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Lake Beulah dispute echoes larger battle

In tussle with East Troy over well, district takes cue from Great Lakes controversy

By DARRYL ENRIQUEZ
denriquez@journalsentinel.com

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Taking a page from the international move to protect the Great Lakes from harmful water diversions, the tiny Lake Beulah Management District in Walworth County has empowered itself to block the sinking of new wells within its boundaries.

The new ordinance also says that water pumped out of the basin, above or below ground, must be returned to the basin, a directive that reflects a hotly debated issue in Waukesha's attempt to divert water from Lake Michigan.

An attorney for Lake Beulah neighbor East Troy on Friday questioned whether the district's action is allowed under state law. The village is under state orders to improve its ailing water supply, and it wants to sink a high-capacity well into a shallow aquifer near a shoreline of Lake Beulah.

The ordinance is in response to those plans, over which the village and the district have fought for years. The state Department of Natural Resources has not opposed the well, and the district has lost its case in state courts.

Lake residents fear that a high-volume well tapped into an aquifer that replenishes the lake via underground springs will lead to a decline in lake levels and ultimately harm the ecology of the basin.

The ordinance says that before a well is sunk, a permit must be obtained from the district. Residential users are exempt, and the regulations apply only to taking water from the shallow aquifer. Deep aquifers in bedrock are exempt from the permit requirement.

Eyes on legal fight

The protracted legal battle between the district and the village is being watched by other lake districts that fear thirsty communities will sink wells near their shores, negatively affecting water levels and quality.

Residents of Upper Phantom Lake near Mukwonago have staved off attempts by that village to install wells along its shores.

And residents of Pine and Beaver lakes in north-central Waukesha County are concerned about the installation of shallow wells to quench the water needs of expanding populations and developments of nearby communities.

Paul Kent, East Troy's attorney for the well issue, said he believed that the Lake Beulah district lacked the authority to adopt such an ordinance.

Michael Christopher, a lake district attorney, disagreed. He said lake residents were trying to protect water resources within the district's political boundaries and drainage basin.

"The legal theory behind the ordinance is that the district cannot really protect the lake if waters now flowing to the lake are intercepted and diverted outside of the drainage basin," Christopher said. "We believe the statutes allow us to take measures to protect Lake Beulah."

With communities exploring shallow aquifers as untapped water resources, landowners and environmentalists are realizing that the DNR has limited authority over the use of groundwater, as opposed to the tight control it has over surface water.

William Scott, another lake district attorney, said the group was not trying to be unreasonable.

"We're not saying people can't get the water; they just must return it to the basin. We want it to remain in the basin to sustain Lake Beulah," Scott said.

Christopher said that similarities in the "return flow" requirement make his client's protection efforts similar to those of Milwaukee officials and their handling of Lake Michigan water diversion.

The Waukesha Water Utility has indicated to the DNR its interest in purchasing up to 22 million gallons of water a day of Lake Michigan water. That idea has run into a wall of opposition from environmentalists and those opposed to suburban expansion.

Cost, speed at issue

Waukesha initially opposed returning the water to Lake Michigan. Instead, it wanted to dump the treated wastewater into the Fox River, which flows to the Mississippi River. City officials have since softened their stance on the return flow requirement and are examining the return of treated water to the Root River, which flows into Lake Michigan.

In East Troy, treated wastewater is sent into Honey Creek on the side of town that is opposite Lake Beulah.

Kent said that the cost of installing additional pipe to send the water back to Lake Beulah would be unaffordable to East Troy, and he questioned whether lake residents really wanted sewer plant discharge going into their lake.

The project also would take years, and the village needs a new water source quickly, Kent said.

Lee Boushon, a water official with the DNR, said that water and management districts periodically enact measures to take local control over the resource.

The DNR does not respond to those actions until an outside agency asks it to do so, he said. In this most recent case, it likely will be East Troy.

The village has approved the well installation and is working with well companies to start the project.

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