

Sawyer County Record

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SPECIAL NOTE

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Women meet up for an ice fishing weekend, Page 1B

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State says 'no' to stricter pollutant guidelines on Lac Courte Oreilles

COLA members vow to continue the fight

BY TERRELL BOETTCHER
News Editor

Courte Oreilles Lakes Association (COLA) members vowed to continue their fight for stricter water pollutant guidelines on the 5,039-acre lake after the Wisconsin Natural Resources Board on Jan. 22 failed by a 3-3 vote to approve a new "site specific criterion" (SSC) of 10 micrograms of phosphorus per liter of water in the lake.

The standard, which is

stricter than the 15 parts per billion (ppb) statewide standard, has been recommended by state Department of Natural Resources staff, COLA and the Lac Courte Oreilles Tribe as necessary to protect the "two-story fishery" in the lake.

Lake LCO is classified by the state as an Outstanding Resource Water and is one of five lakes in the state that contain a "two-story fishery" of both warm-water fish and cold-water fish.

During the Natural Resources Board meeting, DNR Water Quality Bureau Director Adrian Stocks said the lake's water "is impaired with

low dissolved oxygen due to one or more pollutants. This sometimes impacts whitefish during some of the warmer months."

The goal of this 10 ppb standard "is to protect habitat for Lac Courte Oreilles' two cold-water fish species, particularly whitefish," Stocks said.

Limiting factors for this type of cold-water habitat include the deep, narrow basins in the lake and warming temperatures over the past 40 years, Stocks said. "We've seen an increase of 3-4 degrees" in the lake water temperatures in the past 20 years.

Stocks added that "substanc-

es in the sediment are consuming some of the oxygen, and also phosphorus concentrations reduce some of the dissolved oxygen.

"We believe this site specific criterion can improve conditions in Lac Courte Oreilles to some extent. However we cannot result in the optimal whitefish habitat within the lake."

Based on input from the public and the federal Environmental Protection Agency (EPA), "We found that phosphorus in the range of 6 to 12 micrograms per liter could im-

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Courte Oreilles

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prove habitat for whitefish during critical warmer months, enabling more survival in the east basin," Stocks said.

He added that the 10 ppb standard would not result in any new regulations. "That's because there are no permitted discharges to the lake. Voluntary phosphorus reductions may be needed. The main sources to the lake are nonpoint, which are not regulated by the Department."

"I don't know why we need to do this," said Board Chairman Dr. Frederick Prehn.

Following litigation initiated by COLA, the DNR was ordered by a Dane County judge to create a more site-protective criterion for the lake. As a result, DNR staff worked with COLA, the LCO Tribe and Environmental Protection Agency to develop the 10 ppb recommendation.

Board member Terry Hilgenberg questioned. "How do we strategically move forward to preclude other similar types of events that we have the Department going through these exercises that don't provide any outcome."

Leslie Freehill, a Madison attorney representing COLA, said the organization consists of more than 650 lakefront property owners and "devotes a significant portion of its funding to efforts to protect lake water quality. It's been more than four years since COLA first petitioned the DNR for the 10 micrograms per liter standard, she said. Since then, COLA and the DNR "have both invested in significant science to establish" this standard.

She added that the standard "will complement a wide range of actions which COLA has been taking," including a comprehensive shoreline restoration program, a prohibition on lawn fertilizers on the lakefront properties, and inspection of all lakeside septic systems to ensure they are operational.

In addition, COLA has funded and produced a total nutrient discharge analysis for the lake's watershed basin based on this anticipated phosphorus standard, Freehill said.

The 10 micrograms per liter standard "has garnered wide-spread support from not only COLA and the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, but from the Hayward Area Chamber of Commerce, the Sawyer County Lakes Forum, Muskies Inc. and Walleyes For Northwest Wisconsin," Freehill added. "All recognize the vital impact that this lake's water quality has on outdoor recreation and tourism industries, which are the lifeblood of the local economy."

"The support for this is broad, the science is strong and the time is right" for adopting the new standard, Freehill said.

Bill Smith, Natural Resources Board member from Shell Lake, asked what COLA will do if the board doesn't pass the new standard. Freehill

said their actions will "continue to be voluntary. COLA has invested significantly in this science and will work with the DNR. Having this 10 micrograms per liter goal would be a step in the right direction and have implications for whether the water body is ever listed as impaired."

Board member Bill Bruins asked what is the major source of phosphorus coming into the lake. Stocks responded that the contributing sources include lake sediments, incoming creeks and direct drainage areas. He said 35% is coming from the creeks, 37% from direct drainage areas, 11% from the cranberry bogs and internal loading from lake sediments, for which he did not list a percentage.

Stocks added that if a water body is listed as impaired under the Clean Water Act, "It's our responsibility to develop a restoration plan," which would apply only to permitted facilities. Groups could apply for a lake management grant to undertake voluntary best management practices.

Hilgenberg said his concern is "future lawsuits and the long-term implications of this" 10 ppb standard. "It seems as if the department has been required to expend a substantial amount of resources. What's the result, the gain, when we have plenty of work to do."

Bill Smith said, "Clearly, this isn't a crisis. But digging deeper into the problem, they've discovered there is a resource benefit to setting this standard, an aspirational goal. I don't think we can totally ignore that."

"Besides the whitefish and cisco, there would be

benefits to other species," Smith said. "We're getting an outpouring of support from the Hayward community wanting to do this, sending a message to people who enjoy the outdoors and spending time in that area. Staff have shown there's a resource benefit to this. I'm unable to see any mandatory requirements, mandatory costs imposed on the community. My sense is, this is something we should support. I don't see a downside to this."

Board member Bill Bruins asked if any consideration has been given to mechanical harvest of plant growth to take out the phosphorus. "That would be doing something," he said.

Stocks responded that he's not aware of any such activities.

Board Chairman Dr. Frederick Prehn said he's afraid of a "free for all" from other lake associations wanting to set a new benchmark for phosphorus. "The 15 ppb standard



PHOTO FROM DNR WEBCAST

Leslie Freehill, an attorney for the Courte Orellies Lakes Association, COLA, speaks about the proposed phosphorus limit on the lake during the Wisconsin Natural Resources Board meeting Wednesday, Jan. 22.

has been stamped by the Department as being solid, good science for fishing in Wisconsin. Nothing's perfect. Now there's litigation and it's going down to 10. Katie hold the door, here they come. I say leave it at 15."

Board member Greg Kazmierski said, "Only the local community has the power to get it to 10. It's those neighbors on that lake that have to change their method of doing things. My concern is we're setting up a goal that will put that lake on the impaired list. From an economic standpoint, if I'm going up north to go fishing, am I going to go to an impaired waterway. That is a beautiful lake, the way it is right now."

Prehn concurred with Kazmierski that the key to fixing this is local efforts, saying "Nobody from the state is going to come down to the lake

and change anything any time soon."

Smith responded that "From what we've heard, they are doing that. They've worked action voluntarily, working on their phosphorus. What they're asking us for is to agree with the science and allow them to set a goal."

Voting in favor of the 10 ppb standard were board members Bill Smith, Julie Anderson and Terry Hilgenberg. Voting "no" were Bill Bruins, Dr. Prehn and Kazmierski. With the 3-3 tie vote, the proposal failed.

COLA response

Responding to the board's action, COLA communications director James Coors said, "This is a real setback. COLA and the LCO Tribe have made such gains over the years. We've already done everything

Prehn said we should do. We 'got up' decades ago, we've 'got around the lake' many thousands of times, we've taken care of septic systems, we've addressed the homeowner fertilizer problem, made some progress in restoring shoreline buffers and so much more from identifying erosion-prone ag and timber lands in the watershed to controlling aquatic invasive species, resisting zoning changes from forestry to more residential development, and restoring musky spawning habitat.

"We will take some more steps, other than those that Prehn recommends, that seem to be more in line with what LCO actually needs at this time," Coors added. "These are being worked on with great urgency.

"Rest assured, we won't give up," he said.