

Crawford Stewardship Project Newsletter

Fall 2013

www.crawfordstewardshipproject.org

Lower Wisconsin State Riverway Board denies frac sand mining permit

By Edie Ehlert

The Lower Wisconsin State Riverway Board voted against the frac sand mine in the Riverway in Bridgeport Township, six against, and two for it on August 22. The board voted for the intent of the law. CSP applauds the board members for their courage, voting in support of the Riverway's mission statement: "to protect and preserve the scenic beauty and natural character of the Lower Wisconsin State Riverway!" It was a difficult decision for all the board mem-

bers, and we thank them for their discussions and research and each of the board members for their thorough review over the last ten months.

This success came from all the individuals and groups who brought their concerns forward. The room was packed. We all worked hard on this. At the meeting, we heard eloquent comments from so many of you, plus the board received an outpouring of comments from citizens prior to the meeting. There were just a few people who contacted the board in favor of the

mine, and just one who did not have a direct involvement in the mine.

Representatives of Friends of the Lower Wisconsin, Bridgeport Concerned Citizens, Richland Stewardship Project, League of Conservation Voters, Cultureworks, Allamakee County Protectors (IA), Ferry Bluff Eagle Council, River Alliance, Community Conservation, Valley Stewardship Network all came forward with comments for the health of the Riverway. The Bagley Village Board President spoke eloquently to the

compromised tourism and the dust that has invaded their Village, located across the Mississippi River from Pattison Sand's Clayton, IA mine and processing facility. I may have missed some group's representation as there were approximately 180 citizens present in support of protection of the Riverway!

After the meeting, a CSP Board member exclaimed, "Just think, the Wisconsin River may be protected all the way from Prairie du Chien to Sauk City due to what happened tonight! HURRAH!"

Bridgeport mining update and legal action

By Edie Ehlert

While the Lower Wisconsin State Riverway Board voted against the Bridgeport land owners frac sand mining proposal in the Riverway, the Bridgeport Town Board and Planning Commission voted for frac sand mining in March, with virtually no conditions in the permit.

About one-third of the mine is located within the Riverway and two-thirds is just outside the Riverway on three properties leased by Pattison Sand. Further, on August 10 the Planning Commission and on August 14 the Board voted that the mine could commence as Pattison has their stormwater and air permits completed with the DNR.

On August 21, Attorney Glenn Reynolds filed a lawsuit on behalf of Crawford Stewardship Project and four Bridgeport plaintiffs against Bridgeport Town's decision. The basis of the lawsuit is that the town failed to follow its zoning, failed to address questions from citizens, put virtually no conditions on the permit, and there are concerns of conflicts of interest with some of the officials who made the decisions. The lawsuit addresses the approximate two-thirds part of the frac sand mine on approximately 200 acres of Bridgeport land, outside the Riverway. At the same time, the plaintiffs requested an administrative hearing from the Town.

On Sept. 18, the Bridgeport Town Board refused to grant the hearing in a vote of 2 to 1. Board Supervisor Rodney Fishler voted for the hearing saying, "The hearing is to answer the people's

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Welcome Forest Jahnke as CSP Co-coordinator



Forest Jahnke

Forest was born in a barn on Dancing Waters Permaculture Cooperative at the headwaters of the West Fork of Knapps Creek, grew up romping around in the hills and bluffs of the Driftless, and then left the area

to obtain a degree in Communications (double-minoring in International Relations/Global Affairs and Spanish) in the hot Florida sun at Eckerd College. After completing his degree and traveling through 26 countries on three continents, Forest decided that he had indeed grown up in paradise, and returned home. He will now be working with Edie and Kathy and our wonderful Board as our new co-coordinator defending our beautiful farms, forests, and waterways from those who would defile them for the sake of a quick buck. Forest hopes to inspire folks to participate in (or at least keep tabs on) their local government and find ways of maintaining some semblance of democracy and local control in an increasingly ravenous and uncaring globalized marketplace.

Forest and co-coordinator Kathy Byrne will be our staff moving forward as Edie Ehlert retires Nov. 1.

Water Monitoring Update



Volunteer water monitor samples Boydtown Creek near the Wauzeka area CAFO.

By Kathy Byrne

It has been an eventful year in our water monitoring efforts. After receiving the Citizen Based Monitoring (CBM) Award for Group Monitoring in April, CSP received \$5,000 from the DNR Citizen Based Monitoring Partnership Program for water quality monitoring around the Boscobel and Bridgeport frac (silica) sand mines. Our efforts will provide valuable data on water quality around these mining activities. We thank the DNR for this grant.

We also continue monitoring the waters around the Roth Feeder Pig, Inc. CAFO near Wauzeka. Through our water sample lab testing we have found ongoing problems with high e-coli and phosphorus levels. Kurt Rasmussen, DNR Water Resources Management Specialist, visited our sites in May 2013 and noted visible signs of high nutrient levels in one of our streams. This Wisconsin River tributary has had consistently high levels of bacteria and phosphorus for the past few years.

Source track testing can determine if the e-coli is from human, cow or pig, however, this testing is expensive and beyond the resources of CSP. The DNR has not shown inter-

est in pursuing this testing due to difficulty in determining culpability. We continue to be in contact with Kurt Rasmussen as well as the county concerning these issues. So far no remedial actions have been taken by the DNR.

In March 2013 this particular tributary also tested high in an unusual antibiotic resistant bacteria. As stated by our DNR certified lab "It is unusual to find motile chloramphenicol resistant bacteria in any sample...but ~>1000/100mL in this one!" We do not currently have any answers about this particular bacteria strain.

We remain vigilant and continue with our monitoring efforts. We are thankful to all of our volunteer monitors who are so dedicated and giving of their time. We couldn't do this work without them!

BRIDGEPORT *Continued from page 1*

questions. They were promised [answers] by the Board."

Attorney Glenn Reynolds and his associates will continue working with the plaintiffs to determine next steps.

Just recently, in response to the concerns from neighbors about dust coming from the mining operation, we learned that Pattison Sand plans to take tanker trucks of water from the Wisconsin River to control the dust when the run-off holding ponds are dry. There is no independent monitoring of that water use.

When operating at full capacity, Pattison Sand "plans" to move an estimated two hundred and fifty 40-ton trucks a day on Highway 60, across the Prairie du Chien Bridge to Pattison Sand and back, for the life of the mine. The DNR general permit for the mine requires a stormwater permit, but with no independent monitoring, and air monitoring was waived by the DNR.

Wauzeka CAFO Update

By Edie Ehlert

The Wauzeka area Roth Feeder Pig CAFO continues to cause air quality distress to the neighbors, particularly in times of fog and downdrafts, and wind direction related. CSP also continues to review the annual Nutrient Management Plans of the CAFO with a soil scientist.

The CAFO received a Notice of Noncompliance (NON) from the DNR on July 25, 2013. "For fields with soil test phosphorus levels of 200 ppm and greater, applications of phosphorus from manure and process wastewater are prohibited unless the permittee receives department approval... your 2013 nutrient management plan update shows that field 4429 500 with a 231 ppm soil test for phosphorus received manure in 2012 and 2013."

The NON goes on to state that "The Department recognizes that Roth Feeder Pig Inc has satisfactorily responded to the nutrient management related noncompliance issues by way of a verbal commitment to avoid manure application on fields with soil test P greater than 220 ppm."

Back in July of 2009, Dr. Byron Shaw, Emeritus Professor, Soil and Water Resources UWSP, brought concerns to the DNR that permitting this operation with too little land and soils already high in phosphorus would potentially damage nearby creeks and ultimately the Wisconsin River. Four years later, manure has been spread on a field twice that is too high in phosphorus. CSP brought this concern to the DNR after review of the NMP with an independent soil scientist.

While we are pleased to see DNR action and Mr. Roth's response, we find phosphorus overload a serious issue, causing damage to our creeks and rivers. A full twenty-eight fields are overdue for soil reanalyzing. Will any of those also be over limits of phosphorus? We'll keep you informed.

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Dust billows from blasting at Pattison Sand Mine at Clayton, IA, as seen from across the Mississippi River. Bagley Village President and residents on the bluffs above Bagley are concerned about the health risks from the fine dust in their homes and yards from Pattison Sand.

Air Monitoring Studies

By Kathy Byrne

Crispin Pierce, Ph.D., Associate Professor/Program Director, Department of Public Health Professions, University of Wisconsin - Eau Claire, and his students have been conducting short term studies since 2011 on the possible health risks of ambient (fugitive) silica dust, a known carcinogen, near sand mining operations.

Even though these studies are only short "snapshots" they do point to reasons for concern.

In August of this year

Dr. Pierce conducted a short three day study around New Auburn School which has 4 mines and processing plants nearby. Air filters from inside the school were sent to the Wisconsin Occupational Health Lab and detectable levels of crystalline silica were found in four of five filters. The filters from 100% outside air had higher levels of silica than those that filtered a com-

ination of outside and recirculated air.

There have been no long term studies and little air monitoring required by the DNR around frac sand mining operations, so questions remain regarding citizen exposure and related health risks. The recent boom in sand mining has outpaced regulations. Never before has Wisconsin seen the

number of frac sand mines and processing facilities, now over 110+, with even more on the way. Sand mines are regulated by the State of Wisconsin the same as local use quarries. It is up to local government to regulate to protect the health, safety and welfare of their citizens. It is unfortunate that many have not. Are people, including children, at risk? It seems no one knows for sure.

**FOR MORE INFORMATION,
VISIT THESE SITES**
www.uwec.edu/CONHS/programs/enph/silica/silicaresearch1.htm
and
people.uwec.edu/piercech/InitialPM.pdf



September 24, 2013 "Frac Sands Conference" Action

By Forest Jahnke

CSP joined in solidarity with roughly 60 activists from across the Driftless region on September 24th in Minneapolis outside the Radisson Hotel to greet the mining companies meeting inside for Industrial Minerals' "Frac Sand Conference" (\$1399 to attend) on how best to extract our sand to fuel their industry. The action, organized by the Rye House, featured drumming, chanting, singing, speeches, a skit on fracking, and to top it all off, we barged in on the building and interrupted the conference, berating the representatives of Halliburton, Hi-Crush, Preferred Sands, and many other bad actors in the industry on their unethical practices. Except for one protester being grabbed and shoved by hotel security, the action was completely peaceful and no arrests were made. The voices of the people were heard loud and clear, and public feedback was largely positive.

Nov. 7 Movie Event

"The Price of Sand"

By Edie Ehlert

Bridgeport Concerned Citizens will cosponsor showing "The Price of Sand" with Crawford Stewardship Project at the Prairie du Chien City Hall at 214 E. Blackhawk Ave. on Thursday, Nov. 7 at 7 pm in the upstairs Community Room.

This documentary is based on the frac sand mining boom here in Wisconsin and Minnesota, where a rapid increase in the demand of silica sand has led to mines opening up at an astounding rate. Jim Tittle, a filmmaker from MN, first became interested in frac sand mining a few years ago when a mine was proposed near his mother's house in Goodhue County, MN. He interviewed people living near existing

mines and started collecting a series of videos, which he put onto YouTube and has had over 56,000 views so far. "The Price of Sand" started from these clips and has grown into a documentary with more stories, from both sides of the issue, that are attempting to take an in-depth look at what really is happening. Jim states, "The goal of this project was to find the real price of frac sand. Not just in dollars, but in friendships, communities and the future of our region."

The evening will include plenty of time for discussion on what we can do in our communities to help prevent/regulate frac sand mines. Donations will be accepted. Hope to see you there!

Life near the rail loading site in Prairie du Chien

Interviews and writing by
Forest Jahnke

"We built this place 51 years ago and we were the only ones in the neighborhood. It was the perfect place to raise children." Ninety-one year old Norma Lochner and her husband Don Lochner virtually glow when they recall the old days on Overview Court. The lot is situated only a block away, just up the hill, from the Mississippi River. Unfortunately, it is also only a few short blocks away from the new Highway

18 bypass and Pattison Sand's loading site in Prairie du Chien. John Lochner, their son, and Katie Garrity, a friend and neighbor, nod and smile thinly for the short time that the blissful reminiscing lasts, but it isn't long before the smiles fade and we begin to discuss how their lives have been affected by the frac sand loading operation that has encroached on their once sleepy little neighborhood.

"When the Highway 18 bypass went in, all of a sudden there was this tremendous vibration, pounding, diesel engines running continuously all night. It shakes my windows, it shakes my bed. It's terrible; and I grew up in Prairie du Chien and I'm used to trains," says Katie grimly. John continues to elaborate. "There were periods, certainly you're not seeing it tonight, but he [Pattison] was running continuously, 24 hours a day. Or

sometimes they'll run hard all night and then stop at seven in the morning, then they're back again at five o'clock in the afternoon just to start it all up again.

completely, then the city administrator told her to get a doctor's note proving it was from the dust. She has a masters degree in geriatric nursing.



DNR Photo of dust while Pattison Sand is loading at the Prairie du Chien rail spur across from homes. Pattison received a Letter of Noncompliance for the dust, but it remains an issue in this Riverfront neighborhood.

At one time he had three loaders going at once, constant sounds of machinery, reverse beeping, four sets of floodlights, sometimes he'd aim them straight up this way. It has continued to progress and now they are building, bringing power lines in, parking their trucks on our streets all the time. It's unacceptable."

And the issues don't end there. The freshly mined silica particles from the fugitive dust (the most dangerous of which can not be seen by the naked eye) are Class 1 carcinogens and can cause silicosis as well as a host of other respiratory problems. Katie Garrity, who has never had issues with nosebleeds before, started getting them every morning early this spring and talked to several neighbors who have similar issues. When she brought her concerns to the city, she was first dismissed

This dismissal and disbelief seems to be the pattern with the many issues brought forward by concerned citizens in the neighborhood. Even the legal issues with the operation get swept under the rug. "Dust is part of the problem," says John Lochner, "but the crux of the issue is that this area is not zoned for this and Pattison's running an industrial operation there. Period."

Katie expands on John's point. "This is zoned riverfront and has ordinances that speak to nuisance, that speak to noise." She goes on to tell me about a neighbor of theirs who had to go to the zoning board to put up a sandwich board for her haircutting business and was required to take it down every night. "Think about that; the contrast is stark."

"Oh, it's also a floodplain." This will become even more of an is-

sue once they put in the planned 66 foot tall 5,000 square foot "temporary" building. According to a conversation Katie had with the Army Corps of Engineers, if the city completely disregards their zoning and allows this building, they may be at risk of losing their FEMA flood insurance.

"We've gone round and round, I've called legislators, the mayor, had multiple conversations with the city administrator, called my alderpeople, I've called the police, who hung up on me." Katie rolls her eyes in exasperation, "The police dispatcher hung up on me at one thirty in the morning and said there is nothing we can do about the noise." They have attended and spoken out at city meetings. They were told to write up and circulate a petition, which they did, submitted, and nothing was done. John Lochner did sound tests with a decibel meter that Katie bought. When the damning results were submitted, Aaron Kramer, the city administrator, questioned John's qualifications and, again, nothing was done.

In late February of this year Marty Sellers from the Wisconsin Department of Natural Resources came down and, upon inspecting the site, found it to be in violation of fugitive dust containment requirements and issued a letter of non-compliance. To this, Pattison responded with a mitigation plan that included shrouds and covers. However, these were never truly implemented. "If you look down there, there is no shroud. They're in a heap over in a corner. They were taped together with duct tape," says Katie with a humorless laugh. "When we kept pressing the issue because of the clear dust issue from the conveyer, Marty Sellers had disappeared. He was reassigned. Then all of the sudden there was a new inspector, John Stoffel, and now the story is:

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‘Oh that’s not dust, it’s steam.’ Are you kidding me, then what’s the powder in my house? What’s in our houses? ‘Well, we can’t speak to that.’”

“The trucks sit there for three or four days sometimes and when they load you can still see the dust.” adds John. “You can’t tell me that’s steam after sitting around all weekend. Plus, if it was steam, when they’re doing this and it’s ten below zero, you’d see huge plumes going everywhere, but you don’t.”

It’s an absurd claim, and yet, in Pattison Sand’s presentation at the last city council meeting when they introduced their plan to put in the new million dollar containment building “to address citizen’s concerns,” the steam claim and John Stoffel’s report was referenced repeatedly. A million dollar building to control... steam? John Lochner thinks this unlikely. “I’d be willing to bet my children’s lives that the purpose is so he doesn’t have to go from truck to railcar every time and he can build a stockpile of sand and he’s got a more efficient operation.”

To John Lochner, the whole discussion of the building is a distraction in the first place. “There’s always an attempt to take the eye off the ball, which is zoning, zoning, zoning.” But Kyle Pattison has all manner of distractions. When issues come up with the city, he has his employees go to the meetings to talk about jobs, as if their jobs would be threatened if the loading site were placed in an industrial zone.

The distractions would seem almost blunderingly benign, if one didn’t know of the intimidation tactics also employed by Pattison. “He’s a very vindictive guy.” says John, and tells me the story of when Pattison was running his trucks through downtown McGregor and how one of the council members was pressuring him to use the bypass and go around, not directly through town. The council member works at a convenience store and Pattison actually called the employer

to try to get this person fired. This pattern has continued as several of the neighborhood residents who signed the petition have had their businesses and employment threatened by Pattison as well. To add to his infamy locally, “the Wall Street Journal came out to do an article, and it has yet to appear, but it was based on him [Pattison] being the largest MSHA [Mining Safety and Health Administration] violator in the country.” John Lochner says the journalist also mentioned that Pattison, “is noted to be the lowest paying sand miner in the area.”

John continues, “The reason he comes over here to load is that he gets a better rate from the WSOR [Wisconsin and Southern Railroad] than he does with Canadian Pacific. That’s the only reason.”

“And there is no added value to the city. None.” adds Katie. “His way of saying there’s tax revenue is that his workers go down to Kwik Trip, or they go down to Hardees... big whoop, those aren’t local businesses, do you think that money stays in Prairie du Chien?”

According to John, “They actually used to load their sand on the north end of the island, which is zoned for industrial, at Dillman’s, and from what I understand, the reason he stopped loading there is that Blair [Dillman] charged him one dollar a ton to use his property. Which makes sense. The reason he’s down here on the riverfront, is that he doesn’t have to pay anybody anything. He doesn’t have to pay property taxes, doesn’t have to pay a fee to any landowner, and he’s expanded significantly in the sense that it’s just become overwhelming noise, light, dust...”

“And if they get what they say they are going to be pulling out of Bridgeport, this is going to be running all the time. All the time. It will never stop.” Katie too trails off. There is silence for a moment before John starts up again, explaining to my uncomprehending mind how, why, this has been allowed to happen.

“What he’s done is he’s said, ‘I have federal preemption from

railroad law, these surface transportation rules, that say I don’t have to abide by any city ordinances and I can do what I want.’ But we’ve never really seen the railroad show up to any city meetings and say they are declaring preemption. Besides, it’s not the railroad loading the sand down there, it’s Kyle Pattison.” And federal exemption does not apply to third parties working with the railroad. “At one time the city did share a document with us that came from the WSOR to Pattison that said, ‘OK, we’ll do business with you, but you’re going to have to obey state and local ordinances and laws.’ And Pattison said that didn’t apply to him because he worked for the railroad.” My confusion must show because Katie jumps in and clarifies that, “he’s not an employee of the railroad.” Now I see. He’s just twisting the facts. “WSOR was to be held harmless for when he wanted to improve and pave for his trucks to enter.” Katie continues, “And they signed it, he signed it. This was to be the ‘smoking gun’ saying he would abide by all these rules. And it went nowhere. Absolutely nowhere.” John has a way of getting right to the point, and exercises that skill again. “It seems very clear to us that this does not fall under

the rules of preemption. What needs to happen is, if they think they have preemption, then they need to go to the Surface Transportation Board, and get a ruling on this case.”

I’m in full agreement. I just don’t see why the City Council, lacking any announcement of preemption by the WSOR or any ruling on whether preemption even applies in this case from the Surface Transportation Board, a legal team, or anyone besides Kyle Pattison, would not enforce their own pre-existing zoning laws. There are no clear answers here. All we know for sure is that the rights of the concerned citizens of this neighborhood are not being protected by their elected representatives while an out of state mining company gets what it wants at every step of the way, even if that is against the law and at the cost of the wellbeing of the local residents. Is this government incompetence? Collusion? Or is it that localities are not even allowed to make decisions for themselves anymore? Whatever the case, only time and effort on many fronts will bring any justice and democracy to the aggrieved riparians of Prairie du Chien. And, unfortunately, while we dig for the truth, they will choke on Pattison’s dust.

Volunteers always needed



Crawford Stewardship Project table at July 2013 Organic Valley Kickapoo Country Fair. Thanks to those who have staffed in the past. Please volunteer to make our voices stronger.

Crawford Stewardship Project
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See page 3 for Movie Event November 7 "The Price of Sand"

Jim Tittle's film will be shown 7:00 pm in Prairie du Chien City Hall Community Room

Benefit concert for a good cause



A lovely evening of folk music with Andy Juhl at the August 17 CSP Benefit at the new Gays Mills Community Building. The late day light coming in the new Gays Mills Community room added to the beauty of the evening, as well as donated flowers from Star Valley.

Legal Funds Needed

Attorney Glenn Reynolds and Associates filed a lawsuit on August 21 on behalf of Crawford Stewardship Project and four Bridgeport citizens against the Town of Bridgeport for the permit issued to Pattison Sand for frac sand mining. The egregious decision ignored questions from citizens, property value concerns, and conflicts of interest of some of the Town officials. No conditions were put on the Conditional Use Permit for this 60+ year permit. Reynolds and Associates bring a wealth of experience in environmental and township law issues.

We are in need of considerable funds for this costly and crucial work! Please send your checks to:

**Crawford Stewardship Project
PO Box 284**

Gays Mills, WI 54631

In the check memo line, include "legal fund"

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Thanks for your support!