

## Suit Over Well Could be Precedential

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Saturday, 03 May 2008 12:31

from Wisconsin State Journal

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<http://www.madison.com/ws/home/local/282363>

Excerpts:

The state Department of Natural Resources and the village of East Troy in Walworth County are the subjects of a potentially precedent-setting lawsuit filed last week by several individuals and two lake management districts over potential damage to a spring-fed lake and nearby wetlands by a proposed municipal high-capacity well.

The well could pump 1.4 million gallons of water a day, more water than Perrier sought in the late 1990s to use for its ill-fated and highly controversial water bottling plant in Adams County. The lawsuit, filed in Dane County Circuit Court, argues that the East Troy well would damage 840-acre Lake Beulah in Southeast Wisconsin, a source of the Mukwonago River, as well as adjacent wetlands and springs.

The lawsuit targets the ineffectiveness of a much-touted state groundwater law that was passed in the wake of the Perrier fight but which critics say falls short of truly protecting underground drinking water supplies as well as important surface waters such as springs and wetlands. It may also force an important legal determination regarding the extent and power of the public trust doctrine, a part of the Wisconsin constitution under which the state is required to protect all navigable waterways. Whether that protection extends to groundwater has been open to interpretation, according to Daniel Bach, a lawyer with Lawton & Cates, the Madison law firm that filed the suit on Tuesday.

"It 's really a statewide issue, ' ' Bach said. "It 's not just about little Lake Beulah and a bunch of local property owners."

The impacts of high capacity wells, such as municipal wells or wells used in agriculture, have been a major issue in Wisconsin in the years since the Perrier debate. Last summer in Central Wisconsin, for example, farm irrigation wells were blamed for drying up lakes and trout streams. And a study of springs in the state released last year by the Wisconsin Geological and Natural History Survey showed dozens of springs dried up by high volume wells pumping the groundwater upon which the springs depend.

The East Troy lawsuit argues that, even in the face of weaknesses in the groundwater law, the DNR is required by the state constitution to protect water resources such as those threatened by the well. Bach said the agency is bound by the constitution 's public trust doctrine, which charges the state with protecting all navigable waters.