

State of Vermont
WATER RESOURCES BOARD

In re: Petition seeking the
Amendment of current
rules regulating the use
of Greenwood Lake
Town of Woodbury

10 V.S.A. § 1424

BACKGROUND

The Vermont Water Resources Board (Board) has previously been petitioned under 10 V.S.A. § 1424 to adopt rules for Greenwood Lake (the Lake) in 1988 and in 1991. The current rules regulating the use of the Lake were adopted by the Board in 1992. In May of 1996 the Board was petitioned by the Greenwood Lake Association (Association) to amend the current rules to expand the times and days on which waterskiing would be allowed as indicated below. The language in the current rules that the petition seeks to delete is enclosed by brackets while new language that the petition seeks to add, is underlined.

- a. Unless otherwise prohibited by law, vessels powered by motor when towing water-skier(s) shall travel in a counterclockwise direction.

- b. Unless otherwise prohibited by law, waterskiing shall be limited to [the following times:
 - (1) Monday, Wednesday and Friday from 2:00 p.m. until 7:00 p.m.

 - (2) Saturday and Sunday from noon until 7:00 p.m.]

between noon and sunset each day of the week.

In response to the 1996 petition, the Board proposed the amendments requested and scheduled a public hearing on August 14, 1996 at 7:00 p.m. at the Hardwick Town Hall to receive public comment. Representing the Board at the August 14 hearing as hearing referees or fact finders were Board Chair William Boyd Davies and the Board's Executive Officer William Bartlett.

The Board established a deadline for the filing of written comment on the petition.

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OPPORTUNITY FOR FURTHER COMMENT

These findings are intended as a report to the full Board summarizing the testimony received at the August 14, 1996 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 October 7, 1996 to file written comments as to the thoroughness and accuracy of the findings. In addition, all persons whether or not they were at the August 14, 1996, hearing have until October 7, 1996, to file written comments on the amendments to the current rules requested by the petition. **All written comments should be addressed to: Vermont Water Resources Board, National Life Records Center Building, 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 October 7, 1996. All persons attending the public hearing and/or filing written comments will be notified of any final action in this matter.

Any questions regarding this matter should be directed to the Water Resources Board office at the address indicated above or at 828-3309.

FINDINGS

1. Greenwood Lake (the Lake) is located in the Town of Woodbury and has a surface area of approximately 96 acres. The Lake constitutes "public waters" within the meaning of 10 V.S.A. § 1422(6).
2. The Lake has a relatively irregular and convoluted shoreline and contains several islands. The Lake's shoreline is largely developed with approximately 60 camps some of which are used as year round residences. There is a public access area maintained by the Vermont Department of Fish and Wildlife at the southeastern arm of the Lake.
3. The normal uses of the Lake include high speed motorboat use principally associated with waterskiing, low-speed motorboat use principally associated with fishing, swimming, paddling, rowing, fishing and the enjoyment of the Lake's wildlife and aesthetic values.

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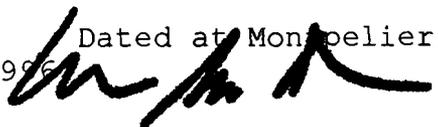
4. In 1992, in conjunction with the adoption of the current Board rules, the statutory requirement not to exceed 5 miles per hour (mph) within 200 feet of the shoreline (the 200 foot "rule") was waived under the provisions of 23 V.S.A. § 3315(d) for a five year period that ends in 1997. The Association intends to seek the extension of that waiver beyond the 1997 boating season.
5. A representative of the Department of Public Safety was present at the hearing for the purpose of receiving public comment on whether the 200 foot "rule" waiver should be extended beyond 1997.
6. Without a waiver of the 200 foot "rule" only about 10% of the Lake's surface area would be available for waterskiing and other forms of motorboat use at speeds exceeding 5 m.p.h.
7. The decision to file the petition currently before the Board was made at the Association's annual meeting held in July of 1995 with very little dissent. However it was noted that many members of the Association did not attend that meeting. Membership in the Association is limited to shoreline property owners. Approximately 50% of the shoreline property owners are members of the Association.
8. At the August 14, 1996 public hearing, fifteen people signed the attendance list of whom eleven testified. Five persons testified in favor of the petition, five persons testified in opposition to the petition. Testimony was also provided by the Agency of Natural Resources (ANR). There was no testimony in opposition to the extension of the 200 foot "rule" waiver beyond 1997.
9. The petitioners seek the expansion of the time of day and days of the week that waterskiing is allowed on the grounds that: (1) the current allocation of time for waterskiing is inadequate to the demand and is therefore unequitable and (2) the current rules are overly complex in that the hours of when waterskiing is allowed is different on Mondays, Wednesdays and Fridays than it is on Saturdays and Sundays and because waterskiing is allowed on some days of the week but not others.
10. Those supporting the petition feel the current rules restrict waterskiing too severely by limiting it to 29 hours per week, noting that inclement weather often further reduces the amount of time actually available for waterskiing. The petitioners further noted that during mid-

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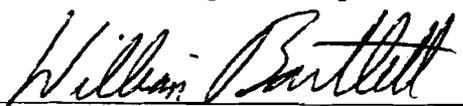
summer, there can be as much as two hours of daylight after 7:00 p.m. Expanding the hours and days available for waterskiing during the week and having more uniform hours appeared to be more important to most of those supporting the petition than was extending the time for waterskiing beyond 7:00 p.m.

11. Those opposed to the petition felt the current rules were working fine and represented an equitable allocation of time for all the normal uses of the Lake including: high speed motorized boating for waterskiing, low speed motorized boating for fishing, nonmotorized boating, swimming and the enjoyment of the Lake's natural environment and quiet solitude.
12. The vast majority of the waterskiing that occurs on the Lake is by residents or renters of shoreline camps as opposed to transient water skiers using the public access area. There are about 10 or 15 motorboats on the Lake that are regularly used for waterskiing. Although no formal census has been kept, typically on summer weekends with good weather, seven or eight motorboats will be used for waterskiing each day, with 2:00-5:00 p.m. being the period of highest activity. There are never more than two or three motorboats in use for waterskiing at any one time.
13. Some motorboat users, principally persons fishing, are unrestricted by the current rules. Fishing tends to occur during the mornings and in the evening after dinner. Motorboat users using the public access are much more likely to do so for purposes of fishing than for waterskiing. The access area receives only moderate use.
14. On the evening of August 14, 1996, at a site visit prior to the public hearing, the referees noted that the current Board rules were not posted at the access area.
15. ANR noted in its testimony that Greenwood Lake is one of five lakes in Vermont with specific rules governing the times when water skiing is allowed, but is the only lake that currently allows a use (waterskiing) on some days and not others.

Dated at Montpelier, Vermont this 16th day of September, 1996



William Boyd Davies
Hearing Referee



William A. Barlett
Hearing Referee