

LOWER WISCONSIN STATE RIVERWAY BOARD

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MINUTES OF THE AUGUST 8, 2013, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, August 8, 2013, at the Public Library in Spring Green to conduct a regular monthly business meeting. The meeting was called to order at 5:00 p.m. by Chair Donald Greenwood. 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. Greenwood noted the Earl Pulda and Lee Pulda timber harvest permit requests have been removed from the agenda at the landowners' requests. A motion to approve the agenda was made by Jerry Dorscheid, seconded by Bob Cary. **MOTION CARRIED.** A motion to approve the minutes of the July 11, 2013, meeting was made by Ron Leys, seconded by Melody Moore. **MOTION CARRIED.**

The Executive Committee report was presented by Chairman Greenwood. Correspondence regarding citizen comments on frac sand mining and a letter from Pattison Sand Company were noted.

A new policy regarding appointment of alternates to committees (LWSRB Policy 13-13) was considered. The policy was read by Cupp and a motion to approve was made by Leys, seconded by Dorscheid. Dave Martin suggested the last sentence was redundant and should be deleted, which was accepted as a friendly amendment to the motion. A vote was taken. **MOTION CARRIED.** A motion was then made to appoint Cary as an alternate to the Operations Committee. **MOTION CARRIED.**

The LWSRB discussed possible dates for a strategic planning session. The dates of October 25, November 8 and November 15 will be discussed with representatives of UW-Extension regarding someone from UWEX serving as facilitator.

The special meeting to consider the nonmetallic mining applications for the Town of Bridgeport, Crawford County, will be held on August 22nd at the Crawford County Administration Building in Prairie du Chien. Greenwood said the public will have an opportunity to speak for/against and to register without speaking for/against the nonmetallic mining proposals. Greenwood said paper ballots will be used and then counted to assure members are not disenfranchised by a verbal roll call vote. Leys asked if names will be recorded to which Greenwood replied in the affirmative and noted the names will be announced. Cary asked if security will be present. Leys said security shouldn't be needed and noted the public involvement has been respectful at previous meetings. Moore asked if each permit would be considered separately since there are four landowners. Greenwood responded in the affirmative. Greenwood said board members will be afforded the opportunity to explain their respective votes. Dorothy Stroschein, Pattison Sand Company (PSC) legal counsel, asked if the company will be allowed to comment on statements made by the public. Greenwood said only in the case of points of fact. Dorscheid made a motion, seconded by Leys, to approve the format proposed by the Executive Committee. Leys asked if Assistant Attorney General Mark Bromley will give a presentation. Cupp said Bromley will be available to respond to questions from the board. **MOTION CARRIED.**

The Operations Committee report was presented by Chairman Dorscheid who said no action on the nonmetallic mining permit applications would take place but discussion would occur. Cupp then presented digital images showing the areas of visual concern within the Riverway boundary. George Arimond asked if any buildings or equipment would be visible from the river. PSC's Beth Regan said the only buildings at the site would be a small trailer for an office or a small storage shed and neither would be visible from the river. She asked Cupp if a permit would be necessary for either building. Cupp said a general permit may be necessary. Martin asked if dust would be visible from the river. Regan said a fugitive dust control plan has

been approved by the Wisconsin Department of Natural Resources (DNR) and that watering of roads and other methods will be employed to control dust. Martin asked if lighting will be used in the event of night operations. Regan said it is possible that night operations would occur and lighting would be necessary. Strochein noted the lighting would be "Dark Sky Compliant". Martin asked for an explanation on transportation and processing. Regan said the sandstone would be loaded on trucks from the mine site and taken to Clayton, Iowa, for processing and then transported to rail lines at either Clayton or Prairie du Chien. Leys asked if an electrical line could be used for lighting instead of diesel powered generators. Regan said it may be possible but Scenic Rivers Energy Cooperative would have to be involved in discussions. Moore asked about the change in drainage from "internally" drained to "externally" drained to the Wisconsin River. Regan said there is a small area near the driveway that may be considered to be externally drained to the river based on DNR interpretation of the drainage pattern but the intent is to keep all drainage internal to the site. Moore asked about overflow to the river from the drainage basins in case of a huge precipitation event. Regan said the strategy is to keep drainage to the basins, which are bermed. Arimond asked about infiltration and Regan said the idea is to have the water seep into the ground. Leys asked about use of chemicals and Regan said no chemicals would be used in processing onsite. Cary expressed concern about groundwater and surface water impacts. Regan said the mining activity will be above the water table and that no direct impacts on surface water are anticipated. Cary asked about the reclamation plan. Regan said the intent is to reclaim lands "behind" the mining activity so it will be an ongoing process. Cary asked about mining activity on lands visible from the river but outside the formal LWSR boundary. Regan noted PSC had committed to avoiding scenic impacts on the Earl Pulda property and pointed to a letter from October 5, 2012. Cary said the 60 year window for mine operation is a long time. Regan said that is what the contracts or leases run for and that is the time period approved by the Town of Bridgeport. Greenwood said, based on a conference call with Kyle Pattison, he wasn't absolutely sure that the commitment to avoid visible areas was firm. Greenwood asked about the amount of acres to be mined at any given time. Regan said the intent is to have a maximum of 30 acres open to mining. Arimond referred to a letter from Crawford Stewardship Project that expressed concern about fugitive dust and visibility from the river. He cited personal experience from a situation in the Boundary Waters. Regan said the intent is to water roads to control dust, minimize drop distance between loaders and trucks, moisture treatment of stockpiled areas, speed limits for trucks and training on dust control. Greenwood asked if PSC will present new mining phase maps considering the visually sensitive areas identified on the maps. Strochein said a condition of the permit would exclude visible areas and said, if new maps were done, the maps likely wouldn't be available by August 22nd. She said the visual analysis was done at 12 feet above the ordinary high water mark. Greenwood asked about the performance bond posted to the Town. Regan said a performance bond of \$164,000 was posted for reclamation. Greenwood asked if the bond applied to areas beyond the reclamation. Strochein said the bond applies to all areas of the mine. Greenwood noted that, if the board approves the permit, the board retains the right to revoke the permit. Moore asked about removal of the timber harvest requests of Earl Pulda and Lee Pulda. Strochein said the intent was to initiate a discussion on tree removal. She said it was determined that the timber harvest permits would not be needed at the present time.

A management permit issued for activities at the Wintergreen property owned by Art Donaldson in the Town of Wyoming, Iowa County, was discussed. Matt Gibson of House on the Rock Resort and Wintergreen was present. Cupp showed digital images to tree mortality at the site due to use of Tordon (herbicide) to control brush and woody vegetation. Gibson noted the tree mortality was accidental. Cupp said the inadvertent killing of the trees could be considered a violation of the permit conditions. Greenwood asked if establishment of new screening vegetation was an option. Cupp said the shallow soils and rocky site made establishment of larger trees difficult. Nick Morehouse, DNR Riverway Forester, reviewed the natural regeneration survey he conducted at the site and said the natural regeneration would be considered on the "high" end. He noted one walnut and one larger maple appear to have survived. Greenwood asked how long Tordon remains active in the soil. Morehouse said up to one year. He said more mortality could occur but noted the existing seedlings look

to be in fair condition. Gibson added that the site looks better than even a month ago. Morehouse suggested he monitor the seedling stocking levels on a periodic basis. Cupp then offered the board options for action.

Option A: accept the premise that the tree mortality was accidental and transpired through improper use of Tordon. The follow-up would be a letter to the landowner and his agent indicating that natural regeneration should be allowed to develop.

Option B: accept the premise that the tree mortality was accidental and transpired through improper use of Tordon. The follow-up would be a written warning to the landowner and his agent indicating that the remedy ordered by board shall be to allow natural regeneration to develop with no cutting or chemical treatment in identified areas without LWSRB approval.

Option C: find the permit violation to be a knowing violation of the law and to pursue fines and forfeitures as well as methods for establishing larger stock for screening vegetation purposes.

Dorscheid said the Operations Committee recommended adoption of Option B with a minor change in phrasing of the second sentence. Dorscheid then made a motion to pursue issuance of a written warning, seconded by Moore. Greenwood asked if there were any other options for establishing screening vegetation and Cupp said there were no realistic options available. Leys noted the difficulty of the situation and suggested it had been handled well by staff. A vote on the motion was taken. **MOTION CARRIED.**

Dorscheid noted there were no permits issued by the Executive Director since the last meeting.

The Budget & Office Committee report was presented by Chairman Cary who reviewed the final report for FY 13. He said the breakdown for FY 14 was not available but noted the allotment was \$208,600.

There was no report from the Personnel Committee.

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

The DNR report was given by Brian Hefty, DNR Regional Facilities and Lands Supervisor. He said haying on state lands was taking place on 111 acres this year. He noted the Arena boat landing is unusable due to low water levels and sanding in of the boat launch. He said a component of the Master Planning process will be to identify potential sites for additional access points. Morehouse added that the Leone Road pine plantation harvest in the Town of Spring Green, Sauk County, had been completed.

Public comment was taken. John McKenna of the Town of Spring Green expressed concern regarding nitrate pollution of groundwater and private well contamination.

Gene Unger of Prairie du Sac provided the board with a list of concerns related to deficiencies in the PSC nonmetallic mining applications.

Eddie Ehlert of the Crawford Stewardship Project said the group had received legal assistance from Attorney Glenn Reynolds.

Timm Zumm of the Friends of the Lower Wisconsin State Riverway said the annual Rhythm on the River event would be held on August 24th.

A motion to adjourn was made by Leys, seconded by Dorscheid. **MOTION CARRIED.**

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