



# White Bear Press

Press Publications  
4779 Bloom Avenue  
White Bear Lake, MN 55110

CHANGE SERVICE REQUESTED

PRESORTED  
STANDARD  
U.S. POSTAGE  
PAID  
PERMIT NO. 9  
CIRCLE PINES, MN

WEDNESDAY, MARCH 23, 2016  
VOL. 120 NO. 21 www.presspubs.com \$1.00

TEACHER OF THE YEAR: Six finalists named **PAGE 3A**

## Trial date set for lake lawsuit

BY DEBRA NEUTKENS  
REGIONAL EDITOR

ST. PAUL — Unless something changes this legislative session, the lawsuit over the elevation of White Bear Lake will go to trial: March 6, 2017.

The clock is ticking.

At a March 14 status hearing before District Judge Margaret Marrinan, parties in the lawsuit acknowledged it was unlikely the Legislature would fund a feasibility study by Aug. 1 to implement a conversion from groundwater to surface water for six cities in the northeast metro.

The August deadline was part of the settlement agreement between the plaintiff, the White Bear Lake Restoration Association and an intervenor, the White Bear Lake Homeowners Association, and the defendant, the Department of Natural Resources (DNR) and intervenors White Bear Township and the city of White Bear Lake.

The agreement put the lawsuit on a three-year hold while stipulating certain conditions and deadlines. One was the feasibility funding by Aug. 1. Missing that first deadline means the stay will be lifted and the lawsuit will go to trial.

White Bear Lake City Attorney Roger Jensen said everyone at the hearing agreed that key date would not be met.

"The judge recognized it was unlikely funding would occur," Jensen said. "She also said it was partially due to the fact there is a competing augmentation bill pending in the Legislature."

There's another wrinkle in the trial timeline. By law, Judge Marrinan is forced to retire when she turns 70. That will be August of 2017. If she is going

SEE LAKE LAWSUIT, PAGE 9A

## LAKE LAWSUIT: District Judge no fan of augmentation plan

FROM PAGE 1A

to try the case, she needs time to write the decision within 90 days from close of record plus give parties time to submit briefs.

"To put all those dates together, the trial must be scheduled in February or March, 2017," Jensen said.

The judge set five weeks aside from the March 6 date.

"That's a lot of trial time," noted the city's legal counsel. "I've been practicing law for quite a few years. Only one case lasted four weeks."

Of course, if the Legislature were to change its collective mind and fund a feasibility study, obviously the trial would be removed from the judge's calendar, he added.

In a memo to stakeholders following the hearing, DNR Assistant Commissioner Barb Naramore wrote that the agency "continues to support a broader regional study to address long-term water supply in the north and east metro."

The DNR is proposing a single study, she said, to address both "the broader water supply questions and augmentation" for an estimated \$3.48 million.

The funding request would be similar to one described in the Senate File 1910

agreement would terminate in August 2016 and litigation would resume," Naramore wrote.

The proposed study would include water quality monitoring and a pumping volume model to predict if there are impacts to the lake's ecology. The DNR and USGS are also working on a detailed sampling plan to begin shortly after ice out for both East Vadnais and White Bear Lake.

About \$1.7 million of the \$3.48 million funding request would be used for preliminary engineering tasks related to the augmentation proposal.

City Attorney Jensen suggested pushing back the deadlines a year. He said it wouldn't make sense to try the case for five weeks and cost everyone time and money if the lake is filled up with water from augmentation.

Never a proponent, Judge Marrinan said, "I don't give a damn about augmentation," and noted at the status hearing it would take agreement from all parties to change the dates in the settlement agreement. The plaintiffs were not agreeable to an extension.

So what happens if there is funding for augmentation?

"Right now the settlement agreement with its deadlines isn't affected by the

of litigation could be lifted. The terms of the settlement were not met. Second, if the plans and construction costs aren't appropriated by the 2017 session, still another deadline will have been missed, same result.

"A question you want to keep in mind is what is in whatever augmentation bill that may be passed, Allyn contin-

ued. "Is it for a preliminary study, is it for testing the waters, is it short of paying for augmenting the lake with Vadnais Lake water? Is it going to pay for the whole project? If the bill is a significant approval of augmentation than there could be negotiations to settle the case and there would be no trial."