



Public Employees for Environmental Responsibility

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Tom Melius
Midwest Regional Director
U.S. Fish & Wildlife Service
5600 West American Boulevard, Suite 990
Bloomington, MN 55437-1458

Dear Director Melius:

We are writing to you on behalf of Public Employees for Environmental Responsibility (PEER) and Friends of Effigy Mounds to bring to your attention recent flagrant violations of compatibility rules on the Upper Mississippi River National Wildlife and Fish Refuge and the failure of refuge management or staff to abate those violations. We seek your office's involvement both to review these events as well as to take steps to prevent their recurrence.

As you may know, on July 26-27, Cabela's corporation, a hunting, fishing and camping supplies retailer, hosted a "World Bowfishing Tournament" a large bow fishing tournament on the Upper Mississippi River National Wildlife and Fish Refuge. As you also may know, bow fishing as it is practiced today and in this tournament is a far cry from the quiet and contemplative pastime enjoyed by most anglers. The modern incarnation of bow fishing involves teams of up to five people in airboats with 700 to 1000 horsepower engines without mufflers, making a loud and fast platform for chasing down fish. Bow fishing tournaments usually take place at night, with suspended banks of powerful LED lights to illuminate the water column and the fish within, lighting up the night sky.

For two days leading up to the tournament and through the tournament itself, the evenings on or near the refuge were transformed into a nightmarish scene, reminiscent of the film *Apocalypse Now*. Through the nights, deafening airplane-motor-driven boats studded with blinding banks of lights turned night into day. The noise levels were like being on an airport runway.

From what we can tell, these activities appear to be clear violations of refuge rules. The refuge's 2006 Compatibility Determination for Fishing Tournaments [found at <http://www.fws.gov/midwest/planning/uppermiss/cd/Fishing%20Tournaments.pdf>] states that the refuge is supposed to take a proactive stance in overseeing fishing tournaments, including a permit plan:

“The Refuge Comprehensive Conservation Plan (CCP) outlines more active involvement by the Refuge in competitive fishing events in accordance with existing Refuge System policy and regulations. This involvement would include meeting with the states to discuss the best strategies for implementing **a Refuge permit system** in concert with varying states' permitting procedures, and developing time, space, and capacity parameters on each pool to minimize impacts and conflicts.” (Emphasis added)

This Compatibility Determination (CD) has been in place since 2006, but in those intervening years, the refuge management has apparently not implemented it.

Moreover, this CD had a number of stipulations that were clearly violated by the Cabela's tournament:

“Stipulations Necessary to Ensure Compatibility:

1. All applicable state, federal, and Refuge regulations apply. Regulations and monitoring help ensure that harvest levels of competitive fishing do not have harmful long-term impact on fish populations.
2. Competitive fishing events **will be regulated to have a minimal impact on other Refuge users**. Time, space, and capacity parameters for each pool will be set in coordination with the states.
3. Existing or new Electric Motor Areas prohibit combustion engine driven watercraft insensitive backwater areas (five areas, 1,852 acres).
4. Establish eight Seasonal Slow, No Wake Areas (March 16 to October 31) that require lower speeds and a prohibition of airboat and hovercraft operation in important backwater areas (9,720 acres).
5. A series of linear Slow, No Wake Zones for safety and/or to protect shorelines are in place...
7. All sponsors of competitive fishing events that use the Refuge must **notify the Refuge in advance**. (Again, emphasis added).

Moreover, the CD clearly says that the Refuge will act to reduce disturbances:

“**Disturbance to other Refuge anglers and visitors should be reduced by Refuge oversight** and a cooperative program with the states. This oversight will likely include time, space, and capacity parameters for each pool to minimize competition between events and with the general public. Stipulations above for Electric Motor Areas and Slow, No Wake Areas should also minimize disturbance impacts and give other visitors options for enjoying fishing and other activities during fishing tournaments. Tournament anglers occasionally violate regulations. However, these incidents usually have only minor impacts to fish populations or Refuge resources, **and will be addressed through law enforcement, outreach, and education.**” (Again, emphasis added)

Finally, the refuge's Public Use Regulations provide:

“#5 *Disturbing Behavior*

Unreasonably disturbing other visitors by the inconsiderate operation or use of any audio devices, power equipment, or lighting devices, or interfering with, disturbing, or molesting other visitors engaged in authorized activities on the refuge, is prohibited.”

Despite multiple and egregious violations of the above, no U.S. Fish & Wildlife law enforcement was visible at all during the days leading up to or during the event itself. Nor was there any apparent outreach or “education” to compensate for a total absence of any enforcement presence.

When Mr. Mason contacted Refuge Manager Sabrina Chandler for an explanation as to why her refuge was ignoring its own rules, he received evasive and misleading explanation, to wit:

“On the Refuge we do not currently permit fishing tournaments of any kind. We depend on our state partners to issue permits through their systems they have in place to help regulate crowding and resource concerns. One [sic] I discovered this tournament was occurring in WI waters, I looked on their tournament website to see if they had been permitted. I could not find the tournament listed on the permit calendar so I contacted the individual listed on the DNRs tournament website and asked if I was overlooking something. He looked into it and discovered that they did not have a permit. Looking further into the issue it was realized that the tournament fell into a ‘loophole’ allowing ‘regional’ tournaments an exception to the permit requirement.”

“As for impacts to the Refuge, we have certainly received additional noise complaints. Without specific identifying information we cannot pursue these complaints at this time but have certainly documented them.”

“The Refuge, next year will be reviewing it's [sic] current compatibility determination (CD) for fishing tournaments. The current CD was established in 2006 and is up for a 10 year review next year. It currently does not address bowfishing tournaments and night activities. All of this will have to be considered in the review. We will also work with our State partners in this review to ensure that their permitting system for tournaments on the Refuge is adequate to address our concerns.”

“Our current CD is based on the premise that ‘Fisheries management and tournament oversight is conducted by the four states' departments of natural resources.’ Therefore we must depend on them to regulate the tournaments that occur in their waters, which includes permitting these activities on the Refuge. I raised concern with the WI DNR over this particular tournament and the lack of notice that was provided to the Refuge. They are aware of those concerns and we will work to address them. New intricacies associated with these activities arise frequently, which is why we conduct reviews of the CDs. We intend to complete that review next year as required and have it built into our workplan.”

There are several aspects of Manager Chandler’s responses which do not ring true:

1. The level of activity in the two days leading up to the event, the local publicity and the gathering of scores of out-of-staters made it unmistakable that a bow fishing tournament

was about to take place on the refuge. To feign surprise is disingenuous. Yet in the face of clear evidence that a tournament was about to take place on her refuge, Ms. Chandler did nothing to enforce the CD.

2. The tournament had a permit from Wisconsin Department of Natural Resources but much of the activity occurred in Iowa waters without a permit. Notably, Iowa DNR is considering enforcement action.
3. Despite ample time to do so, the refuge has not implemented the permit system for fishing tournaments mandated in its 2006 CD. While the refuge should coordinate with its state partners, that is no excuse to shirk its responsibility for oversight on all activities taking place on the refuge.
4. There is no “regional tournament” loophole. Moreover, even if there were, this was billed as a “World” bow fishing tournament, attracting competitors and boats from several states outside the Midwest and from as far away as Florida.
5. Documenting after-the-fact complaints does not explain why no refuge enforcement presence was visible during the tournament. By her language, Ms. Chandler implies that no action will be taken against anyone, including the tournament organizer, for egregious violations.
6. Her implication that the 2006 CD is outdated is also misplaced. As noted above, the 2006 CD is quite specific about impacts to be avoided in any fishing tournament, even if it did not specifically reference bow fishing, but its requirements were not enforced by refuge management.
7. If the 2006 CD stipulations are not being followed by refuge management, why will updating the CD make any difference? In the nine years since 2006, the refuge management has not implemented a permitting system. Starting the clock again with a new CD may encourage refuge management to dawdle for yet another decade.

Given the above, we would request that your Region undertake an After-Action Review of how this matter was handled by the Upper Mississippi River National Wildlife and Fish Refuge. It would also be appropriate to consider whether some enforcement action is warranted against tournament organizers.

Finally, given the growing popularity of bow fishing and other “airboat extreme” activities, we would urge your Region to review the fishing tournament rules and programs in place in all of your riverine and littoral refuges in order to ensure that their managements are not caught similarly unprepared.

If you would like any further information from us or desire clarification or wish to consult on any of the above, please feel free to contact us.

Thank you in advance for your consideration of this matter.

Sincerely,

Jeff Ruch
PEER Executive Director

Tim Mason
Friends of Effigy Mounds

CC: Charles Blair, Midwest Regional Chief, National Wildlife Refuge System
Sabrina Chandler, Refuge Manager/Area Supervisor, Upper Mississippi River National
Wildlife and Fish Refuge