

## Sierra Club Raises Objections to Proposed Hotel-Casino Site

Written by Mark N. Beorkrem  
Tuesday, 28 February 2006 18:00

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January 18, 2006 Re: CEMVR-OD-P-2005-1598 Isle of Capri Casino Dear Mr. Betker, The Eagle View Group of the Sierra Club, Iowa and Illinois Chapters is submitting these comments regarding the Section 10, Rivers and Harbor Act permit application for dredging along the Davenport, Iowa riverfront for purposes of moving an existing gambling boat operation.

The applicant wishes to move from an existing approved location negotiated between the environmental community, the City of Davenport, and the US Army Corps of Engineers in 1990. This permit was originally issued to the City of Davenport acting in accordance with agreements between a gambling boat operator as a lessee of the City. Through meetings in 1990 with the parties involved, it was agreed that the boat would be located slightly south of the original proposed location to keep boat operations further from the sensitive areas near the Lock and Dam and to minimize dredging needs. The dredging needs were reduced nearly in half by the subsequent move southward along the riverfront by this agreement, from 30,000 cubic feet to approximately 18,000 cubic feet of uneven rubble, gravel and soft limestone, which was a prime fishery habitat.

The proposed move of the gambling boat toward the dam will impact the natural resources of the river and impact on recreational fishing. The purpose of the Corps permitting process is to work with permit applicants to avoid and minimize impacts to natural resources and, when that is not possible, to mitigate impacts to the resources. In this instance The Sierra Club believes that the applicant has failed to consider the natural resources impacts in its application and should modify the project to avoid unnecessary impacts.

The pool 16 tailwater of Dam 15 in this location is a prime habitat for numerous native river species of both natural and recreational value. The rubble strewn and potholed bottom, with some gravel but mostly of a soft limestone surface, provides a unique habitat not located for several navigation pools from the Quad Cities. This hard bottom is a result of the natural topography of the old rapids of the pre-navigation construction of the 1930's when the locks and dam system was constructed on the Upper Mississippi River. Walleye, sauger, white bass, flathead catfish, freshwater drum, channel catfish, paddlefish, smallmouth bass, river sturgeon,

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American gar along with gizzard shad and mooneyes are all found in this habitat. Particularly for the river based walleye family of species, this rubble strewn habitat with varying river flows (depending upon dam operations) provides not only excellent feeding habitat but also prime spawning habitat. Since this habitat is not readily found in abundance from pool 11 south to the open river, federal permitting must emphasize avoidance if at all possible to protect this habitat. Indeed most Upper Mississippi River habitat and tailwaters south of the tailwater at Pool 16 do not have this habitat. In addition, since Dam 15 is one of the primary dams on the Upper Mississippi considered a barrier dam for river migration, this tailwater in particular becomes much more important to protect its rubble strewn and graveled bottom area as a fishery habitat for both feeding and spawning behavior.

We must emphasize at this point that Pool 15 above the dam, while exhibiting much of the same rubble strewn habitat as found below in the tailwater, continues to experience water quality problems that mitigate its suitability for fulfilling the role as prime habitat for these species and exhibits more of a flat pool or lake habitat not favored by the prime species affected by the permit.

The applicant references a 1993 Spawning Habitat study conducted by the Iowa DNR which did not find any radio-tagged spawning walleyes or saugers utilizing the project area. Indeed the assumption that perhaps the fish were utilizing Sylvan Slough for pre-spawn habitat is likely a correct observation, but the fact that NO tagged fish were found in the tailwater during this study is an important commentary on the study's viability as a sole predictor of walleye/sauger behavior in this stretch of the river. There is significant documentation on the amount of walleye/sauger harvested during the pre/spawn/postspawn periods below Dam 15, so much so that the state DNR's have moved to restrict fishing during this period in this location. Unfortunately this Iowa DNR study was one small study in one portion of one species spawning season. No conclusions can be drawn from one such study as to the extent of habitat utilized over a range of seasons and pool conditions found on the Upper Mississippi River. A range of studies across a range of seasons must be done to determine the actual habits of fish in this pool as demonstrated by long term studies being undertaken at Pools 11 and 13 on the Upper Mississippi River by the Iowa DNR (Walleye and Sauger on the Upper Mississippi River, Mike Steuck, IA DNR website). In the absence of a range of examinations of the spawning behaviors exhibited by fish in Pool 16 tailwater, we must rely on the general conditions sought out by certain species and draw a primary conclusion that under certain conditions, all or most of suitable tailwater 16 and the related Sylvan Slough area may be utilized as spawning habitat. The Corps dam operations (which gates open and when), river flow characteristics, temperature, general cloud conditions, angle of the sun, all play a role in where the affected fishery choose to spawn across a given habitat in a given year. Noting the dredging survey information shown by the applicant, virtually all of the affected project area likely provides suitable depth to be utilized as spawning area, and is certainly used as feeding area by the walleye/sauger species – and this is confirmed by fishing success in this location over the decades of use of the Davenport riverfront by shore and boat fishermen.

Many river studies have shown that pre-spawn walleye stack up in deep holes and in off-current areas, often in 15- to 30-foot (4.6 to 9.1 m) depths, and near river mouths. Pre-spawn females hold back on nearby deep lake points, shoals, and drop offs, but are

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eventually drawn upstream as rivers warm. Prime spawning habitat is located below falls, rapids, dams, along current edges, in eddies, behind boulders, in tributary creeks, and along rip-rap and rubble shorelines. Walleye spawn in shallow water (1 to 6 feet) with moderate current over gravel to cobble-sized rock when water temperatures approach 48° F (8.9° C). These conditions are often found in the affected project area during any given spawning season.

The Corps Operations Section could be asked at some point in the near future to participate in improving the viability of the Pool 16 tailwater to function as a fish spawning area. The imminent implementation of the Navigation Environmental Sustainability Program for the Upper Mississippi and Illinois Rivers means that greater integration of operations and maintenance activities of the Corps navigation structures will be utilized in improving and restoring habitat on the river. There is the potential, given the timing of the walleye/sauger spawn, for the dam operations to be manipulated to improve the potential of the tailwater area for spawning success. The amount of flow through the dam, the amount of depth in the tailwater area and which gates are or are not opened at particular water temperatures could play a role in increasing spawning success in the Pool 16 tailwater area. Maintaining the maximum amount of scarce habitat for these important recreational fisheries is a primary federal interest in this permit application.

The applicant makes a point that only a small area of habitat would be disturbed by the dredging. However, this is a permanent impact, which in combination with the 1990 dredging area, and with the known impacts from light and noise pollution does cover a significant amount of habitat for the fishery in the immediate tailwater area of Dam 15. Walleye and sauger in particular, being very active at night, can be significantly affected even by minimal levels of light pollution from nearby human activities. Taking the already known habitat degradation of the navigation channel, which significantly eliminates much habitat area due to dredging operations from the channel operation and adjacent areas utilized by the mooring towboats at the entrance to Sylvan Slough, and the dredged areas for the location of boats along the Rock Island riverfront, a significant portion of potential habitat in this area has already been eliminated as fishery habitat.

Noting the deposition of sediment that begins several hundred yards downstream of the dam, it can be assumed that this is poor habitat for most recreational species across the entire width of the river to the head of Credit Island. No recreational boat fishing is ever observed in this area. (Approximately Marquette Street to Credit Island) Adding together the previously dredged area to the current dredging proposal means that an area of approximately 800' x 150' (from Perry Street to Marquette Street) is eliminated permanently as habitat, or 120,000 square feet of habitat. While noise and light pollution parameters were not submitted, it could be argued that this could extend out nearly a hundred feet or more from the boats, eliminating another 42,000 square feet as useful habitat out of the already degraded tailwater habitat. This means that the impact from this one gambling boat operation is taking out about 3 acres of fishery habitat, most of it permanent impacts from dredging operations. Considering already mentioned impacts and the narrowness of the river at this location, this could approach 7-10% of the total near dam viable fishery habitat remaining in the tailwater of Dam 15.

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The impacts to fisheries when habitat is destroyed or compromised means that the fishery must increase its usage of remaining habitat when no alternatives are available. We've already discussed the scarcity of walleye/sauger spawning/feeding habitat in this reach of the river. Under decreasing habitat conditions, higher levels of predation of the spawn, increased competition for feeding among species, and higher energy uses result, thus reducing the viability of the species using this habitat.

The fishery is a significant contributor to Quad City tourism and to the human quality of recreational use of the river in this region. As noted by the applicant, up to 50 boats during a day may congregate during prime fishing times in the tailwater of Dam 15. This usage varies throughout the season, but the immediate tailwater fishing area is used year round, ice conditions permitting. While no current creel surveys are available for this location, based upon my personal observations during decades of utilizing this area as a fisherman and as a representative of major sportsman's groups from the region, it can be stated that several thousand people utilize this tailwater area annually for fishing, either from the bank or by boat throughout the course of the year. The amount of fish successfully spawned in this location provide the primary fishery production area for dozens of miles both upstream and downstream of Dam 15. In addition to irreplaceable natural resource values attributable to the fishery habitat, it could be concluded that the recreational fishery immediately attributable to the fishery productivity of this portion of the river is worth several hundred thousand dollars per year in tourism dollars in irreplaceable fishery productivity.

### **Alternative Site Discussions:**

The Sierra Club will not comment on each and every alternative location discussed by the applicant. The applicant and the City of Davenport argue that the hotel/boat must be moved to the new location to: maintain walk around traffic in the downtown area of Davenport; provide opportunity for spin-off businesses generated by an influx of casino customers; prevent loss of customers due to remoteness from a downtown riverfront location; and prevent loss of synergy with downtown public amenities.

The Sierra Club believes in general that the applicants are being disingenuous in making these particular arguments. The experience of riverboat gambling in the Quad Cities and other Iowa riverfront towns is that: riverboat gambling does not provide opportunity for successful spin-off businesses in nearby locations; downtown riverfront locations have no impact on traffic to most or all businesses in the downtown; most walk around traffic is generated from walking from nearby hotels to the gambling boat and back, not to other attractions; there is no synergy with downtown public amenities due to the all-inclusiveness of gambling, hotel and restaurant amenities all self-contained within the gambling location. Davenport and Rock Island riverfront gambling has resulted in no increase in downtown businesses other than public supported investments, as particularly noted by the upcoming move of the Rock Island casino to a remote, non-riverfront location. The Radisson Hotel, which will lose its riverfront view to the impending construction of the gambling boat owned hotel, and will lose revenue due to loss of customers to the new hotel. The Radisson was built since riverfront gambling came into Davenport, but merely replaced the hotel rooms lost to the closure of the Blackhawk Hotel two blocks away.

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### **Alternative Boat Locations:**

The applicant does not go into any detail regarding alternative boat locations except to say they were considered. From our viewpoint this is the most important consideration for this permit to be discussing. The boat location in the river is the primary intrusion on the natural resources under the Corps jurisdiction on this permit. The City did not consider the impacts to the fishery and river habitat prior to making its recommendations for siting of the boat to the applicant nor were these issues aired at the public meetings held by the City and applicant. The City's stated reason for the current boat location is to "maintain the river view down Brady Street." (Stanley Consultants extended report on the Section 10 Permit, page 8)

### **Summary:**

The Sierra Club believes that the present boat location must be preserved when the impacts to the fishery and natural resources are factored into the permit application. No further dredging should be allowed and the applicant should make every effort to minimize light pollution into the river from the boat and hotel operation. The applicant has made NO reasonable case for why the damage to the habitat should be incurred. The boat remaining in its present location presents no view restrictions down Brady Street. The applicant should extend its hotel "ramp" sufficiently to reach to the current boat location and maintain the view to the river from Brady Street by minimizing the height of the ramp or changing the ramp design to blend it in with the river view, utilizing glass which should be no more intrusive to views than the present conglomeration of buildings, ramps and walls that sit up the edge of River Drive and intrude into the project area already.

The US Army Corps of Engineers permitting process following Corps environmental guidelines and the Section 10 Rivers and Harbors Act permitting process requires an applicant to make sufficient case that alternatives to impacts to natural resources are impracticable for project viability. Since the existing operations are viable for the gambling boat and the sole reason for the boat move is to save a few steps for boat attendees, those landside facilities should make the accommodations and changes necessary to accommodate preservation of the natural resources.

Our discussion of impacts to the natural resources is based upon current and reasonably expected future conditions and takes into account the cumulative impacts of existing navigation system operations and past permits given to this gambling boat operation. Reducing habitat by upwards of 3 acres in a defined important habitat, one that supports a fishery encompassing several pools of the Upper Mississippi River is an unacceptable conclusion to this permit process.

Sierra Club is willing to participate in meetings with the applicant to discuss the permit application as needed.

Respectfully submitted,

**Mark N. Beorkrem**

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### **Mississippi River Protection Project**

**Sierra Club, Midwest Region**

**On behalf of the Eagle View Group, IA and IL Chapters, Sierra Club**

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