

State of Vermont  
Water Resources Board

Petition to Regulate the Use  
of the Public Waters of Lake  
Hortonia, Towns of Hubbardton  
and Sudbury, Vermont

10 V.S.A. §1424  
Proposed Rules

On May 13, 1985, a petition signed by the Lake Hortonia Property Owner's Association, an organization representing ten (10) or more freemen, 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 Lake Hortonia be regulated by the adoption of seven (7) rules.

The Board appointed its Executive Officer, William Bartlett, as a referee to conduct a public hearing in response to this petition. The hearing referee conducted a public hearing regarding the petition on July 6, 1985 at the Horseshoe Pavilion, Sudbury, Vermont and on July 10, 1985 issued preliminary findings. Those with an interest in this matter were given until July 29, 1985 to file written comments.

At its meeting on September 10, 1985, the Board reviewed its record in this matter.

Findings and Decision

1. The Water Resources Board adopts in their entirety the preliminary findings regarding this petition issued by its hearing referee on July 10, 1985.
2. Requested rule 1 as amended by the petitioners seeks the prohibition of waterskiing and boating at speeds in excess of 15 mph between sunset and 8:30 a.m. The primary intent of this requested rule is to prevent the noise associated with these activities. Based on its review of the record regarding this requested rule, the Board decided not to propose a rule restricting waterskiing and boating at speeds in excess of 15 mph as requested by the petitioners because it feels that such a rule is not an appropriate use of its authority under 10 V.S.A. §1424. The Board believes that such a rule would arbitrarily regulate some of the established uses of Lake Hortonia which may or may not cause a nuisance in terms of noise while leaving unregulated many uses of the Lake which might also cause noise.
3. Requested rule 2 seeks the establishment of a 5 mph speed limit in the channel or bay between the dam and the main lake (an imaginary line between camps #116 and #225). This requested rule seeks to adopt formally a long established local practice of low speed boating in a relatively narrow area of the lake which receives a relatively high volume of boat traffic.

upw8501dec

4. Requested rule 3 seeks the prohibition of houseboats and boats with living facilities on Lake Hortonia. The record indicates that the use of houseboats or boats with living facilities is an activity which does not regularly occur on Lake Hortonia. There is no evidence to suggest that such a use of the Lake is likely to occur on a regular basis in the foreseeable future. Accordingly, the Board sees no need to adopt a rule dealing with a problem which does not currently exist and which is not likely to exist in the future. It is recognized that this requested rule is modeled after rules previously adopted by the Water Resources Board regulating the use of other bodies of water. However, it is the Board's feeling that if regulation of this nature were needed on Lake Hortonia it would be more appropriate to prohibit the residential use of boats rather than to prohibit boats simply because they are capable of being used for residential purposes. The Board can see no reason at this time to prohibit the use of houseboats or boats with "living facilities" if such boats are used simply for daily excursions on Lake Hortonia in much the same manner as other boats are used.
5. With regard to requested rules #4 through #7, the Board again recognizes that these rules are modeled after rules adopted by the Board in the early 1970's. However, the Board feels that experience has shown that such rules serve no useful purpose. As a matter of practice, the Board posts signs to inform the public of any rules which it adopts.
6. After reviewing the hearing referee's preliminary findings of fact, as well as correspondence submitted both prior to the public hearing on June 6, 1985 and in response to the preliminary findings of fact issued by the hearing referee on July 10, 1985, the Water Resources Board has decided to propose for adoption in accordance with the Vermont Administrative Procedures Act (3 V.S.A., Chapter 25) the following rules regulating the use of the public waters of Lake Hortonia:
  - Rule #1: The operation of boats at speeds in excess of 5 mph or in such a manner as to cause a disturbing wake is prohibited on that portion of Lake Hortonia generally described as the bay or channel between the dam and the main lake. This prohibition applies only to that portion of the Lake between an imaginary line between camp #116 and camp #225 (Map of Lake Hortonia 1985) and the dam at the Lake's outlet brook.
  - Rule #2: Vessels operated by agencies of the State of Vermont shall comply with Rule #1 at all times, except in cases where law enforcement, emergencies or performance of official duties requires otherwise.

7. To the extent that it is not incorporated in the above proposed rules, the petition of Lake Hortonia Property Owners Association filed on May 13, 1985, is denied.

Opportunity for Further Comment

Those with an interest in this matter have the opportunity to request an additional public hearing and to file further written comments on rules which the Water Resources Board has proposed (Paragraph 6 above). The deadline for requesting a further public hearing on the proposed rules is November 4, 1985. Deadline for submitting written comments on the proposed rules is November 12, 1985. The Board has not scheduled a public hearing on these proposed rules since its record indicates that there was little controversy regarding proposed rule #1. Proposed rule #2 is a standard provision exempting state agencies from compliance under specified circumstances.

Done this 26th day of September, 1985, at Burlington, Vermont.

For the Vermont Water  
Resources Board



Catharine B. Rachlin  
Chairman

kgr

Board members in favor  
of this decision:

Catharine B. Rachlin  
William Boyd Davies  
William D. Countryman  
Kathleen A. Scheele