Squirrel Tract in the Town of Buena Vista, Richland County, was considered. Dorscheid said a field inspection was conducted by Cupp and the Operations Committee prior to the board meeting. Plans call for the removal of red pine and mixed hardwoods to restore the native plant community (oak barrens). The site is not visible from the Wisconsin River during leaf-on conditions. The permit would be issued for a two-year period. Morehouse explained the oak barrens is a rare habitat type. He said the site will look dramatically different after the project is completed. Leys suggested Morehouse contact local media to do a story on the project so the public is informed. Dorscheid made a motion, seconded by Leys, to approve issuance of a timber harvest permit with the following conditions:

- The harvest shall comply with the basal area limits for the residual stand in the Riverview Zone and River Edge 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 application for the harvest at the Bigelow Hill Bottoms in the Town of Clyde, Iowa County, was considered. Morehouse reviewed the details of the proposed activity. Plans call for the removal of mixed hardwoods to restore the native plant community (bottomland hardwoods). Small regeneration cuts will be established and thinning between the patch clear-cuts will transpire. The permit would be issued for a two-year period. Arimond asked about the size of the patch clear-cuts. Morehouse said the gaps will be between 1-2 acres in size. Dorscheid made a motion, seconded by Brown, to approve issuance of a timber harvest permit with the following conditions:

- The harvest shall comply with the basal area limits for the residual stand in the Riverview Zone and River Edge 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 application for the proposed harvest at the Fish Trap Flowage in the Town of Muscoda, Grant County, was considered. Morehouse discussed the proposed removal of mixed hardwoods in the bottomlands. The harvest is described as an intermediate thinning in a fully stocked bottomland hardwoods stand. Dorscheid noted Cupp and the Operations Committee saw a portion of the harvest area earlier in the day. The permit would be issued for a two-year period. Dorscheid made a motion, seconded by Moore, to approve issuance of a timber harvest permit with the following conditions:

- The harvest shall comply with the basal area limits for the residual stand in the Riverview Zone and River Edge 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 proposed harvest at the Ducks Unlimited Bottoms in the Town of Watterstown, Grant County, was considered. Morehouse said the proposed harvest is similar to that at Fish Trap Flowage and is described as an intermediate thinning in a fully stocked bottomland hardwoods stand. The permit would be issued for a two-year period. Dorscheid made a motion, seconded by Arimond, to approve issuance of a timber harvest permit with the following conditions:

- The harvest shall comply with the basal area limits for the residual stand in the Riverview Zone and River Edge 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 request of Gary Sassman of DAAR Engineering on behalf of the Department of Transportation for an LWSRB recommendation on aesthetic treatments to the Hwy. 60 Bridge at Prairie du Sac was considered. Dorscheid noted the Operations Committee and Cupp visited the site prior to the board meeting. Cupp said plans call for painting the bridge parapets and girders. A railing is proposed for the bridge. DOT has asked the LWSRB for recommendations on bridge staining/painting color, rail design and color. Cupp recommended the following:

- The girders and parapets should be stained or painted the color used on the new Hwy. 14 bridge at Spring Green,
- which is a tawny brown and was intended to reflect a sandbar color;
- The recommended rail design is "Type C2" and is chosen for the clean lines; and,

- The recommended color for the rail should be a dark brown similar to #5235N on the LWSRB Standardized Color Chart.

Leys expressed concern about a proposed amendment to the State budget that would require local units of government to pay for aesthetic treatments related to highway projects. Greenwood said the company he works for has used the C3 railing design with success. Dorscheid made a motion, seconded by Moore, to recommend the aesthetic treatments proposed by Cupp. **MOTION CARRIED.**

Cupp reported on permits he had issued since the last meeting. A permit was issued to Morehouse for management activities at a site in the Town of Mazomanie, Dane County. Invasive species control will occur on lands not visible from the river. The Operations Committee viewed the site prior to the board meeting.

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 efforts to reclassify the Office Associate position continue.

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

Under board members' business, Greenwood suggested all board members view the proposed nonmetallic mining site from the river in late May or early June when the leaves are on the deciduous trees and indicated a survey of preferred dates for a boat trip on the river will be sent to board members. Arimond asked what type of watercraft will be used for the tours. Greenwood said Friends of the Lower Wisconsin State Riverway (FLOW) had offered to provide a boat or boats for the tour.

The DNR report was given by Brian Hefty who noted warning signs at boat landings will have bilingual messages. He said the Master Planning process will begin in a few years. He said the Mazomanie Wildlife Unit's Mazo Beach will be closed to public access Monday through Friday. Moore asked about enforcement of the closure. Hefty said signs will be posted. Moore noted Town of Mazomanie residents and the town board was not happy that they were not consulted or informed prior to the announcement.

During the public comment session, Mike Ketchmark of Spring Green asked if the viewshed analysis could include dust clouds and expressed concern about air quality related to the mine site.

Timm Zumm of Spring Green, FLOW President, said FLOW and other organizations have retained legal counsel to review the permitting process for the mine site. Leys noted the LWSRB is not associated with the legal review.

Don Golembieski of Spring Green said it seems that he and other landowners have to comply with performance standards to obtain a permit to build a house for the purpose of protecting scenic beauty but then Pattison Sand Company can come in and establish an industrial sand mine. Greenwood noted a permit is required for nonmetallic mining activities but the performance standards are different than for a house.

Dan Deneen of suggested the Mazo Beach be made a state park to allow for greater enforcement of rules and restoration of public access. Hefty noted the designation of the area as a state park would not necessarily change the applicable rules.

Kim Starr of Arena asked if the mining site was on private lands to which Greenwood replied in the affirmative. She said there seem to be an inconsistency in the regulations. Greenwood said the board is caught in a quandary due to the existing statutory language and noted a future legislative solution likely will be needed.

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Kolby Hirth of Spring Green expressed concern about fugitive dust from the mine site. She expressed support for changing the law related to nonmetallic mining in the Riverway. Hirth thanked the board for serving as a conduit for information related to aquatic invasive species.

Arimond noted his experience with the frac sand mining industry in Trempealeau County. He said he attended a 7 ½ hour public hearing on the recent permit issued by the county. The permit included 24 conditions designed to address public concerns with health, safety and property values. Leys noted local governments have the power to protect the public welfare.

Connie Chambois of Richland County expressed concern that the State may take away a local unit of government's authority to regulate nonmetallic mining sites.

Susan Michetti of Mt. Horeb noted State Senator Kathleen Vinehout has developed a legislative package related to frac sand mining.

Mary Zunker of Sauk City asked about the Department of Justice (DOJ) involvement. Greenwood explained that the LWSRB requested an opinion from DOJ regarding inconsistencies between statutes and administrative code.

A motion to adjourn until May 9<sup>th</sup> was made by Leys, seconded by Brown. **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