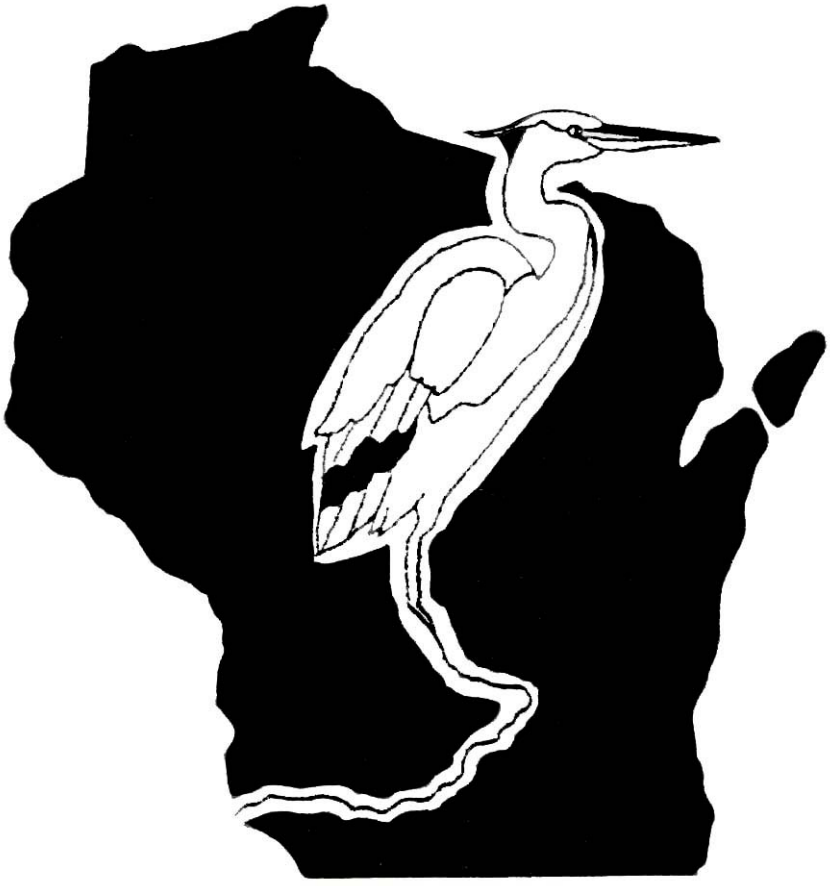
Lower Wisconsin
State Riverway Board



BIENNIAL REPORT
2013-2015

Lower Wisconsin
State Riverway Board
202 N. Wisconsin Avenue · PO Box 187 · Muscoda, WI 53573
(608) 739-3188 · 1-800-221-3792 · FAX (608) 739-4263
Email to: mark.cupp@wisconsin.gov
Web site: http://lwr.state.wi.us

October 15, 2015

The Honorable Scott Walker
Governor, State of Wisconsin
115 East - State Capitol
Madison, WI 53702

Dear Governor Walker,

Attached is the 2013-2015 biennial report of the Lower Wisconsin State Riverway Board (LWSRB). The report details current and past LWSRB membership, agency history, significant accomplishments, regulatory purview, permit data and observations regarding the past, present and future of the Riverway Board.

On behalf of the board, I am pleased to report the project continues to be a success twenty-six years after its inception. The Riverway continues to receive national and international recognition, not only for the tremendous scenic beauty of the valley, but also for its abundant natural, archeological and historical resources. The quality and diversity of recreational experiences remain abundant. The unique and innovative Riverway aesthetic protection law remains effective and serves as a model for other river, lake and bluff protection plans.

Riverway landowners, local officials and area residents deserve recognition for their cooperation and share in the successes realized by the LWSRB. If it were not for the capable stewardship of the land by current and previous property owners, the tremendous beauty of the area might have been diminished long ago. The cooperation of Riverway landowners has been exemplary and the support of the project by the local populace has been strong and continues to grow.

The LWSRB remains focused on the stated goal of working with landowners and local residents to achieve their objectives within the constraints of the law while also assuring the aesthetic integrity of the project area is not compromised. The dedication of the private citizens serving on the board, several who have served multiple terms, deserves recognition as well. These individuals have sacrificed their time and have judiciously and thoughtfully administered a complex set of regulations on behalf of the citizens of our great state.

If you have any questions or comments regarding the information contained in the attached report, please feel free to contact me at 1-800-221-3792 or by e-mail at mark.cupp@wisconsin.gov. Additional information also is available at the Lower Wisconsin State Riverway Board web site at www.lwr.state.wi.us.

As always, thank you for your support of the Riverway project.

With warm regards,

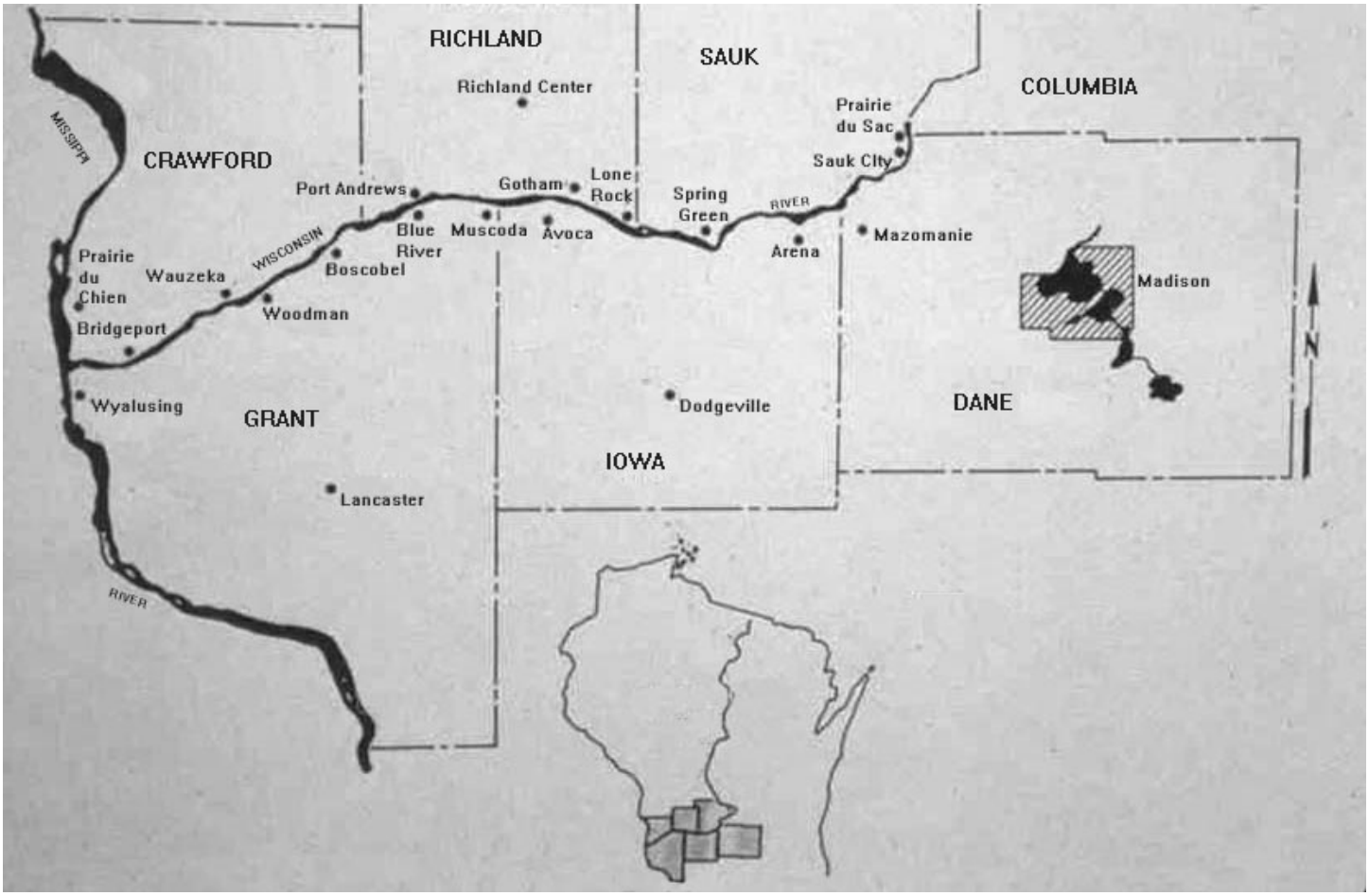
Mark E. Cupp, Executive Director
Lower Wisconsin State Riverway Board

TABLE OF CONTENTS

Map 1

Lower Wisconsin State Riverway
in a state context

Map 2



Lower Wisconsin State Riverway in a localized context

LOWER WISCONSIN STATE RIVERWAY BOARD

(Board members as of June 30, 2015)

Donald Greenwood (Chair)
PO Box 454
Spring Green, WI 53588
(608) 588-2322
Sauk County Representative

Melody Moore
6125 Mathewson Road
Mazomanie, WI 53560
(608) 795-4920
Dane County Representative

Ron Leys
1702 Parrish Street
Prairie du Chien, WI 53821
(608) 326-0862
Crawford County Representative

Robert Cary
206 LaFollette St.
Blue River, WI 53518
(608) 537-2062
Grant County Representative

George Arimond
1925 Sharon Street
LaCrosse, WI 54603-1366
(608) 316-5548
At-Large member

David Martin
20343 Effigy Lane
Muscoda, WI 53573
(608) 739-4198
Richland County Representative

Ritchie Brown
114 S. Red Pine Ct.
Black River Falls, WI 54615
(715) 284-0403
At-large member

Gerald Dorscheid (Secretary)
7060 Reimann Road
Arena, WI 53503
(608) 753-2078
Iowa County Representative

Fred Madison (Vice-Chair)
N1954 Unke Rd.
Lodi, WI 53555
(608) 592-3047
At-large member

LOWER WISCONSIN STATE RIVERWAY BOARD

FORMER BOARD MEMBERS

Vincent Limmex
(Iowa County)

Dean Putz
(Iowa County)

Judy Rendall
(Dane County)

C. Thomas Talbot
(At-large member)

James Tiefenthaler
(At-large member)

Nick Nice
(Grant County)

Thomas Zignego
(At-large member)

Todd Schwingle
(Richland County)

William Hazelton
(Richland County)

Fred Clark
(At-large member)

Kathleen Roelli
(At-large member)

James Amundson
(Dane County)

Douglas Miyamoto
(At-large member)

James Staff
(Sauk County)

Glen Beneker
(Crawford County)

Greg Greenheck
(Richland County)

Robert Zinck
(Iowa County)

William Lundberg
(At-large member)

COMMITTEE STRUCTURE

(Committee Appointments through June 30, 2015)

EXECUTIVE COMMITTEE:

Donald Greenwood (Chair), Fred Madison (Vice-Chair), Gerald Dorscheid (Secretary)

DUTIES: set agenda for Board meetings, review committee reports and decisions, assign committee responsibilities, review decisions and recommendations of Executive Director, review administrative rules and legislation affecting the Riverway

OPERATIONS COMMITTEE:

Gerald Dorscheid (Chair), Ritchie Brown, Ron Leys, Robert Cary (alternate)

DUTIES: review permit applications, conduct field inspections, make recommendations to Board regarding action on applications, review permits issued by Executive Director, monitor effectiveness of performance standards and other regulations administered by Board

PERSONNEL COMMITTEE:

Melody Moore (Chair), Ritchie Brown, George Arimond

DUTIES: coordinate hiring of staff (executive director and program assistant), conduct evaluations of Executive Director, review supervisory decisions of Executive Director, formulate recommendations regarding issuance of exceptional performance award or other honors or special recognition for staff

BUDGET & OFFICE COMMITTEE:

Robert Cary (Chair), George Arimond, Fred Madison

DUTIES: formulate Board budget, periodically review budget status and report to the Board, review and approve major expenditures, review expenditures authorized by Executive Director, review lease for office, approve major renovations or changes to office space

PURPOSE

The purpose of this document is to report to the Legislature on the Riverway law and to provide information regarding the operations of the Lower Wisconsin State Riverway Board (LWSRB). Section 15.04(1)(d), Wisconsin Statutes, requires every department or independent agency to submit a biennial report to the Governor and Legislature, on or before November 15 of each odd-numbered year. In addition, s. 30.435(7), Stats., states;

> "The board may report to the legislature on the effectiveness of s. 30.44 to 30.49."

The LWSRB strategic plan states, as Goal/Objective #4;

> "To report to the Legislature on the effectiveness of the performance standards, procedures, prohibitions and other regulations governing activities within the Riverway as detailed in the Wisconsin Statutes and the Wisconsin Administrative Code."

One strategy for implementation of this objective, as detailed in the strategic plan, is "reports to the Legislature". In addition, the LWSRB has made a strong commitment to the philosophy of open government and freedom of access to the decisions made by the agency.

Therefore, to comply with s. 15.04(1)(d), and s. 30.345(7), Stats., to implement goal #4 of the LWSRB's strategic plan, and to adhere to the open government ideology of the LWSRB, this report is published for the benefit of Governor Scott Walker, the Wisconsin Legislature, the residents of the lower Wisconsin River valley and the citizens of the State of Wisconsin.

INTRODUCTION

The Lower Wisconsin State Riverway Board (LWSRB) was created by the enactment of 1989 Wisconsin Act 31. The effective date of the Riverway regulations was October 31, 1989. The Riverway encompasses 79, 275 acres along the final 93 miles of the Wisconsin River. The project begins below the last dam on the Wisconsin River at Prairie du Sac and extends to the confluence of the Wisconsin and Mississippi Rivers near Prairie du Chien. The portion of the Wisconsin River within the Riverway project represents one of the longest stretches of free flowing water remaining in the Midwest. The lands within the Riverway remain in a relatively undeveloped state resulting in an area rich in natural beauty, a haven for wildlife and a place of precious dwindling habitat for many native plant species. The river and surrounding lands are a popular recreational destination for canoeists, anglers, hunters, birders, hikers, campers and other outdoor enthusiasts.

The Riverway regulations are designed to protect the scenic beauty and natural character of the lower Wisconsin River valley through administration of a program to control land use and development. Administration of the regulations is accomplished via a cooperative regulatory system involving the LWSRB, the Department of Natural Resources (DNR) and county zoning authorities. The LWSRB is an independent decision making entity responsible for administering a system of performance standards created to protect and preserve the aesthetic integrity of lands within the project boundary. County zoning authorities administer the respective local zoning ordinances within the shoreland/floodplain zoned areas. The DNR retains authority over the programs traditionally under the department's jurisdiction. The DNR also provides technical assistance to the LWSRB upon request. Memoranda of understanding with each of the affected counties and with the DNR further delineate the lines of communication and methods for assuring cooperation and mutual understanding.

Activities which may require a permit under the regulations include: construction or modification of a non-agricultural structure; placement or modification of a mobile home; construction or modification of a walkway/stairway; timber harvesting; construction, modification or relocation of a utility facility; construction or modification of a public access site; construction, modification or reconstruction of certain bridges; quarrying on lands not visible from the river; and, maintenance, restoration or enhancement of prairies, native plant communities, wildlife habitat or archeological sites. Prohibitions of certain activities also exist. Activities which are prohibited include: cutting of woody vegetation unless specifically exempted; storage or disposal of junk or solid waste; mining and quarrying on lands visible from the river; certain roads and signs; and, construction of piers, boat shelters and swimming rafts. Several exemptions apply to the activities that require a permit and to the prohibited activities.

Restrictions regarding recreational use on public lands or waters are also in effect. An adequately sized waterproof refuse container in which to place trash is required for vessels operating in the Riverway. No person may leave refuse on state owned or managed lands or waters. Glass containers are prohibited on all public lands and waters within the Riverway.

Agricultural operations and structures are basically exempt from the regulations. Permits from the LWSRB are <u>not</u> required for construction or modification of agricultural structures, such as; barns, silos, machine sheds, chicken coops, etc. The prohibition on the cutting of woody

vegetation does not apply to maintenance of fence rows, pastures or crop fields. Expansion of an agricultural operation may occur without an LWSRB permit if compliance with the Department of Agriculture, Trade or Consumer Protection (DATCP) regulations is attained.

Enforcement of the law is accomplished through cooperation with the local DNR conservation wardens. Local law enforcement officials may be utilized if necessary. To date, all LWSRB enforcement related actions have occurred under the auspices of DNR conservation wardens. Issuance of written warnings occurs when violations of the performance standards are discovered, usually, after initial LWSRB contact with the individual fails to resolve the matter. DNR Conservation wardens retain the authority to issue a cease and desist order if deemed necessary. If an individual does not comply with the conditions stated in the warnings or fails to adhere to actions ordered by the LWSRB, forfeitures of up to $1,000 may be levied. Also, a person who knowingly violates the law may be subject to forfeitures of up to $1,000 for each violation.

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This report details twenty-six years of operations of the Lower Wisconsin State Riverway Board. The report will focus on the 2013-2015 biennium, although historical data and information from the inception of the LWSRB in October of 1989 through June of 2015 also is included. The report is divided into sections regarding agency history; permit data; information on warnings and violations; budgetary data; policy development; and, observations regarding the past, present and future of the agency.

The report was compiled by Mark E. Cupp, Executive Director, with the assistance of Marsha Curtis, Office Associate, and under the supervision of the board.

For further information regarding the Lower Wisconsin State Riverway Board, contact Mark E. Cupp, Executive Director, by calling (608) 739-3188 or 1-800-221-3792; by FAX at (608) 739-4263; by e-mail at mark.cupp@wisconsin.gov; by writing to P.O. Box 187, Muscoda, WI 53573; by visiting the LWSRB office at 202 N. Wisconsin Avenue in Muscoda; or, by visiting the LWSRB website at http://lwr.state.wi.us. LWSRB office hours are 8:00-12:00 and 1:00-5:00 Monday through Friday.

HISTORY

The Lower Wisconsin State Riverway Board (LWSRB) was created on August 3rd of 1989 when Governor Tommy G. Thompson signed Wisconsin Act 31. The legislation creating the LWSRB was included in the 1989 budget bill as the result of a compromise forged by legislators of both political parties and Governor Thompson. The major legislative players involved in creation of the Riverway included State Senator Richard Kreul, State Representative Spencer Black, State Senator Brian Rude, State Representative Joe Tregoning, State Representative (later State Senator) Dale Schultz, State Representative DuWayne Johnsrud and State Representative David Brandemuehl. The law became effective on October 31, 1989, marking a new chapter in Wisconsin's environmental protection history.

The first meeting of the LWSRB was held on November 1, 1989, at the Kratochwill Memorial Building (Village Hall) in Muscoda, Wisconsin. Vincent Limmex of Iowa County was elected Chairman of the board governing the new state agency. William Hazleton of Richland County was elected Vice-Chairman and Kathleen Roelli, an at-large member from Darlington, was elected Secretary. In the ensuing weeks, committees were formed to select an office site, hire staff, review permit applications and evaluate the budget. The first permit was issued by the LWSRB on December 4, 1989. On January 17th of 1990, Muscoda was chosen to be the site of the LWSRB office. At the same meeting, Mark E. Cupp was hired to serve as the first Executive Director of the LWSRB.

Executive Director Cupp assumed his duties in February of 1990 at which time the internal construction of the new state agency began in earnest. The procurement of supplies, from pencils to desks to computers, was undertaken and an LTE office secretary was hired. By March of 1990, permanent residency was established in the LWSRB office at 202 N. Wisconsin Avenue in Muscoda. Throughout 1990, the permit process was refined, committee structure was set firmly in place and the fledgling agency settled into a routine of regular monthly meetings.

July 1, 1991, denoted the beginning of a new biennium and the first fiscal year under which the LWSRB would operate with a budget developed by the agency. In early November of 1991, a technical corrections bill requested by the LWSRB was passed by the Legislature and was signed into law by Governor Tommy Thompson on November 20, 1991. The legislation corrected several flaws in the original law as identified by the LWSRB during the initial 18 months of administration of the program. The legislation also empowered the LWSRB with emergency rule-making authority to further interpret the unique and innovative law.

The Legislative Audit Bureau completed a management and performance audit of the LWSRB in 1992. The audit, required by the enabling legislation after two years of administration of the law, found that "an effective permit review process" had been established by the LWSRB. The recommendations contained in the report regarding administration of the law in the shoreland zoned areas and coordination of enforcement actions with the Department of Natural Resources (DNR) were successfully implemented. The LWSRB established memoranda of understanding with the Riverway counties to insure proper administration of the law by providing a review mechanism which allowed the LWSRB to provide technical assistance to the counties regarding the applicability of the Riverway law to activities in the shoreland zoned areas. Also, the LWSRB revised the memorandum of understanding with the DNR regarding enforcement activities to assure the LWSRB has an opportunity to review alleged violations of

the law prior to issuance of a warning by a conservation warden. Under the agreement, the conservation wardens retain discretionary authority to issue a warning in cases where an immediate cease and desist order is warranted.

The first administrative rule promulgated by the agency became effective in 1992. Chapter RB 1, Wisconsin Administrative Code, expresses the mission, goals and objectives of the LWSRB and includes definitions of terms. Chapter RB 2, Wisconsin Administrative Code, identifies permit exclusions and exemptions and defines procedures relating to the restoration or maintenance of prairies, native plant communities and archeological sites and further defines procedures regarding mining and quarrying activities. The administrative rules provide the LWSRB with enhanced flexibility in administering the law and represent a balance between a landowner's ability to exercise certain property rights and the LWSRB's stated goal of protection of the aesthetic integrity of the Riverway.

In 1993, the boundaries of the Lower Wisconsin State Riverway Board were modified after years of review by DNR and LWSRB staff. The revisions to the boundaries were proposed by the staffs of the respective agencies after conducting field inspections, both on-site and on-river. At the recommendation of the LWSRB, a large portion of Wyalusing State Park visible from the Wisconsin River was included within the boundary. Lands not visible from the river and which offered no recreational or special management value were deleted. Action to formally revise the Riverway boundary was taken by the Natural Resources Board at the June-1993 meeting held in Rhinelander.

A major accomplishment achieved in 1993 was development of the "LWSRB Standardized Color Chart". The color chart was designed to provide guidance to landowners when choosing exterior colors for structures visible from the river. The chart generally identifies the parameters of the spectrum that would comply with the performance standard requiring the exterior colorization of structures on lands visible from the river during leaf-on conditions. A palette of nearly 50 colors was assembled to identify the acceptable colorization spectrum. The Mautz Paint Company provided invaluable assistance and technical expertise during development of the color chart. Following adoption of the "Standardized Color Chart" by the LWSRB, a large development near Spring Green incorporated the color chart into the design plans for all existing and future structures on the property. The voluntary compliance with the law, as evidenced by actions taken by The Springs, Inc. (now the House on the Rock Resort), and the cooperation between the public and private sector, as exhibited by the "partnership" between the LWSRB and Mautz Paint during development of the color chart, represent models of success. Establishment of a foundation for cooperation with the private sector and establishment of positive working relationships with private landowners are goals toward which the LWSRB constantly strives.

The LWSRB played a pivotal role in several Department of Transportation (DOT) projects. Pursuant to the Riverway law, the DOT must "notify and consult" with the DNR and the LWSRB regarding highway projects in the Riverway. In 1993, two notable projects reviewed by the LWSRB involved the proposed reconstruction of STH 60 in Crawford County between Boscobel and Wauzeka and the proposed excavation of the rock wall at the south end of STH 130 in Iowa County near Lone Rock to accommodate installation of a traffic attenuator. The original plans for reconstruction of STH 60 were significantly modified by the DOT after consultation with the LWSRB resulting in dramatic improvements from an aesthetic protection

perspective. The DOT abandoned plans for excavation of the rock wall and installation of a traffic attenuator at the south end of the STH 130 Bridge after opposition from the LWSRB and the local populace. The LWSRB opposed the project because of the magnitude of the aesthetic impact. Despite occasional differences of opinion, the LWSRB has established a good working relationship with the DOT. Both agencies recognize the respective mission of the other and have worked cooperatively to seek a reasonable balance between aesthetic protection and the cost effective construction of safe highways.

In 1993, the LWSRB and DNR jointly funded a study of the impacts of the Riverway regulations on timber harvest activities in the valley. The study was designed to assess the economic impacts of the regulation for the project landowners as well as to assess the impact on the timber resource. The study was conducted by University of Wisconsin-Madison researchers Jeff Stier and Jeff Martin with assistance from the DNR and LWSRB staffs. The results of the study revealed an adverse economic impact may be realized in the short term by landowners wishing to harvest all merchantable timber on the property in a single harvest. Significantly, the study revealed the performance standards closely parallel the type of harvest a forester would recommend in accordance with "sound forestry management practices". Professors Stier and Martin presented the results of the study at the November 1993 LWSRB meeting.

Legislation affecting the Lower Wisconsin State Riverway was introduced in 1993. A bill exempting state parks form the prohibition on possession of glass containers on state controlled lands and waters in the Riverway was passed by the Legislature and signed into law by Governor Thompson. The change in the law sought to address concerns regarding possession of glass containers by recreational users at supervised properties such as Wyalusing State Park and Tower Hill State Park.

Problems associated with personal watercraft (PWC) use came to the attention of the LWSRB in 1994. Citizen complaints regarding conflicts with personal watercrafts increased in the summer of 1994. State Representative Spencer Black also introduced legislation further regulating personal watercraft use on inland lakes and invited the LWSRB to offer comments regarding potential expansion of the legislation's scope to include rivers, specifically, the lower Wisconsin River. The LWSRB invited public comment on the matter and discovered many people feared that the tightening of regulations affecting personal watercraft use on the lower Wisconsin River would be a "foot in the door" toward prohibiting the use of all motorboats on the river. This concern is often fed by the rumor mill and causes distress for local river users who utilize small motor boats for fishing, hunting, sandbar camping or otherwise enjoying nature. The LWSRB adopted a strong statement opposing any attempt to prohibit motor boat use on the river but recommended the DNR continue to monitor PWC use and associated complaints.

November of 1994 marked the fifth anniversary of the Riverway and a ceremony to commemorate the event was hosted by the LWSRB at its monthly meeting. A number of guest speakers were on hand including former State Senator Richard Kreul, State Representative David Brandemuehl, representatives of the DNR and other individuals associated with creation of the Riverway. A large contingent representing the Private Landowners of Wisconsin (PLOW) organization, a group long opposed to the Riverway and LWSRB, also was present. At the beginning of the meeting, the PLOW members carried a coffin draped in the American flag into the meeting room and held a ceremony, including delivery of a eulogy to the Constitution. Some guest speakers were greeted by PLOW members standing and turning their backs and some

speakers were interrupted. Nazi salutes and strong language also were employed by certain members of the group to assure those gathered to celebrate the fifth anniversary of the LWSRB recognized the PLOW organization's opposition to the Riverway concept.

Legislation long sought by the LWSRB was enacted in 1996. The legislation further fine- tuned the Riverway performance standards and created greater flexibility for landowners and for the LWSRB in the areas of timber harvesting and construction or modification of structures on lands visible from the river. The legislation allowed for selective harvesting of timber along the river's edge, an area where harvesting was previously prohibited, and allowed greater selective harvesting on the tops of the bluffs. The performance standards for construction of bluff top structures were modified by increasing the limitation on the slope of the site from 12% to 20%, eliminating the 100 foot bluff top set back requirement and adding an erosion control standard. The changes provided additional flexibility to the LWSRB in working with landowners to find the most appropriate site for minimizing the visual impact of the structure while, at the same time, achieving the goals and objectives of the landowner.

A significant violation of the Riverway law occurred in the 1996. A house was constructed on a bluff visible from the river in the Town of Wauzeka, Crawford County. A permit from the LWSRB was not obtained. The Riverway warden issued a warning and cease and desist order upon discovering the structure was under construction. The large home was being constructed by an out-of-state contractor working for an out-of-state property owner who had recently purchased the property from another out-of-state property owner. The local realtor involved alleged he was unaware of the Riverway law. The landowner indicated he had inquired about permits but a local resident told him none were needed.

The structure, visible for several miles from the river, presented a tremendous challenge to the LWSRB. A complex series of issues had to be sorted out and appropriate measures taken to address the violation. While the LWSRB had the authority to order the structure razed, the option was never a serious consideration. Instead, the LWSRB sought to work with the landowner and contractor to assure the structure came into compliance with the applicable performance standards. The LWSRB ordered the existing utility corridor, which created the large viewshed, to be relocated and the vegetation within the corridor maintained and replaced if damaged or destroyed. In addition, the LWSRB required two large trees, a minimum of 25 feet tall, to be established in order to provide immediate screening vegetation. The LWSRB determined the exterior colorization was acceptable. Although the process took more than one year, the steps ordered by the LWSRB to mitigate the aesthetic impacts were implemented.

January 1, 1996, marked a change in the delivery of administrative services to the LWSRB from the DNR to the newly created Department of Tourism. The administrative functions formerly provided by DNR gradually became the responsibility of the Department of Tourism. The importance of the technical services provided to the LWSRB was underscored by the adoption of a resolution requesting that measures be taken to assure the delivery of technical services to the LWSRB by DNR was not interrupted. The DNR reorganization process further altered the interaction between the two agencies. However, the strong and healthy working relationship continued as both the LWSRB and DNR and their respective staffs strove toward achieving mutually desired goals and objectives associated with the Riverway project.

In January of the 1997, the LWSRB hosted two guest speakers and a public comment session on the topics of the proposed Crandon mine and associated pipeline to discharge wastewater into the Wisconsin River and the problems at the Badger Army Ammunition Plant. The LWSRB had been approached by a concerned citizen who asked the LWSRB to adopt a resolution opposing the proposed Crandon mine pipeline. The LWSRB requested information from the DNR. A DNR representative then served as guest speaker and discussed the status of the Crandon mine project, including the pipeline proposal. Following the guest speaker, a public comment session was held. Many spoke in opposition to the pipeline while a few speakers were in favor of the project if it was proven to be safe. Eventually, the LWSRB adopted a resolution urging the DNR to "thoroughly and carefully scrutinize" the proposal to assure there would be no adverse impacts on the lower Wisconsin River and further recommended adoption of tougher effluent limits for all dischargers in order to enhance water quality.

In June of 1997, the LWSRB approved a rare variance to the logging road performance standards detailed in Chapter NR 37, Wisconsin Administrative Code. The DNR Riverway forester requested the variance to accommodate a timber sale on state owned property in the Town of Millville, Grant County. The variance was requested to allow for construction of roads with grades in excess of the maximum allowed under NR 37. The roads were necessary to access the merchantable timber and render the proposed sale viable. The LWSRB Operations Committee and other LWSRB members visited the site and also viewed the site from the river. The site was found to be highly visible from the river; however, the roads to which the variance would apply were to be designed and located in a manner that would render the roads visually inconspicuous when viewed from the river during leaf-on conditions. The LWSRB approved the variance but included several conditions to assure the roads were constructed under narrowly defined parameters and under close supervision by the DNR Riverway forester.

A new policy regarding the issuance of timber harvest permits was adopted in 1997 in an attempt to prevent inadvertent violations of the regulations during a timber harvest. The new policy established procedures to enhance communications and to assure all parties involved in a timber harvest on lands visible from the river are aware of the impact of the regulations. The policy seeks to avoid situations where the logger may not have been involved in the permit process and may be unaware of specific conditions of the permit. The policy also seeks to assure the landowner is aware of the conditions of the permit and understands the impact, if any, of the regulations.

In 1998, work continued on planning for the STH 60 project between Boscobel and Wauzeka. Board involvement in the project would continue until September of 2003. Additional complaints were heard regarding personal watercraft conflicts on the river culminating in the board holding a public comment session on the topic at the September –1999 board meeting in Spring Green. Also, in 1998, a timber harvest violation was discovered in the Town of Millville, Grant County. Ultimately, the violation resulted in the first court case involving the Riverway regulations. The trial was held in Grant County Circuit Court in April of 2000. Details of the case are found under the Warnings/Violations section of this report. The board participated in several Wisconsin sesquicentennial events including the DNR's Paddle through History tour with replica voyageur canoes. Executive Director Cupp spoke at a ceremony recognizing the Sac leader Black Hawk at the site of the Battle of Wisconsin Heights in Dane County. Also, Riverway board members Brad Glass and Bill Lundberg, Executive

Director Mark Cupp and Earl Cupp completed a two-day canoe trip down the length of the lower Wisconsin River.

In 1999, the use of the Mazomanie Wildlife Unit (Mazo Beach) by nudists again came to the attention of the board. Tom Howard, DNR Riverway Liaison, presented the board with a new policy for the area. The policy closed Conservation Drive to vehicular traffic, expanded the small parking lot at the entrance to Conservation Drive and limited the hours of access. The enforcement services provided to the board by DNR changed with designation of enforcement responsibilities to specific county conservation wardens rather than through the centrally designated Riverway warden. Legislation to ban nudity on DNR owned or managed lands, Assembly Bill 560 (AB 560), was reviewed. After lengthy discussion, the board voted to support the legislation. Riverway staff helped coordinate an Earth Day event with the Riverdale School District that resulted in all grades participating with over 100 bags of trash collected from public lands in the Muscoda area. Proposed changes to bank pole regulations were discussed by the board. The proposal would have required bank poles to be striped black and white with a flag attached. The board voted to oppose the proposed rule change due to the adverse aesthetic impacts. The change was not implemented for the Riverway. Disbanded following creation of the Riverway project in 1989, the Friends of the Lower Wisconsin River (FLOW) was reorganized in April with David Gjestson and Timm Zumm serving as Co-Chairs. In November, for the first time in the history of the Riverway, the board voted to issue a formal warning to the DNR for violation of the Riverway. The cutting of trees and woody vegetation without a permit and in violation of the Riverway performance standards occurred at Ferry Bluff in Sauk County. A mitigation plan for the site was prepared and implemented. Mark Cupp, Executive Director, was recognized as a "River Champion" by the River Alliance of Wisconsin.

In January of 2000, the board recommended the DNR consider the following actions to address complaints regarding PWC use on the river: increased hours of enforcement by wardens during high use periods; enhance communications for reporting of violations; development of programs by DNR and local PWC dealerships regarding boating safety and etiquette; enactment of a law requiring all PWC operators to take a boating safety course; and, initiation of a new user study for the Riverway to determine levels of use and types of conflicts. Executive Director Cupp and Bill Lundberg, LWSRB Operations Committee Chairman, along with Bill Carlson, DNR Riverway Forester, testified in Grant County Circuit Court regarding the violation of the timber harvest regulations in the Town of Millville, Grant County. The defendant was found guilty of failure to have a Riverway permit and harvesting below the basal area levels for lands visible from the Wisconsin River. In July, the board agreed to serve as a co-sponsor of the Tippesaukee Symposium, an event to recognize the historical significance of the site of the first Euro-American settler in Richland County and the interaction with the Ho-Chunk people who had a large village at the site. For the second time, Riverway board members Brad Glass and Bill Lundberg, Executive Director Mark Cupp and Earl Cupp completed a two-day canoe trip down the length of the lower Wisconsin. In December, initial discussion regarding the structural integrity of the Sauk City Railroad Bridge took place.

The board spent a great deal of time in 2000 discussing techniques to mitigate adverse aesthetic impacts from the STH 60 project in Crawford County. The board approved the use of tinted concrete for the retaining walls and development of a planting plan to include trees, shrubs and vines. The board also discussed establishment of borrow pits on lands visible the river. The board agreed to allow borrow pits on certain areas visible from the river under tightly controlled

conditions whereby remediation would assure the aesthetic damage was repaired. The board voted to express "extreme concern" regarding dredging the Wisconsin River for fill material.

In 2001, cell tower issues came to the forefront. The board requested Riverway counties, towns, cities and villages consider enactment of moratoria until development of local regulations could occur. In April, the board sponsored a symposium in Muscoda for public officials from throughout the valley regarding wireless communications technology and the potential for development of local ordinances to regulate placement of towers. Several municipalities and 4 of the 6 Riverway counties have adopted or updated a tower ordinance. Also, the reconstruction of STH 60 between Boscobel and Wauzeka began with the board working closely with DOT and the contractor, John Moyna & Son, to address design changes. In May, the board recommended the Sauk City Railroad Bridge be "repaired or removed" to address safety concerns regarding the integrity of the structure. In June, after reviewing options for repair or removal, the board recommended removal of the bridge. The board met with DOT officials to discuss aesthetic treatments for the proposed USH 12 Bridge at Sauk City.

In January of 2002, the board approved a permit for Dairyland Power Cooperative for a power line crossing over the Wisconsin River between Boydtown in Crawford County and Woodman Lake in Grant County. The board allowed additional height for the poles in exchange for a reduction in the number of poles and aesthetic treatments of both shorelines. Because of problems with the tint used in the concrete retaining walls on the STH 60 project, the board required all walls to be stained in accordance with the original specifications. The board also began consulting with DOT on the proposed reconstruction of STH 133 west of Woodman in Grant County. Tom Howard, DNR Riverway Liaison, reported whitetail deer had tested positive for chronic wasting disease (CWD). A span of the Sauk City Railroad Bridge was demolished by controlled detonation. Complaints regarding debris in the water downstream for many miles persisted throughout the summer and fall. A permit was issued to the Burlington Northern Santa Fe Railway for a new railroad bridge between the Town of Bridgeport, Crawford County, and the Town of Wyalusing, Grant County. A slope stabilization project for Taliesin in the Town of Wyoming, Iowa County, was reviewed by the board with subsequent approval conditional upon development of a planting plan for the site.

In the first six months of 2003, the board was prepared to utilize a previously adopted policy regarding the reconstruction of a structure destroyed by natural causes to allow a fire destroyed cabin to be rebuilt in the Town of Orion, Richland County. However, because the new structure would be slightly larger in size, a structure permit was required. Conditions were attached to the permit to assure the rebuilt cabin would not be more visible from the river, including a requirement that additional screening vegetation be planted. A prescribed burn at the Ferry Bluff State Natural Area in Sauk County resulted in significant tree mortality. After several visits to the site and following discussion with DNR personnel, the board directed the DNR to development a mitigation plan to include felling of some of the dead trees to ameliorate the adverse aesthetic impact. The plan developed by DNR staff calls for a phased approach to felling with the material to be retained on site. Some larger fire-killed trees would remain to provide habitat for wildlife and insects. The first phase would be completed before the area is closed to the public (November 15) to protect roosting eagles. Executive Director Cupp reported he continued to work with DOT representatives on reconstruction of STH 60 between CTH W and STH 80 in Richland County and had preliminary discussions with DOT officials regarding the proposed reconstruction of STH 60 between Muscoda and Gotham, also in Richland County.

During the 2003-2005 biennium, a number of new issues were encountered. The proposed construction of a communications tower near Spring Green by Sauk County officials created a great deal of controversy. Plans call for construction of a 250' communications tower with strobe light and red beacon light near the intersection of Jones Road and Thuli Road in the Town of Spring Green. The base of the proposed tower would be located outside of the Riverway boundary. As a result, the LWSRB would not have any permitting authority regarding construction of the tower. However, because the tower would be visible from a long stretch of the Wisconsin River, the board expressed concern to the Sauk County Communications Infrastructure Committee regarding adverse aesthetic impacts and recommended alternative sites be considered. The LWSRB Executive Director spent many hours collecting information and paddling the affected stretch of river to garner digital images of the area. In October of 2004, the board accepted the Executive Director's recommendations for alternatives and, in November, directed Executive Director Cupp to present the board's position to the Sauk County Board of Supervisors. Despite the objections of the LWSRB and many local residents, the Sauk County Board approved a resolution to pursue acquisition of the property by purchase or condemnation on a 21-8 vote. The alternatives recommended by the LWSRB and supported by local citizens were rejected by the Communications Infrastructure Committee and Sauk County emergency government staff. Eventually, the tower was constructed and is visible from the Wisconsin River during leaf-on conditions.

The controversy highlighted a weakness in the Riverway law; that being, the LWSRB's lack of authority to regulate structures that become visible from the river due to height if the structure's base is not located within the formal Riverway boundary. As towers continue to be necessary for a variety of communication forms, protection of the scenic beauty and natural character of the Riverway will be threatened unless the board is granted some authority to work with tower builders on location and design. The State of Wisconsin's investment in the Riverway; specifically, to protect the aesthetic integrity of the lower Wisconsin River valley; would be diminished by a proliferation of towers visible from the river. The LWSRB has recognized the weakness in the law and is prepared to work with the Legislature and Governor to remedy the problem. Preliminary discussions with elected officials have occurred but legislation has not been drafted.

Another controversial issue that again surfaced during the same biennium was the use of the Mazomanie Wildlife Area and, in particular, an area known as the Mazo Beach, by nudists, also called "naturists." In November of 2003, the LWSRB took public comment on a legislative proposal, Assembly Bill 574 (AB 574), which would have closed the parking lot on Conservation Drive and created new laws addressing public nudity. A large number of people provided oral and written comments to the board. Ultimately, board members felt that the legislation was poorly crafted and expressed concern that closure of the parking lot would not solve the issue and would only create additional problems for the area. On a 5-4 vote, the LWSRB adopted a motion to oppose AB 574. The next month, December - 2003, the board adopted a resolution expressing opposition to public nudity in the Riverway and requested that state and local officials enforce existing laws on public nudity. The use of the Mazo Beach by naturists continues to date. There are occasional demonstrations by religious groups opposed to the activity and confrontations between demonstrators and beach users do occur. The LWSRB has noted that the matter falls within the Department of Natural Resources purview in regard to recreational use management.

For a period of six months in 2004, from February to August, the board discussed a proposal by a private individual to re-open the Wintergreen Ski Hill. The ski hill had not been operated since

1991. An individual approached the board about the project and was disappointed to learn that current law would have to be modified to allow for construction of new ski hill equipment and clearing of trees and brush that had grown on the slopes during the period of disuse. The board made a commitment to working with area legislators and the Governor's office to address the problem with the current regulations. In August of 2004, the board learned that the individual seeking to re-open the ski hill had failed to attract the necessary investors and was unable to negotiate an agreement with the current landowner so the project was dropped. Initial conversations with stakeholders from the legislative and executive branches were favorable toward resolving the matter but formal legislation was not drafted.

Others events of interest that transpired during the 2003-2005 biennium included the acquisition of the Gwendolyn Bloyer property that contains the Twin Lizard mound group, a group of 15 effigy, conical and linear mounds on the banks of the Wisconsin River. The LWSRB wrote letters of support for the acquisition to the Natural Resources Board, Governor James Doyle and area legislators. The LWSRB noted the purchase would represent a "trifecta" for the Riverway because 1) the mounds would be preserved, 2) a portion of the Orion Mussel Bed State Natural Area would be protected and 3) 1500 feet of Wisconsin River shoreline would remain undeveloped.

The Tippesaukee Symposium was held at the University of Wisconsin-Richland in Richland Center in August of 2003 and was emceed by Mark Cupp. The event brought together a variety of scholars and Native American representatives who discussed the homestead of John Coumbe in Richland County's Town of Richwood. Coumbe was the county's first Euro-Yankee settler in 1838. The farm, known as Tippesaukee, remains in the family today. The symposium focused on the site and the farm's past because it aptly represented a microcosm of broader settlement era issues in the area. A copy of the proceedings is housed in the LWSRB office.

The board also worked with Taliesin Preservation Association on a slope stabilization project at Taliesin in the Town of Wyoming, Iowa County. The project was needed to help with efforts to preserve the famed home of Frank Lloyd Wright. The site is on both the World and National Registers of Historic Places. The project was successful completed in September -2004.

The board heard complaints from river users regarding airboats and hovercraft on the river and the adverse impact on the river experience due to excessive noise from the watercraft. The board continues to work with the Department of Natural Resources and local legislators on the noise regulation issue. In addition, problems with all terrain vehicle (ATV) and off road vehicle (ORV) violations on public lands in the Riverway were identified. Damage was done to the Blue River Sand Barrens State Natural Area and problems were prevalent at other sites around the Riverway. Residents of the Town of Spring Green, Sauk County, approached the board with concerns regarding the proposed development of an ATV trail near Lone Rock at the Sauk County Community Forest.

The LWSRB learned of several invasive species that threaten the Riverway environment. In response to the threat of a gypsy moth invasion in the near future, the LWSRB created the Lower Wisconsin State Riverway Gypsy Moth Ad Hoc Committee and Task Force. A grant was obtained from the Forest Stewardship Program to assist with Ad Hoc Committee efforts to inform and educate the public on gypsy moth matters as well as to develop a response to management of state owned lands to minimize the potential adverse impacts of the gypsy moth on forested lands. While attendance at the board sponsored workshops for the public was a disappointment, the board was

successful in raising awareness of the gypsy moth invasion in Wisconsin and provided a number of informational publications to area residents. The Ad Hoc Committee has morphed into the LWSRB Forest Health Committee in order to address a broader range of issues, including the potential infestation of the Emerald Ash Borer and Asian Long Horned Beetle as well as non-native invasive plant species such as garlic mustard, buckthorn, honeysuckle, multi-flora rose, etc.

The board continued work with the Department of Transportation on highway projects in the Riverway. STH 60 in Richland and Crawford counties presented many challenges because the road is often threaded between the bluffs and the river. A portion of STH 133 in Grant County west of Woodman is another site where aesthetic considerations are important. The stretch of highway near the Big Green River public access site is highly visible from the river. Major bridge projects in the Riverway obviously have an aesthetic impact. The board worked with the Department of Transportation on proposals for replacement of the USH 14 Bridge at Spring Green. The board also participated in a planning process for the proposed USH 12 bypass at Sauk City and went on record in favor of Option A, which would cause the least disruption to Riverway aesthetics. The LWSRB Executive Director continued work on designation of STH 60 in Columbia, Sauk, Richland and Crawford counties as a Wisconsin Scenic Byway, although the efforts were hampered by delays in implementation of the program at the state level.

November 1, 2004, marked the 15th year anniversary of creation of the Riverway law and Riverway Board. The event was recognized by comments at the November board meeting held in Avoca. Letters of congratulation and commendation were received from Governor Doyle, area legislators including State Senator Dale Schultz and State Representative Spencer Black, the Department of Natural Resources and others. Also during the 2003-2005 biennium, the LWSRB saw unprecedented turnover in membership with six new members joining the board. A combined 59 years of LWSRB experience was represented by the members who retired from service to the Riverway between 2003 and 2005. Special recognition was given to James Staff, Sauk County representative, and Glen Beneker, Crawford County representative, who retired in April of 2005 after serving since inception of the LWSRB in 1989.

In 2006, the LWSRB initiated an educational program utilizing the state owned voyageur replica canoes. The board invited local elected officials to paddle a segment of the Wisconsin River with board members and staff. The program was so well-received that it has been expanded to multiple trips offered for the general public the first two weeks in July. The canoe trips provide the board with an opportunity to showcase the project and give participants a first hand view of the project goals and objectives. In the last five years (2009 through 2013), the LWSRB provided guided trips in the big canoes to over 700 people. The board also has partnered with the Natural Resources Foundation and Cultural Landscape Legacies, Inc., to provide tours for those groups with a special focus on natural resources management, forestry, birdlife, history and archeology/anthropology. The program continues to grow in popularity and will be maintained in the next biennium.

A vision for creation of a Lower Wisconsin State Riverway Cultural and Natural Resources Center was unveiled in 2007. Mark Cupp spoke to more than 50 officials from federal, tribal, state and local government and interested parties from the private sector. The concept would establish a museum and visitor center at a site in Muscoda. The location on the Wisconsin River at the south end of the STH 80 Bridge would be accessible from the highway or the river as well as by trail. While initially met with great enthusiasm, the project encountered a major problem when the

President of Ho-Chunk Nation expressed dissatisfaction with the proposal because of the lack of federal support for other tribal interests and initiatives. Work on the concept continues to build support in the hope that the vision for a Riverway visitor center will become a reality in the future.

The board continued to work cooperatively with the Department of Transportation (DOT) on highway projects in the Riverway. STH 60 on the north side of the river remained a major focus of interagency cooperation. Since inception of the project, the highway has been reconstructed from Bridgeport to Muscoda and from Prairie du Sac west to a point near Spring Green. The segment between Muscoda and Gotham will present unique challenges. The board continued to be actively engaged in the design process for that section. Most recently, the LWSRB worked with DOT design engineers for the new USH 14 Bridge at Spring Green. Aesthetic treatments were included in the design in recognition of the Riverway scenic protection objectives. While some local residents remain sentimental about the loss of the bright green metal superstructure of the previous bridge, most people find the sandbar theme of the new bridge to be aesthetically pleasing.

In April of 2008, dedication of STH 60 from the Interstate near Lodi to the Great River Road near Prairie du Chien as a Wisconsin Scenic Byway occurred. The Lower Wisconsin River Road: From the Empire Prairie to the Mighty Mississippi represents a 100-mile stretch of highway that follows the lower Wisconsin River. The designation as a Wisconsin Scenic Byway was the culmination of several years of effort by the LWSRB. The board directed staff to devote time to the project for economic development based on a regional tourism initiative. Staff continues to be integrally involving in driving the project forward with both Mark Cupp and Marsha Curtis serving in leadership roles.

Major flood events in 2008 and 2010 created challenges for Riverway communities, county and town governments and the Department of Natural Resources as manager of state owned properties in the Riverway. The LWSRB recognized emergency conditions required swift action and decision making with public safety taking precedence. In some cases, the normal LWSRB permitting process was expedited or set aside to allow for emergency repairs or reconstruction activities to occur. Recreational use of the river was curtailed due to high water conditions and water quality concerns. Area roadways were damaged and required a quick response to avoid threats to public safety. LWSRB staff worked closely with governmental officials and private landowners to assure necessary repairs were accomplished with scenic qualities protected as well as could be expected under emergency conditions.

For several years, the board worked with the Crystal/Fish/Mud Lake District, consulting engineers and the Department of Natural Resources regarding a project to pump water from Mud Lake to a discharge site on the Wisconsin River in an attempt to lower lake levels. The project has undergone several iterations and has required frequent monitoring and site visits by board members and staff. The board has gone on record as being dubious about the success of the project but has worked with the Lake District to assure the proper LWSRB issued permits were obtained. It appears likely that the activities associated with the pumping project will require board and staff review for the indefinite future.

2009 was declared the Year of the Riverway by Governor James Doyle and the Wisconsin Legislature to commemorate the 20-year anniversary of the project. Numerous special events were held throughout the Riverway to highlight the project. Lectures, educational events and special tours were sponsored by the Riverway Board. In August, an event was held at Muscoda's Victora

Riverside Park with guest speakers including Wisconsin conservation icon Harold "Bud" Jordahl and State Senator Dale Schultz, one of the key legislators involved in creation of the Riverway in 1989.

The Year of the Riverway also resulted in filming of a new documentary on the projected by renowned local producer Dave Erickson. The documentary entitled "The Rhythm of the River" was debuted in 2011 after two seasons of filming and a year of editing. The documentary has been shown on Wisconsin Public Television and at various venues throughout the lower Wisconsin River valley. It also was a featured film at the 2011 Driftless Area Film Festival.

The board has strengthened the relationship with the Department of Tourism as the board's expanded role with economic development through a regional tourism concept focused on the Riverway grows. Patrick Riensma, Tourism's area representative, is in regular contact with the staff regarding the Scenic Byway project and the Fox-Wisconsin Heritage Parkway project. Mark Cupp met with Tourism Secretary Stephanie Klett to discuss Riverway issues and has received strong support from the Secretary's office.

Mark Cupp met with Department of Natural Resources (DNR) Secretary Kathy Stepp to assure the close working relationship with the board's sister agency remains intact. The board has received excellent technical support from DNR staff; particularly, (former) DNR Riverway Forester Brad Hutnik. With the hiring of Brian Hefty as the permanent "Riverway Manager" for DNR (reassigned to Southern District Bureau of Facilities and Lands Supervisor in 2013), communications improved. LWSRB staff provides an annual briefing on Riverway regulations to DNR personnel to assure permit procedures are properly followed. The board has arranged regular review of permit applications from DNR personnel in the areas of wildlife management, forestry management, endangered resources, and facilities and lands related projects.

The LWSRB maintains strong relationships with external partners. County planning and zoning officials assist in review of activities within the project boundary and good communication with officials from Riverway counties remains important. In addition, Friends of the Lower Wisconsin State Riverway (FLOW) and Cultural Landscape Legacies (CLL) work closely with the board and DNR to assist in achieving project goals and objectives. FLOW routinely organizes river clean-ups, special river or land-based tours and other educational events to highlight the Riverway. CLL has been active in maintenance of effigy mound sites on public lands and in working the board and DNR on educational activities related to Riverway archeology and anthropology.

The 2011-2013 biennium for the LWSRB was dominated by the topic of frac sand mining. The frac sand mining odyssey began in the summer of 2011 when a speculator from Michigan contacted the LWSRB office to learn about the Riverway law in relation to potential frac sand mining sites in Iowa County. While the frac sand mining boom was taking place in central, western and northwestern Wisconsin, large scale industrial sand mining had not yet come to the lower Wisconsin River valley. In August of 2011, Bruce Brown, formerly of the Wisconsin Geologic and Natural History Survey, gave a presentation to the board to discuss frac sand mining and the hydraulic fracking process. The board learned that the type of sandstone sought by the frac sand mining industry is found elsewhere in Wisconsin, except for a ribbon of Jordan formation sandstone found in the Riverway. Brown suggested that frac sand mining would not be present in the valley in the near future because the material was more readily accessible in other parts of the state.

The LWSRB reviewed the nonmetallic mining statutes, which indicated any nonmetallic mining activity in the Riverway may not be visible from the river during leaf-on conditions. The board directed staff to organize a conference, targeted at local elected officials, to increase awareness of the burgeoning issue and to encourage local governments to review their ordinances, or lack thereof, regarding nonmetallic mining. Over 100 people attended the conference held at the House on the Rock Resort near Spring Green in December of 2011. Several Riverway counties and numerous town, village and city governments subsequently reviewed, revised or adopted ordinances and some governmental units adopted moratoria to allow for adequate review and development of an ordinance. Currently, Richland County has a moratorium in effect as the matter is reviewed at the county level. The LWSRB successfully provided leadership in delivering salient information to local elected officials and the corresponding actions taken by local governments have strengthened the regulatory infrastructure related to nonmetallic mining in the Riverway.

In the summer of 2012, the Pattison Sand Company approached the board regarding a potential frac sand mine in the Town of Bridgeport, Crawford County. Mark Cupp met with Kyle Pattison and affected landowners to discuss the proposal and preliminary field inspections were conducted onsite and on-river. In October of 2012, four permit applications were filed with the board for nonmetallic mining activities on properties owned by Lee & Joan Pulda, Earl & Amber Pulda, Alan & Kathy Flansburgh, and, Rod and Sandra Marfilius. Pattison Sand Company was listed a co-applicant on each permit. At the October LWSRB meeting, the board tabled action on the permits until further information could be obtained. Discussion occurred at each LWSRB meeting with the December 2012 meeting moved to Prairie du Chien to accept public comment on the matter. A special closed session to confer with legal counsel was held in January of 2013. The LWSRB requested that Pattison Sand Company and landowners withdraw the permit applications because of the potential adverse impact on the Riverway. The applicants declined to withdraw and discussion continued. The board contracted with Wisconsin Cartographer's Office to conduct a viewshed analysis in March. The computer modeling project was presented to the board at the April 2013 meeting in Sauk City and demonstrated portions of the four properties are visible from the river during leaf-on conditions. The board conducted a special on-river field inspection on June 1st to allow individual board members to view the properties from the river. Discussion continued into FY 14 culminating in a special meeting held in Prairie du Chien on August 22nd. An overflow crowd packed the meeting room at the Crawford County Administration Building and the LWSRB heard comment from several dozen speakers. Eventually, the board voted to deny the permits. A petition for judicial review was filed in Crawford County by Pattison Sand Company naming the LWSRB and Department of Tourism as respondents. The matter remains unresolved at the time this biennial report was finalized.

There were other issues beyond frac sand mining considered by the LWSRB in the 2011-2013 biennium. The LWSRB received technical assistance from the Department of Natural Resources for computer modeling in regard to a proposed grain storage and transfer facility in the Town of Mazomanie, Dane County. The board worked with United Cooperative to minimize the visual impact of the proposed facility and encouraged exploration of alternate sites. Eventually, the company chose to abandon the project due to other environmental concerns.

The LWSRB continued the strong working relationship with the Boscobel Airport Commission and state regulatory agencies. Tree cutting and woody vegetation removal was requested to allow for enhancement of technological use at the airport. The board approved a plan for tree removal with implementation of a planting plan to follow. The board continues to monitor the tree planting to assure the required survival rates are achieved and aesthetic impacts are minimized.

The board heard reports or discussed a variety of other issues including but not limited to: ground and surface water contamination in the Town of Spring Green, Sauk County; terrestrial and aquatic invasive species; forest health; and, roadway and bridge projects. The board worked with business owner Terry Shifflet for a major project at Wisconsin Riverside Resort near Spring Green. Permits were approved for reconstruction of a bar, restaurant and banquet facility. The facility was completed in accordance with the aesthetic protection guidelines. The cooperative effort demonstrated that scenic protection regulations and economic development are not mutually exclusive. The board also requested the Department of Natural Resources consider bilingual warning signage at boat landings, which eventually came to fruition. The popular voyageur replica canoe trips sponsored by the LWSRB were well attended in the summers of 2011 and 2012. Mark Cupp also spoke at Canoecopia (world's largest Paddlesports event) held in Madison in March of 2013. Work continued on the Lower Wisconsin River Road Scenic Byway project, STH 60 from Lodi to Prairie du Chien, but changes to the rules governing the program have decreased the level of local interest in the project. Mark Cupp began a new program of weekly video reports, which are posted to the LWSRB website and distributed through social media. A blog, Cupper's Travels, also was added to the website.

There were significant changes in board membership in the recent biennium. Greg Greenheck of Lone Rock, a two term Richland County representative, chose not to seek re-appointment and was replaced by former Richland County representative David Martin of the Town of Eagle. Grant County representative Lloyd B. "Nick" Nice of Boscobel retired from the board in 2012 after 14 years of service and was replaced by former Grant County representative Robert Cary of Blue River. The board also saw the retirement of the lone remaining original appointee to the board made by Governor Tommy G. Thompson in 1989 as William Lundberg of Wisconsin Rapids left the board in December of 2012. Lundberg served as Chair of the Operations Committee for many years and, since 2005, had been LWSRB Chairman. George Arimond of LaCrosse was appointed to Lundberg's slot as a recreational user representative. The loss of 40 years of board experience was major but was tempered somewhat by the previous board experiences of Bob Cary and Dave Martin and the lifetime of paddling and outdoor experience brought to the table by George Arimond.

Changes in Department of Natural Resources personnel also were made as longtime Riverway Forester Brad Hutnik moved to a new position as a state silviculturalist with his slot filled by Nick Morehouse, who provided capable technical assistance to the board on forestry matters. Matt Sequin was hired as "Riverway Manager" with Brian Hefty retaining his role as liaison to the board, although the bulk of the day to day Riverway management activities now will fall to Matt Sequin.

In the 2013-2015 biennium, the LWSRB celebrated the twenty-fifth anniversary of enactment of the Riverway law with a major event in September of 2014. The event was held at Wisconsin Riverside Resort near Spring Green, a beautiful facility on the river that embodies the

cooperation between the public and private sectors in attaining a landowner's objectives while protecting Riverway aesthetics. The keynote speakers for the event were former Governor Tommy G. Thompson, former State Representative Spencer Black and then-State Senator Dale Schultz. These three individuals were important players in crafting the compromise that led to creation of the Riverway. Other speakers included Jim Kurtz, former head of the DNR Bureau of Legal Services; Steve Miller, representing DNR Secretary Kathy Stepp; and, Patrick Reinsma, representing Department of Tourism Secretary Stephanie Klett. LWSRB Board Chair Donald Green and Executive Director Mark Cupp also gave remarks. The event celebrated what has been called by many "the last great compromise in Wisconsin government" as a unique and innovative law to protect the final 92 miles of the Wisconsin was enacted as part of 1989 Wisconsin Act 31, the budget bill for the 1989-1991 biennium. Speakers at the September 2014 event highlighted the bipartisan effort to protect the Riverway's natural resources and also lauded the landowners who have made sacrifices for the good of the project. Nearly 200 people attended the event on a glorious fall day with the scenic beauty of the Wisconsin River serving as the backdrop.

The 2013-2015 biennium for the LWSRB again was dominated by the topic of frac sand mining. In the 2011-2013 biennium, the LWSRB faced uncertainty regarding frac sand mining in the Riverway. The board learned about the type of sandstone utilized in the hydraulic fracking process and determined that a ribbon of suitable material was located in the uplands on both sides of the lower Wisconsin River, including lands within the Riverway. Despite assurances from the former state geologist that frac sand mining was unlikely to be present in the Riverway for many years, in 2012, the Pattison Sand Company of Iowa contacted the board regarding land in the Town of Bridgeport, Crawford County, where a mine was proposed. Portions of the proposed mine would be located within the Riverway boundary. In October of 2012, formal permit applications for nonmetallic mining on four properties in the Town of Bridgeport were reviewed by the board. The matter was tabled pending receipt of additional information. The LWSRB reviewed the proposal and gathered information for many months. At a special meeting in Prairie du Chien on August 23, 2013, the board voted to deny issuance of the permits on a vote of 6 – 2 (one member absent). In October of 2013, a petition for judicial review was filed in Crawford County by Pattison Sand Company naming the LWSRB and Department of Tourism as respondents. The board was represented in the matter by Assistant Attorney General F. Mark Bromley, Wisconsin Department of Justice.

Substitute Circuit Court Judge Craig Day of Grant County heard arguments in June of 2014 after reviewing documents submitted by both parties earlier in the year. Judge Day ordered that the nonmetallic permits must be issued by the LWSRB but retained many of the original permit conditions proposed by LWSRB staff to protect aesthetically sensitive areas. Legal counsel for Pattison Sand Company was directed to produce the order. After protracted legal wrangling, neither side could agree on the correct wording of the order. In January of 2015, another hearing was held with Judge Day presiding. The intent of Judge Day's order was clarified to the satisfaction of both parties. An important factor was endorsement of the board's assertion that the trees are considered part of the land for the purpose of protection of scenic beauty as seen from the river during leaf-on conditions. As of October of 2015, the board continues to work with Pattison Sand Company and the affected landowners on refining the protected areas from a river viewshed perspective.

(NOTE: *A detailed explanation of the board's journey in learning about frac sand mining, hydraulic fracking, educating citizens and local officials, obtaining public input, and reviewing the permit applications may be found in the LWSRB 2011-2013 biennial report.)*

The LWSRB experience with the frac sand mining applications brought to light a weakness in the Riverway law; namely, nonmetallic mining on an industrial scale was allowed under the Riverway law if the activity occurred on lands not visible from the river. The board stated repeatedly that industrial mining was incompatible with Riverway objectives due to noise, light pollution, air pollution, surface and groundwater pollution, and other environmental considerations. Working with the offices of former State Senator Dale Schultz and State Senators Jon Erpenbach and Jennifer Shilling, draft legislation was developed by the Legislative Reference Bureau (LRB) to allow for nonmetallic mining but on a small scale while retaining the "not visible from the river" performance standard. As of the writing of this report, the legislation has not been introduced due to lack of identified support from majority party legislators. The LWSRB remains hopeful that the LRB draft or a similar bill will be introduced to address the deficiencies in the nonmetallic mining portion of the Riverway law.

In November of 2013, the LWSRB embarked on a review of the board's strategic plan beginning with a special meeting held in the Town of Mazomanie, Dane County. Facilitators from the UW-Extension assisted the board and provided a working document based on discussions at the initial session. Since that time, the board has worked to refine strategic objectives and strategies for implementation. The revised strategic plan is expected to be approved by the end of calendar year 2015. On a parallel track, the DNR initiated a comprehensive review of the Master Plan for the Riverway. The board provided detailed comments to DNR during the process. A draft plan is to be released by DNR in early 2016.

The LWSRB worked with American Transmission Company (ATC) on a project affecting the aesthetic integrity of the Riverway. A new powerline over the river at the Prairie du Sac dam resulted in removal of the existing structures on the dam. The new poles on either side of the dam will span the river. The board continues to work with ATC on reconstruction of the 69kv line between Boscobel and Lone Rock, which includes a river crossing west of Avoca on the Iowa County side of the river and west of Gotham on the Richland County side of the river. The board has requested burial of the line and will comment during the Public Service Commission review process.

The board heard reports or discussed a variety of other issues including but not limited to: ground and surface water contamination in the Town of Spring Green, Sauk County; terrestrial and aquatic invasive species; forest health; wildlife habitat, natural areas, and, roadway and bridge projects. Roadwork on STH 23 in Iowa County near Taliesin was accomplished with aesthetic treatments incorporated near the Frank Lloyd Wright Visitor Center. Preliminary work on planning for replacement of the STH 130 bridge at Lone Rock was revealed with the board attending meetings to discuss alternate corridors for crossing the river. The LWSRB continues cooperation with DOT on the STH 60 reconstruction between Muscoda and Gotham. The board remains the custodian of the Lower Wisconsin River Road Scenic Byway project. The LWSRB supported the Wisconsin River Water Quality Symposium held in Stevens Point with Mark Cupp serving as keynote speaker at the 2014 event. The popular voyageur replica canoe trips sponsored by the LWSRB were well attended in the summers of 2013 and 2014 (and 2015). A number of presentations were given by Mark Cupp in conjunction with the 25th anniversary of

the project. Students visited effigy mounds sites and other sites of interest on tours led by Cupp and other Riverway supporters.

Changes in Department of Natural Resources personnel were made as Riverway Forester Nick Morehouse assumed the duties formerly held by Brad Hutnik. Morehouse then moved to a DNR forester position in Sauk County leaving the Riverway Forester position vacant. Due to budget cuts, the board was informed that the Riverway Forester position was eliminated.

The biennial budget for 2015-2017 changed the administrative attachment of the board from the Department of Tourism to Department of Natural Resources. As the board turns its attention to the new biennium, the board will work closely with DNR and other agencies to assure the transition is smooth and the LWSRB's autonomy is maintained. Efforts will be made to introduce legislation to close the loophole in the nonmetallic mining regulations as it pertains to industrial sand mining. However, the board will continue to work with Pattison Sand Company on the current Bridgeport mine to assure the frac sand mining activity complies with Judge's Day order as reflected in the conditions of the permit(s). The board will finalize revisions to the LWSRB strategic plan and will be prepared to offer comment on the DNR Master Plan revisions. As ATC formally submits an application to the Public Service Commission for reconstruction of the Boscobel to Lone Rock transmission line, the board will offer comments and encourage burial of the line across the river. The normal routine of permit considerations will continue as the cycle of timber permit applications and structure permit applications change with the season. Finally, proposals for Department of Transportation projects along the Riverway will continue to garner the attention of the board, particularly, in regard to STH 60 between Gotham and Muscoda and the Lone Rock STH 130 bridge. And, as the board was reminded in the 2013-2015 biennium, there likely will be a totally unexpected issue or two that will pop up in the current biennium.

These selected highlights of the past twenty-six years of LWSRB's operations are meant to provide an overview of the more significant events that have occurred. A complete listing of permits issued, meeting minutes and other information related to the LWSRB are housed within the LWSRB archives. Many of these documents are available on the LWSRB website.

PERMITS

PERFORMANCE STANDARDS

Permits issued by the Lower Wisconsin State Riverway Board (LWSRB) are required before initiating certain activities in the Riverway. Activities for which permits are required are detailed in s. 30.44(1), (2), (3), (3e), (3m), (4) and (5) and s. 30.445 of the Wisconsin Statutes. These activities include: construction, placement or modification of a structure or mobile home; construction or modification of a walkway or stairway; timber harvesting; construction or modification of utility facilities; construction or modification of public access sites; quarrying activities on lands not visible from the river; implementation of a management plan for prairie restoration, maintenance of native plant communities, wildlife habitat projects and maintenance of known archeological sites; construction or modification of bridges; and, maintenance of piers. The LWSRB administers a system of "performance standards" which are designed to minimize the visual impact of the activity.

For structures or mobile homes which are constructed, placed or modified on lands visible from the river during leaf-on conditions, the following performance standards must be met before a permit may be issued [see s. 30.44(1)(c), Stats.]:

1. Sufficient vegetation exists on the land to allow the structure or mobile home to be visually inconspicuous;
2. The structure or mobile home shall not be higher than the surrounding vegetation during the time when the leaves are on the deciduous trees;
3. Visual impact shall be minimized by the use of exterior colors that harmonize with the surroundings and by the limited use of glass or other reflective materials;
4. The natural slope of the land shall be 20% or less;
5. Approved erosion control techniques shall be employed at the site during all phases of construction and following completion of the activity.

For lands not visible from the river, a permit for construction, modification or placement of a structure or mobile home may be issued if the height of the structure or mobile home does not result in its being visible from the river. [See s. 30.44(1)(e) and (f), Stats.]

A permit for construction or modification of a walkway or stairway may not be issued unless compliance with the following performance standards is attained (see s. 30.44(2)(b), Stats.):

1. The walkway/stairway shall be visually inconspicuous;
2. The walkway or stairway shall have sufficient safeguards to minimize erosion; and,
3. The walkway or stairway shall be for pedestrians only.

Commercial timber harvests are regulated under s. 30.44(3), Stats. However, the performance standards for timber harvesting are contained in Chapter NR 37 of the Wisconsin Administrative Code. Timber harvest regulations vary by zones. Delineation of the zones is based on the degree of aesthetic protection required due to visibility from the river during leaf-on conditions. In the River Edge Zone, a 75 foot wide strip on lands adjacent to the river, and in the Bluff Zone, which encompasses 100 feet on either side of the "bluff line", selective harvesting is

required. Selective harvesting and small regeneration cuts or shelterwood cuts are allowed on the hillsides visible from the river, an area known as the Riverview Zone.

For lands not visible from the river, the Resource Management Zone, a permit must be obtained although no restrictions apply. The LWSRB recommends development of a timber management plan for the parcel and compliance with NR 37 in the Resource Management Zone, however, adherence to the recommendations is voluntary. The LWSRB permit verifies the harvest area is not visible from the river during leaf-on conditions.

A permit for a utility facility may not be issued unless the performance standard cited in s. 30.44(3m)(c), Stats., is met. This performance standard requires that all reasonable efforts, as determined by the LWSRB, shall be taken to minimize the visual impact of the utility facility. However, the LWSRB may not require burial of the utility facility as a condition of the permit. The performance standard, which applies to construction or modification of public access sites, is similar to the performance standard for a utility facility. [See s. 30.44(4)(b), Stats.] For modification, construction or reconstruction of a bridge, the performance standard cited in s. 30.44(5)(c), Stats., states that the visual impact shall be minimized by the use of exterior colors which harmonize with the surroundings and by the limited use of glass or other reflective material.

A pier in existence before October 31, 1989, is allowed after a permit is obtained and if the pier is properly maintained. Instead of new piers, wharves are allowed.

PROHIBITIONS

A number of activities are prohibited in the Riverway (see s. 30.45, Stats.) including:

- cutting of woody vegetation unless specifically exempted;
- the storage or disposal of junk or solid waste;
- new mining or quarrying on lands visible from the river;
- construction, reconstruction or alteration of highways or private roads unless the roads are visually inconspicuous and utilize erosion control measures;
- most signs; and,
- boat shelters and swimming rafts.

AGRICULTURAL USE EXEMPTIONS

Agricultural operations are basically excluded from regulation under s. 30.46, Stats. Land that was in agricultural use on October 31, 1989, may have barns, silos, sheds, corn cribs, etc., constructed on the land without a permit from the LWSRB. Cutting of woody vegetation to maintain fence rows, pastures or crop fields is not regulated. New lands may be developed for agricultural use if the development and use comply with the Department of Agriculture, Trade and Consumer Protection (DATCP) rules for the soil and water resource management program.

CONDITIONS, WAIVERS, VARIANCES

The LWSRB may place conditions on permits to assure compliance with the applicable performance standards or to ensure the activity is completed within a reasonable length of time. A standard condition of all permits issued by the LWSRB is completion of the activity within one or two years. Extensions may be granted if necessary.

The LWSRB may issue a waiver to the performance standards that apply to structures or to the prohibitions that apply to the cutting of woody vegetation. A waiver may not be issued except for the compelling personal needs of the resident which are not self-imposed or self-created. A waiver may not be issued solely for financial hardship. The LWSRB has issued 4 waivers.

A variance to the timber harvest regulations of Chapter NR 37 may be granted by the LWSRB if the activity will be visually inconspicuous. The LWSRB must provide advance notice to the Department of Natural Resources (DNR) that the variance will be considered. The time, date and location of the meeting at which the variance will be considered must be published in the official state newspaper. The LWSRB has granted 6 variances.

PERMIT PROCESS

A landowner wishing to obtain a permit to conduct an activity regulated under the Riverway law must first submit an application or permit request letter to the LWSRB. The application should include the applicant's name, address and telephone number; indicate the type of activity including plans, maps or diagrams; and, must indicate the location of the activity. Under normal circumstances, the Executive Director will contact the applicant to arrange a preliminary field inspection or to conduct an initial consultation. If possible, the landowner or his/her agent is present for the preliminary field inspection. Additional information and specific details regarding the activity are gathered at this time. The Executive Director will evaluate the application for compliance with the applicable performance standards during the preliminary field inspection. If a problem is apparent, the Executive Director will consult with the landowner to determine if the plan or the proposed activity may be modified to achieve adherence to the law. Throughout the process, the posture of the Executive Director is to assist the landowner in achieving the desired goals and objectives within the constraints of the law.

Following the preliminary field inspection, the LWSRB Operations Committee will conduct a field inspection with the Executive Director and, if possible, the landowner. At this time, the Executive Director explains the applicable performance standards, identifies any problems with compliance that may exist, and makes a recommendation to the committee regarding approval or denial of the permit request. The Operations Committee then discusses the findings and formulates a recommendation to present to the full board.

During the Operations Committee report at the monthly LWSRB meeting, the application is considered and the committee recommendation discussed. Typically, digital images of the site are shown. If the landowner is present, he/she may be asked questions by the board members. Members of the public who may have an interest in the application may address the LWSRB. Following discussion, the LWSRB votes to approve or deny issuance of the permit. In most

cases, conditions are attached to the permit to insure compliance with the regulations. The permit is then sent to the landowner and other interested parties.

In addition to permits issued by the full board, the Executive Director has been empowered to issue general permits, utility permits and certain extensions in cases that clearly do not have an aesthetic impact and extensions to certain permits. If there is any question regarding the potential visibility of the activity, the Executive Director has been instructed to follow the standard operating procedure for committee and board review of the application.

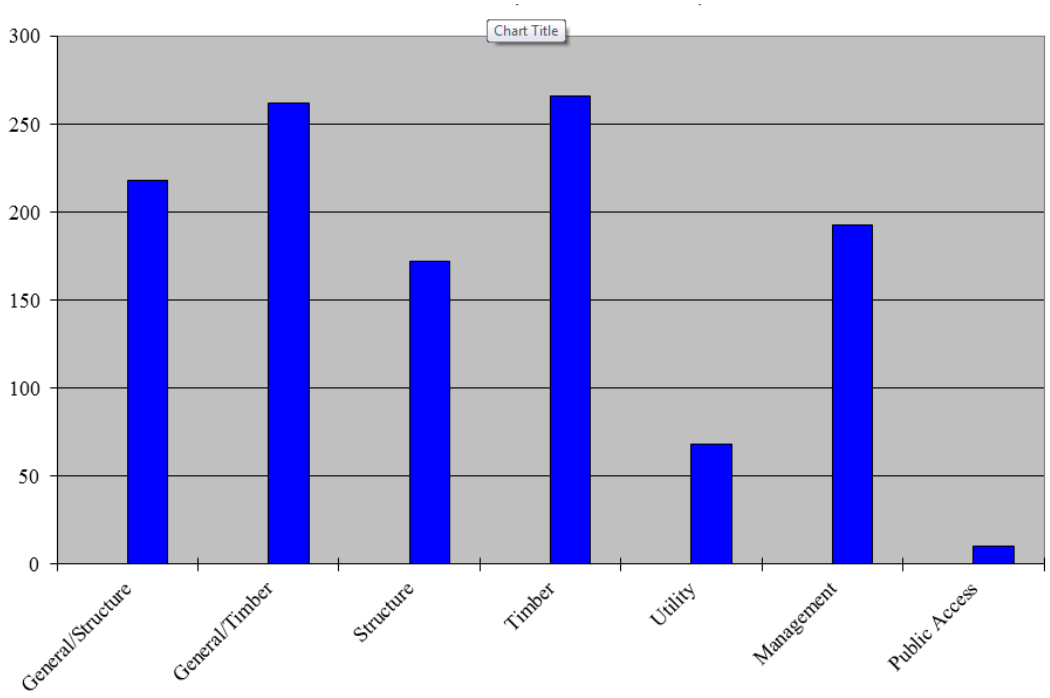
PERMIT ISSUANCE DATA

From the inception of the Riverway in November of 1989 through June of 2015, the LWSRB has issued 1,123 permits and 519 permit extensions. The graphs on the following pages demonstrate the number of permits issued by year by type and the total number of permits issued by type.

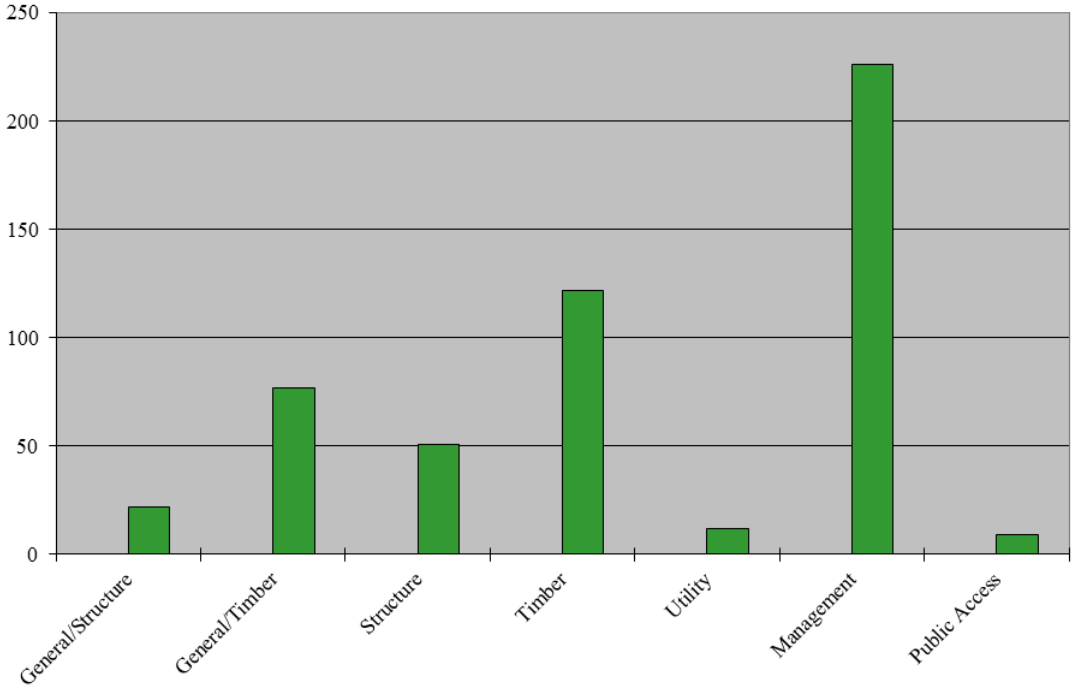
The most common type of permit issued is a "general" permit. A general permit applies to activities not visible from the river. General permits are divided into two types: a) general permits for timber harvesting; and, b) general permits for construction of modification of a structure. A general permit for timber harvesting simply verifies the harvest area is not visible from the Wisconsin River during leaf-on conditions. There are no regulatory impacts resulting from the Riverway law. The LWSRB uses the opportunity to recommend development of a forestry management plan for the parcel and provides information regarding a number of issues related to properly managing a woodlot. A general permit for a structure again verifies the site of the proposed activity is not visible from the river during leaf-on conditions. The regulatory impact of the Riverway law limits the height of the structure so that the structure does not become visible from the river.

The value of the Riverway law in protecting the scenic beauty and natural character of the lands within the project boundary is most apparent when considering the cumulative impact of the number of permits issued for activities on lands visible from the river. With the Riverway law in place, activities occurring on lands visible from the river are conducted in a manner designed to minimize the visual impact in order to maintain the aesthetic integrity of the Riverway. The regulations are designed to "control" development, not "prohibit" development. As a result, many activities, from home building to timber harvesting, continue on lands visible from the river. However, the impact of these activities on the scenic beauty of the valley, from the perspective of a river user during leaf-on conditions, is negligible. Without the law, the development which has occurred since late 1989 would not have been subject to aesthetic protection regulations and, most likely, would have resulted in the development of lands visible from the river having a dramatic and adverse long term impact on the natural beauty of the area.

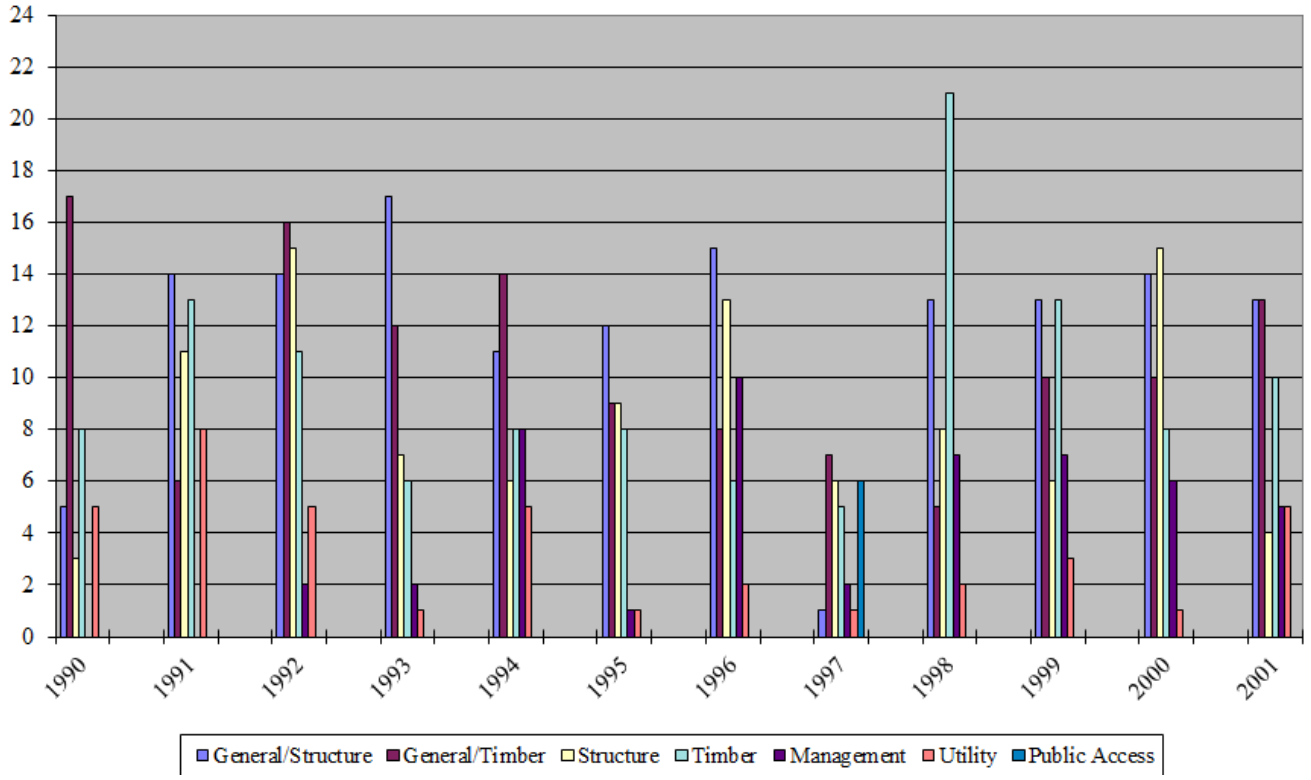
TOTAL PERMITS BY TYPE
October 31, 1989 – June 30, 2015



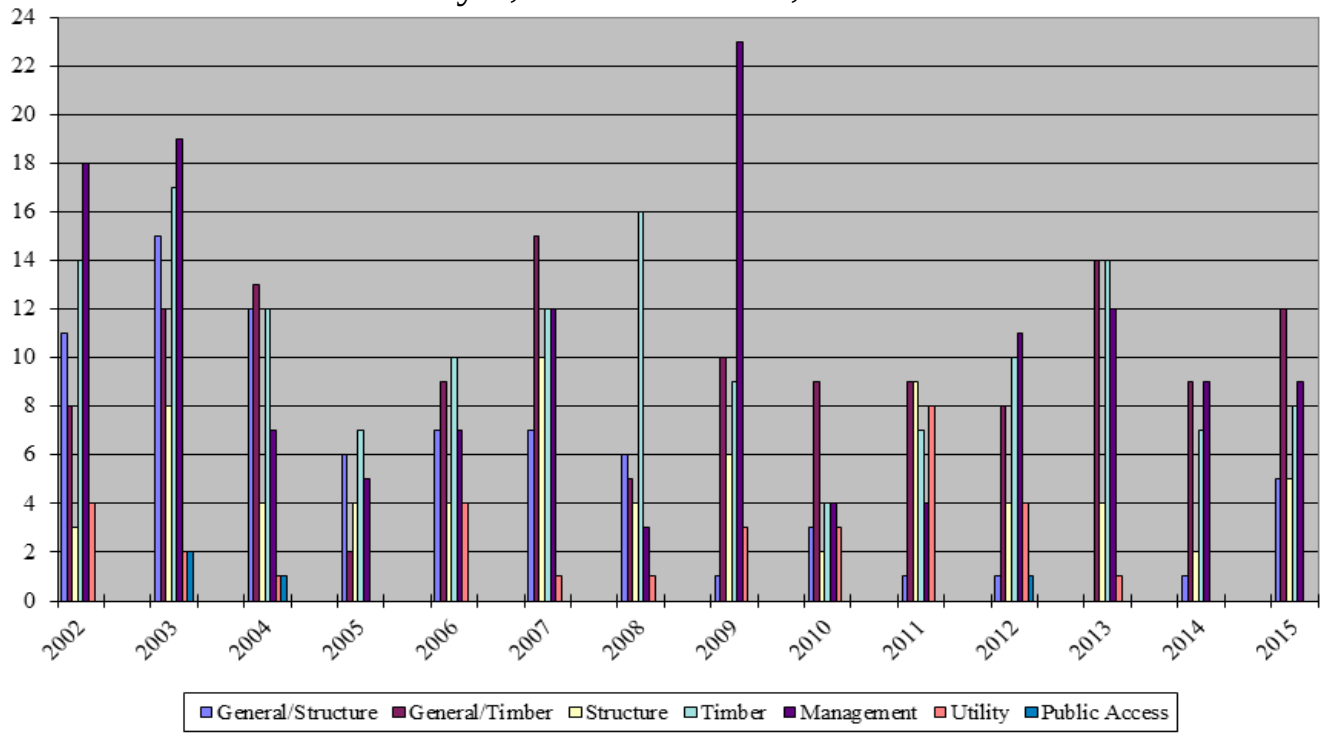
TOTAL PERMIT EXTENSIONS BY TYPE
October 31, 1989 – June 30, 2015



PERMITS ISSUED BY TYPE BY YEAR
October 31, 1989 – June 30, 2001



PERMITS ISSUED BY TYPE BY YEAR
July 1, 2001 – June 30, 2015



WARNINGS/VIOLATIONS

WARNINGS/VIOLATIONS

Enforcement of the Riverway law is accomplished through cooperative efforts between the LWSRB and DNR conservation wardens. If necessary, local law enforcement officials may become involved, however, this option has never been utilized. A warning system is employed when violations are discovered. The warning form was developed by DNR Conservation Warden Scott Thiede. The warning notice requires the violator to remedy the situation within thirty days unless an extension is granted by the LWSRB. The LWSRB may require specific action be taken or may require submittal of a remedial action plan for LWSRB approval. Unless issuance of a cease and desist order is required, a warning is not issued until the Executive Director has contacted the affected party and attempted to resolve the matter. If resolution of the violation does not appear immediate or if the violating party is uncooperative, a warning will be issued by the conservation warden at the request of the LWSRB.

Persons who knowingly violate the Riverway law may be assessed a forfeiture of up to $1000/day for each violation. An individual who does not comply with the conditions of a warning may be assessed a forfeiture of up to $1000 for each violation. Persons who violate one of the recreational use restrictions (see s. 30.47, Stats.) shall forfeit not more than $500.

Fifty-seven warnings for violations of Riverway performance standards have been issued since October 31, 1989. All but one of the cases were satisfactorily resolved and only once have forfeitures been assessed for violations of performance standards. The type of mitigation generally ordered by the LWSRB to resolve a structure-related violation entails establishment of additional screening vegetation and modification of the exterior colorization. For timber-related violations, the remedy typically requires planting of seedlings post-harvest and implementation of proper erosion control methods on logging roads.

The decrease in the number of warnings issued since 1992 is partially reflective of a modification in the memorandum of understanding (MOU) between the LWSRB and the DNR regarding enforcement activities. Under the revised MOU, the DNR conservation warden will consult with the LWSRB Executive Director prior to issuance of a written warning unless issuance of an immediate cease and desist order is warranted. If possible, the LWSRB will contact the landowner to seek resolution of the alleged violation before issuance of a written warning is necessitated. If the landowner fails to respond to the initial contact or if the Executive Director is unable to contact the landowner, a warning may then be issued by the conservation warden. The modification in the MOU is reflective of the LWSRB's desire to work cooperatively with landowners to resolve potential violations before issuance of a warning or further enforcement action is pursued.

There have been two egregious violations of the Riverway law since inception of the project; one (a structure violation) occurred in the Town of Wauzeka, Crawford County, and the other (a timber harvest violation) occurred in the Town of Millville, Grant County. In the Crawford County case, a warning was issued to a non-resident landowner for failure to obtain an LWSRB permit prior to initiation of construction of a house. The large house, situated on a bluff visible from the Wisconsin River, was constructed at the site of a previously existing A-frame structure. A warning/cease and desist order was issued by the DNR Riverway conservation warden at the request of the LWSRB. The mitigation ordered by the LWSRB required relocation of the utility corridor and establishment of two trees with a minimum height of 25 feet to provide

the necessary screening vegetation. The landowner complied with the action ordered by the LWSRB. Following completion of the mitigation, the landowner petitioned the Village of Wauzeka for annexation. Under s. 30.48(2), Stats, lands within ½ miles of the incorporated limits of a city or village may be annexed after which time the permit requirements and performance standards of the Riverway law are not applicable. In August of 1997, the Village of Wauzeka approved the annexation request.

In the Grant County case, a logger from Beetown, who had not previously worked on lands within the Riverway boundary, initiated a harvest on property owned by an absentee landowner from Illinois. Upon discovering there was an active harvest at the site, a warning was issued by the conservation warden. Subsequently, an on-site meeting with the logger was arranged and the regulations were explained. The violation involved failure to obtain a Riverway permit, harvesting more trees than allowed on lands visible from the river and construction of logging roads not in compliance with the regulations. There were also violations involving failure to file a cutting notice with the county and trespass on both adjacent state and private lands. The egregious nature of the Riverway violation was particularly demonstrated by construction of logging roads on dangerously steep slopes, in some cases, the logging roads had slopes of 50-60%. The Riverway regulations require roads to have a slope of 10% or less. The remedy ordered by the board was consistent with the remedy ordered in other similar cases. The remedy required activities at the site to cease until a permit was obtained, required the trees slated for harvest to be marked and approved by the board, required planting of oak seedlings and required proper erosion control measures to be implemented for all logging roads. In regard to the extremely steep roads, development of an erosion control plan was difficult. Expertise from the DNR Riverway Forester and assistance from Scott Mueller of the federal Natural Resources Conservation Service (NRCS) was obtained. The logger refused to properly implement the erosion control measures and further refused to plant the seedlings ordered by the board. Despite repeated attempts by the board to resolve the matter, the case went to the Grant County Circuit Court. The Riverway Board was ably represented by Assistant Attorney General Jeff Gabrysiak from the Department of Justice. Following a two-day trial, the logger was found guilty of Riverway violations.

Two warnings were issued in the last biennium. Both warnings were issued for timber harvest violations. One violation was for failure to obtain a Riverway permit. The other violation was issued for failure to comply with the conditions of a permit (permit expired). In both cases, there was no significant aesthetic damage resulting from the activity. The matter was resolved cooperatively and amicably with the landowners and loggers now having a better understanding of the performance standards and permit requirements of the Riverway law. DNR Riverway Foresters Brad Hutnik and Nick Morehouse and DNR Conservation Warden David Youngquist provided assistance in addressing the violations.

The minimal number of warnings for the bulk of the last biennium is further indication that landowners are aware of the need to obtain permits from the LWSRB before engaging in certain activities. Also, cooperation from LWSRB partners; including DNR staff, county zoning officials, timber consultants, realtors, etc.; has been a key in educating landowners, especially new Riverway landowners, of the need to communicate with the board before initiating certain projects on their property.

BUDGET

The LWSRB budget allocation for the 2013-2014 fiscal year was $208,300 and for the 2014-2015 fiscal year the allocation was $208,800. The funding source is segregated (SEG) dollars from the conservation fund. The motor boat fuel tax account provides 75% of the funding and the forestry mill tax account provides 25% of the funding. In FY 14, $9,095.03 remained unexpended at the conclusion of the fiscal year. In FY 15, $3,142.38 remained unexpended at the conclusion of the fiscal year. The unexpended funds in FY 14 and FY 15 were accrued through implementation of an agency austerity plan.

Allotments and expenditures by line item for FY 14 and FY 15 and total allotments and expenditures by fiscal year since inception of the board are detailed below.

Allocations & Expenditures for FY14 and FY 15

	FY 14		**FY 15**	
	Allocation	*Actual*	*Allocation*	*Actual*
Permanent Salaries	$111,774.52	$111.774.52	$117,641.00	$117,640.48
Per Diems	$2,500.00	$2,500.00	$2,300.00	$2,300.00
Fringe Benefits	$54,900.00	$54,758.36	$56,600.00	$56,630.96
Supplies & Services	$44,625.48	$35,708.09	$40,159.00	$37,086.18
TOTALS	$213,800.00	$204,740.97	$216,700.00	$213,557.62

Allocation by Fiscal Year & Source

Fiscal Year	**Allocation**	**Source**	**Notes**
FY 90	89,800.00	GPR	
FY 91	93,900.00	GPR	
FY 92	97,100.00	GPR	
FY 93	99,000.00	GPR	Includes conversion of LTE to project position for support staff.
FY 94	102,500.00	GPR/SEG	SEG-Conservation Fund, conversion to PA I position.
FY 95	99,200.00	GPR/SEG	
FY 96	107,600.00	GPR/SEG	Conversion to 25% GPR, 75% SEG.
FY 97	113,850.00	GPR/SEG	Conversion to 25% GPR, 75% SEG.
FY 98	115,137.00	SEG	Conversion to 100% SEG
FY 99	110,900.00	SEG	Conversion to PA II position.
FY 00	125,283.00	SEG	
FY 01	131,300.00	SEG	
FY 02	154,100.00	SEG	Conversion to Citrix System. (Mandated by DOA & DEG)
FY 03	158,700.00	SEG	
FY 04	164,000.00	SEG	
FY 05	166,600.00	SEG	
FY 06	$171,000.00	SEG	
FY 07	$175,700.00	SEG	
FY 08	$190,100.00	SEG	
FY 09	$194,400.00	SEG	
FY 10	$203,400.00	SEG	
FY 11	$202,700.00	SEG	
FY 12	$208,300.00	SEG	
FY 13	$205,000.00	SEG	
FY 14	$208,700.00	SEG	
FY 15	$208,800.00	SEG	

PERFORMANCE MEASURES

FY 14 & FY 15 GOALS AND ACTUALS

Prog. No.	Performance Measure	Goal FY 14	Actual FY 14	Goal FY 15	Actual FY 15
1.	Time for issuance of permits.	3 days	99%	3 days	98%
1.	Frequency of consultation with municipalities on impacts of development and adoption of local ordinances to protect scenic beauty.	Biennial contact with incorporated municipalities and town and annual contact with counties	45 issue contacts*	Biennial contact with incorporated municipalities and towns and annual contact with counties	40 issue contacts*

* Does not include contacts made through e-mail correspondence or telephone calls.

FY 15, FY 16 & FY 17 GOALS

Prog. No.	Performance Measure	Goal FY 15	Goal FY 16	Goal FY 17
1.	Time for issuance of permits.	3 days	3 days	3 days
1.	Frequency of consultation with municipalities.	Biennial contact with incorporated municipalities and towns and annual contact with counties	Biennial contact with incorporated municipalities and towns and annual contact with counties	Biennial contact with incorporated municipalities and towns and annual contact with counties

RESOLUTIONS AND POLICIES

Since inception in 1989, the LWSRB has adopted eleven resolutions and formalized eleven policies. Resolutions are intended for distribution to persons other than LWSRB members and state the LWSRB's position on a specific topic. Policies are intended for internal LWSRB use. Brief descriptions of the resolutions and policies adopted by the LWSRB are detailed below.

RESOLUTIONS

RESOLUTION #001-03-90 encouraged the DNR to negotiate an agreement with a private landowner to prevent a commercial firewood harvest from occurring on lands visible from the river which had been optioned for purchase by the DNR.

RESOLUTION #002-08-90 urged the DNR to provide trash receptacles at certain popular public access sites to address litter problems.

RESOLUTION #003-09-91 urged Governor Thompson and the Legislature to create a limited duration easement for the purchase of timber and development rights within the Riverway for prescribed finite periods of time.

RESOLUTION #004-01-92 expressed the support of the LWSRB for legislation seeking to broaden the scope of Wisconsin's trespass law.

RESOLUTION #005-02-92 indicated the LWSRB's conditional endorsement of creation of the Fox-Wisconsin Rivers National Heritage corridor from Green Bay to Portage to Prairie du Chien.

RESOLUTION #006-02-94 commended Riverway landowners for demonstrating a responsible stewardship ethic and affirmed the LWSRB's commitment to work cooperatively with Riverway landowners.

RESOLUTION #007-10-95 requested the DNR continue to provide technical services to the LWSRB recognizing the administrative services formerly provided by the DNR would be provided by the new Department of Tourism as of January 1, 1996.

RESOLUTION #008-01-97 urged the DNR to scrutinize the proposal of the Crandon Mining Company to construct a pipeline for the purpose of discharging treated wastewater into the Wisconsin River and further recommended changes in state law to lower effluent limits for dischargers into the river in order to attain higher water quality.

RESOLUTION #009-10-98 recognized Mr. Jack Moulton for the major contributions made toward achievement of the ultimate goals of the Lower Wisconsin State Riverway project through his actions as land agent from 1990 to 1998. Moulton retired from Department of Natural Resources on September 30, 1998, with over 18 years of service to the citizens of Wisconsin.

RESOLUTION #010-03-99 expressed sincere gratitude and appreciation to Ms. Lisa Lauridsen for her years of exemplary service to the Lower Wisconsin State Riverway Board, landowners, recreational users, governmental colleagues and others with an interest in the Riverway project.

RESOLUTUION #011-07-99 recognized Judy Rendall, an original appointee to the Lower Wisconsin State Riverway Board, for her contributions to the Lower Wisconsin State Riverway and her years of service to the citizens of Wisconsin. Ms. Rendall passed away in July, 1999 at her residence in Dane County.

RESOLUTION #12-12-03 expressed that LWSRB is opposed to public nudity on lands or waters within the Lower Wisconsin River State Riverway; and indicated the LWSRB encourages state, county and local law enforcement agencies to enforce existing laws prohibiting public nudity in the Riverway

POLICIES

LWSRB POLICY 001-91: Policy regarding public comment during regular business meetings.

LWSRB POLICY 002-91: Policy regarding public comment during committee reports.

LWSRB POLICY 003-91: Policy regarding LWSRB positions on other aesthetic protection initiatives.

LWSRB POLICY 004-91: Policy regarding the definition of "top of the bluff" as it applies to s.30.44(1)(c)5, Stats.

LWSRB POLICY 005-91: Policy exempting certain repairs and routine maintenance activities from regulation under s.30.44(1)(b), Stats.

LWSRB POLICY 006-92: Policy relating to notification of LWSRB members regarding Operations Committee review of permit applications.

LWSRB POLICY 007-93: Policy regarding the reconstruction or replacement of structures or mobile homes destroyed or removed as required by a Wisconsin Department of Transportation highway project.

LWSRB POLICY 008-93: Policy regarding the use of the LWSRB Standardized Color Chart.

LWSRB POLICY 009-95: Policy regarding exemptions for agricultural structures.

LWSRB POLICY 010-96: Policy regarding review of permit applications.

LWSRB POLICY 011-97: Policy regarding timber harvest permit issuance procedures.

LWSRB POLICY 012-00: Policy regarding employee participation in activities outside of work.

LWSRB POLICY 013-13: Policy regarding appointment of alternates to standing committees.

OBSERVATIONS

Long before the first European explorer, missionary or fur trader arrived in the New World, a ribbon of water flowed freely past towering bluffs, expanses of colorful blooming prairies, bottomland forests and uninhabitable marshes. An area of infinite beauty, teeming with life, and home to countless generations of indigenous peoples who revered the valley and thought it a sacred place. As the river flowed and the centuries passed, civilizations were born and faded leaving their imprint in the forms of mounds, paintings in rock shelters, revenants of villages and agricultural fields.

With the famous passage of Marquette and Joliet, from Green Bay, up the Fox River to Portage and down the Wisconsin River to the Father of Waters, the Mississippi River, three centuries and three decades ago, the first words of a new chapter in the history of the valley were written. As the words became sentences and the sentences became paragraphs, the valley began to change, at first, subtly, then, with more vigor and demonstrable impact. As the Euro-Yankee settlement continued, the landscape changed as fire control allowed species other than oak to take hold and the once vast tall grass prairies were tamed by the plow and were replaced by fields of corn, wheat, hops and beans. The bison and elk were replaced by cattle and horses. The encampments and villages of the Ho-Chunk, Sac, Mesquakie, Kickapoo and Sioux were transformed to the homesteads and villages of the American settlers. Throughout these changes, the river continued to flow, the sandbars continued to shift, the bluffs continued to tower and the valley remained a place of awe-inspiring beauty.

As advances in technology developed and a young nation matured, more and more people came to the valley. Trains, tractors and automobiles replaced horses and small settlements grew into prosperous villages and cities. Up river, dams were built to harness the river's might and to attempt to control the river's fickle flow. But, down river, the bluffs remained standing tall, keeping silent vigil over the happenings below, the river continued to flow over its sandy bottom and the backwaters retained wildness, teeming with life.

As the sun set on the twentieth century, the development pressures began to increase and the valley was in danger of losing the beauty which had been its signature for millennia. Then, as the ink flowed from Governor Tommy G. Thompson's pen on August 3, 1989, the valley received recognition as a truly special place and the wheels were set in motion to protect and preserve its scenic and natural wonders. One of the cogs in the mechanism of protection was, and is, the Lower Wisconsin State Riverway Board.

For the past twenty-six years, the Riverway Board has been responsible for maintaining the fragile and delicate between protection of the valley and protection of the rights of people who live there, own property there and recreate there. The seemingly daunting task of balancing a myriad of competing interests has been successfully achieved. However, this success could not have transpired without the dedication of the citizens serving on the board; the cooperation of landowners, the local populous and local officials; and, the support of the Executive branch, the Legislature and other state agencies. In particular, those landowners who have been good stewards of the land and those landowners, both old and new, who have cooperated with the board, deserve accolades. Without their cooperation, the successes of the Riverway project would not have been attained.

The success of the project has assuredly been built on the dedicated service of the citizen members of the board, some who were involved in the project years before it became a reality and others who have toiled thanklessly, often in the face of adversity and criticism, over the past several years. The dedication of these individuals in traveling various distances to attend monthly meetings, from Prairie du Sac to Prairie du Chien and all parts in between, in order to play a role in protection and preservation of the scenic quality and natural character of the valley is a testament to the positive impact of which government is capable. Without the contributions of these citizen members, the project could not have succeeded.

In addition, the support of the Legislature in recognizing the regulations associated with the project had to be malleable and fine-tuned from time to time as the board gained more experience has been crucial to the success of the project. Clearly, a project of this magnitude, which had never been implemented anywhere in the world, required legislative follow-up to tweak the regulatory mechanism. With the retirement of Dale Schultz from the Wisconsin Senate, the last of the original authors of the Riverway legislation left the Capitol. The new generation of Riverway legislators is now responsible to assure the project moves forward and receives the necessary support. The board is fortunate to have legislators from both sides of the political aisle who understand the importance of the project.

The cooperation of county, town, city and village officials throughout the Riverway generally has been very good. The county zoning committees, zoning administrators and respective planning and zoning staffs all have cooperated well with the board and share in the success of the project. Secretary Kathy Stepp and the staff at the Department of Natural Resources have been supportive in providing targeted technical assistance, in recognizing the autonomy of the board, and in cooperating in areas of mutual interest. The conservation wardens from the Riverway counties have worked with the board to administer the complex enforcement system and their contributions are genuinely appreciated as well. The Department of Tourism, the agency that provided administrative support to the board until the end of the 2013-2105 biennium, should be acknowledged for the excellent services provided in accounting, budgeting and other administrative matters. The Department of Administration also has provided quality service to the board in the areas of personnel, payroll and budgeting.

As the board looks to the next biennium, the challenges associated with maintaining the fragile and delicate balance between progress and protection remain. As the communities of the Riverway grow and the economy expands, the development pressures will only increase. The board continues to see greater pressure on bluff top development as well as development within the extraterritorial zoning limits of villages and cities. One only has to look at the explosive development in rural areas surroundings Madison to view the changes that have occurred over the last decade. Indubitably, the increase in development pressure will create greater demands on the board and staff to assure the development is done in a manner consistent with the goals and objectives of the Riverway.

An Ode to the Riverway

Thousands and thousands of years ago, sheets of ice surround the valley,
The ice begins to melt, trickle by trickle a giant lake forms to the north, the ice dam bursts,
A cataclysmic torrent of water cascades south and west and shapes the landscape,
The Sun warms the Earth, plants grow and animals thrive,
Paleo Indians successfully hunt a mastodon,
Death begets Life in the ancient valley.
Who will tell the story of the old ones twenty years from now? I wonder…

Twelve millennia pass…
The effigy mound builders are here, the bird people,
Earthworks are created, telling profound stories on the land,
Tumuli in the shapes of eagles and hawks, bears, water spirits, and even man,
Linear and conical mounds for the revered dead, Calendar mounds to track the sun,
Cave walls speak through art, Red Horn lives on in a secluded coulee,
Who will tell the tales of the mound builders fifty years from now? I wonder…

Six more centuries elapse, the new ones arrive…
Marquette & Joliet, Carver and Schoolcraft,
Red Bird and Black Hawk tempt fate and fade into history,
The Ho-Chunk people are removed, but come back and stay,
John Coumbe farms, Henry Dodge rises to power,
John Muir walks along the tracks and cogitates,
Reuben Gold Thwaites floats down the river and pontificates,
Aldo Leopold thinks, Frank Lloyd Wright designs, August Derleth writes,
Who will be the new ones one hundred years from now? I wonder…

The twenty first century dawns…
And still, A blue ribbon of water meanders through evanescent, tawny sandbars,
And still, A sparkling river flows past vine clad islands and emerald bound shores,
And still, A full moon rises casting light upon the shimmering, diamond studded stream,
And still, Bottomland forests are heavy with rime, slumbering beneath a blanket of snow,
And still, Majestic bluffs maintain a silent, eternal vigil over the valley below,
What will this landscape and this river look like in the twenty third century? I wonder…

A thousand years from this day…
Who will be here to watch in silent adoration as a bald eagle soars overhead,
silhouetted against a clear, blue sky,
Who will be here to thrill at the primordial call of the sandhill crane proclaiming spring has arrived,
Who will be here to listen to the susurrus of wind in the trees whispering stories of retrospection,
Who will be here to stand amidst the effigy mounds
and contemplate the legacy of those who have gone before,
Who will be here to recognize the powerful spirit of this special place, the valley of the River of a Thousand Isles,
I wonder…I wonder…I wonder…

Mark E. Cupp
August 2, 2009

DOCUMENTS AVAILABLE FROM THE LWSRB OFFICE

*Summary of Regulations

*Screening Vegetation/Permit Process brochure

*Timber Harvesting brochure

*Chapter NR 37, Wisconsin Administrative Code

*Riverway Law

*Chapter RB 1 & 2, Wisconsin Administrative Code

*Mounds Maintenance Protocols

*Permit Applications

*Strategic Plan

*Biennial Report

*Oak Wilt in Wisconsin brochure

*Marketing Timber

*Woodland Owners Guide to Oak Management

*Effigy Mounds Grand Tour brochure

*Lower Wisconsin River Road (Scenic 60) brochure

For further information, contact the Lower Wisconsin State Riverway Board at:

Lower Wisconsin State Riverway Board
Mark E. Cupp, Executive Director
202 N. Wisconsin Avenue
P.O. Box 187
Muscoda, WI 53573
(608) 739-3188 or 1-800-221-3792
FAX: (608) 739-4263
http://lwr.state.wi.us
E-mail: mark.cupp@wisconsin.gov