

**White Bear Sports Center**  
Renovation Project

Help Us Revitalize the Rink!!  
Donate online, visit: [whitebear.com/donate](http://whitebear.com/donate)

Please consider donating to the Rink Renovation Fund!

The White Bear Sports Center is a 501(c)(3) non-profit organization. All donations are tax deductible to the extent of the donor's federal adjusted gross income.

**White Bear Press**  
Subscription Form

Look for your subscription form inside!

# White Bear Press

Press Publications  
4779 Bloom Avenue  
White Bear Lake, MN 55110  
CHANGE SERVICE REQUESTED

PRESORTED  
STANDARD  
U.S. POSTAGE  
PAID  
PERMIT NO. 9  
CIRCLE PINES, MN

WEDNESDAY, APRIL 4, 2018  
VOL. 122 NO. 25 [www.presspubs.com](http://www.presspubs.com) \$1.00

## BROKEN PIPE: Townhomes flooded Easter Eve **PAGE 7A**

# Judge's ruling stands in lake level lawsuit

BY DEBRA NEUTKENS  
EDITOR

ST. PAUL — In an order that came a month early, the judge in the lake level lawsuit did not budge from her previous ruling requiring the Department of Natural Resources (DNR) to restrict groundwater pumping within a 5-mile radius of White Bear Lake. District Court Judge Margaret Marrinan (now retired) denied in entirety all post-trial motions brought by the DNR and an intervenor in the case, the

city of White Bear Lake. The agency had requested a stay to her Aug. 30 judgment until the case could be heard by the court of appeals and motioned for a retrial. Motions were heard Jan. 26 and the judge had 90 days to issue her ruling. It didn't take that long. In her latest ruling, filed March 29, Marrinan berated the DNR for its "stunning" history of failing to comply with state laws designed to protect the

SEE RULING STANDS, PAGE 9A



PAUL DOUS | PRESS PUBLICATIONS

Paddleboarders off Ramsey County Beach enjoy a lake that has fluctuated over the years; from a low of 918.8 feet in 2013 to its current level of 923.0 feet.

## RULING STANDS: Judge chides DNR for decades of water mismanagement

FROM PAGE 1A

environment. Again, the judge declared that the DNR's permitting of high-capacity groundwater appropriations and management of White Bear Lake violate the Minnesota Environmental Rights Act and the Public Trust Doctrine, a law binding the state to protect its natural resources on citizens' behalf.

"The DNR failed to take remedial measures within its authority to protect White Bear Lake and the aquifer, when it had knowledge that its actions in issuing and failing to manage high-capacity groundwater pumping permits were adversely affecting the lake and aquifer," wrote Marrinan.

During the January hearing, the DNR claimed that the order will lead to "multiplicity of related litigation." In response, Marrinan acknowledged that various permit holders can be expected to contest DNR requirements mandated by the order. "It would have been the case regardless of this litigation had the DNR been reviewing and adjusting permits as it should have been," she said.

"The stated fear of the DNR that administrative law judges might thumb their noses at, and ignore the lengthy and detailed order of this court is an insult to the role and professionalism of those judges," Marrinan added.

She also disagreed with the allegation that the order will have significant impacts on construction and other activities within the 5-mile radius, noting the issue with "dewatering permits" was amended by court order March 1.

Marrinan said a stay of judgment is not in the interest of the public.

"As part of its authority, the DNR is responsible for reviewing the amount of groundwater withdrawals and for taking action when the withdrawals affect a vulnerable resource such as White Bear Lake," noted the

judge. "As early as 1998, if not before, the DNR knew that the permits it was issuing could have serious effects on groundwater levels and upon the lake."

Marrinan particularly took issue with lawn irrigation, writing that despite the "undisputed" fact that a 30 percent reduction in groundwater use can be achieved primarily through cutting nonessential water use, notably residential lawn irrigation, and that such a reduction would cause White Bear Lake to rise about 1.5 feet, the DNR has failed to put any restrictions on lawn sprinkling.

The judge also called out what she considered an attempt to "mislead the governor" by citing results out of context from the 2016 USGS groundwater study. Marrinan admonished the agency for "deliberately misleading" the governor's office regarding a quote that indicated White Bear Lake was vulnerable to groundwater pumping.

"That representation cast a pall on the positions advanced by the DNR," Marrinan said, "and reflects but a portion of the longstanding failures by the DNR to oversee and manage public resources in accord with statutes and rules."

Perceived inconveniences brought by the order, added the judge, pale by comparison to the continued impairment and destruction of finite public resources.

After "weighing and balancing" the factors established in the case, Marrinan concluded the 19-page order with this statement: "On the one hand stands the demonstrated, irreparable, disproportionate injury caused by the permanent depletion and impairment of ... public resources.

"On the other is the claimed and temporary inconvenience to those who mindlessly waste these assets on nonessential uses, and to a governmental entity that manipulated information presented to the governor ... and failed to enforce requirements it has been under an obligation to enforce for years."

### DNR ISSUES STATEMENT

The DNR issued this statement by Commissioner Tom Landwehr March 30 regarding the ruling:

"In a ruling on Thursday, March 29, the Ramsey County District Court denied a number of post-trial motions from the Department of Natural Resources (DNR) regarding the court's ruling in August 2017 concerning White Bear Lake's water level. The DNR is disappointed with this most recent ruling, and the department is thoroughly reviewing it before determining next steps.

The DNR remains strongly committed to working with local communities to protect White Bear Lake, its underlying aquifer, and other precious water resources throughout Minnesota. But responsible, effective water management must be based on sound science and balance the needs of all Minnesota residents and businesses. Toward that end, we are nearing completion of a refined groundwater model for the White Bear Lake area.

That model indicates the court's residential irrigation ban would do little to raise lake levels. The model is also informing DNR about which wells may be having more of an impact on lake levels than others. As DNR has maintained consistently, this information is essential to informing decisions about what modifications to community and business water use may be warranted."

The ruling did not surprise White Bear Lake City Manager Ellen Richter. "But I am disappointed that the motion to stay the order until the appeals process has been exhausted was also declined," she said. "Fulfilling the requirements of the order will be time-consuming and expensive, detracting from resources that could otherwise be used toward implementing more equitable and effective water conservation efforts. We hope not to have to expend public resources unnecessarily, in the event the order is overturned through the Court of Appeals."

The DNR and the city have 60 days to file an appeal.