



State of Vermont

AGENCY OF ENVIRONMENTAL CONSERVATION

Montpelier, Vermont 05602

VERMONT WATER RESOURCES BOARD

Department of Fish and Game
Department of Forests, Parks, and Recreation
Department of Water Resources
Environmental Board
Division of Environmental Engineering
Division of Environmental Protection
Natural Resources Conservation Council
Vermont Water Resources Board

Scanned 3/22/07

July 3, 1980

To The Friends of Curtis Pond:

The Vermont Water Resources Board, after careful deliberation, has decided to take no action with respect to the petition requesting the Board to restrict the use of Curtis Pond by prohibiting the use of power boats with motors in excess of 10 horsepower. The Board reached this decision after careful consideration of the comments offered at the public hearing held on June 23, 1980 and the written comments which were filed on or before June 30, 1980.

In taking this action the Water Resources Board gave consideration to the following facts:

1. The Vermont statute (section 1424 of Title 10 V.S.A.) which empowers the Water Resources Board to establish rules regulating the use of public waters provides in part:

"The Board shall attempt to manage the public waters so that the various uses may be enjoyed in a reasonable manner, in the best interests of all the citizens of the state. To the extent possible, the Board shall provide for all normal uses."

2. The practical effect of the requested restrictions on horsepower would eliminate the use of Curtis Pond for waterskiing and other established recreational uses.
3. The regulation of Curtis Pond by restricting the size of motors used to propel boats would be arbitrary in that many of the concerns raised in support of the petition, such as noise and safety considerations are not directly related to the size of motors used to propel boats.

UPW 80-03 PRELIM

4. Most of the problems identified at the hearing by those supporting the petition are already addressed by Vermont law as set forth in the "Laws and Regulations Governing the Use and Registration of Motorboats" (yellow booklet). Many of these problems could be dealt with by a variety of measures such as: efforts to better inform motorboat operators regarding their responsibilities; local efforts to coordinate enforcement action, when needed, with the Department of Public Safety; and by other nonregulating means including individual effort by boaters and swimmers alike to avoid hazardous and potentially confrontational behavior.
5. Several of the problems discussed at the public hearing on June 23rd could be alleviated by clear and uniform delineation of safety zones in specific areas of the Pond to assist boat operators in maintaining the proper distance. In this regard, the Board notes that the placement of buoys to mark swimming areas or as navigational aids do not require prior state approval provided that the buoys themselves are properly installed and are not a hazard to boating or navigation (see Chapter 11 of Title 29 V.S.A.). In this regard, the Board would note that the "Laws and Regulations Governing the Use and Registration of Motorboats" (section 310) provides guidance to how private swimming areas are properly marked.

DISCUSSION

In electing not to act in response to the petition requesting regulation of Curtis Pond, the Board does not intend to suggest that the concerns prompting that request and discussed at the public hearing are without merit. Indeed, the Board would note that it is free to reconsider its current position on this matter in the future if efforts to rely on mutual cooperation and the enforcement of existing requirements prove inadequate. However, at this time the Board feels that there are a number of alternatives to regulation which remain untried and which if attempted in a good faith effort by all concerned could resolve many of the concerns which prompted this hearing.

The Board would remind everyone of the observation made at the beginning of the June 23rd hearing, "that the participants on all sides of the issue have a great deal more in common with respect to their interests in Curtis Pond than they have in disagreement." Perhaps an effort to build on that sense of common interest could take the form of a Lake Association type organization open to all, including nonproperty owners, who enjoy Curtis Pond as a natural and recreational resource. Such an organization

The Friends of Curtis Pond
Page Three
July 3, 1980

might serve as a local forum in which problems or concerns such as those discussed at the hearing could be aired and hopefully resolved at an informal and local level. Additionally, such an organization could serve to monitor the condition of the Pond with respect to such matters as dissolved oxygen content, shoreline erosion, the status of the fisheries population, problems with weed growth and failing sewage systems to name but a few. Furthermore, such an organization could receive limited assistance from the Lakes and Ponds Management Section of the Department of Water Resources in the areas of aquatic nuisance control, water quality monitoring and general information regarding the Pond's ecosystem.

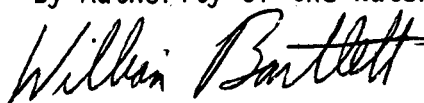
With respect to comments made by a number of participants at the public hearing, the Board feels it must respond to the implicit assumption that individuals who own property adjacent to Curtis Pond have some special legal rights with respect to the use of the Pond. While the Board can well appreciate the basis for such a feeling, it cannot allow such a misunderstanding of Vermont law to pass without comment. Curtis Pond is a public body of water and as such is held in trust for the general public and cannot be allowed to be considered as the personal domain of a few. It is the express policy of the State of Vermont that these waters be managed in the public interest to promote the general welfare.

Additionally, the Board would note that the amount of taxes paid by shoreline property owners is not a relevant matter for it to consider in any proceeding regarding the establishment of policy regulating the use of public waters. Property taxes are assessed and collected by local government and are based solely on the fair market value of the property in question. Any grievances with respect to property taxes are a relevant subject to discuss with appropriate municipal officials, but have no bearing on the issues discussed regarding Curtis Pond.

In closing, the Board appreciates the many thoughtful suggestions and comments offered at the hearing and in written correspondence. By separate correspondence with the Department of Public Safety, the Board has suggested that the key portions of the motorboat regulations be posted at the fishing access so that transient boaters will be informed of these requirements. Without presuming to give direct advice, it does seem that an association of those interested in Curtis Pond perhaps working with the appropriate Town officials would be the best forum for developing an educational program regarding boating courtesy and for acting as a liaison with law enforcement officials if the need arises.

If there are any questions or comments regarding this matter, please feel free to contact me at the above address or by telephone at 828-2871.

By Authority of the Water Resources Board



WILLIAM A. BARTLETT
Executive Secretary