

DNR denies district's higher water request

By Jason Francis
Reporter Staff

A request by the Rock Koshkonong Lake District to raise Lake Koshkonong's summer water levels has been denied by the Wisconsin Department of Natural Resources (DNR).

The DNR ruled Friday to keep the summer target lake level (effective May 1 to Oct. 31) at roughly six feet, where it has been since 1991. In April 2003 the lake district proposed an increase of 7.2 inches.

Legal challenges to the ruling from the lake district and other lake groups are forthcoming, said Brian Christianson, lake district chairman.

Water levels on the 10,460-acre Lake Koshkonong, a natural widening of the Rock River, are controlled by the Indianford Dam. The ownership of the dam was transferred from Rock County to the lake district in December.

Ken Johnson of the DNR said his agency had worked hard to complete a detailed, unbiased analysis of the request before rendering the decision.

"We analyzed the situation in earnest," he said.

Christianson criticized the document, saying it contained too much unsubstantiated opinion.

"There are a lot of fluffy words that don't really apply to Lake Koshkonong's ecosystem," he said.

"This is a document that should be free of opinions."

According to the lake district, increasing the summer lake levels would increase the navigable area of the lake by 50 to 100 acres.

However, Christianson said the increased depths would not lead to boats traveling into new areas of the lake. Instead, the change was proposed to address boat safety issues and allow some piers to be shortened. Shoreline property owners would not lose land because the depths would not be increased enough to eclipse the ordinary high water mark of the lake, he added.

But according to the DNR, many negative impacts would likely occur due to the proposal, including reduced aerial coverage and diversity of the emergent aquatic plant community, increased wave erosion on unprotected wetland shorelines, more roughfish access to shallow marshes, reduced emergent aquatic life and reduced aquatic insect populations.

The proposed changes would accelerate the loss of wetlands, degrade high-quality floodplain areas that are the home to numerous rare plant and animal species, and negatively impact habitat of amphibians and reptiles, according to the DNR.

The changes would make the process of removing the lake from the state's impaired water body list

more difficult, reads the decision.

"Increased water levels during the open water seasons will cause more sedimentation into the lake from accelerated erosion and habitat loss from the destruction of riparian wetlands," reads the document.

Richardson said the decision is another example how the DNR views Lake Koshkonong as a wildlife and wetlands sanctuary as opposed to a recreational lake.

The vast majority of the lake's residents support higher water levels, said Jerry Richardson, lake district treasurer.

"This is not a 'majority rules' situation, it's a 'DNR rules' situation," he said.

In another facet of Friday's decision, the DNR agreed to increase the winter minimum and maximum levels of the lake (effective dates Nov. 1 to April 30), but not as much as requested.

The lake district had asked that the annual winter drawdown be eliminated entirely, leaving the maximum winter level with an increase of 1.23 feet and a the minimum winter level with an increase of 1.4 feet. The DNR granted an increase of 6 inches for the minimum and 2.8 inches for the maximum.

The DNR decision finds that reducing the winter drawdown will:

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DNR ruling

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- Benefit hibernating snakes, reptiles and amphibians by decreasing stranding and freezing mortality.

- Enhance ice fishing by reducing the number of fish that leave the lake during winter.

- Reduce the exposed lakebed during winter, which will improve ice access.

Negatives of reducing the winter drawdown include increased shoreline damage from ice expansion and possible additional destruction of offshore wetland protection barriers due to the ice.

Christianson said the winter drawdown has greatly damaged the lake's ecosystem. Because the DNR compromised on the issue, he believes the DNR is not confident in its prior conclusions regarding the positive effects of the drawdown.

Once Friday's decision is officially contested, a formal hearing before an administrative law judge will be scheduled. The results of the hearing can be appealed to circuit court.

The lake district will be contesting the decision along with the Rock River Koshkonong Association (RRKA) and Lake Koshkonong Recreation Association (LKRA), said Christianson.

At least one lake group – the Lake Koshkonong Wetland Association – has stood in opposition to the lake district's request for a deeper lake. The LKWA is a group made up of duck hunters, botanists, environmentalists and others.

In December, the DNR released an environmental assessment (EA) regarding Lake Koshkonong. The EA appeared to provide ample evidence against raising the summer level of the lake, saying increased erosion and loss of wetlands would result.

In compiling the EA, the lake district accused the DNR of cherry-picking statistics from an environmental impact report (EIR) that was commissioned by the lake district, ignoring parts in the EIR that might aid the case for the lake district's requests.

Johnson called the EA "one of the more detailed assessments" he has been around. The process regarding the lake district's request was com-

pleted with great care because of the understanding that legal challenges would likely be forthcoming from groups on one side of the debate or the other, he added.

"We think we have a defensible decision. Regardless of what the decision was, we figured there would be objections," Johnson said.

"There have been disputes regarding water levels (on Lake Koshkonong) going back 100 years."

Lake Koshkonong was formed in the 1850s when settlers dammed the Rock River at Indianford. Between 1900 and 1919 the dam was modified several times, according to the DNR.

Legal controversies regarding lake depths date back to the early 1900's, when several administrative appeals to the Wisconsin Railroad Commission and judicial reviews to the courts were filed by affected property owners for increased flood damages.

In 1939, 136 property owners in the vicinity of the lake petitioned the Public Service Commission to raise water levels by at least six inches. After owners of low-lying land voiced opposition to the plan at a hearing and investigation by commission staff and other officials, the commission dismissed the request.

The Rock River Koshkonong Association proposed a lake level increase of several feet in 1979, prompting lawsuits against the DNR from wetland owners to block the plan. It took a decade for a compromise – raising the lake four inches – to materialize and lake level regulations have gone unchanged since.

Christianson said times have changed, however, because the lake district, which did not exist until six years ago, has been able to fund the collection of a large amount of information on the lake.

"We are excited. This will be the first time in the lake district's existence that we have an opportunity to present hundreds of thousands of dollars worth of information on the lake," he said.

"This is an opportunity for us to lay the facts on the table."