

STATE OF VERMONT
Water Resources Board

Petition to Regulate the
Use of the Public Waters of
Greenwood Lake, Woodbury, Vermont

Preliminary Findings of
Fact

Introduction

On August 22, 1983, a petition was filed with the Vermont Water Resources Board under the provisions of 10 V.S.A, §1424. The petition requested that the use of the public waters of Greenwood Lake located in the Town of Woodbury be regulated as follows:

- a. Boats powered by motors shall not exceed 10 m.p.h. within 100 feet of shoreline.
- b. No boat shall be operated with a motor or engine with a rated capacity exceeding 55 horsepower.
- c. No waterskiing between 6:30 p.m. and 10:00 a.m.
- d. Houseboats or boats with living facilities are prohibited.

The Water Resources Board appointed, William Bartlett, its Executive Officer, as a referee for the purpose of conducting a public hearing with regard to this petition on their behalf. A public hearing was held on September 14, 1983, at the Woodbury Town Hall, Woodbury, Vermont. On the basis of the testimony presented at that hearing the referee makes the following preliminary findings of fact.

Preliminary Findings of Fact

1. Greenwood Lake is a natural body of water which has a surface area of between 77 and 83 acres.
2. The lake is elongated in shape and is oriented on north south access. The lake contains several islands.
3. Greenwood Lake is used extensively for a variety of recreational purposes including fishing, swimming, waterskiing, and recreational boating by both motorized and unmotorized vessels.
4. Some portions of the shoreline are essentially undeveloped particularly on the southerly and southwesterly shoreline and on the north where the lake is closely bounded by Town Highway No. 6 (West Road). However, most of the shoreline is extensively developed by approximately 60 privately owned camps, the vast majority of which are used as summer camps.

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5. Approximately two-thirds of the camp owners belong to the Greenwood Lake Association.
6. Greenwood Lake is being managed as a warm water fishery. The Vermont Fish and Game Department maintains a boat launching ramp, on the southeast shore of the lake.
7. The regulations requested by the petitioners are identical to those which the Board adopted in 1973 to regulate the use of Valley Lake which is also located in the Town of Woodbury.
8. The issues which the petitioners seek to have the Board address by regulation are primarily related to the use of Greenwood Lake by so-called ski jets and other motorboats operating at relatively high speeds, often while engaged in waterskiing. It is the petitioners belief that the frequency of such activities on Greenwood Lake creates a number of safety problems and substantially preempts other uses including fishing, swimming and more leisurely forms of boating by both motorized and unmotorized vessels.
9. The use of Greenwood Lake for waterskiing is almost exclusively by individuals owning or renting camps on Greenwood Lake and their guests. Few, if any, individuals who rely on the Fish and Game boat access for entry onto Greenwood Lake engage in waterskiing or relatively high speed boating.
10. Waterskiing and relatively high speed boating are uses which might occur at anytime during the summer, however, they are most common on weekends.
11. The size, configuration and number of uses of Greenwood Lake is such that the various established uses of these waters may be enjoyed in a reasonable manner only when there is a high degree of cooperation by all concerned.
12. By informal agreement there is an established traffic pattern for motorboats engaged in either high speed boating or waterskiing which extends the length of the lake in a counter clockwise direction, circumnavigating the large island at the southern end of the lake.
13. This past summer a waterski slalom course was established between the large island and the Fish and Game access. The slalom course has been used extensively by individuals training for competition waterskiing and by individuals participating in a Tuesday night class.
14. The horsepower rating of a motor is only one of several factors governing the top speed at which a motor boat is

capable of operating. Under some circumstances a 55 horsepower engine would not be capable of towing even a single waterskier.

15. Many individuals owning property on Greenwood Lake already own motors with a rating exceeding 55 horsepower.
16. The issues which prompted the petition to the Water Resources Board were discussed in August of 1982 with the Greenwood Lake Association. The Association has made an effort through its newsletter to educate property owners around the lake regarding these issues in order to reach a common sense approach to their resolution. In making such efforts the Lake Association has contacted not only its own members, but all property owners around the lake.
17. In authorizing the Board to adopt rules regulating the use of public waters, Vermont Legislature has directed it to "attempt to manage the public waters so the various uses may be enjoyed in a reasonable manner, in the best interest of all citizens of the state. To the extent possible, the Board shall provide for normal uses." (10 V.S.A., Section 1424(c)).
18. Section 1424 (e) of 10 V.S.A., provides in part "if another agency has jurisdiction over the waters and lands otherwise controlled by the section, such other agencies rules shall apply, if inconsistent with the rules promulgated under this section."
19. The Vermont Department of Public Safety has jurisdiction over the use of motorboats under the provisions of 25 V.S.A., Chapter 7. This statute prohibits the operation of any motorboat or vessel including so-called "ski jets" or the manipulation of any waterski or similar device in a reckless or negligent manner so as to endanger the life, limb or property of another person.
20. Section 311(c) of 25 V.S.A. further provides that "no person shall operate any vessel which is being propelled by a motor, except a police or emergency vessel, within two hundred feet of the shores of a beach or other recreational spot where on persons are accustomed to assemble for the purpose of bathing or any other recreational pursuits, or approach within 200 feet of a person swimming, or a canoe, rowboat or other light craft containing any person, except at a speed of less than 5 m.p.h. Nothing herein shall prohibit necessary mooring or landing or leaving shore or operating in any other place where obstruction would present abiding by this statute."
21. Section 315(c) of 25 V.S.A., provides "A person shall not operate or manipulate any vessel, tow rope or other device

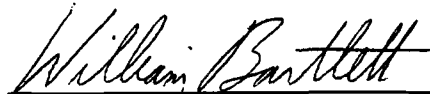
by which the direction or location of waterskis, a surfboard, or similar device may be affected or controlled in such a way as to cause the waterskis, surfboard, or similar device or any person thereon to approach within one hundred feet of a person swimming, or a canoe, rowboat, or other light craft conveying any person.

22. There is no evidence that any formal report of violations of those provisions of state law identified above have been reported to the Department of Public Safety. However, in testimony at the hearing on September 14th, several individuals described incidents which would apparently constitute violations of these laws.
23. If 25 V.S.A., §311(c) (see finding 21 above) is interpreted to require speeds of not more than 5 m.p.h. within 200 feet of any shoreline where summer camps which typically include private docks and swimming areas are located, it would effectively prevent waterskiing and high speed boating on Greenwood Lake as well as many other lakes and ponds in the State of Vermont on which waterskiing is an established practice.
24. On Greenwood Lake, such an interpretation would prevent waterskiers from circumnavigating the large island at the south end of the lake as well as traveling through the two narrows in the central portion of the Lake.
25. Title 25 V.S.A., Chapter 7 provides that swimmers and individuals in canoes, rowboats, and other light craft have the right of way over motorized vessels.
26. Assuming strict compliance with the provisions of 25 V.S.A., §311(c) and §315(c), the use of Greenwood Lake by swimmers or individuals operating canoes, rowboats, and other light craft could affectively prohibit the use of motorboats on Greenwood Lake at speeds in excess of 5 m.p.h.
27. Of the 64 individuals who elected to sign the attendance record at the September 14th. The vast majority were either property owners on Greenwood Lake or relatives of property owners on Greenwood Lake.
28. While those in attendance were not in full agreement on the issues under discussion, a vast majority of those testifying felt that further efforts should be made to resolve any conflicts which may exist between waterskiing high speed boating and other uses of Greenwood Lake by informal means though the Greenwood Lake Association prior to any formal consideration of regulatory action by the Vermont Water Resources Board.

Opportunity for Further Comment

The above preliminary findings of fact are issued in accordance with 10 V.S.A., §905(A) by the referee appointed by the Vermont Water Resources Board. Anyone with an interest in this matter whether or not they attended the September 14th hearing has the opportunity to file comments regarding these findings, to request additional findings or request that a further hearing be held by the Vermont Water Resources Board. In order to be considered by the Board, any such comments or requests must be postmarked by October 14, 1983. All correspondence regarding this matter should be addressed to the Vermont Water Resources Board, State Office Building, Montpelier, Vermont 05602 (telephone 828-2871).

Done this 26th, day of September 1983, at Montpelier, Vermont.



William A. Bartlett
Hearing Referee

WAB/kgr