

# LOWER WISCONSIN STATE RIVERWAY BOARD

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## MINUTES OF THE NOVEMBER 13, 2014, RIVERWAY BOARD MEETING

The Lower Wisconsin State Riverway Board (LWSRB) met on Thursday, November 13, 2014, at the Village Hall in Avoca to conduct a regular monthly business meeting. The meeting was called to order at 5:00 p.m. by Chairman Don Greenwood. All members were present with the exceptions of George Arimond, Ritchie Brown and Dave Martin. 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.** A motion to approve the minutes of the October 9, 2014, meeting was made by Ron Leys, seconded by Melody Moore. **MOTION CARRIED.**

The Executive Committee report was presented by Chairman Greenwood. A copy of correspondence received from the Department of Natural Resource (DNR) to the Friends of the Lower Wisconsin (FLOW) regarding the Arena boat landing was discussed. The letter indicated the DNR has decided against the dredging option at the boat landing, which currently is unusable by motorized craft except in high water conditions. Dorscheid asked if the DNR would consider the dredging option if the activity was undertaken by persons in the private sector so that there would be no major cost to the department. Matt Seguin, DNR Riverway Manager, said cost was only one factor in the DNR decision to forego the dredging option. There were other environmental factors including proper disposal of the dredged material. Dorscheid asked if there had been progress in locating an alternate access site in the Arena area. Seguin said the matter remains under review but no viable option has been identified on state owned lands largely due to wetland and environmental concerns. He said the department would consider purchase of appropriate private lands for a new access site if a private landowner would come forward with a workable site.

Leys noted the Boscobel landing west of the bridge is dredged periodically, including in recent months, and the dredged materials have been stockpiled on site. Seguin said the DNR was unaware of the recent dredging until a short time ago. He said the matter is under investigation. Bob Cary noted there is a large pile of dredged material from the Mississippi River near Lansing that seems to disappear for other uses. Timm Zumm, FLOW President, said FLOW has offered to coordinate the dredging activity to alleviate the cost and workload burden from DNR. Seguin said it is more complex than just cost. He reiterated problems with the deposition of materials and noted contaminants may be a factor, as well as endangered mussels. He said these and other factors all went into the decision against dredging. Zumm thanked Seguin and Brian Hefty for attending the FLOW sponsored meeting in Arena. He argued that dredging should be tried and said the area might not fill in because of work done on Black Earth Creek. He cited other areas along the river that have been disturbed due to bridge work or other projects. Seguin said DNR engineers and the US Army Corps of Engineers both believe the dredged area would silt in with the next high water event after dredging. He said the DNR estimates the cost of dredging and disposal of material at \$55,000 per episode. Seguin said there is a likelihood that the landing would have to be dredged multiple times per year, and, at \$55,000 a pop, it simply isn't realistic to pour that kind of money into the dredging option.

Greenwood said funding is the issue more than anything else and noted the cost of establishing a new landing with the necessary infrastructure will be very high. He added that there are few places on the river where siltation will not be a problem over time. Seguin said that longtime DNR Area Fisheries Biologist Gene Van Dyck has stated the average life expectancy of a Riverway boat landing is about 15 years. Dorscheid said a number of Riverway access sites are near the mouth of streams and small rivers and wondered if the DNR had looked at the Black Earth Creek option. Seguin said wetland issues have ruled out that option. Greenwood said he would be interested to see how the revised DNR Riverway Master Plan may address the issue. He suggested the Army Corps of Engineers may have ideas on temporary solutions to allow for emergency vehicle access to the river. Seguin said the department is evaluating new access sites from Prairie du Sac to Prairie du Chien and public input is welcome. Leys said the Army and Marines are the real experts regarding temporary access. He suggested DNR try the dredging once to see what happens, does it silt back in or doesn't it? Cupp noted the ever changing nature of the river and said the segment near the Arena has become broader and shallower over time.

The court case involving the LWSRB and Pattison Sand Company (PSC) was discussed. Cupp reported he and Greenwood had met with PSC attorneys Peter Conrad and Dorothy Stroschein regarding differences in interpretation of Judge Craig Day's order from June of 2014. Cupp said no resolution was reached on those differences and that the ball is in PSC's court. Greenwood said the materials referred to in the order related to the aesthetically sensitive areas defined by Cupp are at the crux of the matter. Cupp thanked Greenwood for taking the time to participate in the meeting with PSC legal counsel.

Cupp reported he had met with staff from the offices of State Senator Jon Erpenbach and State Senator Dale Schultz to initiate work on a legislative draft regarding nonmetallic mining in the Riverway. A drafting attorney from the Legislative Reference Bureau has been assigned the task. A preliminary draft is hoped to be received by the December LWSRB meeting. Cupp suggested the board consider inclusion of a 5-acre size limit on nonmetallic mines that comply with the applicable performance standards. Leys suggested inclusion of language that carefully defines municipally owned. Cupp further suggested definitions of the terms "land", "excavation" and "visual horizon" be added to s. 30.40, Stats. Consensus from the board was reached on all suggestions. Greenwood will work with Cupp on review of draft legislation.

Election results were reviewed. Cupp noted Governor Walker was re-elected as were State Representatives Travis Tranel and Lee Nerison. Senator-elect Howard Marklein will replace Dale Schultz in the Senate. David Considine was elected to the Assembly seat previously held by Representative Fred Clark. The 51<sup>st</sup> Assembly District seat vacated by Marklein is undetermined pending a possible recount. Todd Novak leads Dick Cates by 59 votes at this juncture. Senators Erpenbach and Jennifer Shilling were not up for re-election this year.

The Operations Committee report was presented by Chairman Dorscheid. The permit request of Wisconsin Badger Camp was considered. Dorscheid noted the consultant is Mark Mittlestadt of Blue Ox Forestry. He said a field inspection was conducted by Cupp on October 21, 2014. Mr. Mittlestadt, Badger Camp officials, and Nick Morehosue, DNR Riverway Forester, also were present for the field inspection. Plans call for the selective harvest of walnut, oak and miscellaneous species. Some of the marking has been completed but an additional field inspection will be required when all of the marking is done. Most of the harvest area is not visible from the river. No new roads will be constructed. In addition, a small area will be converted from woodland to prairie/oak savanna. The activity has been deemed appropriate for the site by Morehouse. The prairie restoration will occur in the Riverview Zone. No new structure becomes visible from the river during leaf-on conditions as a result of the activity. Cupp noted action on two separate permits is required.

Dorscheid made a motion, seconded by Madison, to approve issuance of a timber harvest permit with the following standard 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;
- The LWSRB shall review the location and design of all shelterwood or 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 made a motion to approve issuance of a management permit for the prairie restoration with the following standard 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 permit request of Harold Gies for additional timber harvesting on property in the Town of Clyde, Iowa County, was considered. Dorscheid noted Mark Mittlestadt of Blue Ox Forestry is the consultant. Dorscheid said a field inspection was conducted by Cupp, in conjunction with previous permit activity at the site in May of 2013. In addition, Cupp met with the consultant/logger on October 24, 2013. Morehouse also was present for the field inspection. The property is at the intersection of STH 133 and Bigelow Hill Road. Plans for the original activity called for the selective harvest of walnut and miscellaneous species. No new roads will be constructed. In addition, a field inspection was conducted on October 21, 2014, by Cupp and Morehouse. Plans call for additional harvesting of walnut on the property line with Derse. The Bluff Zone was delineated. A portion of the trees slated for harvest have been marked. Additional marking must be completed and approved prior to initiation of the harvest. No new roads are required. The harvest will occur during leaf-off and frozen or dry ground conditions. Cupp recommended amending the existing permit to reflect the new activity.

Dorscheid made a motion, seconded by Cary, to approve issuance of an amendment and extension to the timber harvest permit with retention of the standard conditions. The standard conditions for a timber harvest permit include:

- 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;
- The LWSRB shall review the location and design of all shelterwood or 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.**

Cupp noted three tentative items on the agenda would not be considered at the meeting because required background materials had not yet been received from the applicants.

The permit extension request of Jack Kussmaul for a prairie restoration project in the Town of Millville, Grant County, was considered. Dorscheid said the original field inspection was conducted by Cupp on November 27, 2002. Mr. Kussmaul was present for the field inspection. The field inspection revealed the majority of the site is visible from the Wisconsin River during leaf-on conditions. Plans call for restoration of prairie and oak savanna. Prescribed burning and removal of undesirable species will occur. Aspen will be girdled and other non-oak savanna species will be removed. No structures become visible from the river as a result of the activity. The activity is consistent with protection of the scenic beauty and natural character of the site. The activity was deemed appropriate for the site by Bill Carlson, DNR Riverway Forester *pro tempore*. Dorscheid noted, since the original permit was issued, Cupp and the Operations Committee along with DNR officials have visited the site over the years. Mr. Kussmaul has invited the LWSRB back for another visit in the spring or summer of 2015 to see the progress he has made. Cupp recommended approval of a two-year extension for the activity.

Dorscheid made a motion, seconded by Madison, to approve issuance of a two-year extension with retention of the following permit 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 The Prairie Enthusiasts for a management permit to address a prairie/oak savanna project on the former Walter Mirk property in the Town of Millville, Grant County, was discussed. Dorscheid noted the consultant is Jack Kussmaul. He said a field inspection originally was conducted by Cupp on an adjacent state owned parcel where Paul Brandt, DNR Wildlife Biologist, was engaged in a prairie/oak savanna restoration effort. The project on the Mirk property complemented and adjoined 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. Cupp noted several permit extensions were issued to Mr. Mirk in the past. He has moved out of the area and has deeded the property to The Prairie Enthusiasts. Jack Kussmaul will oversee continued restoration work at the site. Cupp recommended issuance of a permit to The Prairie Enthusiasts with the standard permit conditions.

Dorscheid made a motion, seconded by Leys, to approve issuance of a management permit with the following standard 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 Travis Anderson, DNR Wildlife Biologist, for an extension to a management permit for activities in the Town of Mazomanie, Dane County, was considered. Dorscheid noted field inspections have been conducted by Cupp and the committee in conjunction with other permit activities at the site. Plans call for continued 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. Cupp recommended issuance of two-year extension to the permit.

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Dorscheid made a motion, seconded by Cary, to approve issuance of a two-year extension with retention of the following standard permit 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.**

Two projects proposed by the American Transmission Company were reviewed. PowerPoint presentations for each were shown. The first project involved construction of a new transmission line across the river at the Prairie du Sac dam. Cupp said the new span would include taller structures on either side of the dam but the existing structures on the dam would be removed. The footprint of the new structures are outside the Riverway boundary so an LWSRB permit is not required. However, ATC had sought the board's involvement in the design in the hope of addressing any aesthetic concerns. Cupp said, while the new structures will be taller, there will be a net gain aesthetically because the look of the dam will be "cleaner" without the existing structures. There will be some orange or red markers on the wires pursuant to federal regulations. Also, the shoreline vegetation on the Columbia County side of the river will remain intact. The board directed Cupp to contact ATC and indicate the board's understanding of the new power line crossing and associated aesthetic impacts and to express appreciation for the opportunity to be involved in the design process.

Cupp noted the second project is in the preliminary stages and involves reconstruction of the 69kv line between Boscobel and Lone Rock. The line was originally construction in 1955 and the wooden poles are severely damaged. The line is not visible from the river except for the current crossing between the Town of Pulaski, Iowa County, west of Avoca, and the Town of Orion, Richland County, west of Gotham. One proposal under investigation by ATC would eliminate that crossing and replace it with a new crossing downstream of the Lone Rock railroad bridge. Cupp said the board would be involved as a regulatory authority whether the current crossing was retained and existing poles replaced or if the new crossing concept was pursued. He said ATC officials will make a presentation to the board at a future meeting.

Cupp reported he had approved one permit action. An amendment to an existing permit issued to Christy Helms for construction of a new garage in the Town of Spring Green, Sauk County, was approved to allow for an additional four feet in height. The structure will be located near Wisconsin Riverside Resort and will comply with the applicable performance standards.

The Budget Committee report was presented by Chairman Cary who reviewed the status of the FY 15 budget.

There was no report from the Personnel Committee.

The Executive Director's report was given by Cupp who reviewed the materials in the board members' packets. He reviewed the work on Indian Trail Marker Trees in the area. Cupp noted the Cultural Landscape Legacies annual tour involved effigy mound sites in the West Bend and Horicon areas.

Under board members business, Dorscheid said there has been discussion of establishing a shooting range in the Arena area. Leys suggested Chloris Lowe, Jr., as a possible speaker at a future board meeting.

The DNR report was presented by Seguin who said demolition of buildings at the former Shea property in the Town of Millville, Grant County, should be completed by the end of the year. The count of Riverway users is on the DNR website. He said invasive species control is the focus of work by crews at this time. Seguin noted there was a prescribed burn at Ferry Bluff. Morehouse said there will 5-8 active timber sales on state owned lands in the Riverway this winter if all goes as planned. He said the harvest at the former Wisconsin Power & Light property in the Town of Pulaski, Iowa County, is nearing completion.

During public comment, Glenn Rogers of Avoca asked for assistance in clearing debris in the waterway. Seguin said DNR Conservation Warden Al Erickson was aware of the problem. Zumm offered the assistance of FLOW to clean up the debris.

Zumm said the preliminary results of the FLOW user survey were available. He noted the FLOW annual meeting will be held on January 24, 2015, in Plain.

A motion to adjourn was made by Madison, seconded by Moore. **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.