

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT
Case Type: Civil Other/Misc.

White Bear Lake Restoration Association, *ex rel.*
State of Minnesota,

Plaintiff,

White Bear Lake Homeowners' Association, Inc., *ex rel.* State of Minnesota,

Intervenor,

vs.

Minnesota Department of Natural Resources
and Thomas J. Landwehr, in his capacity as
Commissioner of the Minnesota Department of
Natural Resources,

Defendants,

White Bear Township,

Intervenor,

City of White Bear Lake.

Intervenor.

Court File No. 62-CV-13-2414
Judge: Margaret M. Marrinan

SETTLEMENT AGREEMENT

WHEREAS, the Court retains continuing jurisdiction over this case until all claims are dismissed.

WHEREAS, the Plaintiff, White Bear Lake Restoration Association ("Lake Association"), on behalf of the State of Minnesota, by and through its Complaint, alleges that the Defendants Minnesota Department of Natural Resources and Thomas J.

Landwehr, in his capacity as Commissioner of the Minnesota Department of Natural Resources (“DNR Commissioner”) (collectively, “DNR”) have violated the Minnesota Environmental Rights Act (“MERA”), Minn. Stat. § 116B.01, *et seq.*

WHEREAS, the Plaintiff-Intervenor, White Bear Lake Homeowners’ Association (“Homeowners’ Association”), on behalf of the State of Minnesota, by and through its Complaint-in-Intervention, likewise alleges that the DNR has violated MERA, Minn. Stat. § 116B.01, *et seq.*, as well as the Public Trust Doctrine.

WHEREAS, White Bear Lake is a public water and an important natural, recreational, historical, cultural, scenic, and aesthetic resource in Minnesota. White Bear Lake is unique in its configuration, particularly in light of its watershed-to-lake area ratio, its lake bed, and that it has no major surface-water inlet or outlets during low lake levels.

WHEREAS, the Prairie du Chien-Jordan aquifers as defined in paragraph 3 of this Settlement Agreement are significant natural resources in Minnesota.

WHEREAS, the DNR denies that it has violated MERA and the Public Trust Doctrine but recognizes that the State has an interest in the sustainable management of the State’s surface and groundwater resources.

WHEREAS, the State as part of its responsibility to sustainably manage the State’s water resources has an interest in reducing the reliance on groundwater sources for cities in the north and east metropolitan area to support the long-term sustainability of water supplies in the metropolitan area.

WHEREAS, White Bear Township intervened as a defendant and joins DNR’s denials that it has violated MERA and the Public Trust Doctrine.

WHEREAS, the City of White Bear Lake intervened as a defendant and joins DNR’s denials that it has violated MERA and the Public Trust Doctrine.

WHEREAS, the DNR, at the request of constituencies across the northeast metropolitan area including the White Bear Lake Conservation District and in coordination with other government agencies, has initiated a process of designating and implementing a groundwater management area in the northeast parts of the Twin Cities metropolitan area known as the North and East Metropolitan Groundwater Management Area (North and East GWMA or North and East Metropolitan Area), as provided under Minn. Stat. § 103G.287, subd. 4.

WHEREAS, the DNR is dedicated to continuing to work to further implementation of the North and East GWMA.

WHEREAS, as part of the DNR's statutory authority under Minn. Stat. § 103G.287, subd. 4, the DNR has been and remains committed to working with the Metropolitan Council ("Met Council") to ensure more sustainable use of groundwater that protects ecosystems, water quality, and the ability of future generations to meet their own needs, across the North and East Metropolitan Area, including the area of White Bear Lake. The DNR is committed to, on its own and in working with the Met Council, encouraging water conservation, including the adoption of demand reduction measures (which means measures that reduce water demand, water losses, peak water demands, and nonessential water uses) and conservation rate structures (which means a rate structure that encourages conservation and may include block rates, seasonal rates, time of use rates, individualized goal rates, or excess use rates) in the communities in the North and East GWMA area.

WHEREAS, the DNR agrees that use of surface water, instead of groundwater, in the North and East GWMA should occur in order to provide a more sustainable approach to water supply for generations to come.

WHEREAS, DNR anticipates completing the North and East GWMA plan by spring 2015 and initiating implementation of the plan in 2015;

WHEREAS, the United States Geological Survey is completing a second study that will analyze which groundwater wells, if any, may have the greatest impact on White Bear Lake and this study will not be available until the fall of 2016;

WHEREAS, there are a number of public and both permitted and non-permitted private wells located within two miles of White Bear Lake which may have the potential to impact water levels in the Lake;

THEREFORE, the parties agree as follows:

APPLICABILITY

1. The obligations of this Settlement Agreement shall apply to and be binding upon the parties, including their agents, employees, and their successors and assigns.

DEFINITIONS

2. "Groundwater" refers to water in the saturated zone of soils or geological strata below the surface of the earth.

3. "Prairie du Chien-Jordan aquifers" refers to the groundwater contained within the geological strata referred to as Prairie du Chien Group and Jordan Sandstone Aquifers.

4. "Northeast Metro Project" means that project referred to as Alternative 1B or 2B in the Metropolitan Council's report entitled *Feasibility Assessment of Approaches to Water Sustainability in the Northeast Metro – Draft Report* (June 2014). As described in such report, Alternatives 1B and 2B involve connecting the municipalities of Vadnais Heights, White Bear Lake, White Bear Township, Mahtomedi, Shoreview and North St. Paul to either raw water or treated water purchased from St. Paul Regional Water

Service (Phase I). The Met Council's report also identifies a second phase of the "Northeast Metro Project" that consists of Alternative 1C or 2C, both of which involve switching an additional seven communities in the North and East Metropolitan Area from groundwater to surface water sources (Phase II). Phase II involves connecting the municipalities of Centerville, Circle Pines, Columbus, Forest Lake, Hugo, Lexington, and Lino Lakes to either raw water or treated water purchased from St. Paul Regional Water Services. "Northeast Metro Project" also means a suitable equivalent or similar project that switches municipalities in the North and East Metropolitan Area to surface water.

OBLIGATIONS OF THE PARTIES

5. DNR will support legislative approval of a public entity request to the Minnesota Legislature for the funding of the feasibility and design of the Northeast Metro Project, in order to make this project "shovel ready." If the Legislature fails to authorize or appropriate funds for the feasibility and design of Phase I of Northeast Metro Project by August 1, 2016, the stay imposed in this Settlement Agreement is lifted. DNR will also support legislative approval of a bonding or other funding request by other public entities to the Minnesota Legislature to fund the construction of the Northeast Metro Project. In addition, the DNR will support issuance of required state, local and federal permits. If the Legislature fails to authorize or appropriate funds for the construction of Phase I of the Northeast Metro Project by August 1, 2017, the stay is lifted. If any federal, state or local government entity fails to issue permits for or approve Phase I (by August 1, 2017) of the Northeast Metro Project, the stay is lifted. Provided that permit applications comply with applicable law and meet minimum standards, DNR will support and issue any necessary DNR permits for the Northeast Metro Project and make reasonable efforts to do so in an expedited manner.

6. Subject to approval of this Settlement Agreement by the current White Bear Lake City Council and White Bear Township Board, the City of White Bear Lake and White Bear Township support and will simultaneously issue a resolution supporting the legislative approval of the proposed Northeast Metro Project and necessary appropriation and bonding requests to the Minnesota Legislature for the total cost of feasibility, design, and construction of the Northeast Metro Project.

7. Although the DNR will support funding by the Legislature as described in paragraph 5, DNR has no obligation under this Agreement to pay the feasibility, design, construction, or operating costs for the Northeast Metro Project, unless the Minnesota Legislature determines otherwise and identifies or provides funding. DNR will not be deemed to have breached this Agreement if the parties to this Agreement and interested state and local government entities are unable to agree upon, and ultimately do not approve, financing for feasibility, design or construction costs of the Northeast Metro Project. If no agreement is reached, however, the stay will be lifted.

8. DNR will work with communities in the North and East GWMA and the Minnesota Legislature to develop a financing proposal that equitably allocates the cost of supplying and delivering treated or untreated water as part of the Northeast Metro Project across the communities in the North and East GWMA. DNR will support a cost structure that will not result in water costs or fees charged to the Phase I communities which exceed the cost of supplying and delivering treated or untreated water to the Northeast Metro Project.

9. DNR will support implementation of Phase I of the Northeast Metro Project requiring six communities (namely, Vadnais Heights, White Bear Lake, White Bear Township, Mahtomedi, Shoreview and North St. Paul ("Phase I Communities")) to be moved from groundwater to surface water sources for their water needs as part of an

overall regional water plan. DNR commits to assist the Phase I communities to move onto surface water pursuant to the Northeast Metro Project.

10. Provided that the Legislature fully funds Phase I and the operational costs of such system are equitably allocated among the communities in the North and East GWMA, the DNR will propose, and the City of White Bear Lake and White Bear Township agree, that the Phase I communities be permitted to maintain their current groundwater wells only for backup purposes (including maintenance and upkeep), or if the St. Paul Regional Water Services (or the legal entity operating the Alternative 2B water treatment system) determines that the municipal water supply provided by the Phase I project is inadequate to meet municipal supply needs. DNR will propose that use of those wells is restricted to backup purposes only (including maintenance and upkeep) once the Northeast Metro Project is operational. Provided, however, for Phase I, Alternative 1B, supplementing the Phase I water supply with groundwater for water quality purposes may be considered only if and when the St. Paul Regional Water Services determines that the raw water source so requires. If Alternative 2B is implemented, the decision on the adequacy of the water quality shall be determined by the legal entity operating the Alternative 2B water treatment and distribution system in consultation with the six Phase I communities. DNR will propose that in no event shall such supplementation be based upon economic or financial gain, nor exceed the minimum amount necessary to provide water quality equivalent to the then current output from the St. Paul Regional Water Services. DNR will support the application of the above standards to all of the Phase I communities.

11. DNR will give Plaintiff and Plaintiff-Intervenor notice of any application or request to expand groundwater appropriations by the Phase I communities and provide the opportunity to respond within the thirty day comment period. DNR will not object

to Plaintiff and Plaintiff-Intervenor's standing as parties to participate in any proceeding, contested case, or appeal involving such permit application or request for expansion. DNR's obligations under this paragraph will expire upon dismissal of this case or the lifting of the stay pursuant to the terms of this Settlement Agreement.

12. DNR will also support Phase II of the Northeast Metro Project and work with the other seven communities in the Northeast Metro (Phase II) to move these communities off of groundwater to surface water for the water needs of each community.

13. On or before November 1, 2016, DNR will set a protective elevation for White Bear Lake using the criteria set forth in Minn. Stat. § 103G.285 (as they exist at the date of this Agreement). DNR will not utilize its waiver authority in Minn. Stat. 103G.285, subd. 1 as a basis to avoid setting a protective elevation for White Bear Lake. DNR agrees to consider this protective elevation and the cumulative impact of existing wells on White Bear Lake and the aquifers in (a) evaluating new groundwater appropriation permit applications and (b) in reviewing, modifying, suspending, and/or terminating existing groundwater appropriation permits, public water supply plans, and water demand reduction measures to the extent and in the manner required by Minnesota statutes and regulations and the terms of existing permits. To ensure an adequate water supply, DNR is not obligated to enforce any protective elevation of White Bear Lake by modification, reduction or termination of groundwater appropriations until or unless the Northeast Metro Project Phase I is operational as to the six communities identified above. If, after Phase I of the Northeast Metro Project becomes operational, the Commissioner determines that application of the protective elevation would be unduly deleterious to public water supply including in the Phase II communities, then the protective elevation would not be applied until such time as the

application is no longer unduly deleterious to the public water supply. DNR will give Plaintiff and Plaintiff-Intervenor notice of any planned change to the above protective elevation. Additionally, until Phase I becomes operational, DNR will give Plaintiff and Plaintiff-Intervenor notice of any DNR proposed changes to the criteria used to set protective elevations set forth in Minn. Stat. § 103G.285, subd. 3(b) solely at the time said legislation is initially introduced in the Minnesota Legislature or of the initiation of rulemaking affecting the criteria for setting protective elevations. If there is a material change to the criteria set forth in Minn. Stat. § 103G.285, subd. 3(b), then DNR may give Plaintiff and Plaintiff-Intervenor notice that it intends to reopen its protective elevation determination. If the DNR issues such a notice, any party may ask the Court to hold a hearing to determine which statutory standard to apply in setting the protective elevation for White Bear Lake. None of the parties waives its right to appeal from such determination. If a protective elevation is not set by November 1, 2016, Plaintiff or Plaintiff-Intervenor may request the Court to order the DNR to enter a protective elevation for White Bear Lake within 60 days. This paragraph will expire ten (10) years after Phase I is operational.

14. DNR will appoint one member of Plaintiff and one member of Plaintiff-Intervenor to become a member of the North and East GWMA within ten (10) days of execution of this Agreement.

15. DNR will use its best efforts to continue to consider conservation measures as a condition of maintaining existing groundwater appropriation permit levels for the Phase I and Phase II municipalities, which can be done as part of DNR's periodic review of appropriation permits and review and approval of municipal water plans. By January 1, 2016, DNR staff will have met with the 13 communities across the North and East GWMA including the municipalities listed in the study completed by

the United States Geological Survey entitled *Groundwater and Surface-Water Interactions in White Bear Lake, Minnesota, 2011*, in order to encourage the communities and industries within those communities to implement additional conservation measures, demand reduction measures and conservation rate structures. DNR will discuss with these communities implementing these additional conservation measures as soon as possible and advocate inclusion of such measures in the next generation of water supply plans, which will be developed beginning in 2016. DNR will work with the 13 communities to achieve an aggregate goal of at least an overall seventeen percent (17%) reduction in water use net of growth as compared to the water use based upon an *eight* year average prior to the date of this Agreement. "Water use" means annual "total water pumped."

- a. The actual target reduction for each individual community may vary based on past efforts made by the individual communities to implement conservation measures, but even considering past efforts, the goal shall be new conservation measures leading to at least 10% of new water demand reduction.
- b. DNR will use its best efforts to facilitate the ability of local municipalities to obtain grants from available sources to help fund the implementation of conservation measures. Conservation measures which will be explored shall include but not be limited to the following:
 - i. Encouraging installation of water conserving technologies and equipment in private dwellings and industrial and business facilities. This includes use of low flow toilets (toilets using less than 2 gallons of water per flush);

- ii. Encouraging reduction in lawn watering and other large, discretionary water uses, including use of soil moisture sensors and rain gauges;
- iii. Work with large industrial users to cut water use by 17% through a range of approaches, including the possible creation of incentives and capture of storm water;
- iv. Encourage communities to audit, identify, and prioritize repair of leaks in their water distributions systems to achieve a leakage rate of no greater than 10%;
- v. Encourage the use of storm water to irrigate golf courses, parks, ball fields and other landscaping having irrigation needs;
- vi. Encourage the individual Phase I communities to work with DNR and other agencies to utilize wetlands to filter storm water in recharging the Prairie du-Chien – Jordan Aquifer(s).
- vii. Support efforts by the North and East Metropolitan Area municipalities to require all new and remodeled construction to use low flow toilets and soil moisture sensors and rain gauges for irrigation needs.
- viii. Encourage communities to analyze the effectiveness of current conservation pricing schemes in the North and East Metropolitan GWMA and work with communities to develop more effective conservation pricing mechanisms likely to be effective in meeting required conservation percentages.
- ix. Encourage communities to set a goal of achieving residential water use of 75 or fewer gallons per person per day.

16. DNR will support legislation for amendments to the plumbing code that give municipalities the right to enforce plumbing code violations for failure to comply with water use limitations and to implement conservation measures, *e.g.* recycling use of gray water, low flow toilets, storm water, etc.

17. With the assistance of the DNR, the Defendant-Intervenors City of White Bear Lake and White Bear Township, Plaintiff and Plaintiff-Intervenor will undertake a leadership role in communicating with lake area members who have permitted or non-permitted private wells to encourage and implement water conservation measures with the goal of achieving water use of 75 or fewer gallons per person per day. Plaintiff and Plaintiff-Intervenor will use written and oral communication (including use of a website) to encourage their respective members and municipal residents who are private well owners located within a 2 mile distance of White Bear Lake to do the following within 24 months of the date of this Agreement:

- a. install water meters on any private and commercial wells;
- b. install low flow/flush toilets; and
- c. install soil moisture sensors and rain gauges for irrigation systems.

Further, Plaintiff, Plaintiff-Intervenor, and Defendant-Intervenors will use their best efforts to encourage such private well owners to support installation of such measures as soon as practicable. Until the stay is lifted, the Plaintiff and Plaintiff-Intervenor will post on the aforementioned website a summary of their efforts to accomplish the conservation measures set forth in this paragraph on a semi-annual basis.

18. DNR agrees to initiate implementation of the North and East GWMA plan in 2015. DNR agrees to provide this plan to all parties and the Court. By agreeing to

this paragraph, the DNR does not concede jurisdiction by the Court over the North and East GWMA.

19. Subject to the conditions set forth in this Agreement, the parties agree to stipulate to a thirty-six month stay of the litigation, and will execute and file a Stipulation in the form attached as Exhibit 1 in District Court within ten (10) days of the execution and approval by all parties of this Agreement. During the stay period, the Court will retain jurisdiction of this case, and the parties encourage the Court to hold semi-annual status conferences. Written reports will be filed with the Court ten days before all such conferences. The conference and written report will address:

- (a) the most currently available information on lake water level, water clarity, and the water levels of the underlying aquifers,
- (b) use and ongoing implementation of all conservation and demand reduction measures pursuant to paragraphs 15 and 17,
- (c) progress on accomplishing Phase I in the North and East Metropolitan Area,
- (d) updates from each party on meeting its obligations under this Agreement,
- (e) the status of efforts to set the protective elevation as outlined in paragraph 13 of this Agreement, and
- (f) such other topics requested by the Court and/or raised by the parties for good cause.

Ten (10) days before a status conference, each party will file with the Court a report providing the content identified in Exhibit 2 and as identified by the Court. A proposed template for such written report filed with the Court is attached as Exhibit 2.

The parties encourage the Court to hold a status conference approximately thirty-six (36) months after the execution of this Agreement. If, despite the parties'

stipulation, the Court does not order a thirty-six (36) month stay of this action, this Agreement will be null and void.

20. Any party may provide a copy of this fully executed Settlement Agreement to the Court.

21. By executing this Settlement Agreement, White Bear Lake Restoration Association and White Bear Lake Homeowners' Association, Inc. retain, and have not released, waived, or dismissed with prejudice, (a) their legal claims and right to relief of any kind, including to seek interim augmentation, augmentation, or any other emergency relief, should Phase I not be funded, permitted, constructed, and placed in operation; or (b) their right to apply for permits pursuant to applicable standards for privately or publically funded systems to augment White Bear Lake. Except as noted in this Agreement, White Bear Lake Restoration Association and White Bear Lake Homeowners' Association, Inc. agree to dismiss all of their claims with prejudice within thirty (30) days after the Northeast Metro Project Phase I is constructed and providing surface water supply for the Phase I communities.

22. If certain claims are dismissed with prejudice pursuant to the above section, the parties agree that as of the date of such dismissal, the parties hereby release, acquit, and forever discharge each other from and for any and all manner of actions, causes of actions, suits, debts, dues, sums of money however and wherever received, deposits, accounts, bonds, bills, covenants, contracts, controversies, agreements, damages, judgments, attorneys' fees and costs, liens, executions, counterclaims, claims and demands whatsoever, whether legal or equitable, known or unknown, fixed or contingent which they now have or may have asserted in this lawsuit.

23. This Settlement Agreement in no way affects the rights of the State of Minnesota, the DNR, or other administrative agencies of the State of Minnesota, as against any person not a party to this Settlement Agreement.

24. Nothing in this Settlement Agreement shall constitute an admission of fact or law by any party. If the stay is lifted, no party to this Agreement will seek to have it admitted into Court as evidence in this case. The parties agree that if a party provides a copy of this Agreement to the Court under paragraph 20, the fact that the judge has seen this Agreement shall not be grounds for removing the judge from this case.

25. By signing this Agreement, the undersigned legal counsel for the City of White Bear Lake and the White Bear Township represent that they will recommend approval of the Agreement to their clients. If approved by their respective clients, this Agreement will be appropriately executed by City and Township officials.

ADDRESSES

26. All notices and communications required under this Settlement Agreement shall be made to the parties through each of the following persons and addressees:

- a. White Bear Lake Restoration Association, Greg McNeely (Chairman), PO Box 10682, White Bear Lake, MN 55110-0682.
- b. White Bear Lake Homeowners' Association, James A. Markoe, Jr., President and Director, P.O. Box 10662, White Bear Lake, MN 55110.
- c. Minnesota Department of Natural Resources, Sherry Enzler or successor, General Counsel, 500 Lafayette Road, St. Paul, Minnesota 55155.
- d. Town of White Bear, William Short, Town Clerk, 1281 Hammond Road, White Bear, MN 55110.

- f. City of White Bear Lake, Cliff Greene, Monte Mills, Greene Espel PLLP, 222 S. Ninth Street, Ste. 2200, Minneapolis, MN 55402.

COSTS OF SUIT

27. Each party to this Settlement Agreement shall bear its own costs and attorneys' fees in this action.

MODIFICATION

28. Any modification of this Settlement Agreement shall be in writing, and shall not take effect unless signed by all of the parties.

EXECUTION

29. This Agreement represents a single, integrated, written contract expressing the entire agreement of the parties with respect to its subject matter. No covenants, agreements, representations or warranties of any kind whatsoever had been made by any party to this Agreement except as expressly set forth herein. All prior discussions and negotiations have been and are merged and integrated into, and are superseded by, this Agreement. This Agreement may be executed and delivered in two or more counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument. This Agreement shall be governed by and construed in accordance with the substantive laws of Minnesota.

DATED: _____

DATED: _____

**DEPARTMENT OF NATURAL
RESOURCES AND THOMAS J.
LANDWEHR, IN HIS CAPACITY AS
COMMISSIONER OF NATURAL
RESOURCES**

**WHITE BEAR LAKE RESTORATION
ASSOCIATION**

By: _____
Its: _____

By: _____
Its: _____

500 Lafayette Road
St. Paul, MN 55155

By: _____
Michael V. Ciresi (MN #16949)
Jan M. Conlin (MN #192697)
Richard B. Allyn (MN #1338)
Katie Crosby Lehmann (MN #257357)

2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
612-349-8500

**ATTORNEYS FOR PLAINTIFF
WHITE BEAR LAKE RESTORATION
ASSOCIATION**

DATED: _____

DATED: _____

**WHITE BEAR LAKE HOMEOWNERS'
ASSOCIATION, INC.**

WHITE BEAR TOWNSHIP

By: _____
Its: _____

By: _____
Its: _____

By: _____
Byron E. Starns, Esq. (#104486)
Daniel L. Scott (#240837)
LEONARD, STREET AND DEINARD
Professional Association
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402
Telephone: (612) 335-1500

By: _____
Chad D. Lemmons (#125039)
Patrick J. Kelly (#0054823)
223 Little Canada Road East, Suite 200
St. Paul, MN 55117
651-224-3781
651-223-8019 (FAX)

**ATTORNEYS FOR INTERVENOR
WHITE BEAR LAKE HOMEOWNERS'
ASSOCIATION, INC.**

**ATTORNEYS FOR INTERVENOR
WHITE BEAR TOWNSHIP**

DATED: _____

CITY OF WHITE BEAR LAKE

By: _____
Its: Mayor

By: _____
Its: Manager

By: _____
Cliff Greene
Monte Mills
Greene Espel PLLP
222 S. Ninth Street, Suite 2200
Minneapolis, MN 55402
Phone: (612) 373-0830
Fax: (612) 373-0929

AND

By: _____
Roger A. Jensen
City Attorney

**ATTORNEYS FOR INTERVENOR
CITY OF WHITE BEAR LAKE**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

White Bear Lake Restoration Association, *ex rel.* State of Minnesota,

Court File No. 62-CV-13-2414

Judge: Margaret M. Marrinan

Plaintiff,

White Bear Lake Homeowners' Association, Inc., *ex rel.* State of Minnesota,

STIPULATION FOR STAY

Plaintiff Intervenor,

vs.

Minnesota Department of Natural Resources, and Thomas J. Landwehr, in his capacity as Commissioner of the Minnesota Department of Natural Resources,

Defendants,

Town of White Bear and City of White Bear Lake,

Defendant Intervenor.

The parties stipulate and agree as follows:

1. The Court retains continuing jurisdiction over this case until all claims are dismissed and has the power to enter orders, as needed, during the stay. In addition, any party may seek a hearing for good cause.
2. The above case will be stayed for a period of thirty-six (36) months.

3. The Court is encouraged by the parties to schedule semi-annual status conferences during the period of the stay. Each of the parties will file, and serve on the other parties, a status report ten (10) days prior to each such status conference.
4. The Court is encouraged by the parties to schedule a status conference at the termination of the thirty-six (36) month stay.
5. DNR agrees that if it fails to set a protective elevation for White Bear Lake by November 1, 2016, the Court may order DNR to set a protective elevation within sixty (60) days using the criteria set forth in Minn. Stat. § 103G.285, subd. 3(b). The Court may also hold a hearing on the statutory standard to apply in setting the protective elevation if there is a material change to the applicable statute.

DATED: _____, 2014 DATED: _____, 2014

ROBINS, KAPLAN, MILLER & CIRESI
L.L.P.

STINSON LEONARD STREET, LLP

MICHAEL V. CIRESI (MN #16949)
KATIE CROSBY LEHMANN (#257357)

BYRON E. STARNES (#104486)
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(612) 349-8500

150 South Fifth Street, Suite 2300
Minneapolis, MN 55402
(612) 335-1500

ATTORNEYS FOR PLAINTIFF

ATTORNEYS FOR PLAINTIFF
INTERVENOR

DATED: _____, 2014 DATED: _____, 2014

OFFICE OF THE ATTORNEY GENERAL
State of Minnesota

KELLY & LEMMONS, P.A.

JILL SCHLICK NGUYEN (#0292874)
KIMBERLY MIDDENDORF (#0324668)
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445 Minnesota Street, Suite 1800
St. Paul, MN 55101-2134
(651) 757-1325 (Voice)
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223 Little Canada Road, Suite 200
Little Canada, MN 55117
(651) 224-3781

ATTORNEYS FOR DEFENDANT
INTERVENOR WHITE BEAR TOWNSHIP

ATTORNEYS FOR DEFENDANTS

DATED: _____, 2014

GREENE ESPEL, PLLP

MONTE A. MILLS (#030458X)
CLIFFORD M. GREENE (#37436)

222 S. Ninth Street, Suite 2200
Minneapolis, MN 55402
(612) 373-0830

ATTORNEYS FOR DEFENDANT
INTERVENOR CITY OF WHITE BEAR
LAKE

ORDER

The foregoing Stipulation is hereby approved and IT IS ORDERED that the terms of the foregoing Stipulation are hereby adopted.

BY THE COURT:

Date: _____

The Honorable Margaret M. Marrinan
Judge of District Court

Exhibit 2
[Proposed] Status Report Template

The purpose of this status report is to provide the Court with an inventory of the conservation measures and efforts for each of the interested parties noted below pursuant to paragraph 19 of the Settlement Agreement. Each party will provide the following information from its standpoint based upon its current knowledge and knowledge it has gained through a reasonable investigation.

(1) The most currently available information on the lake water level, water clarity, and the water levels of the underlying aquifers.

(2) Use and ongoing implementation of all conservation and demand reduction measures pursuant to paragraphs 15 and 17 of this Agreement.

(3) Progress on accomplishing Phase I of the Northeast Metro Project in the North and East Metropolitan Area.

(4) Progress by the DNR on setting a protective elevation for White Bear Lake.

(5) Such other topics requested by the Court and/or raised by the parties for good cause.

(6) Currently existing conservation and demand reduction measures from the following parties for the following groups:

(a) DNR: DNR meetings with municipalities regarding conservation and demand reduction measures under paragraph 15 of this Settlement Agreement.

(b) White Bear Township: Conservation and demand reduction measures taken by Vadnais Heights, White Bear Lake, White Bear Township, Mahtomedi, Shoreview and North St. Paul. This information will be gathered

and reported on by the Township. If available, information on the following cities will also be shared: Centerville, Circle Pines, Columbus, Forest Lake, Hugo, Lexington, and Lino Lakes.

(c) White Bear Lake Restoration Association and White Bear Lake Homeowners Association: Conservation and demand reduction measures taken by their members with private wells.

(7) Update on each obligation of each party required under the terms of the Settlement Agreement.