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DANE COUNTY COURT | BURIAL MOUNDS MAINTAIN PROTECTION

Judge denies quarry's bid to remove protection for mounds

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A group of Native American burial mounds should not be removed from state protection, a Dane County judge ruled Friday, turning back a bid by a Madison quarry that wants to mine sand and gravel beneath them.

Dane County Circuit Judge Ellen Berz said in a written decision that the director of the State Historical Society properly rejected a request by Wingra Redi-Mix Inc. to declassify the Ward Mound Group, located within its quarry in the town of Blooming Grove.

But Wingra also opened another legal front last week, filing a lawsuit Thursday in Dane County Circuit Court challenging a decision by a state administrative law judge that denied its request for a permit to mine the site. Administrative Law Judge Mark Kaiser ruled against the permit on July 8.

The mound group is not accessible to the public and is in the midst of Wingra's quarry. Wingra contends that beneath the mounds lies about \$10 million worth of minerals that it would like to extract.

Wingra has owned the site since 1962. The mounds were unprotected until a 1986 state law gave the director of the State Historical Society of Wisconsin the authority to preserve burial sites. The mounds were cataloged as a burial site in 1990.

Wingra has contended that there is no evidence that there are human remains beneath the mounds, which have dwindled in number since they were first investigated in 1914 to a bird effigy and a remnant of one that was perhaps a fox.

In her decision denying Wingra's move to de-catalog the site, Berz wrote that the Historical Society's director has interpreted the purpose of the law correctly: to protect places where human remains are buried or are likely to be buried.

“This purpose reflects our society’s great value for human dignity, respect for our deceased and sanctity of their burial sites,” Berz wrote. “The Legislature specifically pointed to prehistoric human burial sites as needing the protection of (the law), thereby clarifying that human remains at any state of decomposition, including the final state, are to be protected.”

Berz also wrote that Wingra had opportunities to mitigate the impact of the law both before and at the time of the original decision to catalog the mounds, but chose not to take advantage of those opportunities. Wingra’s arguments now challenging the original cataloging decision, Berz wrote, 20 years later, are “untimely.”

Lawyers for Wingra did not immediately respond to requests for comment.

Ward Mounds map

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