

Rock-Koshkonong Lake District

Christianson pressures DNR on economic study

By Jeff Brown
Reporter staff

Ten months after the Wisconsin Supreme Court handed the Rock-Koshkonong Lake District a major victory in its battle with the state Department of Natural Resources over the lake's water level, RKLD Board of Commissioners Chairman Brian Christianson is still pushing—pushing DNR officials to grant the RKLD a seat at the table as the department works to quantify the economic impact of a lower water level.

After DNR issued an order setting the water level on the lake at 776.33 feet above mean sea level in 2005, the RKLD petitioned the department to allow the RKLD to raise the water level 7.2 inches by controlling the flow of the river through the Indianford Dam, which the RKLD owns.

DNR officials wanted the lower water level in order to protect wetlands that border the lake. RKLD commissioners wanted the higher water level to accommodate the boat traffic that's critical to the success of businesses located on and around the lake.

Seven-point-two inches of extra water doesn't seem like much, but in a lake as shallow as Lake Koshkonong, it makes a big difference—for some boaters, it's the difference between a smooth summer cruise and a prop stuck in the muck or bent against a sunken chunk of limestone.

The DNR denied the RKLD petition, and the RKLD sued. Eight years of costly litigation followed, litigation that ended—for the time being, anyway—when the Supreme Court ruled last July that the DNR should have considered economic impact evidence before issuing the order setting the lake's water level.

It was a monumental ruling (Christianson called it "epic"), because for the first time, a Wisconsin appellate court held that the state constitution requires the DNR to take into account the economic impact of an order setting a lake's water level.

The Supreme Court sent the decision back to Rock County Circuit Court, and in February, Judge Michael R. Fitzpatrick sent the decision back to the DNR, ordering officials there to comply with the Supreme Court ruling by gathering evidence on the economic impact the lower water level would have on businesses and property values around the lake.

Christianson told commissioners at

the Board of Commissioner's quarterly meeting on Thursday, May 8 that he met with lawyers from the state Department of Justice and DNR Deputy Secretary Matt Maroney on May 7 in an effort to convince them to allow the RKLD to collaborate with the DNR in producing an economic impact study.

Christianson said he requested the meeting because the Supreme Court decision didn't specify a deadline for the DNR to complete its consideration of the economic impact evidence, an omission that gave little comfort to proponents of a higher water level, to say nothing of RKLD electors, who had to pay higher annual special charges to cover the \$800,000 in legal costs incurred since the RKLD sued the DNR in 2005.

Christianson said the lawyers and Maroney were receptive to his request. "They don't have any in-house staff to do this. They asked me if we could help them with some sort of outline for how they're going to fulfill this."

Christianson said he told the state officials that collaborations between the RKLD and the DNR are nothing new. "I reminded the attorneys that we have collaborated with the DNR on the experimental dredge project on Koshkonong and we collaborated with them back in 2003 on the ordinary high-water study."

Some of that spirit apparently carried over to the May 7 meeting, where Christianson and Maroney shook hands and agreed that ending the dispute over the water level on the lake was in everybody's best interest. "Nobody wants to keep spending public tax dollars and suing each other," said Christianson.

Nonetheless, Christianson told commissioners he's wary of the DNR's institutional bias in favor of the lower water level, a bias he blamed for fomenting the litigation.

"I don't want the DNR to get out in front of us, and go and find some teaching assistant at Madison and say 'Write something,' and meanwhile they've got their thumb on the scale, and then we've got to come back with our experts and refute it, and the next thing you know, we're back to litigation," said Christianson.

Christianson said he reminded the DOJ lawyers at the meeting that they had the power to settle the case over the lake's water level, either on their own initiative or by direction from their boss.

"DNR needs to know that DOJ has



Brian Christianson, the chairman of the Rock-Koshkonong Lake District Board of Commissioners, is pushing DNR officials to collaborate with the RKLD on an economic impact study related to the water level on Lake Koshkonong. The study was mandated by a state Supreme Court decision handed down last summer.

(Edgerton Reporter photo/
Jeff Brown)

the authority to end this now," said Christianson. "The next meeting is going to be with Attorney General J.B. Van Hollen—he's an elected officer and he can direct staff to do what attorney generals do."

If it sounds like Christianson is playing hardball, it's because he is.

Christianson is a Republican political consultant who cut his teeth in backroom battles at the state capitol and inside state GOP headquarters during the 1990s. Van Hollen is a Republican, and it's safe to assume Christianson has his phone number on speed dial.

Politics aside, Christianson said the dispute over the water level on Lake Koshkonong is not a zero-sum game.

According to Christianson, if the DNR grants the RKLD a seat at the table for the economic impact study, the study will end up complementing pioneering environmental studies on the lake's ecosystem, studies mandated by the DNR and carried out by RKLD.

Those studies include detailed analyses of how the lake's water level affects the lake's flora and fauna, include stands of swamp oaks and Blanding's turtles, a species that's listed as endangered in several Midwestern states.

"Economics will complement the environmental reports we've already done," said Christianson.