

STATE OF VERMONT

Water Resources Board

Petition of the Department
of Forests, Parks & Recreation
to establish a Mooring
Management Zone adjacent to
Burton Island
Town of St. Albans, VT

10 V.S.A. §1424

On June 24, 1986, the Water Resources Board (Board) held a hearing at St. Albans Bay, Vermont to receive public comment in response to a petition filed by the Department of Forests, Parks and Recreation (Department) under the provisions of 10 V.S.A. §1424. The petition concerns the establishment of a Mooring Management Zone in Lake Champlain adjacent to Burton Island.

Findings

1. The Department's petition requests the Board to adopt a rule designating the area adjacent to Burton Island as a Mooring Management Zone and to authorize the Department to regulate the anchoring and mooring of boats within that Zone under a delegation of Board authority.
2. The Department's petition was prompted by its lack of authority to control the number and location of boats anchoring or mooring in a small bay area adjacent to the "outer marina" at Burton Island State Park. At certain times of the year, the bay is frequently crowded with anchored boats under circumstances which have created a variety of unsafe conditions including: anchors becoming

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entangled with the underwater electric power cable serving the island, the congestion of the navigational fairway between the docks at the outer marina and the lake, and boats anchoring in very close proximity to the public beach area.

3. The Water Resources Board has general authority to adopt rules regulating the use of public waters under 10 V.S.A. §1424. Subsection (f) authorizes the Board, under certain circumstances, to delegate its authority to "a municipality which is adjacent to or which contains the water."
4. The regulatory scheme proposed in the Department's petition presumes a delegation of the Water Resources Board's authority under 10 V.S.A. §1424(f).
5. At the June 24, 1986, hearing the Board noted that 10 V.S.A. §1424(f) only allows a delegation of authority to municipalities and offered the Department and all others attending the hearing an opportunity to submit written comments by July 25, 1986 on how the Board might respond to the problems which prompted the petition in a manner consistent with its statutory authority. No written comments from the Department or any other party was received by that deadline.

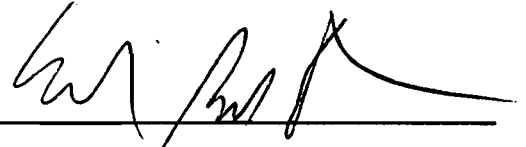
Decision

1. The Department's petition is denied on the basis that the delegation of authority is beyond the Board's jurisdiction.
2. The Board recognizes that a bonafide problem related to the uncontrolled mooring and anchoring of boats in the bay area adjacent to the "outer marina" at Burton Island State Park exists.

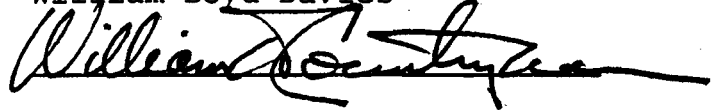
3. The Board would encourage the Department to file a new petition which addresses this problem in a manner consistent with the Board's statutory authority under 10 V.S.A. §1424.

Done this 14th day of August, 1986, at Barton, Vermont.

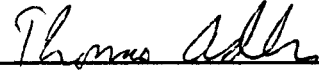
Water Resources Board



William Boyd Davies



William D. Countryman



Thomas Adler

Board members not
participating in this
decision:

Catharine B. Rachlin, Chairman

Kathleen A. Scheele