

State of Vermont
Water Resources Board

Petition to regulate the
use of the public waters of
Black Pond
Hubbardton, Vermont

Preliminary Findings of
Fact

Introduction

On May 13, 1985, a petition was filed with the Vermont Water Resources Board by 10 or more freemen under the provisions of 10 V.S.A. §1424. This petition requested the Board to adopt a rule prohibiting the use of internal combustion engines on Black Pond.

The Water Resources Board appointed William A. 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 June 24, 1985 at the Hubbardton Town Garage, Hubbardton, 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. Black Pond is a natural body of water which has a surface area of approximately 20 acres. The pond has an elongated shape with an average width of approximately 700 to 800 feet and an average length of approximately 1,000 to 1,200 feet. The maximum depth of the pond is 45 feet.
2. The pond has a small drainage basin (127 acres) relative to its surface area. There are no significant streams draining into the pond which is primarily spring fed. Because of these characteristics the rate at which the water in the pond is exchanged or flushed is quite slow.
3. There is no formal public access to Black Pond, however, a town highway which is adjacent to the pond's westerly shoreline serves in that capacity especially at the southwestern end of the pond where the shoreline has been altered in a minor way to facilitate boat launching.
4. There are approximately 14 persons who own property adjacent to the pond including the Department of Forests, Parks and Recreation which owns an undeveloped parcel of land on the southern end of the pond which is believed to be an extension of the property associated with Half Moon State Park.
5. There are no year round residences adjacent to the pond, but there are six summer camps.

6. The pond is used for swimming, boating, fishing and as a source of water for cooking and nonpotable uses by some of the summer camps.
7. The pond supports both a warm and cold fishery, however, it is noted locally as a trout pond, providing excellent fishing. Within the past 10 years the fishing pressure on the pond has increased. Night fishing for rainbow trout in particular has become increasingly popular. Typically there are five boats fishing on Black Pond each night throughout trout season.
8. The petitioners believe that the increase in fishing generally and night fishing in particular is attributable to other nearby trout ponds, including Glen Lake, being overfished for rainbow trout particularly because of night fishing. Night fishing involves the use of a bright light and kernels of corn to attract fish which are then caught by conventional fishing methods.
9. Increased use of Black Pond for fishing both during the day and at night has resulted in the occasional use of gasoline powered motors. Those owning the summer camps adjacent to the pond and most of those who use the pond for recreational purposes, including many fishermen, do not use gasoline powered motors.
10. Camp residents have experienced an off-flavor in the water from the pond used for cooking purposes due to gas and oil from the motors and have observed gas and oil slicks along the shoreline for periods of 24 to 36 hours after gasoline powered motors have been operated on the pond.
11. The petitioners feel that Black Pond is simply too small and has too slow a rate of water exchange to accommodate gasoline powered motors. Furthermore, the petitioners feel that there is no practical need to use gasoline powered motors on such a small body of water.
12. All eleven individuals in attendance at the public hearing on June 24, 1985 testified in support of the petition requesting the prohibition of internal combustion motors on Black Pond.

Opportunity for Further Public 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 hearing on June 24, 1985, has the opportunity to file comments regarding these findings, to request additional findings or to request that a

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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 July 15, 1985. 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 25th day of June, 1985, at Montpelier, Vermont.

By William A. Bartlett
William A. Bartlett
Hearing Referee

WAB/kgr