

Official comments from the Friends of the Lower Wisconsin Riverway Board concerning the Wisconsin Department of Natural Resources draft master plan for the Lower Wisconsin Riverway. (4/5/16)

Introduction

Please receive the following comments from the Friends of the Lower Wisconsin Riverway (FLOW) Board pertaining to the Lower Wisconsin State Riverway draft master plan. The board is submitting comments after review of the draft master plan and attending two of the DNR's open house events on the plan.

When the Lower Wisconsin State Riverway was originally created in 1989, integration between resource management and environmental protection was limited. The first master plan reflected a strong bias toward property management that focused mostly on forestry and wildlife management.

The new draft master plan has not advanced significantly beyond this narrow focus. We argue that the Lower Wisconsin River is the centerpiece for the State Riverway and there should be more emphasis on water quality and environmental protection in the master plan.

We feel that the draft master plan does not go far enough toward environmental protection and integration of important Wisconsin Department of Natural Resources' water programs.

In 2012, after a series of meetings between DNR Southern District staff and Friends of the Lower Wisconsin Riverway board members, an agreement was reached to increase involvement of water resources and fisheries staff in the management and goal setting for the Riverway.

This has occurred to some extent but much more is needed given the recent studies documenting environmental degradation of oxbow lakes that provide critical habitats for rare and endangered fish species and nursery habitat for many riverine fish.

These are issues related to the Clean Water Act. Without implementation of the Clean Water Act, river rejuvenation never would have occurred by the early 1980's along with the favorable water quality that enhanced the Lower Wisconsin River as a regional destination for outdoor wilderness recreation in southern Wisconsin.

With respect to outdoor recreation, we are concerned that the department did not conduct thorough and rigorous review of new recreational use proposals and facilities development and did not include sufficient public participation, including but not limited to:

- Additional equestrian trails and an equestrian camping facility,
- Improvements at the Black Hawk Ridge and Mazomanie Recreation Management Areas,
- Riverway sites including scenic overlooks and vistas, and
- A new shooting range.

We expect that any developmental proposal outlined in the draft master plan undergoes serious scrutiny and finds a balance between purpose, need and adverse environmental impacts.

To conclude, we relied on the following sources and references as the foundation for our comments:

- The statutory authority, policy and procedures of the Lower Wisconsin Riverway Board,
- The Regional Property Analysis (2014),
- The original Environmental Impact Statement for the Riverway (1988),

- The standards, processes and procedures for developing a Master Plan that are included in Chapter 44, of Wisconsin Administrative Code,
- Environmental Analysis and Review Procedures included in Chapter NR 150, of Wisconsin Administrative Code,
- Chapter NR 102 of Wisconsin Administrative Code, and
- Chapter NR 207 of Wisconsin Administrative Code.

Areas of Focus - Public Involvement

Administrative code mentions that a public involvement plan must be developed and include affected or interested parties not only government officials, according to administrative code NR 44.04 (7)(f)(2).

Such a public involvement plan should be included in the main body of the master plan and should include language demonstrating a commitment to transparency and dialogue when it comes public participation.

However, the public involvement section of the environmental analysis (page 197) is limited to two paragraphs and contains no indication that groups or organizations with interest or oversight in the riverway were contacted by the department.

For example, federal agencies such as U.S. Fish and Wildlife Service, Bureau of Land Management and the National Resources Conservation Service should have been contacted about this document in an effort to solicit their input. There is no record these agencies were notified.

The failure of the Department to include comments from the Lower Wisconsin State Riverway Board is particularly alarming, given that board's purpose is to administer the 1989 state law that created the Lower Wisconsin Riverway Corridor and to protect the aesthetic integrity of the Riverway.

The absence of input from the Lower Wisconsin State Riverway Board and the lack of a list of any organizations requesting notification and participation in the planning process appears to demonstrate that public involvement, including input from other government agencies, was not incorporated in the plan, as required by the code cited above.

Furthermore, a public participation plan should be summarized in the environmental analysis, as the primary purpose of an environmental analysis is full public disclosure, according to the Wisconsin Environmental Policy Act (WEPA).

We understand from speaking with Wisconsin Department of Natural Resources staff at the March 29 Boscobel Open House that the public participation plan will be included in the final version of the master plan.

While this is encouraging, the department should have reached out to other government agencies with jurisdiction in the Riverway during the development of the draft master plan and those comments should have been included in the document.

Shooting Range Site Selection

The draft master plan includes three potential locations for a public shooting range in the Lower Wisconsin Riverway Corridor. While we understand that a more detailed public shooting range site evaluation and selection process will occur outside of this property master

planning process, the Friends of the Lower Wisconsin Riverway Board would like to express early opposition to the any new public shooting range in the Riverway.

Our opposition is based on the potential for lead contamination, the negative impact of shooting noise on the habitats of rare, migratory birds and a failure to prove evidence of public demand for a shooting range specifically within the Riverway other than an overall goal by the National Rifle Association to site additional shooting ranges across the state.

In our opinion, if such a demand exists, let it be met by the private sector for compatible sites located outside of the State Riverway boundaries.

To elaborate, there is a high probability for adverse environmental impacts due to prevailing hydrological and chemical conditions in the Riverway corridor. Recent monitoring has demonstrated that the chemical properties of the shallow aquifer of the Riverway include low pH and reducing conditions (Marshall et al 2016).

These factors will result in leaching and lead migration across the floodplain from discharged bullets. This issue is also described in *Best Management Practices for Lead in Outdoor Shooting Ranges* (USEPA 2001).

With the full support of the National Rifle Association, SB 527 was passed by the Legislature and is (as of this writing) awaiting the governor's signature. If the bill is signed, it will pre-empt local governments from regulating shooting ranges via conditional-use permits.

That means it will be much more difficult for municipalities across the state to deny a permit for a shooting range. If the state is about to

make it easier to site shooting ranges within municipal borders, there is even less of a need to site a shooting range in an environmentally sensitive area such as the Lower Wisconsin Riverway Corridor.

Finally, as required by Chapter NR 44, of Wisconsin Administrative Code, “social demands or constraints that affect property” should be considering in the planning phase of a master plan and included in its Regional Property Analysis.

That did not happen. The three possible sites selected in the draft master plan were not included in the Regional Property Analysis when it was released last year.

While we are not categorically opposed to shooting ranges, for the above mentioned reasons we are opposing any forward momentum toward siting a shooting range within the Lower Wisconsin Riverway.

Water Quality and Aquatic Habitat Risks and a Need for Action

For many years, mainstream thinking was that management of the Lower Wisconsin State Riverway had reached the apex for ecosystem protection (WDNR Land Legacy Report 2006, Marshall and Lyons 2008).

The land legacy reports determined that the Lower Wisconsin River attained the highest rating for conservation and recreational significance and therefore additional protection and management opportunities were limited.

However, more recent information collected since 2008 demonstrates that the levels of management and protection are inadequate. Serious threats to the Riverway remain.

Conventional wisdom for many years described the river as having substantial riparian buffers, with the floodplain forests and wetlands functioning as that buffer.

However, this analysis lacked a critical piece of scientific understanding that the large river ecosystem actually encompasses the entire floodplain.

Based on this newer and more scientifically accurate perspective on large river ecosystem management, it is now clear that buffers are nonexistent in many areas where cutoff channel oxbows and sloughs lie adjacent to irrigated crop fields.

That means in most areas along the Riverway there are no buffers protecting the oxbows and sloughs. And they are polluted.

The impacts of agricultural nutrient loading due to a lack of buffers has degraded numerous cutoff channel oxbows that historically displayed pristine conditions.

Spring lakes located on the north side of the river and adjacent to the Pleistocene Sand Terrace are degraded from nutrient inputs, primarily nitrogen. These nutrients from cropland pollute the aquifer that is important for both private and public water supplies and floodplain lake water quality.

On another topic, the draft master plan's purpose statement defines State Natural Areas that lie within the Riverway boundaries as *"an area of land or water which has educational or scientific value or is*

important as a reservoir of the state's genetic or biological diversity and includes any buffer area necessary to protect the area's natural value."

However, Bakkens Pond is a State Natural Area that currently lacks buffers to protect water quality, biological integrity and public uses from river terrace sources of groundwater pollution.

Two recent studies have documented the groundwater pollution and effects on the Bakkens Pond ecosystem but there is insufficient discussion of this in the draft master plan.

The plan ignores the need to expand the buffer needed to protect the important Bakkens Pond State Natural Area from further degradation. It is our belief that the expansion of this buffer should be added to the master plan.

Additionally, on page 2 of the introduction, *The Lower Wisconsin River is listed as an Exceptional Resource Waterway (ERW) by statute (Ch NR 102, Wis. Adm. Code) "affording increased water quality protection."*

That said, the master plan does not adequately address documented water quality degradation in Jones Slough, Bakkens Pond and numerous other oxbows that intercept polluted groundwater from the river terrace.

The pollution represents water quality degradation and increased pollutant levels that NR 102 was designed to prevent. Yet there is no mention of specific remediation that would be expected from the agency that functions as the State of Wisconsin's trustee for protecting natural resources.

The authority lies within the department. As a property manager, the Wisconsin Department of Natural Resources should be taking the lead in protecting the State Riverway from environmental degradation. This

effort would likely involve master plan coordination of relevant WDNR programs.

Further, the degradation of the ERW oxbows represents a violation of the Clean Water Act delegated authority. The U.S. Environmental Protection Agency and USGS recommended adopting a nitrogen standard of less than 2 mg/L for surface waters but the Wisconsin Legislature has taken no action on this.

This inaction has led to documented nitrate concentrations approaching 20 mg/L in several Lower Wisconsin State Riverway oxbow lakes.

Such prolonged inaction by the state is causing severe pollution and direct toxicity to environmentally sensitive fish and aquatic organisms.

We agree with findings on page 196 that state nitrate and phosphorous pollution and other threats to the water quality of the backwater sloughs and groundwater-fed lakes in the Riverway are a major concern for some.

Regarding the specific goals outlined on page 7 of the draft master plan, we believe the plan does not describe efforts to reverse the groundwater pollution degrading the oxbow lakes and sloughs, nor does it mention the rare fish that are threatened/harmed by the pollution or the effect of excess algal growth on recreational enjoyment of the water.

Below are a few specific property goals outlined on page 7 of the draft master plan that we find are not being adequately met:

Goal 1: *At a landscape scale; maintain and enhance the ecological function and exceptional values of the Lower Wisconsin State Riverway; specifically, the diversity of high quality natural communities in a continuum of connected habitats from river to hill top.*

It is our belief that scientific data has demonstrated that the ecological values and exceptional values are undermined due to environmental degradation linked to groundwater pollution from agricultural runoff.

Goal 3: Protect and enhance habitat for common wildlife and for wildlife species of greatest conservation need; including forest interior birds, grassland birds, rare fish, reptiles, and amphibians, and rare aquatic and terrestrial invertebrates, and bats.

It is our belief that this goal needs to be expanded to include the mention of the rare fish that are threatened and in some cases harmed due to environmental degradation and no remediation efforts are proposed in the plan. These include the state endangered starhead topminnow, pirate perch, least darter, mud darter, etc.

Goal 6: Provide opportunities for high-quality, nature-based open-space recreational uses that are compatible with the property's capabilities and the ecological and habitat management goals. Nature based activities are uses like; hunting, trapping, and wildlife viewing, fishing, paddling, picnicking, camping, hiking, equestrian use, and environmental interpretation and education.

It is our belief this goal will not be met if the excessive algal growths that are covering oxbow lakes are not addressed by the department. Excessive algal growth not only threatens the ecosystem but impairs public access and recreational uses identified in this goal.

We would also like to address the department's suggestion on page 9 to create furbearer opportunities along the Riverway. Beavers play an important role in river floodplains by creating slough habitats that are essential for many rare fish, sport fish and other species.

The ecological enhancement beavers can bring to a riverway can be witnessed in Second River, where a small channel has been expanded into an oxbow with the habitat greatly enhanced by beaver activity.

Otters also are ecologically valuable animals enjoyed by many along the Riverway. For these reasons, we support refuges within the Riverway to protect these animals and their important ecological functions similar to protections offered in the Lower Chippewa River Master Plan.

Finally, the “water quality and aquatic habitat risks” section of the master plan should conclude with a goal to designate the Lower Wisconsin Riverway the title of “Wetlands of International Importance” under the Ramsar Convention.

The intergovernmental treaty adhered to by this organization provides the framework for the conservation and wise use of wetlands and their resources for wetland that met criteria. The cooperative committee involving DNR and conservation partners had nearly completed this comprehensive nomination process. This process should be finalized.

Boundary Adjustments and Real Estate Issues

The Wisconsin Department of Natural Resources has recognized for decades that there is a shortage of public lands in the driftless area, which includes portions of the Lower Wisconsin Riverway. Specifically, only 3 percent of the driftless area’s land base is publicly owned, the smallest percentage in Wisconsin.

That said, the recent sale of public land within the Riverway by the state is of concern to many members of the Friends of the Lower Wisconsin Riverway.

The department appears to be sabotaging its own efforts to “maintain and enhance the habitats and landscapes to sustain game and other wildlife populations and to support recreational activities” as stated on page 98, by selling land along the Riverway that could otherwise be used for this purpose.

For the first five years following the creation of the Lower Wisconsin Riverway corridor, land purchases were made possible under Act 31 and the stewardship fund. The fund allotted roughly \$2.4 million annually for public land acquisition along the riverway.

It is our recommendation that the stewardship fund previously designated for the Riverway be restored in order for the DNR to meet its goals to “maintain, or create as appropriate, a mosaic of lowland to upland habitats, and establish linkages between habitat blocks to create travel corridors for the movement of species over times (page 58).”

In 2009, the co-chairs of the Friends of the Lower Wisconsin Riverway submitted the following resolution to the Wisconsin Natural Resources Board for consideration. It went nowhere.

At this time, we recommend restoring the stewardship fund and ending the sale of land within the riverway corridor.

Resolution to Restore pre-1994 State Stewardship Level of Funding Needed to Protect and Enhance the Lower Wisconsin State Riverway Resolution # 2

RESOLUTION OF FRIENDS OF THE LOWER WISCONSIN RIVERWAY
(FLOW)

WHEREAS, the Lower Wisconsin State Riverway is a unique resource used by the public for recreation and enjoyment of natural beauty; and

WHEREAS, the protection of this important designated Exceptional Resource Water (ERW) is of vital importance for the citizens of Wisconsin; and

WHEREAS, the braided channel oxbows, sloughs and other floodplain lakes are vital for sustaining the ecological diversity and water quality of the Riverway; and

WHEREAS, the floodplain lakes are an essential feature of the State Riverway since they sustain spawning and nursery habitat for river fishes, provide a refuge for aquatic organisms when environmental conditions within the main channel become stressful, such as during floods; and

WHEREAS, we understand that the ecologically vital floodplain lakes currently remain vulnerable to groundwater contamination and polluted runoff and must be protected to sustain the unique features of the Lower Wisconsin State Riverway;

WHEREAS, the State of Wisconsin had previously been committed to scenic easement purchases from landowners in critical areas along the Lower Wisconsin State Riverway;

NOW, THEREFORE, BE IT RESOLVED THAT

_____ support the restoration of the pre-1994 level of State Stewardship funding that will be needed to assist private landowners in their efforts to protect the scenic river bluffs and protect the ecologically vital floodplain lakes. Furthermore, the Department of Natural Resources should expand the Master Planning boundaries and goals that will be needed to protect the diverse floodplain habitats.

Adopted this day ___ of _____, 20___

By a vote of: _____ in favor _____ against _____ abstain

BY: _____ Co-Chair of FLOW

Wisconsin Environmental Policy Act Compliance (WEPA)

There are several aspects of the draft master plan and accompanying environmental analysis that we find incomplete.

Because the Environmental Assessment (EA/Equivalent Analysis) is included in the draft master plan, the master plan is subject to the Wisconsin Environmental Policy Act, making it a full public disclosure document.

That said, there needs to be more detailed information to support the findings that the planning efforts will be entirely beneficial. More detailed arguments are needed for the statement to be credible.

For example, the plan says on page 187 that information in the master plan “is beneficial and no Environmental Impact Statement (EIS) is required.” We believe this statement is too broad, given the Riverway corridor includes roughly 42,000 acres of land along 92-mile-long corridor.

Additionally, we believe several relevant issues impacting the Riverway and of concern to nearby property owners and recreational users need to be addressed in the plan.

For example, we believe the EA should include a discussion on the scoping process and state reasons in the public information plan for omitting the following controversial issues:

- Frac sand mining,
- Land use on adjacent private lands, including threatened and endangered species, and conflicts with private land owners, and

- Light and noise pollution, including potential shooting ranges and the use of air boats.

Another omission from the plan is the decision by the department not to include coordination and cooperation with the Lower Wisconsin State Riverway Board (LWSRB). The board administers laws that the state must comply with.

For example, on page 69 it is mentioned that the Board administers aesthetic standards. DNR must comply with these standards as part of facility development projects and timber harvest. Another example, the DNR policy on Non-Metallic Mining (page 175) does not mention coordination with the board on esthetic standards, either.

We believe the master plan should reflect a more cooperative tone toward the Lower Wisconsin State Riverway Board. The plan should mention that they are a resource to assist with the development of new facilities for recreation, public access, and timber management and non-metallic mining.

We do concur with several findings in this section, specifically those on page 196 that state *“nitrate and phosphorous pollution and other threats to the water quality of the backwater sloughs and groundwater-fed lakes in the Riverway are a major concern for some.”* We would, however, argue that agricultural-related pollution is not just a concern for “some” but all Riverway user and the public in general.

The degradation of the floodplain lakes is a significant threat to the entire large river ecosystem. And polluted groundwater that is not intercepted by the oxbow lakes is intercepted and pollutes the main river channel.

If this policy represents the future of public land management, then user fees should be mentioned in the EA via a discussion on probable

positive or negative effect. We support fees areas within the Riverway as mentioned on page 171.

On page 187, the term integrated analysis should be replaced with equivalent analysis action (s. NR 150.20 Wis. Adm. Code) to correctly reflect the process that is being completed as part of the master plan process.

Finally, a futuristic plan should also address climate change and there is no mention of this in the document. Similar to the Central Sands area, groundwater is an important function of the Lower Wisconsin River hydrology. Both areas are vulnerable to Climate Change. The very existence of the spring-fed oxbow ecosystems depends on plentiful clean groundwater.

Climate Change models predict periods of drought with greater severity. Irrigation rates on the sand terrace will increase to provide water for crops on droughty soils. Irrigation will further deplete an essential resource that sustains the oxbow ecosystems.

This would increase environmental stressors on sensitive ecosystems during periods of both high and low river stages. Sufficient groundwater flow to the oxbows is also needed during high river stages when dissolved oxygen concentrations drop to dangerously low levels. The springflow provides a refuge during these periodic stressful periods.

Summary

The master plan provides a template for managing the Riverway. The current draft plan reflects changes in the environmental impact analysis process and it most certainly represents the extensive amount of data on the Riverway that has accumulated over the years.

The plan fails, however, to take a long-term approach to tackling pollution, namely from agricultural runoff. It also fails to address the

current scientific understanding of riverway ecosystems, namely that forests, wetlands, oxbows and sloughs that comprise floodplains do not function as buffers.

Conservation buffers must extend beyond the floodplain onto the river terrace. Failure to address this fact will result in continued water pollution and habitat degradation.

The draft plan correctly states the property provides a mosaic of important and diverse habitats for both common and rare species at a level found in few other locations in the state (page 7).

We could not agree more. We find the description of the Native Community Management Areas, as outlined on page 60, to be encouraging, as these areas would provide a commitment by the state to manage this mosaic of habitats at a landscape scale in the Lower Wisconsin Riverway. This is a rare opportunity in southern Wisconsin, one that should not be lost.