



Rock River Water Trail Inventory, Analysis and Plan TRAIL AND CORRIDOR MANAGEMENT REPORT



ROCK RIVER TRAIL INITIATIVE

Rockford, Illinois
Hustisford, Wisconsin

November 2013

Rock River Water Trail Inventory, Analysis and Plan

TRAIL AND CORRIDOR MANAGEMENT REPORT

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1. Background and Approach

1.1 Water Trail Mission

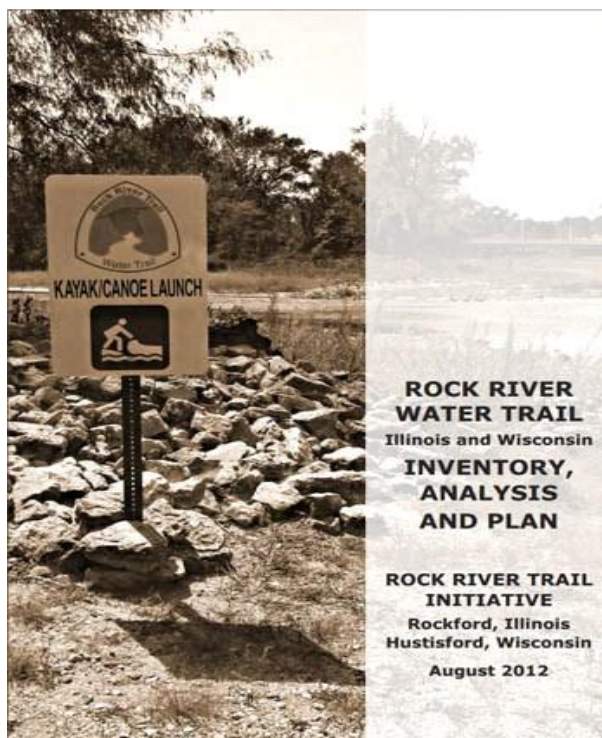
Through public and private partnerships the Rock River Trail Initiative develops, maintains and promotes the Rock River Water Trail to provide enhanced recreational opportunities for all to enjoy paddling, boating, camping and nature viewing, with connections to other recreational trails and to the natural, scenic, historical and cultural assets of the Rock River Valley in Wisconsin and Illinois.

1.2 Purpose

The Rock River Trail Initiative Council, in conjunction with partner organizations, developed the *Rock River Water Trail Inventory, Analysis and Plan*. The water trail plan describes a vision for the water trail and unifies under the registered service mark of ROCK RIVER WATER TRAIL a delineated river path that connects suitable carry-in access sites and boat launches, rest stops, parks, campsites and cultural facilities that enhance the water trail experience. The service mark is registered in Illinois and Wisconsin.



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Although the water trail is complete, improvements are needed in certain river sections. These improvements are part of plans for future work to establish additional access venues to shorten distances between sites, more visible dam safety signage and more accessible and convenient portage pathways. Plans also include additional signage and kiosks for displaying cultural, historical and wayfinding information -- in general, to better connect community resources with water trail users.

The purpose of this Trail and Corridor Management Report is to

- Guide the Council in assessing requirements for long-term implementation of the water trail plan and operation of the water trail,

- Delineate the respective roles of the Council and public and private partners for trail operation and maintenance and
- Provide recommendations to local resource managers regarding trail improvements and enhancements.

1.3 National Water Trails System

March 11, 2013 the Rock River Water Trail was designated into the National Water Trails System by the Secretary of the US Department of the Interior. The trails system is a national network of exemplary water trails that are cooperatively supported and sustained. The system has been established to protect and restore rivers, shorelines and waterways and to increase access to outdoor recreation on shorelines and waterways. The Council's application to the National Park Service for designation of the Rock River Water Trail as a National Water Trail is dated October 22, 2012 and a copy is available.





2. Organization

2.1 Role of the Rock River Trail Initiative Council

The Council is responsible for implementing and sustaining the vision and mission of the water trail. The management approach of the Council requires effective partnerships among local government and non-government organizations and coordination with government agencies. Council members maintain contact with these partners to counsel and advocate for ongoing maintenance and stewardship of the water trail.

The plan recognizes the Rock River Water Trail as a recreational resource for many users in addition to those with paddle craft. The water trail will be sustainable by satisfactorily addressing three competing demands: environmental, economic and social. Ongoing consultations with local officials, resource managers, state and federal planners and water trail users and public engagement will result in better stewardship and improvements to strengthen best management practices of the water trail.

2.2 Role of the Trail Partners

The water trail crosses many jurisdictional boundaries of state and local government. In development of the water trail, the Council established working relationships among the 11 counties and 37 municipalities along the river in Wisconsin and Illinois, with lake management districts and park districts and with state and federal agencies. Over 95 percent of the access sites and camping sites along the water trail are owned and operated by state and local government. Most of the 22 dams are owned by local authorities, although private owners typically operate the hydropower dams. And it is estimated that 10 - 15 % of the river shoreline is owned by municipal park departments, park districts, county forest preserves and state and federal land management agencies.

Therefore, management responsibility for and authority over most water trail facilities resides with government organizations; the remaining facilities are privately owned. The Council works constructively with these entities to implement the water trail plan and operate the trail. The Council does not own riparian land and does not anticipate ownership or operation of any trail facility.

2.3 Coordination with Partners on Development and Maintenance Needs

The Council works with partners to assure minimal facility standards of accessibility and safety are identified and applied. Owners of access sites and dams are encouraged to provide ongoing trail maintenance to assure safe and accessible use and to include recommended water trail improvements in their operational and capital budget plans. The Council also works with partners to include water trail recommendations in comprehensive land use, greenways and outdoor recreation plans and in development plans for private facilities.

At this time the Council has not found that formal agreements are a necessary part of trail maintenance due to demonstrated support by public and private partners. A Council

member is designated in each county to facilitate coordination among governmental jurisdictions, user groups and other stakeholders.

The Council may recommend to owners various development proposals to upgrade existing facilities and establish new facilities. The Council may file grant applications on its own or partner on joint applications to fund development and maintenance projects.

3. Facility Development

3.1 Needs Assessment

3.1.1 Recommendations for River Sections and Access Sites

To prepare the water trail plan Council members assessed stream and channel conditions, obstacles and hazards, landscapes, access sites and development along the length of the river. Comprehensive parks and outdoor recreation plans and greenways plans prepared by states, counties and municipalities were reviewed.

Long segments of the trail exist without suitable sites for put in, rest and carry out, especially in Dodge, Henry and Jefferson Counties. A metric of 4 - 6 miles was used as the recommended maximum distance between access sites. River segments with inter-site distances in excess of the maximum value were evaluated for locations of potential development of new access sites.

Other facility and trail improvements and enhancements are also detailed in the list of recommendations for the eleven river sections as given in Appendix A.

3.1.2 Dams and Portages - Current Conditions and Needs

A dam safety checklist was developed by the Council and used to evaluate existing portage infrastructure, safety and user convenience at each of the dams. Most of the dams require some enhancement of infrastructure and signage to improve portage use and safety. Results of the evaluation are given in Appendix C.

3.1.3 Current Signage at Access Sites and Dams

Initial installation of water trail signage occurred during summer of 2012. Council members are responsible for working with owners of access sites and dams to complete sign installation, maintain appropriate signage and make recommendations to meet future needs for signage and wayfinding.

3.1.4 Camping Facilities

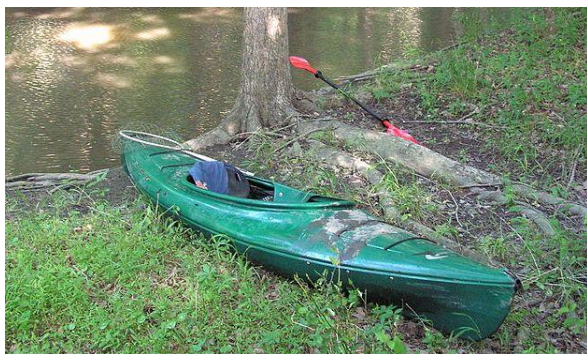
There is a variety of public and private camping facilities in the river corridor, including newly developed Rock River Trail primitive campsites on the river. The Rock River Trail website has an inventory of campsites arranged by county along with contact information and links to the respective websites. There is need for additional primitive and low-maintenance river campsites in certain sections of the water trail as identified in Appendix A.



3.2 Facility Design Guidelines and Standards

Development plans for access sites and water trail facilities should define consistent standards for trail improvements, such as location and spacing of access sites, access and portage facilities, river campsites and rest areas. However, due to the varied paddling experiences and environments along the river (Gateway to Challenge and Urban to Wilderness), standards need to reflect the diversity of the water trail and diverse interests and capabilities of paddlers.

Standards should serve as guidelines for design and development of facilities and be adapted to local site conditions, whether planning a new site or considering enhancements and improvements to existing sites. For example, minimal facility design standards for wilderness segments of the trail, such as the Horicon Marsh in Dodge County, would be suitable.



However, more detailed standards for developed facilities would be appropriate in high-use urban settings where paddlers generally look for convenience and proximity of facilities.



Minimal standards include a clean, safe and accessible site along the river bank for carry-in launch and take-out, along with appropriate signage visible from land and from the water.

More extensive standards address needs for trailered boat launch, dock facilities, parking, disabled accessibility and amenities such as shelter, water and restroom. The unique characteristics of a particular site may require special consideration regarding launch use and design. Development of any access site should involve local officials and experts who can provide information on zoning and land use questions, hydrology and stream dynamics, riparian ecology and construction requirements.

Logical Lasting Launches, a 2004 publication of the National Park Service, offers guidance in designing canoe and kayak launches for a variety of access sites. Descriptions, designs, and photos of launches are provided with focus on the point of entry onto the water.

Another valuable reference for facility design guidelines is Chapter 3 Design Development in *Developing Water Trails in Iowa*, a 2010 publication of the Iowa Department of Natural Resources. Where feasible, new access sites should incorporate sustainability principles and universal launch design.

Accessibility to paddlers with disabilities must be considered in facility design. The 1990 Americans with Disabilities Act (ADA) requires that “new construction and alterations of facilities [which include canoe and kayak launch facilities] are readily accessible to and usable by individuals with disabilities.” Standards applied to boating and other recreation facilities may be found in the ADA Accessibility Guidelines (ADAAG) issued in 2002. These guidelines are not limited to federally-funded facilities - they apply to all public recreation facilities. (National Park Service, 2004)



Over 30 percent of the 155 access sites on the Rock River Water Trail are currently accessible to persons with disabilities.

Chapter ten of *Logical Lasting Launches* discusses designs for portages around dams. Signage is crucial to make a portage visible to paddlers and to inform paddlers about potential hazards on the water. Regardless of their visibility from the water, portages should be clearly marked in order to provide paddlers with sufficient time to reach the shore and take out. Essential safety information at hydropower dams may be found in Federal Energy Regulatory Commission (FERC) *Guidelines for Public Safety at Hydropower Projects*, available online at:

[http://www.ferc.gov/industries/hydropower/safety/signage/Appendix_B/FERC%20Safety%20Guidelines%201992%20\(web%20version\).pdf](http://www.ferc.gov/industries/hydropower/safety/signage/Appendix_B/FERC%20Safety%20Guidelines%201992%20(web%20version).pdf).

Openlands developed a checklist for water trail launch site facilities. Although not every launch site will have all of these facilities, the checklist is a good reference when planning a new site or upgrading an existing site.

- **Accessibility** - to streets, highways and public transportation. Links to other trails and/or greenways would be a plus. Public recreation facilities must also be accessible to disabled users where practicable.
- **Boat racks and equipment storage** - Short term storage. A safe place to lock your boat while you shuttle/hike on the trail.
- **Camping area** - Many water trails around the country feature access to camping on islands or in remote areas or in areas inaccessible by road or foot trails. Siting launch sites in or near existing camping areas allows longer through travel on the waterway.
- **Landscaping** - grasses, shrubs, trees, flowers, etc.
- **Lighting** - parking, walkways, unloading area, stairs and dock or ramp.
- **Launch** - beach, dock or ramp. Clearly identified from both land and water.
- **Parking** - free, 24 hour access, adequate for site, handicap spaces, and reasonable walking distance to ramp.
- **Picnic area** - lawn, beaches, picnic tables, grills shelter.
- **Playground** - because not every family member wants to or is able to kayak/canoe, playgrounds are good places to recreate while waiting at the take-out, making family outings possible.
- **Signage** - Examples: signs that identify the water trail from the land and the water, locating and directing traffic to the entrance of the site, signs identifying parking, phone and unloading areas.
- **Security** - fencing, lighting, public phones, emergency phone.
- **On-site Access** - Stairs, walkways and paths.
- **Swimming area** - where the waterway is clean and safe. Many beaches on larger lakes have areas where swimmers are not allowed that would make excellent launch sites.
- **Toilets** - standard flush toilets, port-a-potties, or composting toilets.
- **Unloading area for boats** - separate from parking, near launch, dock or ramp.
- **Waste disposal** - Carry-in/Carry-out or supply containers large enough to dump garbage collected along the water trail.
- **Water** - drinking fountains, faucets for filling tanks and canteens, washing.

List adapted from Openlands, Chicago, Ill.

3.3 Signage

3.3.1 Unifying Design Element and Marking

Waterway and roadside signage for access, hazards and portages is intended to assist users in identifying water trail components. Signage for the water trail incorporates the logo of the *Rock River Water Trail* as the unifying design element. Marking signage with the water trail logo provides a consistent appearance of signs from trailhead to river mouth to increase public awareness of the trail, to direct users, to identify access sites and to indicate dams and hazards.



In planning the type of signage and method of installation at access sites and facilities, the Council needs to consider whether the water trail signs will be integrated with existing signage of the municipality or whether the signs will be unique to the site with no other signage present. In the former case, the water trail logo sign may be sufficient when used in conjunction with other facility, instructional and wayfinding signage. In the case of new access sites, installation should include the logo sign with a universal facility icon sign and other instructional signs as may be required.

Signs should be individually assessed for design and placement to maximize visibility and safety. Portage and dam signage should be located far enough upstream to give the paddler clear warning and sufficient time to navigate safely to the take-out. Put-in signs should be located downstream a safe distance from the spillway.

3.3.2 Types and Sizes of Signage

The size of trail signs will vary depending on the width of the river channel and location of signage. The Council is currently using three general types of signs for marking access sites, portage routes and dam warning.

- Water trail logo in 12-inch square and 18-inch square sizes

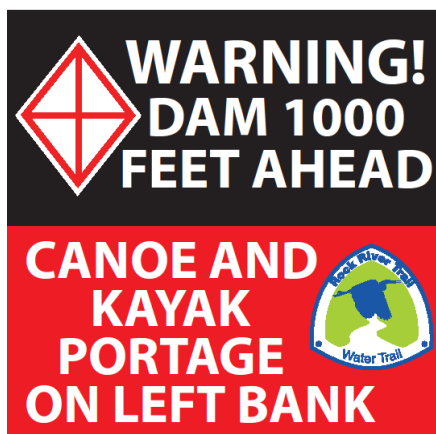


- Water trail logo with a universal facility (recreation) icon in 18" x 30" and 24" x 36" sizes.

Facility icons include: boat launch, canoe/kayak launch, portage and camping.



- Large 36" x 36", 48" x 48" and 48" x 96" dam ahead warning signs (with distance to dam in feet and portage information) and danger dam signs (with directional arrow for portage location) .





3.3.3 Signage Considerations

The Council has permission of the National Park Service to use the logo of the National Water Trails System with the Rock River Water Trail. The permission is specifically for this purpose -- it is not transferable. The NWTS logo can only be used for educational and promotional purposes; it cannot be used on items that will be sold for profit or on undesignated water trails. For further information contact NWTS@nps.gov.



The Signage Design & Placement Committee of the Council recommended that sign installation incorporate wherever possible the following elements.

- Road Sign identifying a river access site visible from the highway, road, street or parking lot to direct the motorist to the site for carry-in access or boat launch (often with a separate facility icon sign or incorporated within one vertical sign including both logo and icon)
- Water Sign identifying a river access site visible from the water to guide the paddler safely to the site
- Bridge Sign on or near bridges crossing the river to provide geographic orientation to the paddler on the river
- Portage Sign on the river to identify portage locations for take out and put in
- Warning Sign for dams and other hazards
- Directional arrows may also be needed at certain locations

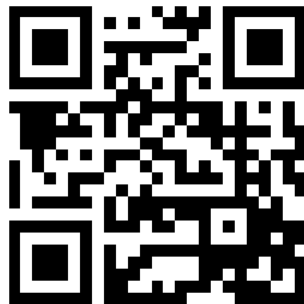
Universal Facility Icons to be used with logo signs where needed

- Boat Launch
- Canoe & Kayak Launch
- Portage
- Camping

Other signage elements that might be considered by the Council in the future.

- At Launch Site
 - Water Trail Map Signs (with emergency phone numbers and other contact information)
 - Water Trail Ethics and Etiquette Signs
 - Bulletin Boards/Kiosks
- Interpretive Signs (at trail heads and major access sites)
- Recreational Tourist-Oriented Directional Signs (Wayfinding)
- QR (Quick Response) Code decal on signs for smart phone access to the website

Adapted from Clarion River Access Improvement and Sign Plan, 2011



QR Code for
www.Rockrivertrail.com

American Rivers suggests that the most effective signage should embrace the principle of less is best. Usually a few signs are more effective than many and they should be designed to achieve objectives in an unobtrusive manner. Prioritization for signage installation is suggested as:

- Signs required for user safety

- Restrictions and advisory signs
- Destination and identification signs
- Interpretative signs

A number of on-line references are available that illustrate sign graphics and installation methods, and assist in determining the appropriate sign dimensions for specific locations and width of river channel.

4. Water Trail and Facility Maintenance

4.1 Maintenance Needs

In order to assure the long-term success of the water trail, a commitment is necessary for routine maintenance and operation of trail facilities. This includes maintenance and upkeep of boat launches, carry-in access sites, dam portages and site amenities.

Over 95 percent of the access sites and camping sites along the water trail are owned and operated by state and local government, which are responsible for facility maintenance. Maintenance of private launch facilities and campgrounds are the responsibility of the individual owners. State and federal licenses for dam operation require the owner/operator and municipality to maintain safe conditions. Certain maintenance activities such as clearing of tree blockages and debris require participation by individuals and private organizations.



The Council is working with county and municipal partners, local paddling groups, the Rock River Sweep and River Action Inc., on water trail and facility maintenance and river cleanup.

4.2 Maintenance Guidelines

Maintenance of water trail facilities is generally the responsibility of each governmental jurisdiction and private owner along the river. Maintenance guidelines provide for a clean, safe and accessible site along the river bank, with signage in good condition and any improvements such as boat ramps, docks and amenities in proper working order.

Vandalism causes damage to and loss of facilities and signage, requiring funds for repair and replacement.

Trash and debris at access sites and along the water trail are unsightly, detract from the enjoyment of the important natural and recreational resource and can create unsafe conditions for paddlers and wildlife.

Water quality of the river is continuously threatened by polluted non-point runoff and point source pollution. Helping to increase public education and awareness of water quality issues and cooperation with state and federal agencies on pollution control are roles the Council can assume as one of the objectives of the Rock River Trail Initiative.

The Council has opportunities to cooperate with municipalities and paddling groups to help perform these maintenance functions.

4.3 Site Conditions - Monitor and Assess

Council members in each county are responsible to visit access sites and dams at least once during the summer season to check conditions of the facility and signage, and report findings to the appropriate partner and facility owner.

5. Development and Maintenance Priorities and Funding

5.1 Development and Maintenance Priorities

The *Rock River Water Trail Inventory, Analysis and Plan* provides a framework for identifying suitable carry-in access sites and boat launches, portage infrastructure, parks, campsites and cultural facilities that enhance the water trail experience. Improvements are needed in certain river sections. These improvements will be part of plans for future work in conjunction with facility owners to establish additional access venues to shorten distances between sites, more visible dam safety signage and more accessible and convenient portage pathways. Plans may also include additional signage and kiosks for displaying cultural, historical and wayfinding information.

Priorities include:

- Safe and convenient access to the water trail
- Safe portage infrastructure and wayfinding at dams
- Clearing of tree blockages and debris
- Maps and wayfinding information
- Camping and rest areas
- Maintenance of facilities
- Shuttling back upstream
- River level reporting
- Website information
- Conflict with motorboats

5.2 Funding Approach

In most cases funding for new development, improvements and enhancements of water trail facilities and for maintenance will be the responsibility of the owner, whether public or private facility. The Council may have need to raise additional funds to supplement direct expenditures by the facility owner.

The Council endeavors to raise funds to support the water trail through sponsorship, contributions and grants. The current priority hierarchy for funds is: Signage; Promotion, Marketing and Education; and, Enhancement of River Access Sites, Camping and Portages.

6. Water Trail Connections to other Recreational Trails within the Corridor

The Rock River corridor includes other water trails on tributary streams and a number of hiking, biking and equestrian trails, many of which are listed in the *Rock River Water Trail Inventory, Analysis and Plan*. Many of the river communities have developed riverfront walks and parks with urban paths for pedestrians and bicyclists. To develop and manage the water trail and corridor as a recreation destination, it is important that the Council establish recreational trail connections with the water trail wherever possible. The Rock River Trail website includes an inventory by county of biking and hiking trails and other routes of interest.

In conjunction with the Wisconsin and Illinois departments of transportation and the legislatures of both states, the Council has established the Rock River Trail Scenic and Historic Route, a motorized road route along the river through both states to provide the traveler with access to the scenic beauty, natural resources, recreational opportunities, and historic and cultural assets of the river corridor. The Council is also working with partners to establish the Rock River Trail Bike Route on off-road trails with on-road connecting segments along the river through both states.

Promotion and marketing of the Rock River Water Trail will be enhanced by these trail connections, which will give meaning to the taglines "The Rock River Trail Initiative - A River of Opportunities for All Interests!" and "Drive it. Hike it. Bike it. Kayak it. Canoe it."



7. Recreational Liability Issues

The Council investigated possible implications of providing water trail access signage and safety signage at dams and portages and potential liability issues. Inquires were made of the Illinois and Wisconsin departments of natural resources, and state statutes regarding recreational liability were reviewed. Our current understanding follows.

(1) Ownership of river access sites, dams and portages and the river itself resides with the municipalities, private owners and the states; the Council does not own property. In the event of damage, injury or death to a paddler on the Rock River Water Trail, any liability to the land owner would generally be quenched by the recreational immunity section in Wisconsin or covered by either municipal immunity or general liability insurance held by the municipality or property owners. Liability would not appear to extend to the Council. This, of course, assumes no negligence on the part of the owner or willful disregard to notify the recreating public of unsafe conditions. (This also assumes the Council conducts proper

due diligence and does not promote unsafe recreational conditions in the water trail plan, on its website, brochures, etc.)

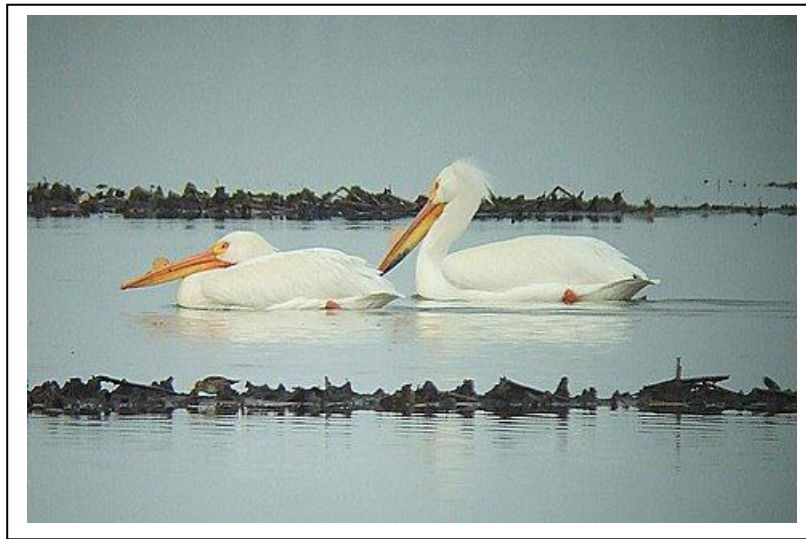
(2) The Council is providing signage to municipalities, private owners and the states for installation on their river access sites and other property (in the case of dam warning signs). The primary responsibility lies with the property owners and the Council has the owners' agreement to erect signs. At a previous Council meeting a suggestion was made "... that the RRTI Council provide recommendations and guidelines to help promote continuity of signage, access infrastructure and operation across communities, rather than ownership and installation of signage by the Council." The suggestion appears to be a good one.

(3) If a group such as the Girl Scouts, for example, were to organize a paddling event on the Rock River Water Trail and a participant were to be injured, the organizing group could face a tort lawsuit alleging failure to provide safe conditions for participants. However, extension of any liability to the state (capsizing on the river), municipality (injured at the PITO) or the Council for having provided water trail signage appears to be nonexistent (based on this information at least). Presumably, the Girl Scout troop would have general liability insurance to cover such an unfortunate occurrence (and why it likely requires a liability waiver from participants).

(4) Any liability exposure to the Council regarding signage for dam warning and portage appears to be nil, assuming the signage complies with applicable state and federal regulations. As long as the Council works with municipalities and dam owners to install appropriate portage wayfinding and dam warning signs, there should be no exposure. The Council must ensure that the signage does not include any false or misleading information that might be construed as contributory negligence in the event of an accident.

(5) The Council is not currently promoting and organizing any paddling event. If this should change, the Council is advised to review this issue again to be sure that it has adequate insurance coverage.

Appendix B includes two memoranda summarizing information from the two agencies and relevant Illinois and Wisconsin statutory references.



8. References

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9. Appendices

Appendix A. Recommendations for River Sections and Access Sites

Northern Water Trail Section A 7 Miles (Fond du Lac and Dodge Counties)

1. Enhancement of existing access sites to facilitate canoeing in the City of Waupun.

2. Establish an information kiosk at trail head in Waupun County Park or at Harris Mill Park.
3. Establish infrastructure at Pine Street Park and Waupun Dam portage to accommodate trail users.
4. Evaluate safety of low-head weir at Tanner Park and consider removal.
5. Establish take out at Wild Goose State Trail Bridge or preferably at end of East Waupun Road within boundary of the Horicon National Wildlife Refuge. Discuss preferred option with US Fish & Wildlife Service management.

East Branch through Horicon Marsh to Horicon Section B 30 Miles (Dodge County)

1. Establish safe portage around low-head dam near Rock River frontage parcels and Theresa village park.
2. In conjunction with Dodge County and Townships of Theresa and Williamstown establish a program to monitor and clear tree falls that hinder navigation on the river.
3. Establish an information kiosk at landing in Rivers Edge Park, Theresa.
4. Establish a carry-in access site midway between Theresa and Mayville in conjunction with town and county officials.
5. Enhance dam portages and access sites to facilitate canoeing in Mayville.
6. Integrate take-out access and boat launch on Kekoskee mill pond with portage route to village park downstream.
7. Establish safe portage around Horicon Dam with city and WDNR officials to facilitate canoeing in Horicon.

Horicon to Hustisford to Watertown Section C 53 Miles (Dodge and Jefferson Counties)

1. In conjunction with Dodge County and Townships of Hustisford and Lebanon establish a program to monitor and clear tree falls that hinder navigation on the river from STH 60 to CTH CW.
2. Promote a paddling route through the Village of Hustisford along the Rock River and Lake Sinissippi.
3. Construct a boat launch in village park downstream of Hustisford Dam.
4. Establish at least one carry-in access or boat launch mid-way between Lion's Park, Hustisford, and Harnischfeger Park in Lebanon Township, a distance of 17 miles. Potential sites are Elmwood Road crossing, Davidson Road crossing, CTH MM road crossing and Monroe Road on county-owned land.
5. Support county efforts to develop carry-in picnic and camping area on county land at Monroe Road as a satellite facility for Harnischfeger Park.

6. In cooperation with Jefferson County and the Town of Ixonia establish a carry-in access site midway between STH 16 Wayside and CTH P, a distance of about 10 miles. Potential sites are at CTH F road crossing and Rockvale Road crossing.
7. Support efforts by Jefferson County to acquire land for a county park with river launch, parking, camping, rest rooms and drinking water at the confluence of the Rock and Oconomowoc Rivers, Pipersville Drumlin, Town of Ixonia.
8. In conjunction with Jefferson County establish a program to monitor and clear tree falls that hinder navigation on the river.
9. Enhance infrastructure and signage for safe portages around Upper and Lower Watertown Dams.
10. Support efforts by the City of Watertown to extend and develop the riverwalk system to connect activity centers on both sides of the Rock River and provide direct access to the river.
11. Mark Boomer's Dam in Watertown for safe passage.

Watertown to Jefferson Section D 22 Miles (Jefferson County)

1. In cooperation with Jefferson County and the City of Watertown develop an access site with parking and limited facilities downstream of the Lower Dam in Watertown.
2. Support county efforts to develop an access site with parking and limited facilities on the Rock River between Watertown and Johnson Creek, potentially in the Hahn's Lake area.
3. Support efforts by Johnson Creek to develop a park in the Resort Drive neighborhood with a launch on the river.
4. Develop Lubahn Park with pier and water trail amenities.
5. Improve boat launch at Candise Street.
6. Enhance portage infrastructure and signage at Milwaukee Street Dam and water trail amenities at Rotary Park in Jefferson.

Jefferson to Fort Atkinson to Indianford Section E 26 Miles (Jefferson, Dane and Rock Counties)

1. Support efforts by Jefferson County to develop an access site with parking and limited facilities on the river between Jefferson and Fort Atkinson, potentially on the west side of the river on CTH K near the river island owned by the US Bureau of Land Management.
2. Improve an access site at the mouth of the river and Lake Koshkonong with parking and limited facilities.
3. Support Rock County efforts for further development at Indianford Park, including shoreland restoration, installing pit toilets (currently portable), screen existing dumpster, pave and line parking lots, add a picnic shelter and improve the canoe launch.

4. Establish educational kiosks at key access sites.
5. Support county efforts to acquire land for a county park with camping on Lake Koshkonong.
6. In conjunction with Town of Koshkonong develop boat slips on lagoon off of Blackhawk Island Road where boats can tie up outside of the river channel.
7. Work with WDNR to improve access at Old Hwy 106 Bridge.
8. Support efforts by Dane County to acquire lands that provide public access for parking and canoe/kayak launching to navigable waterways. Construct small gravel parking lots and trailhead facilities.
9. Support efforts by the City of Edgerton to establish a hike and bike trail from the city southwest along CTH F to connect with the Rock River at Indianford for carry-in access to the river.

Indianford to Janesville to Beloit Section F 29 Miles (Rock County)

1. Support efforts by the City of Beloit to construct a public boathouse for non-motorized boats on the Rock River at Riverside Park near the Portland Avenue Bridge. The boathouse would offer public rental of paddle craft and house equipment for the Beloit College rowing team.
2. Support Rock County efforts for further development at Happy Hollow Park, including upgrading the trail system, adding a shelter and providing ADA access to park elements and land restoration efforts.
3. Support Rock County efforts to seek out funding partnerships and acquire needed easements within river corridor to complete missing or incomplete off-road trail sections running from north of Janesville to the Illinois state line.
4. Support efforts by the City of Beloit to create a riverwalk trail node at the corner of State Street and Public Avenue to provide information along the trail network and connect with the area's attractions and history.
5. Support efforts by the City of Beloit to enhance river access, fishing pier and trails at Reverend US Pride Park.
6. Work with Town of Fulton to improve future outdoor recreation areas, including public access to the Rock River. Establish carry-in access or boat launch on CTH H.
7. Support efforts by the City of Janesville to options for restoration of the Monterey Dam. Removal of the dam may be explored. Waterway rehabilitation measures will emphasize public safety and enhancement of recreational waterfront opportunities such as fishing, nature observation and paddling.
8. Support efforts by the City of Janesville to evaluate alternatives to the current river walls within the urban core. Alternatives will focus on improving water quality and aquatic habitat, and

creating a more inviting and welcoming atmosphere along the river through improved public access.

9. Support efforts by the City of Janesville to develop a Rock River Committee to evaluate river opportunities.

Beloit to Rockford Section G 27 Miles (Rock and Winnebago Counties)

1. Support efforts by City of South Beloit in establishing a new city park and kayak and canoe access at the confluence of Turtle Creek and the Rock River.
2. Improve portage at Rockton Spillway dam.
3. Support creation of a kayak and canoe dock at the Riverwalk/Discovery Center.
4. Support City of Rockford's plans to create a new canoe and kayak portage and access at the Fordham Dam.

Rockford to Oregon Section H 27 Miles (Winnebago and Ogle Counties)

1. Support creation of new canoe and kayak access at Blackhawk Island if and when the city condemns the properties.
2. The Rock River is identified as a potential canoe trail in the Oregon Park District plan, which has been realized. The river is the backbone of the Ogle County greenways plan and links numerous tributary stream corridors and upland forest areas.
3. Encourage development and conservation of greenways that contain multiple resources, especially those that incorporate water-related resources within riparian corridors.
4. Preserve and restore native vegetation and natural drainage and hydrology within greenways and on stream banks; discourage, control and remove invasive species.
5. Establish along the Rock River corridor an important and attractive trail loop (Rock River Trail Loop) between the southern and northern legs of the Grand Illinois Trail system.

Oregon to Dixon to Sterling-Rock Falls Section I 35 Miles (Ogle, Lee and Whiteside Counties)

1. Encourage use of best management practices on lands adjacent to greenways to prevent sediment, nutrients and hazardous or toxic chemicals from adversely impacting sensitive greenway resources.
2. Encourage design and development of greenway and trail access facilities that increase the enjoyment of persons with disabilities, senior citizens and children.
3. Encourage public access throughout the greenway network. Coordinate access facility design standards, signage, etc among local greenway and trail managers.

4. Link regional trails with the regional trail systems of neighboring counties and with the Grand Illinois Trail system.
5. Coordinate the development and implementation of a paddling trail information system with signs, route maps and hazard warning covering all put-in and take-out point on the Rock River.

Sterling-Rock Falls to Prophetstown to Erie Section J 36 Miles (Whiteside County)

1. Support efforts by the City of Sterling to refine and implement recommendations of the Downtown Riverfront Redevelopment Plan to provide public accessibility to the riverfront, enhance Lawrence Park and capitalize on opportunities for recreational tourism on the Rock River.
2. Support efforts by the City of Rock Falls to secure grant funding for riverfront development.
3. Encourage improvements at Lower Dam to enhance portage safety and dam warning measures.
3. Encourage efforts by the Village of Lyndon to develop infrastructure for paddling rest area at the historic Lyndon Bridge.
4. Encourage development of trail connections through Sterling-Rock Falls with the Hennepin Feeder Canal and Rock River Trail Loop of the Grand Illinois Trail.

Erie to Colona to Quad Cities Section K 38 Miles (Whiteside, Henry and Rock Island Counties)

1. In conjunction with municipalities and state agencies, identify potential locations for additional river access and primitive camping facilities.
1. Encourage efforts by Colona Park District (Henry County) to define long-range plans for development of river land into recreational use and access.
2. Encourage efforts by Geneseo Park District (Henry County) to define long-range plans for development of river land into recreational use and access.
3. The Rock River is a regional active and passive greenway priority for Henry and rural Rock Island counties. The river corridor is designated for a variety of popular active recreational opportunities including boating, paddling, fishing, biking, hiking and motor touring. Many quality wetlands are located along the corridor and serve as significant habitat for a variety of wildlife. Thus, areas in this greenway are preserve for passive uses.
4. The Rock River is one of the active greenways in the Illinois Quad Cities. The river corridor is actively utilized for recreational boating, water skiing, fishing and paddling, as well as bicycling and hiking on the Kiwanis Trail along the north shore. Many wetlands are located in the corridor, serving as significant habitat for wildlife and plant species.
5. Facilities at Ben Williamson Park, City of Rock Island, may need to be brought into compliance

with the Americans with Disabilities Act.

6. Enhanced paddle craft access may be needed at the boat launch of Ben Williamson Park and the launch area of Sunset Park.
7. Enhance portage infrastructure at the Milan Steel Dam.
8. Support efforts to maintain Pettifer Slough as open water to connect the Rock River with Lake Potter and Sunset Park and Marina.
9. Establish an information kiosk at the trail head in Sunset Park.



Appendix B Memoranda Regarding Recreational Liability Issues

Memo: Rock River Trail Initiative Council
 Re: Recreational Liability – Dam Warning Signage and Portages – Wisconsin and Illinois
 From: Greg Farnham
 Date: December 6, 2012

WISCONSIN

I recently spoke with Bill Sturtevant, WDNR dam safety engineer, about warning signage at dams and requirements of dam owners to provide safe and suitable portages. In particular I was interested in Bill's view whether any liability might attach to the RRTI Council as a consequence of its efforts to provide warning signs at the dams on the Rock River Water Trail.

Wisconsin regulations are set forth in Administrative Code NR 330, Warning Signs and Portages for Dams.

Dam Warning Signs

Wisconsin law requires dam owners to place warning signs to advise boaters of a dam. The signs can be mounted on the dam structure itself or upstream and must be visible from the water a minimum of 300 feet upstream of the dam. WDNR may also require safety devices, e.g. buoy marker lines, to provide warning to boaters.

Signs must conform to the requirements of s. NR 330.05 and s. NR 5.09, Uniform aids to navigation, in NR 5, Boat Rules and Registration. Section NR 5.09 requires authorization by a political subdivision before any waterway marker may be placed on, in or near waters of the state.

According to Bill, as long as we have permission of the municipality and property owner to install dam warning signage, then there should be no liability residing with the RRTI Council. This, of course, assumes that the signage conforms to regulations and that it does not contain false or misleading information that might be construed as contributory negligence in the event of a problem. It is preferable that the municipality or owner effect the actual installation.

This conforms to the recommendations we received regarding signage of river access sites and facilities; namely, that we work with the municipalities and private owners of the sites and secure their permission for installation of signs. Municipalities have civil immunity and private owners in Wisconsin are generally protected by ss. 895.52 and 895.525, the recreational immunity and risk sections (again, assuming no willful misconduct or failure to disclose unsafe conditions).

Dam Portages

Chapter NR 330 also includes requirements of dam owners to provide portage.

Section NR 330.04(1)(b) says

"A portage shall be a clear access route around a dam and its appurtenances, on which a boat and supplies can be carried without unreasonable obstruction, danger or difficulty. Portages shall be of the shortest reasonable distance considering topography, safety, location of buildings and obstructions and protection of dam embankments from erosion.

Bill recommended that if the RRTI Council has questions regarding the suitability of a portage route or has ideas for enhancement of the portage infrastructure, we first discuss our concerns and ideas with the dam owner and the municipality. If there is an intractable issue, then we can request the WDNR to evaluate the situation. Bill said that usually a WDNR conservation warden who is designated as the county's boating safety inspector will investigate the matter and render an opinion as to the adequacy of an existing portage.

ILLINOIS

I spoke with Jason Campbell, IDNR permit engineer, about state requirements for dam portages. According to Jason, Illinois **does not** have a requirement that a dam owner must provide safe and suitable portage for boaters on a waterway.

[Apparently this basis is grounded in historical currents at the time the Illinois constitution was drafted. The originators were predominately farmers whose interests were private property of agricultural lands including access to surface waters. Navigability on public streams was only narrowly defined. Wisconsin, on the other hand, had logging companies as early settlers whose interests were to maintain surface waters as free and accessible transportation corridors; hence the requirement for a portage at each dam.]

So, we have a much different situation in Illinois. The RRTI Council needs to work cooperatively and persuasively with dam owners and owners of embankments to enhance portage infrastructure - there is no requirement that a portage even be provided.

Jason recommended that I speak with Rick Gosch, IDNR water resources, about any requirements for dam warning signage. I've copied below an email response I received from Rick on December 3rd.

Public Act 95-0020 became effective on August 2, 2007. This law directed the Illinois Department of Natural Resources to "establish specifications for signs and devices that provide warnings of the presence of dams for persons using the public waters of the State." The act also authorized the Department of Natural Resources "to designate enforceable exclusion zones around dams pursuant to administrative rule." Between the time that Public Act 95-0020 became effective and 12/15/09 the Illinois Department of Natural Resources developed a set of sign specifications and exclusion zones as directed by Public Act 95-0020. This signs and exclusion zones were submitted to the Joint Committee on Administrative Rules (JCAR) for approval and JCAR rejected the proposed administrative rules on 12/15/09. I have not been directed to prepare a new draft administrative rule for implementation of Public Act 95-0020. The result of all these actions is that there is a public law that directs IDNR to establish a set of warning signs and exclusion zones but the signs and exclusion zones were rejected by JCAR (which is a sub-set of the Illinois Legislature). IDNR does not have any standards for warning signs at dams as of right now and there is no movement or efforts right now to try to develop a set of standards that JCAR might approve.

The conclusion of Rick's comments is given in the last sentence: "IDNR does not have any standards for warning signs at dams as of right now and there is no movement or efforts right now to try to develop a set of standards that JCAR might approve."

So, in general, there are no requirements currently in effect regarding dam portages and/or dam warning signage for Illinois rivers.

Subsequently I spoke with Brad Winters, also of IDNR water resources, about the signage issue. He said that IDNR is currently installing "Dam Keep Back" signs on state-owned dams. He indicated that IDNR would like to work with the Illinois Paddling Council and other interested persons to draft rule making for dam warnings and safety measures that would be acceptable to users and JCAR. This may be a future activity for RRTI Council.

Bottom line for the recreational liability issue in Illinois is that there is no requirement for dam warning or portage signage. As long as the RRTI Council works with municipalities and dam owners to install appropriate portage wayfinding and dam warning signs, there should be no exposure to RRTI. We just have to make sure that the signage does not include any false or misleading information that might be construed as contributory negligence in the event of an accident.

CONCLUSION

In my view any liability exposure to the RRTI Council regarding signage for dam warning and portage is nil. A long as we work constructively with property owners and local authorities, then we may continue on our current track and install signage at access sites and portages and work with dam owners and municipalities to install dam warning signs as needed.

Memo: Rock River Trail Initiative Council
 Re: Recreational Liability
 Date: November 16, 2012

At the Dixon, Ill., meeting of the Council on October 12th a discussion point was the potential implications of RRTI providing safety signage (and water trail access signage in general) and liability issues.

Joe Nehmer did some checking into the recreational immunity provisions in the Wisconsin statutes. I contacted Brigit Brown, WDNR state trails coordinator, Amy Madigan, IDNR trails outreach coordinator, and George Bellovics, IDNR Grand Illinois Trail coordinator, to inquire about any guidelines from the departments regarding recreational liability issues.

I've pasted below the email exchanges I had with Brigit, Amy and George. I've also pasted ss. 895.52 and 895.525, Wis. Stats., the so-called recreational immunity and risk sections.

My current understanding of this issue is threefold:

(1) Ownership of river access sites, dams and portages and the river itself resides with the municipalities, private owners and the state(s); RRTI does not own property. In the event of damage, injury or death to a paddler on the Rock River Water Trail, any liability to the land owner would generally be quenched by the recreational immunity section in Wisconsin or covered by either municipal immunity or general liability insurance held by the municipality or property owners. Liability would not extend to RRTI.

This, of course, assumes no negligence on the part of the owner or willful disregard to notify the recreating public of unsafe conditions. [This also assumes that RRTI conducts proper due diligence and does not promote unsafe recreational conditions in the water trail plan, on its website, brochures, etc.]

(2) RRTI is providing signage to municipalities, private owners and the states for installation on their river access sites and other property (in the case of dam warning signs). The primary responsibility lies with the property owners and RRTI has the owners' agreement to erect signs. At the Dixon meeting the suggestion was made "... that the RRTI Council provide recommendations and guidelines to help promote continuity of signage, access infrastructure and operation across communities, rather than ownership and installation of signage by the Council." I think the suggestion is a good one.

(3) If a group, such as the Girl Scouts for example, were to organize a paddling event on the Rock River Water Trail and a participant were to be injured, the organizing group could face a tort lawsuit alleging failure to provide safe conditions for participants. However, extension of any liability to the state (capsizing on the river), municipality (injured at the PITO) or RRTI for having provided water trail signage appears to be nonexistent (based on this information at least). Presumably, the Girl Scout troop would have general liability insurance to cover such an unfortunate occurrence (and why it likely requires a liability waiver from participants).

RRTI currently is not directly promoting and organizing any paddling event. If the Council should decide to do so in the future, it may want to review this issue again to be sure that it has adequate insurance coverage.

(4) RRTI should have general D&O liability insurance and should check with the agent as to areas of coverage. Frank Schier was to purchase insurance for the RRTI Council. I don't know whether he has done so.

Bottom line, so to speak ... I'm comfortable that RRTI has limited liability, if any, in the event an individual sustains damage, injury or death while paddling on the Rock River Water Trail. We should have general D&O insurance, which will be arranged shortly.

Any comments, please let me know.

Greg Farnham

(Note: I will also be checking with Bill Sturtevant, WDNR state dam safety engineer, about these issues as far as dam warning and portage signage is concerned.)

Brown, Brigit E - DNR
Nov 15, 2012

Greg,

The informal legal opinion I have on this is that recreational immunity under Wis. Stat. s. 895.52 does apply to water trails.

First, use of a water trail is a recreational activity within the definition of that term. It is undertaken for exercise, relaxation, or pleasure. Additionally, most, if not all uses of water trails can be considered "water sports" and are substantially similar to the activities listed in the definition of "[r]ecreational activity". The definition of "[p]roperty" includes waters of the state as defined in s. 281.01(18), which encompasses all surface waters, including the portions of Lakes Michigan and Superior within the boundaries of Wisconsin.

Accordingly, under s. 895.52(2), there is no general duty to keep the water trails safe, inspect them (unless they are to become a designated use area, which I imagine is the next topic for discussion), or warn of unsafe conditions. If the trails are to be designated, liability would still arise when injury is caused by malicious acts or malicious failure to warn of known unsafe conditions (a high standard), or if the "owner" charges a spectator admission fee for an event. Additionally, the state's role as trustee of the beds of navigable waters is equivalent to ownership, giving rise to recreational immunity for injuries arising not from the use of the water itself, but from the use of the beds (which could come in to play in this context).

Bottom line is that landowner liability should not preclude the establishment of these trails.

Let me know if this is not what you're looking for on the topic...

-Brigit

Brigit E. Brown
State Trails Coordinator
101 S. Webster Street, Box 7921
Madison, WI 53707-7921
608-266-2183

Bellovics, George
Nov 15, 2012
to me, Amy

Greg: Your comment:

These are substantive questions, no doubt. I'm thinking of a local 4 H or Girl Scouts group organizing a wonderful paddle on the Rock River Water Trail and one of the participants is injured in a log jam or capsizes and drowns. Presumably in the absence of negligence this would be an unfortunate accident with no one being sued and ending up in court. But, life does have painful twists and turns.

In this example, the actions of the group; 4H or Girl Scouts – would be on the hook for a potential tort suit, since it would be their responsibility to ensure the safety of their participants versus the individual communities along the waterway. This is not unlike when IDNR allows volunteer or other advocacy groups to participate in park clean-up days or other ventures where we require them to sign a waiver of liability and/or provide us single incident liability insurance for their event. Please keep us informed of your research, and well done as always.

George

From: waterdown waterdown [mailto:waterdown@wildblue.net]

Sent: Thursday, November 15, 2012 9:41 AM

To: Bellovics, George

Cc: Madigan, Amy

Subject: Re: Recreational Liability for Water Trails?.2

George:

Your perspicacity shines through! I appreciate the time you took to consider these issues and the citations of Illinois law. I suspect you are correct that as long as RRTI works in conjunction with local municipalities to sign and promote use of the water trail, then the organization probably does not have direct liability in the event of a problem. Of course anyone can be sued for anything, but then presumably general liability insurance for RRTI would cover that eventuality. These are substantive questions, no doubt. I'm thinking of a local 4 H or Girl Scouts group organizing a wonderful paddle on the Rock River Water Trail and one of the participants is injured in a log jam or capsizes and drowns. Presumably in the absence of negligence this would be an unfortunate accident with no one being sued and ending up in court. But, life does have painful twists and turns!

Thanks, again.

Greg Farnham

On Tue, Nov 13, 2012 at 1:51 PM,

Bellovics, George <George.Bellovics@illinois.gov> wrote:

Greg:

Astute and aware as always! Well...you've ignited my legal neurons, since my head is smoking! The question is whether there is a perceived or real liability in signing and promoting the Rock River Water Trail. Each of the put-in and take-out sites are already existing elements which are covered by some local governmental general liability insurance, but the aspect of promoting a natural river course and gaining liability is interesting. My hunch would be I don't think you do for the following reasons highlighted below. Additionally, RRTI provided signs for local units of government to install and maintain, thus RRTI should not have a direct liability in the decision process, rather are working on behalf of local entities. First, I would point you to 745 ILCS 10/ which is the section on Local Government & Government Employee's Tort Immunity Act. Here basically spells out that local governments are immune from liability (excepting wanton and willful negligence) for about anything...but a few cites stand out; those being: (745 ILCS 10/3-107) (from Ch. 85, par. 3-107)

Sec. 3-107. **Neither a local public entity nor a public employee is liable for an injury caused by a condition of:** (a) Any road which provides access to fishing, hunting, or primitive camping, recreational, or scenic areas and which is not a (1) city, town or village street (2) county, state or federal highway or (3) a township or other road district highway. (b) **Any hiking, riding, fishing or hunting trail.**

(Source: Laws 1965, p. 2983.) (745 ILCS 10/3-109) (from Ch. 85, par. 3-109)

Sec. 3-109. (a) **Neither a local public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.**

(b) **As used in this Section, "hazardous recreational activity" means a recreational activity conducted on property of a local public entity which creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury to a participant or a spectator.**

"Hazardous recreational activity" also means:

(1) **Water contact activities**, except diving, in places where or at a time when lifeguards are not provided and reasonable warning thereof has been given or the injured party should reasonably have known that there was no lifeguard provided at the time.

(2) Diving at any place or from any structure where diving is prohibited and reasonable warning as to the specific dangers present has been given.

(3) Animal racing, archery, bicycle racing or jumping, off-trail bicycling, boat racing, cross-country and downhill skiing, sledding, tobogganing, participating in an equine activity as defined in the Equine Activity Liability Act, hang gliding, **kayaking**, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, spelunking, sky diving, sport parachuting, body contact sports (i.e., sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants), surfing, trampolining, tree climbing, tree rope swinging where the person or persons furnished their own rope, water skiing, white water rafting, and wind surfing.

(c) Notwithstanding the provisions of subsection (a), this Section does not limit liability which would otherwise exist for any of the following:

(1) Failure of the local public entity or public employee to guard or warn of a dangerous condition of which it has actual or constructive notice and of which the participant does not have nor can be reasonably expected to have had notice.

(2) An act of willful and wanton conduct by a public entity or a public employee which is a proximate cause of the injury.

Nothing in this subsection creates a duty of care or basis of liability for personal injury or for damage to personal property.

(d) Nothing in this Section shall limit the liability of an independent concessionaire, or any person or organization other than the local public entity or public employee, whether or not the person or organization has a contractual relationship with the public entity to use the public property, for injuries or damages suffered in any case as a result of the operation of a hazardous recreational activity on public property by the concessionaire, person, or organization.

(Source: P.A. 89-111, eff. 7-7-95; 89-502, eff. 6-28-96.) (745 ILCS 10/3-110) (from Ch. 85, par. 3-110)

Sec. 3-110. Neither a local public entity nor a public employee is liable for any injury occurring on, in, or adjacent to any waterway, lake, pond, river or stream not owned, supervised, maintained, operated, managed or controlled by the local public entity.

(Source: P.A. 84-1431.)

As you can see, there are ample places of cover contained in Illinois Law for the use of the Rock River pertaining to local jurisdictions. You are correct though that Illinois' current Recreational Land & Water use Act is diminished to cover hunting only, versus its previous iteration inclusive of other recreational pursuits. Thoughts?

Thank You.

George S. Bellovics

From: Madigan, Amy

Sent: Tuesday, November 13, 2012 1:27 PM

To: waterdown waterdown; Bellovics, George

Subject: RE: Recreational Liability for Water Trails? Hi Greg, I will have to do a little research on this matter and get back to you. Perhaps George will be able to provide some input, but I confess, I don't know much about liability on navigable waters. Will be back in touch, soon,
Amy

From: waterdown waterdown [mailto:waterdown@wildblue.net]

Sent: Sunday, October 28, 2012 2:19 PM

To: Madigan, Amy; Bellovics, George

Subject: Recreational Liability for Water Trails?

Amy and George:

At the Dixon meeting of the Rock River Trail Initiative Council a discussion item was the potential liability or immunity residing with the Council as it promotes use of the Rock River Water Trail. In Wisconsin there is a statutory provision under Chapter 895 that limits the liability of property owners as a result of persons using the property for recreational activities. An "owner" under this provision includes any nonprofit organization that has a recreation agreement with a government entity or private owner of property. Currently the Rock River Trail Initiative Council neither owns property nor has entered into a recreation agreement pursuant to promotion of water trail use. The Council is installing water trail and dam safety signage with permission of owners of the access sites. I've looked at the Illinois statutes and although there are six sections under Chapters 740 and 745 that pertain to specific recreational issues such as equine activities, hunting, baseball, etc, I found nothing that would address paddling activities on public navigable waters and the potential liability question for nonprofit organizers. Does the department have any guidance on this issue? Thanks,

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Wisconsin Statutes

895.52 Recreational activities; limitation of property owners' liability. (1) DEFINITIONS. In this section:

(a) "Governmental body" means any of the following:

1. The federal government.

2. This state.
 3. A county or municipal governing body, agency, board, commission, committee, council, department, district or any other public body corporate and politic created by constitution, statute, ordinance, rule or order.
 4. A governmental or quasi-governmental corporation.
 5. A formally constituted subunit or an agency of subd. 1., 2., 3. or 4.
- (b) "Injury" means an injury to a person or to property.
- (c) "Nonprofit organization" means an organization or association not organized or conducted for pecuniary profit.
- (d) "Owner" means either of the following:
1. A person, including a governmental body or nonprofit organization, that owns, leases or occupies property.
 2. A governmental body or nonprofit organization that has a recreational agreement with another owner.
- (e) "Private property owner" means any owner other than a governmental body or nonprofit organization.
- (f) "Property" means real property and buildings, structures and improvements thereon, and the waters of the state, as defined under s. 281.01 (18).
- (g) "Recreational activity" means any outdoor activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" includes hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, ballooning, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting and any other outdoor sport, game or educational activity. "Recreational activity" does not include any organized team sport activity sponsored by the owner of the property on which the activity takes place.
- (h) "Recreational agreement" means a written authorization granted by an owner to a governmental body or nonprofit organization permitting public access to all or a specified part of the owner's property for any recreational activity.
- (i) "Residential property" means a building or structure designed for and used as a private dwelling accommodation or private living quarters, and the land surrounding the building or structure within a 300-foot radius.
- (2) NO DUTY; IMMUNITY FROM LIABILITY. (a) Except as provided in subs. (3) to (6), no owner and no officer, employee or agent of an owner owes to any person who enters the owner's property to engage in a recreational activity:
1. A duty to keep the property safe for recreational activities.
 2. A duty to inspect the property, except as provided under s. 23.115 (2).
 3. A duty to give warning of an unsafe condition, use or activity on the property.
- (b) Except as provided in subs. (3) to (6), no owner and no officer, employee or agent of an owner is liable for the death of, any injury to, or any death or injury caused by, a person engaging in a recreational activity on the owner's property or for any death or injury resulting from an attack by a wild animal.
- (3) LIABILITY; STATE PROPERTY. Subsection (2) does not limit the liability of an officer, employee or agent of this state or of any of its agencies for either of the following:
- (a) A death or injury that occurs on property of which this state or any of its agencies is the owner at any event for which the owner
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charges an admission fee for spectators.

(b) A death or injury caused by a malicious act or by a malicious failure to warn against an unsafe condition of which an officer, employee or agent knew, which occurs on property designated by the department of natural resources under s. 23.115 or

designated by another state agency for a recreational activity.

(4) LIABILITY; PROPERTY OF GOVERNMENTAL BODIES OTHER THAN THIS STATE. Subsection (2) does not limit the liability of a governmental body other than this state or any of its agencies or of an officer, employee or agent of such a governmental body for either of the following:

(a) A death or injury that occurs on property of which a governmental body is the owner at any event for which the owner charges an admission fee for spectators.

(b) A death or injury caused by a malicious act or by a malicious failure to warn against an unsafe condition of which an officer, employee or agent of a governmental body knew, which occurs on property designated by the governmental body for recreational activities.

(5) LIABILITY; PROPERTY OF NONPROFIT ORGANIZATIONS. Subsection (2) does not limit the liability of a nonprofit organization

or any of its officers, employees or agents for a death or injury caused by a malicious act or a malicious failure to warn against an unsafe condition of which an officer, employee or agent of the nonprofit organization knew, which occurs on property of which the nonprofit organization is the owner.

(6) LIABILITY; PRIVATE PROPERTY. Subsection (2) does not limit the liability of a private property owner or of an employee or agent of a private property owner whose property is used for a recreational activity if any of the following conditions exist:

(a) The private property owner collects money, goods or services in payment for the use of the owner's property for the recreational activity during which the death or injury occurs, and the aggregate value of all payments received by the owner for the use of the owner's property for recreational activities during the year in which the death or injury occurs exceeds \$2,000. The following do not constitute payment to a private property owner for the use of his or her property for a recreational activity:

1. A gift of wild animals or any other product resulting from the recreational activity.
2. An indirect nonpecuniary benefit to the private property owner or to the property that results from the recreational activity.
3. A donation of money, goods or services made for the management and conservation of the resources on the property.
4. A payment of not more than \$5 per person per day for permission to gather any product of nature on an owner's property.
5. A payment received from a governmental body.
6. A payment received from a nonprofit organization for a recreational agreement.

(b) The death or injury is caused by the malicious failure of the private property owner or an employee or agent of the private property owner to warn against an unsafe condition on the property, of which the private property owner knew.

(c) The death or injury is caused by a malicious act of the private property owner or of an employee or agent of a private property owner.

(d) The death or injury occurs on property owned by a private property owner to a social guest who has been expressly and individually invited by the private property owner for the specific

occasion during which the death or injury occurs, if the death or injury occurs on any of the following:

1. Platted land.
2. Residential property.
3. Property within 300 feet of a building or structure on land that is classified as commercial or manufacturing under s. 70.32

(2) (a) 2. or 3.

(e) The death or injury is sustained by an employee of a private property owner acting within the scope of his or her duties.

(7) NO DUTY OR LIABILITY CREATED. Except as expressly provided in this section, nothing in this section, s. 101.11, or s. 895.529 nor the common law attractive nuisance doctrine creates any duty of care or ground of liability toward any person who uses another's property for a recreational activity.

History: 1983 a. 418; 1985 a. 29; 1989 a. 31; 1995 a. 27, 223, 227; 1997 a. 242;

895.525 Participation in recreational activities;

restrictions on civil liability, assumption of risk.

(1) LEGISLATIVE PURPOSE. The legislature intends by this section to establish the responsibilities of participants in recreational activities in order to decrease uncertainty regarding the legal responsibility for deaths or injuries that result from participation in recreational activities and thereby to help assure the continued availability in this state of enterprises that offer recreational activities to the public.

(2) DEFINITION. In this section, "recreational activity" means any activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" does not include participating in a snow sport at a ski area, as those terms are defined in s. 167.33, but includes hunting, fishing, trapping, camping, bowling, billiards, picnicking, exploring caves, nature study, dancing, bicycling, horseback riding, horseshoe-pitching, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, ballooning, curling, throwing darts, hang gliding, hiking, sleigh riding, snowmobiling, skating, participation in water sports, weight and fitness training, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting, and participating in a snow sport outside a ski area, as those terms are defined

in s. 167.33, and any other sport, game or educational activity.

NOTE: Sub. (2) is shown below as affected by 2011 Wis. Acts 199 and 208 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

(3) APPRECIATION OF RISK. A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities accepts the risks inherent in the recreational activity of which the ordinary prudent person is or should be aware. In a negligence action for recovery of damages for death, personal injury or property damage, conduct by a participant who accepts the risks under this subsection is contributory negligence, to which the comparative negligence provisions of s. 895.045 shall apply.

(4) RESPONSIBILITIES OF PARTICIPANTS. (a) A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities is responsible to do all of the following:

1. Act within the limits of his or her ability.
2. Heed all warnings regarding participation in the recreational activity.
3. Maintain control of his or her person and the equipment, devices or animals the person is using while participating in the recreational activity.
4. Refrain from acting in any manner that may cause or contribute to the death or injury to himself or herself or to other persons while participating in the recreational activity.

(b) A violation of this subsection constitutes negligence. The comparative negligence provisions of s. 895.045 apply to negligence under this subsection.

Appendix C. Dams and Portages - Current Conditions and Needs

(See attachment)

