

Water Course Designation: Minnesota Appellate Court Addresses Challenge to a "Public" Designation



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08/08/2018

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The Minnesota Court of Appeals ("Court") addressed whether an unnamed public water course was properly included on the State of Minnesota's Public Waters "Inventory List." See *In re Big Stone Cty. Request for Review of Pub. Watercourse-Section 13, T 123 N, 46W, Almond Twp., No. A17-1255*, 2018 WL 1145736, (Minn. Ct. App. Mar. 5, 2018), review denied (May 29, 2018).

The Court reviewed a prior determination by the Department of Natural Resources ("DNR") that the watercourse ("Watercourse") should be on the list.

The issue arose when a riparian landowner ("Haugen") challenged the DNR's initial 1979 designation that placed a Watercourse located in Big Stone County on a Public Water Inventory ("PWI") listing. *In re Big Stone Cty.*, 2018 WL 1145736, at *1. The PWI is a Minnesota registry for waters and wetlands that have been classified as public. *Id.*

In 1979 the Minnesota Legislature directed DNR to conduct an inventory of the state's public waters and wetlands. It was then requested to designate those that were "public."

Minnesota law provides a method for challenging watercourse designations. *In re Big Stone Cty.*, 2018 WL 1145736, at *3. After a public comment period, designations may be modified, rejected, or approved by the commissioner of natural resources before being finalized and published in that county's respective newspaper. *Id.* At this point, any party wishing to challenge the validity of the designation must file a petition through the commissioner within ninety (90) days of the publication. *Id.*

Haugen's petition was not filed by the December 1980 deadline. Consequently, the Court found that "the DNR's decision that the petition [was] statutorily time-barred must be affirmed." *In re Big Stone Cty.*, 2018 WL 1145736, at *3. Haugen argued that the DNR was authorized by statute to make PWI revisions. *Id.* However, the Court rejected this assertion because, while the law may provide for discretionary modifications, the DNR was not compelled to exercise them. *Id.*

The Court dismissed remaining arguments that were raised for the first time on appeal and affirmed the initial determination supporting the Watercourse's public designation. *In re Big Stone Cty.*, 2018 WL 1145736, at *5.

A [copy of the opinion](#) can be found here.