

STATE OF VERMONT  
WATER RESOURCES BOARD

Petition of the Town of Fairlee  
and the Lake Morey Protective  
Association to regulate the use  
of the public waters of Lake Morey,  
Town of Fairlee, Vermont.

10 V.S.A. § 1424

Decision

The petitioners requested the Water Resources Board (Board) to adopt the following rules regulating the use of the public waters of Lake Morey:

1. The use of vessels for residential purposes is prohibited. For purposes of this rule, the term "residential purposes" shall include, but not be limited to, sleeping overnight on a vessel.
2. No boat or any type of water craft shall exceed 45 miles per hour (mph).

On the basis of its record in this proceeding, the Board has decided to adopt a rule for the use of public waters on Lake Morey which establishes a 40 mph speed limit for vessels powered by motor.

The Board has decided not to proceed with the adoption of rule No. 1 requested by the petitioner because the rule would be redundant with existing state law. The basis of this decision is described below in the Findings.

Background

On September 23, 1988, a petition signed by the Fairlee Board of Selectmen and the President of the Lake Morey Association, Incorporated was filed with the Board under the provisions of 10 V.S.A. § 1424.

On November 9, 1988, the Board conducted a public hearing at the Fairlee Town Hall, Fairlee, Vermont, by appointed hearing referee to consider the merits of this petition. The referee's Preliminary Findings were issued on November 15, 1988, and a deadline of December 5, 1988, was established for public comment. On January 18, 1989, the Board deferred further consideration of this petition pending action by the Vermont Boating Law Study Committee, which at that time was considering the adoption of a speed limit similar to that being requested by the petitioners.

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Legislation was subsequently enacted (23 V.S.A. § 3315(g)) which prohibits the residential use of vessels on any lake or pond which does not have a state approved sanitary waste pumpout facility. Based on this legislation, the petitioners withdrew their request for rule No. 1 above in a letter dated July 10, 1991.

In response to the new legislation, the Board decided to continue consideration of the petition, and proposed the requested rules on June 19, 1991, for the purposes of public review and comment. The Board conducted a second hearing on July 23, 1991, at the Frank R. Adams School, St. Johnsbury, Vermont, to consider a maximum speed limit for Lake Morey.

In considering this petition, the Board was guided by the provisions of 10 V.S.A. § 1424(b)&(c). These provisions of Vermont law direct the Board to consider, among other things, the characteristics of the water body and the surrounding land, the predominant use of the waters, and the availability of recreational opportunities. The Board is also directed to manage public waters in a manner where multiple uses may be enjoyed in a reasonable manner and all normal uses shall be provided for to the greatest extent possible, consistent with public safety and environmental limitations.

#### Findings

The Board has concluded that a speed limit of 40 mph is appropriate on Lake Morey based on the following findings:

1. Lake Morey is located in the Town of Fairlee and has a surface area of approximately 538 acres. Lake Morey constitutes public waters within the meaning of 10 V.S.A. § 1422(6).
2. Lake Morey is heavily used for a variety of water based recreational activities. During peak summer weekends, the Lake receives heavy use for a variety of recreational uses including boating, fishing and swimming. The Lake also supports two children's camps.
3. The established and normal uses on Lake Morey include swimming, fishing, and recreational boating including waterskiing. Lake Morey has a public boat access.
4. All established and normal uses on Lake Morey can occur at speeds within the 40 mph speed limit.

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5. Where speed limits have been established on lakes in Connecticut and New Hampshire under similar circumstances, speed limits of 40 and 45 mph have been used. The Board has selected 40 mph to be consistent with similar restrictions on other bodies of water.

6. In 1987 a "cigarette boat" was operated on the lake at estimated speeds of 80 or 90 mph which prompted the request for a maximum speed limit. The operation of boats at speeds significantly in excess of 40 mph is not a normal use of Lake Morey.

Dated in Burlington, Vermont, this 20<sup>th</sup> day of November, 1991.

Vermont Water Resources Board

BY: Dale A. Rocheleau  
Dale A. Rocheleau, Chair

Board Members Concurring:

Dale A. Rocheleau  
Elaine B. Little  
Mark DesMeules  
Jonathan Lash

Board Members Opposed:

None