

STATE OF VERMONT
Water Resources Board

In re: Petition for the adoption of rules regulating the use of Arrowhead Mountain Lake
Towns of Milton and Georgia

10 V.S.A. § 1424

BACKGROUND

In May of 1995 a petition was filed with the Vermont Water Resources Board (Board) under the provisions of 10 V.S.A. 1424 seeking the adoption of the following rules for Arrowhead Mountain Lake:

1. The wetland area in the northeastern arm of Arrowhead Mountain Lake located in the Town of Georgia, Vermont as designated on the attached map, shall be closed to all water craft, yearly between the first day of April and the fifteenth day of August.
2. The speed of watercraft operating within the designated area during all other times of the year shall be limited to five miles per hour.

In response to this filing, the Board proposed the rules requested by the petition and scheduled a public hearing on August 16, 1995. The Board also established September 8, 1995 as the deadline for the filing of written comment.

The public hearing was held as scheduled at 7:00 pm on August 16, 1995 at the Milton High School Auditorium for the purpose of receiving public comment. Representing the Board at that hearing were Board member Jane Potvin and the Board's Executive Officer, William Bartlett.

OPPORTUNITY FOR FURTHER COMMENT

These findings are intended as a report to the full Board summarizing the testimony received at the August 16, 1995 public hearing without offering judgements as to the validity of any particular argument or fact presented.

Copies of these "findings" have been sent to all persons who signed the attendance sheet circulated at the hearing. Those persons have until September 8, 1995, to file written comments as the thoroughness and accuracy of the findings. In addition, all persons, whether or not they were at the August 16, 1995 hearing, have until September 8, 1995 to file written comments on the rules requested by the petition. All written comments should be addressed to: Vermont Water Resources Board, 58 East State Street, Drawer 20, Montpelier, Vermont 05620-3201.

In deciding what, if any, action to take in response to the petition, the Board will consider this report as well as all written comments filed by September 8, 1995. All persons attending the public hearing and/or filing written comments on this matter will be notified of any final action in this matter. The Board will make every effort to make its decision as quickly as possible.

Any questions regarding this matter should be directed to the Water Resources Board office at the address indicated above or at (802)828-2871.

FINDINGS

1. Arrowhead Mountain Lake (the Lake) is located in the Towns of Milton and Georgia and constitutes public waters within the meaning of 10 V.S.A. Section 1422 (6). The Lake is an impounded portion of the Lamoille River and has a surface area of approximately 760 acres.

2. The rules requested by the petition concern a portion of the northern end of the Lake referred to as the "eastern arm". Located entirely in the Town of Georgia this area of the lake is relatively shallow with water depths typically ranging from two to five feet. The eastern arm includes numerous low-lying "islands" and areas of emergent wetland vegetation. A public fishing access area is located within the "eastern arm".

3. The petitioners do not intend to have the rules they are requesting prevent the use of the public fishing access area during any time of the year. Rather the petition seeks, in part, to limit vessels using the access area to speeds not exceeding five miles per hour following the former channel of the Lamoille River to reach the main area of the Lake.

4. The eastern arm is the area of the Lake that is particularly important for wildlife habitat, particularly bird life. Local residents including many supporting the petition have extensively documented the use of this area by wildlife, including; osprey, bald eagles, peregrine falcons, least bitterns, and many other waterfowl and shoreland birds. Many of these birds nest in the eastern arm portion of the Lake during the period between April 1st and August 15th. There is an osprey nesting platform in this area although its actual use for nesting has not been documented.

5. The eastern arm portion of the Lake is used primarily for wildlife habitat and wildlife observation and to a limited degree for fishing, low speed motorized or manually powered boating and muskrat hunting/trapping. With an increasing frequency motorboats, usually in the form of personal watercraft (jetskis),

are occasionally operated in the eastern arm at relatively high speeds between the low-lying islands in apparent violation of Vermont boating law (23 V.S.A. Section 3311) which establishes a 5 miles per hour speed limit within 200 feet of the shoreline.

6. At the August 16 public hearing a total of 25 people signed the attendance list of whom approximately 19 testified.

7. Those testifying in support of the petition offered the following arguments in support of their position:

a. The area for which restrictions are sought is a limited portion of a much larger Lake that has high wildlife habitat values and has limited human recreational use values. The main portion of the Lake is available for a wide range of human recreational uses, the limited area of the eastern arm should be managed during critical nesting periods to exclude human uses.

b. Such regulation is necessary to protect this valuable wildlife habitat during critical breeding/nesting periods from human interference in the form of: canoeists and other nonmotorized boaters, occasional high speed boating use and those seeking to observe wildlife without exercising sufficient sensitivity to the impact their intrusion may cause.

c. Educational efforts to minimize human interference with wildlife in the form of buoys and posters have been largely unsuccessful.

d. Enforcement of existing law requiring motorized vessels to operate at five miles per hour have been largely unsuccessful.

8. Those testifying in opposition to the petition offered the following arguments in support of their position:

a. The degree of regulation sought by the petition is excessive in relationship to the extent of adverse human impact on the wildlife habitat values sought to be protected. Less restrictions management efforts including educational efforts should be tried first. If adopted the level of regulation requested by the petition will be counterproductive because it will alienate many who value and support the protection of wildlife habitat in other, less restrictive ways.

b. Some persons testifying in opposition argued that existing law prohibits all, or virtually all, of the human interference cited by the petitioners and therefore additional rules are not a solution and are not needed.

c. Some persons testifying in opposition argued that less restrictive rules would adequately address the need to better protect the wildlife habitat. Some suggested simply adopting a five miles per hour speed limit coupled with a more proactive educational effort, others suggested the additional step of prohibiting only motorized vessels or only personal watercraft.

9. The Agency of Natural Resources represented at the hearing by Bill Crenshaw, the District Wildlife biologist confirmed the eastern arm's importance for fish and wildlife habitat. Mr. Crenshaw noted that nesting birds are most prone to abandon nesting efforts in response to human interference early in their nesting cycle and that their attachment to a nesting site tends to increase (and therefore the likelihood of nesting abandonment tends to decrease) progressively as the eggs are laid and the young are hatched.

10. The Agency of Natural Resources takes the position that the restrictions requested by the petition are too drastic. The Agency recommends a five mile per hour speed limit coupled with a more proactive public educational effort which they would assist. It was noted that the Department of Fish and Wildlife lists the area in question in the "Vermont Wildlife Viewing Guide", in effect encouraging the public to visit this area for purposes of wildlife observation, a normal use of this area.

11. A representative of the Town of Georgia Selectboard testified that the Georgia Selectboard doesn't support the petition.

12. A "straw poll" taken at the end of the public hearing indicated the following levels of support for various options related to the regulations of the eastern arm of the Lake discussed during the public hearing:

- a. Support the rules as requested by petition: 10 people
- b. Oppose the rules as requested by the petition: 24 people
- c. Support a rule prohibiting only motorboats: 16 people
- d. Support a rule prohibiting only personal watercraft: 32 people

Dated at Montpelier, Vermont this 21st day of August, 1995.

^{WAB}

JANE POTVIN
Hearing Referee



WILLIAM BARTLETT
Hearing Referee