



Sand mining limits upheld by Supreme Court

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The Wisconsin Supreme Court ruled Wednesday that a township in Chippewa County did not exceed its authority when it approved a local ordinance that was designed to limit development of sand mining operations.

In the court's opinion, justices reversed the decision of a judge in Chippewa County Circuit Court who concluded that township officials were trying to write a zoning ordinance without previous approval from the Chippewa County Board of Supervisors. Justice David Prosser did not participate.

The backdrop of the dispute is burgeoning sand mining development in western Wisconsin, where dozens of companies are striking deals with landowners to remove sand for use in oil and gas drilling in other parts of the country.

The region's sand is in high demand because of its particular shape and hardness and is used for hydraulic fracturing, or fracking - a drilling technique to remove oil and gas in shale rock deep underground.

Mining has been a boon to the local economy. But mining operations, including sand processing, have raised concerns. Neighbors have worried about the effect mining will have on property values. There are also environmental questions over the potential health effects of silica, a known carcinogen in some instances.

The Department of Natural Resources concluded last month that existing air and water regulations are sufficient to protect public health.

The Chippewa County case stems from a vote on July 14, 2008 by the Town of Cooks Valley to approve a non-metallic mining ordinance that requires the operator of mines to obtain a permit from the town. The ordinance also empowers the town to hold a public hearing, requires proof of financial security for reclamation of the site and authorizes town officials to put conditions on mine operations.

Four landowners who have participated in non-metallic mining in the past and said they might in the future, challenged the ordinance and claimed it was invalid because it had not been approved by the county board. Ordinarily, under state law zoning ordinances, a township needs county board approval first, in part, to avoid a patchwork of land-use regulations in a locality.

Judge James S. Isaacson sided with the landowners. The town appealed. A state appeals court panel asked the high court to clarify the issues.

The high court said the case centered around a single issue: Is the town's ordinance a zoning ordinance? The court concluded that while it had some similarities to zoning regulations, many aspects of it were

not, and town officials were within their right to regulate a single activity - sand mining.

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