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Waukesha County's Daily Newspaper

North Lake residents win fight against DNR

Case represents first challenge of DNR code

By Brian Huber
Freeman Staff

WAUKESHA – Plans to construct a boat launch on North Lake are on hold in the wake of a decision by a county judge last week, who ruled the Department of Natural Resources failed to follow state laws concerning how it provides itself permits.

Last Thursday, Judge J. Mac Davis

ruled for the Reddelien Road Neighborhood Association residents in overturning prior decisions that upheld how the DNR reviewed and provided itself permits to fill in navigable wetlands to create a boat launch on North Lake.

The DNR bought what is referred to as the Kraus site for about \$1.2 million in 2005, with the intent of putting in a boat launch. Residents contend the project would affect

stormwater runoff, possibly damaging their properties and polluting the wetlands that protect North Lake and areas downstream like Okauchee Lake.

The residents' group took two matters to hearings before an administrative law judge: whether the DNR followed Chapter 30 state law in determining it met the standards to

See DNR, BACK PAGE



Photo from Reddelien Road Neighborhood Association

Paige Hanson is seen in July 2010 paddling a kayak through the area approaching North Lake where the Department of Natural Resources sought to install a boat ramp. A county judge's decision last week nullified any permits the DNR issued itself as part of the project.

Big Read back in Waukesha



Two rising political stars coming to Waukesha County

Associated Press following the closed-door meeting that he doesn't think a deal can be reached before the Legislature's budget-writing committee is scheduled to vote on Walker's proposal Wednesday.

er said he was confident a compromise could be reached soon, but he wasn't holding out hope that he would get everything that he proposed in February.

"I think this week, I don't know if tomorrow," Walker

more students where at least two schools have received low scores on new report cards.

Under those criteria, the program would go into nine cities next year: Beloit, Fond

Voucher support including Walker, say students in failing schools need to be given option to attend private schools at taxpayer expense.

DNR

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fill in wetlands using its "Manual Code" - a process by which the DNR issues permits to itself - and whether the agency followed its own rules, Natural Resources 103, mandating that stormwater impacts on wetlands be analyzed ahead of time.

The ALJ upheld the DNR's positions in the matters, and the residents appealed to the circuit court. In overturning the ALJ decisions, Davis also voided the permits the DNR issued itself.

"That is basically what the fight has been over, is did the DNR properly issue permits to itself," said Bill Gleisner, a resident of the neighborhood association and lawyer for the group.

Gleisner said the residents believed the DNR did not do tests as required under state law when filling in navigable waterways to determine if the project would adversely affect nearby properties.

He said under the DNR's "Manual Code," the agency takes the position that only it can issue permits and determinations on how filling them will affect wetlands.

"During seven days of hearings before an administrative law judge and as a result of a number of depositions and discovery, we contend that they did not apply Chapter 30 to themselves," Gleisner said. "They acknowledged they didn't apply Chapter 30 to themselves, the administrative law judge ruled they didn't apply Chapter 30 to themselves.

"They contended NR 103 was enough and they applied NR 103 to themselves. We couldn't find any evidence of them having done an NR 103 analysis and so these permits

we contended were invalid for that reason."

DNR spokesman Bill Cosh released a statement which read: "We are disappointed with Judge Davis' decision and will work with the Department of Justice to determine the next appropriate step in this matter." He declined to answer other questions.

A first

Gleisner said the case was the first time the DNR had its code reviewed. And while it is up to the DNR to decide on whether to appeal, Gleisner said Davis' decision gave the residents what they sought - the prevention of a football-field sized parking lot where wetlands currently stand near their homes.

"At this point we are only interested in making sure the DNR plays by the same rules they expect from everyone else," he said. "We don't know what's going to be coming next.

"We know the neighborhood has spent close to half a million dollars and the reason we did this is we see this as being a very, very serious threat to our environment, to wetlands which is habitat for everything from bald eagles to you name it, it's a spawning ground for fish, it's connected to North Lake, we also see it as a threat to North Lake.

"We didn't want this fight but we are going to hang tough whatever the DNR does because there's a lot at stake," Gleisner said. "We're just a group of citizens who feel that we should be heard and our concerns should be taken into consideration. ... Justice prevailed. We don't see it as a victory. We see it as thank God our neighborhood has been protected and the environment has been protected."

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Stone: Bill will save voter ID

MADISON (AP) - One of the chief authors of Wisconsin's voter photo identification plan is shopping around a new bill designed to allay legal concerns that the requirements are too burdensome by letting poor people opt out.

Republican lawmakers passed voter photo ID requirements two years ago, saying the move was needed to combat election fraud. But a pair of Dane County judges struck the requirements down in separate lawsuits last year. One ruled the requirements were unconstitutional because some people entitled to vote might lack the resources to obtain an ID. The other said the law substantially impairs the right to vote for poor people, noting birth certificates are required to obtain the IDs and voters who lack them must pay for them.

The state Justice Department has appealed both decisions. Two federal lawsuits challenging the requirements are still pending.

Rep. Jeff Stone, R-Greendale, was one of the main sponsors of the voter ID bill two years ago. He began circulating a new measure last week that would make a multitude of changes to Wisconsin election law, chief among them provisions that would allow voters to opt out of showing photo identification if they sign an affidavit for poll inspectors saying they're poor and can't obtain the identification without paying a fee; have a religious objection to being photographed; or they can't obtain the proper documents needed to acquire photo identification.

Those voters' ballots would be marked and canvassers could review them for validity in the event of a recount, Stone said. Municipal clerks or election commissioners also would be allowed to investigate the voter's quali-

fications.

"We want to address concerns that have come as the case has worked through the courts," Stone said. "If we pass this we'll once again have an ID in place in Wisconsin."

Assembly Assistant Majority Leader Sandy Pasch, Shorewood, said in a statement Republicans should focus on legislation that creates jobs rather than passing a divisive and unnecessary anti-voter agenda.

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