



April 2017

Dear Donors, Members, and Friends,

After four and a half years of intense preparation, planning and data gathering both the White Bear Lake Restoration Association (WBLRA) and the White Bear Lake Homeowners Association (WBLHOA) finally had their “day in court”. Actually, the trial turned out to be three and a half weeks long, and from our viewpoint, presented many good days for the future health, protection and preservation of White Bear Lake.

Our efforts would not have been possible without the strong support that we have received and continue to receive from our WBLRA/WBLHOA donors and members. We are so grateful for your financial support. Your donations to WBLRA paid for expert witnesses who offered compelling, fact based testimonies at trial. Donations also paid for the coordination of our legal teams’ digital tracking and display of over 1000 documents and images admitted into evidence. Our case presentation was seamless and of the highest professional caliber.

Our case against the Minnesota Department of Natural Resources (DNR) rests in the Minnesota Environmental Rights Act (MERA) and the Public Trust Doctrine. MERA empowers both citizens and citizen groups to step forward to defend and protect natural resources from harm by any individual, entity or government agency. MERA cases present many challenges. In our case, specifically the difficulty of fighting against powerful state bureaucracies; the DNR and local municipalities whose interests do not appear to be aligned with the health and wellness of White Bear Lake. The Public Trust Doctrine is similar to MERA and says the government (DNR) has a duty to act as trustee for our benefit to protect natural resources, e.g., White Bear Lake and the underlying aquifer.

Since late summer 2012, the WBLRA and the WBLHOA in coordination with stellar legal leadership and counsel have had the will and tenacity to focus our efforts on protecting White Bear Lake under a MERA claim. The expertise of the WBLRA/WBLHOA legal team was evident each of the 17 days in court. Our legal team was beyond well prepared and was ahead of arguments from opposing counsel every step of the way. Their time, energy, passion for protecting White Bear Lake, and personal sacrifice throughout the last four and a half years is more than anything we could have imagined or thought possible. We are continually grateful to have the legal leadership and counsel of the following individuals:

Mike Ciresi, Katie Crosby Lehmann, Heather McElroy, Jan Conlin and their support staff from Ciresi Conlin LLP

Richard Allyn from Robins Kaplan LLP

Byron Starns and Dan Scott from Stinson Leonard Street LLP

There may be continued press coverage and various opinions regarding the trial and next steps. As we were in the courtroom for all seventeen days in support of our case, let us share some of the legally significant admissions from the trial. These scientific facts were confirmed in the testimonies of senior DNR leaders, their staff and DNR experts (in addition to our experts of course):

- White Bear Lake is strongly hydrologically connected to the underlying Prairie du Chien aquifer. White Bear Lake levels are a leading indicator of the health and water supply of our regional ground water system--the “canary in the coal mine” for water supply in the North East Metro Region.
- White Bear Lake is a closed basin, flow-through lake. This means that White Bear Lake has a small watershed with no natural inlets or outlets and a strong outflow from the lake bottom to the underlying aquifer. Generally, more water goes out of the lake into the aquifer, particularly when the aquifer is receding and its pressure head declining, than comes into the lake from groundwater.

- The DNR has classified White Bear Lake as a “vulnerable” lake due to the unique combinations of the above two factors.
- Official studies by the DNR of White Bear Lake started in 1994 with results published in 1998. The 1998 study identified net precipitation AND high capacity ground water pumping as the two drivers of lake level fluctuations in White Bear Lake. This fact was confirmed by later White Bear Lake studies published in 2004, 2012, and two studies published in 2016. The first direct cause of lake level fluctuations is net precipitation in the watershed area, a factor out of human control. The second direct cause, which lies within human control, is high capacity municipal pumping. The DNR controls municipal groundwater permitting and determines how much pumping from an aquifer is allowed.
- The DNR Assistant Commissioner and multiple other senior DNR staff and experts confirmed the above facts and study results. The DNR has known about the vulnerability of White Bear Lake for over 20 years but has taken little action to protect it.
- The DNR agrees that groundwater pumping makes White Bear Lake low water levels lower and high water levels lower. In other words, groundwater pumping exacerbates the natural fluctuations in White Bear Lake by pushing the range of fluctuations downward and preventing the lake from rebounding from precipitation.
- Certain municipal wells surrounding WBL contain anywhere from 10% to almost 60% of White Bear Lake water in them.
- The recently completed USGS groundwater-surface water interaction model shows that in a slightly dry year, with 5% below average net precipitation, and a 30% increase in groundwater pumping for irrigation, White Bear Lake levels can drop almost 5 feet.
- Pumping mostly for lawn sprinkling increases every summer from 20-40% in the North East Metro area. This region is completely reliant on groundwater resources for its water supply.
- The Met Council anticipates 30-56% growth in the NE Metro through 2040. DNR has admitted that based on anticipated growth, groundwater use in the NE Metro is not sustainable. Low water levels in White Bear Lake is evidence of that.
- Currently, the White Bear Lake level sits at 922.9. The White Bear Lake area has had the wettest three-year period recorded, with 2016 being the single wettest year in Minnesota’s recorded weather history. The lake still has not recovered to its normal, historic median of 923.5 feet.

Following the submission of proposed findings by all parties by May 15<sup>th</sup>, Judge Marrinan will deliver decision (likely within about 60 days) regarding the MERA and Public Trust claims brought by WBLRA/WBLHOA to protect and safeguard White Bear Lake.

WBLRA/WBLHOA started this journey to protect and preserve White Bear Lake for future generations of Minnesotans five years ago. During this journey, we have met wonderful people and created a community of people deeply concerned about the health and wellness of White Bear Lake, the future of our regional water resources, and the upholding of state laws that aim to protect our treasured natural resources. Interestingly, some of the facts revealed in this trial go beyond the health and protection of White Bear Lake to questions regarding the wise water stewardship of our shared groundwater resources now and into the future. We will be grappling with how to proactively and wisely steward this interconnected water system we all share for years to come.

In closing, we would like to thank our donors, members and legal team for walking this path with us. This progress could not have happened without your continued support. The board members of both WBLRA and WBLHOA offer their most sincere and humble gratitude to each of you. Our shared work will continue the fight for the protection and preservation of White Bear Lake until it is safe and secure for future generations of Minnesotans.

Sincerely,

Greg McNeely | Jim Markoe | Shannon Whitaker | Brian McGoldrick