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4:52 PM TUE JULY 16, 2013

## Property Owners Win In Supreme Court Case, But Do Wetlands Lose?

By [CHUCK QUIRMBACH](#) ([PEOPLE/CHUCK-QUIRMBACH](#))



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Lake Koshkonong

The [state Supreme Court](http://news.wpr.org/term/wisconsin-supreme-court) has ruled in favor of property owners along Lake Koshkonong in a decision that some say will weaken wetlands protection.

<http://cpa.ds.npr.org/wisconsin/audio/2013/07/nws130716-> 1:18 | 1:38

The property owners wanted the [Department of Natural Resources](http://news.wpr.org/term/dnr) to allow water levels to be higher year-round on Lake Koshkonong, which is formed by a dam on the Rock River northeast of Janesville. The DNR mostly rejected the proposal.

The DNR won in lower courts, but now the state Supreme Court has ruled 4-3 in favor of the property owners, saying that the DNR wrongly excluded testimony on the economic impact of lower water levels at the lake. Rock-Koshkonong property owners chairman Brian Christianson says he's very happy, and that the case sets a new precedent.

“Never before has economic impact been admissible when it comes to operating orders and operating mandates from the DNR,” says Christianson.

But environmentalists, who entered the case supporting the DNR, say they think the lake will be harmed. There are 12 miles of undeveloped wetlands on the lake shoreline, and Elizabeth Wheeler of Clean Wisconsin says higher water levels could cause damage.

“In order to ensure that the water quality in the lake is [protected] ... the DNR must protect the wetlands that protect that water quality,” says Wheeler.

Wheeler says the Supreme Court has unnecessarily restricted the Public Trust Doctrine, which aims to protect the public rights of navigable waters. She says lakeside wetlands are part of the public trust.

Wisconsin Manufactures and Commerce is praising the ruling. Some of the case will now go back to a circuit court.

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