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Group seeks to manage Round Lake Culverts 'act as a dam' says DNR

Terrell Boettcher
Sawyer County Record

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At a meeting last Friday to discuss the future of Round Lake, more than 20 stakeholders agreed that a watershed management plan needs to be developed, and that such a plan will have priority over and be a part of any attempts to revise existing water level orders.

The meeting at the Hayward DNR Service Center was the second this year arising out of a petition from Sawyer County to the Department of Natural Resources to clarify existing orders relating to the lake's water levels.

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the lawsuit before it went to trial, but did not admit causing any damage.

Last Friday's round-table meeting was facilitated by University of Wisconsin-Extension basin educator Kris Tiles. The participants included Sue Kintzinger and Wally Narr representing the Round Lake Property Owners Association; Mic Isham representing the Lac Court Oreilles Tribal Governing Board, Voight Intertribal Task Force and Great Lakes Indian Fish and Wildlife Commission (GLIFWC); Dan Tyrolt of the LCO Conservation Department; Shirley Riedmann, T.J. Duffy, Dale Olson, Kris Mayberry and Jan Eck representing Sawyer County; Peter David of GLIFWC; Tom Aartila, Tom Jerow, Dave Kafura and Frank Dallam of the DNR; and Round Lake shoreowners John Hirschfeld and Jim Hausman.

Riedmann, who chairs the county board's Land and Water Conservation Committee, emphasized that "we are looking at the entire watershed, not just individual lakes." The system includes Round, Little Round, and Osprey lakes as well as the upstream Tiger Cat Flowage and the downstream Lac Courte Oreilles, which is fed by an outlet creek from Osprey Lake.

Isham suggested using the existing Chippewa Flowage management plan (an agreement between the LCO Tribe, DNR and Forest Service) as a model for Round Lake. DNR staff agreed to provide the group with existing management plans on other lakes to look at as potential models.

Isham said the tribe is "against lowering Round Lake." Hausman responded that "nobody here wants to lower Round Lake. The whole issue is controlling Round Lake— something that was supposed to be done 60 years ago."

Aartila, the DNR water management specialist out of Park Falls, said the five main issues from south to north appear to be the twin culverts on Highway NN, the Carlson Road outlet stream dam on Little Round Lake, the Chapter 30 order setting the Osprey Lake water level, the 1941 state Public Service Commission order setting the authorized water level on Round Lake, and the order setting the Tiger Cat Flowage level.

Olson, who is the county land and water conservationist, said a sixth issue affecting water inflow into the lake system is the dramatic increase in impervious surfaces on the shore of Round Lake over the years.

Isham said the culverts on Highway NN are within the reservation boundaries, but were placed without input from the tribe.

Dallam, the regional dam regulator for the DNR, said the culverts (which were installed by the county without a DNR permit) need to be brought into compliance with state code. Currently, they are "acting as a dam," he said. "Whoever owns that road needs to bring the dam into compliance." The

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channel leading up to Highway NN is clogged with silt.

Mayberry said “no one wants to go back to 100 years ago, which would mean vastly fluctuating water levels on Round Lake that would probably serve no one’s interests. The word is ‘control.’ What we need to do is figure out to what extent we should influence the water level and what the primary regulator, the DNR, will have to do.”

No one wants to see the lake as low as it was during this summer’s drought, Mayberry added. “What we would all like is when it gets to a certain (high) level and causes problems to anybody on the lake (is to figure out) whether there is a way to get rid of the water without harming people.”

Tom Jerow, DNR Northern Region water team leader, said the DNR is “not the primary regulator. We have to work with the tribes and regulate things together.”

Hirschfeld said that 95 percent of the property on Round Lake “has never seen a normal water level. This past summer the lake was down one inch below the authorized minimum, and now it is one inch above the (authorized) maximum.” At one time, the lake “had beautiful sand beaches, but they were flooded out,” he added. “Nobody wants to destroy the lake. I shouldn’t have to build a rock wall to protect my shoreline.”

Riedmann said the county is “going in circles because we don’t have direction from the DNR.”

Kafura said the DNR wants “to bring everyone to the table to hammer out some of these issues and figure out where we agree or don’t agree. And we want a holistic approach” to the impacts each lake in the system has on the other.

Hausman said he has given his hydraulic engineers’ study documents to the DNR on how to control the lake’s water. All of the experts hired previously by the county or himself “have testified the same thing: Round Lake cannot be controlled with the current structures, but it can be controlled with the correct structures,” he said.

People who live on or buy property on lakes “count on water levels, but all of a sudden it becomes more complicated,” Mayberry said. “Whether we go with the larger scope of a lake management plan or not, Sawyer County needs some immediate guidelines so we can move forward within the bounds of the law.”

Jerow said the state “has an obligation to consult with the (Chippewa) tribes when we issue permits in the ceded territory, particularly as it relates to wild

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rice in this watershed. When we get to a point when we are considering a permit for water levels here, we have an obligation to consult with the Voigt Task Force," which includes all the tribes.

But "where we get a little more shaky is when we're also dealing within the LCO reservation boundary," Jerow added. "We're regulating culverts placed by the county (on Highway NN) within the reservation. We need to clarify this with our legal staff. The tribe probably also has its regulations which may apply. In that case, we want to work closely with LCO to come to the same conclusion."

Mic Isham responded that Jerow is "correct" regarding the ceded territory rights. When it comes to civil regulation within the reservation, "we don't go by state statutes," he added. "They do not apply. This water is coming into the reservation," and a previous appeals court decision in a Mole Lake tribal case has upheld the power of tribes to regulate incoming water, he indicated.

Jerow responded that "If we (state or county and the tribe) agree that the culverts on Highway NN need to be raised or lowered, then we will use whatever regulatory process needs to be used" to do that. "We do have some discretion in this (culvert) situation, and we would be hard-pressed to take an enforcement action (for an illegal culvert) when we have a group working through a process to resolve the issue eventually."

Isham said the culvert is one issue in a bigger picture and "you can't legally enforce an order which would flush water onto my reservation." He urged the parties to develop a lake system management plan to identify broader issues. Tyrolt said "We need to better understand what the current (state) code is, and whether that code is conducive to sound environmental management."

Narr said recent surveys of home owners on Round Lake, both by the county and the Round Lake Property Owners Association, showed the majority of shoreowners "said do nothing" with the lake—"let nature do its thing."

Next meeting

The group set its next meeting for Jan. 26 at a larger venue. The agenda will include a review of historical lake levels versus existing levels, review of sample lake management plans, developing a problem-goals-objectives statement, a Round Lake management plan, further networking with other stakeholders (including Tiger Cat Flowage shoreowners), and possible application for a state lake planning grant.

Mayberry said the county “needs clear direction (from the DNR) as to how to deal with any structures pending the final outcome” of a management plan.

Riedmann said the county doesn’t want to wait another three to five years to get a result. “We just have to address this issue of the watershed. It’s a bigger issue with the development going on and everything else.” She suggested using the Chippewa Flowage management plan as a template for a Round Lake plan.

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