

## GRIDLOCK: Suspect surrenders after 3-hour standoff PAGE 6A

# Intervenors join state in appealing lake lawsuit ruling

BY DEBRA NEUTKENS  
EDITOR

WHITE BEAR LAKE — Both the city and township are following the Department of Natural Resources' lead and filing an appeal in the lake level lawsuit.

The firm representing the city, Greene Espel PLLP, filed the appeal May 14; the township gave its attorney the go-ahead to file May 21.

The office of the attorney general filed May 11 on behalf of the DNR to appeal the judge's Aug. 30, 2017 ruling, which favored the plaintiff, the White Bear Lake Restoration Association (WBLRA), and its intervenor, the lake homeowners association. Included in

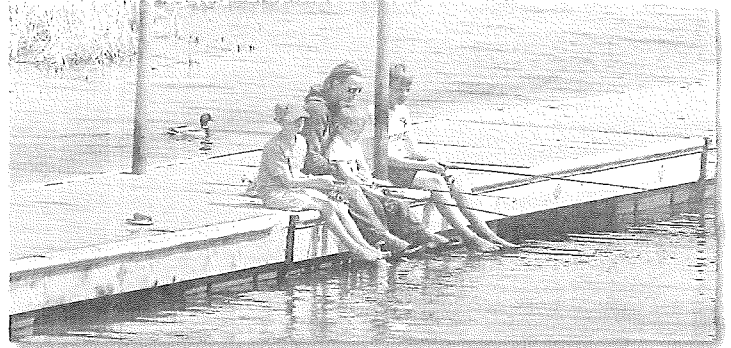
the appeal were other judgments by District Court Judge Margaret Marriann made over the course of the case, which dates back to 2012.

The litigation focuses on allegations by the plaintiffs that groundwater pumping by municipalities near White Bear Lake is adversely affecting its elevation. The WBLRA sued the DNR, which manages groundwater appropriations through a permit process. The city and township joined the suit as intervenors on the side of the defense.

Among issues proposed to be raised on appeal, Greene Espel attorney Monte Mills listed these:

- Whether the district court com-

SEE LAWSUIT, PAGE 9A



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These White Bear Lake fishermen enjoy a summer day sitting on a dock of the bay.

## LAWSUIT: Did court commit errors?

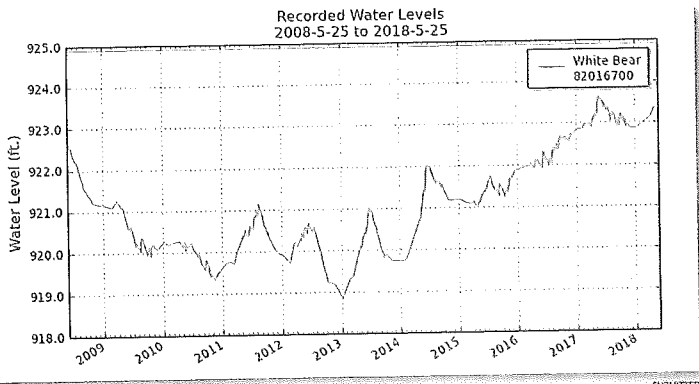
FROM PAGE 1A

mitted reversible error by imposing conditions that would require expenditure of public funds beyond the power of the courts and in violation of the "separation of powers" doctrine.

- Whether the district court committed reversible error by making clearly erroneous findings of fact and denying motions for new trial and motions for amended findings, conclusions of law and judgment.
- Whether the district court committed reversible error by ruling on plaintiff's claim

under the Public Trust Doctrine. Like the DNR, the city is requesting oral arguments before the appellate court.

The legal costs haven't come cheap. The city has spent \$535,300 since 2014 on the lake litigation. City Finance Director Don Rambow provided a breakout of expenditures over the last four years: \$280,000 from 2014 to 2016; \$255,000 in 2017 and for the first four months of 2018, \$29,000. According to Clerk/Treasurer Bill Short, White Bear Township has spent \$162,205 as of May 2018.



This DNR graph shows 10 years of water level data. On May 25, the elevation of White Bear Lake was 923.34 feet.

## New law bars DNR from enforcing judge's order in lake lawsuit

BY DEBRA NEUTKENS  
EDITOR

ST. PAUL — The Department of Natural Resources won't be policing municipal water use near White Bear Lake this summer.

Legislation to postpone for one year state enforcement of court-ordered water restrictions was signed into law by Gov. Mark Dayton on May 21.

Rep. Linda Runbeck (R-Circle Pines) was chief author of the House bill that prohibits enforcement of the judge's ruling until July 1, 2019. It gives 11 municipal permit holders within a 5-mile radius of the lake, including St. Paul Regional Water Authority, a reprieve from water use restrictions set to go into effect immediately. Among the restrictions was a sprinkling ban tied to lake level, limits on per capita water use and a requirement that permit holders provide a surface water conversion plan.

"The judge's orders were overreaching, difficult to enforce and would have increased, not decreased, water use," Runbeck said. Her bill passed, 83-36, on May 16. A companion bill co-authored by Sens. Roger Chamberlain (R-Lino Lakes)

and Chuck Wiger (DFL-Maplewood) passed the Senate 42-25.

The organization that brought the lawsuit against the DNR more than five years ago believes the law is shortsighted.

"Our efforts were solely based on saving the lake," said Greg McNeely, a Dellwood resident and chairman of the White Bear Lake Restoration Association. "The current political unrest regarding water policy appears to be driven by cities wanting to protect water enterprises. With that said, the legislators have jumped on board to represent their constituents, well knowing that there are too many straws in the cup. It continues to be an upward battle trying to protect White Bear Lake. It's extremely disappointing that the science and hard facts are still in question."

The new law coincides with appeals made by municipalities challenging the DNR amendments. Those appeals will be heard through an administrative hearing process. The impacted cities and township had already indicated they did not intend to comply with the permit conditions while that process is underway.