

STATE OF VERMONT
WATER RESOURCES BOARD

Petition of 10 the Sunrise-Sunset
Lakes-Perch Pond Association to
regulate the use of the public
waters of Sunrise Lake, Towns of
Benson and Orwell, Vermont.

10 V.S.A. §1424

Decision

The petitioners requested that the Water Resources Board (Board) adopt the following rules regulating the use of the public waters of Sunrise Lake:

1. Prohibit all motors other than electrically powered motors.
2. Prohibit houseboats or boats with living facilities.
3. Require that docks or floats be constructed of nonpolluting materials.

On the basis of its record in this proceeding, the Board has decided to proceed with the adoption of the following rule for Sunrise Lake:

1. Vessels powered by motor shall not exceed a speed of 5 miles per hour (mph).

The Board has decided not to proceed with the adoption of the balance of the rules requested by the petitioners because they were found to be adequately addressed under other provisions of state law.

The basis for the Board's decision on this petition is described below.

Background

On September 11, 1989, The Sunrise-Sunset Lakes-Perch Pond Association (Association) filed a petition under the provisions of 10 V.S.A. §1424, requesting the adoption of rules regulating the use of the public waters of Sunrise Lake as described above. In response to that petition, the Board on June 19, 1991, proposed the requested rules for the purposes of public review and comment. The Board conducted a public hearing on the proposed rules on August 14, 1991, at the Manchester Elementary School in Manchester Center, Vermont. The deadline for the submittal of written comment was August 21, 1991.

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The Board reviewed its record in this matter at its regular meetings on September 11, and October 30, and November 13, 1991.

Findings

1. The Sunrise Lake (Lake) is located in the Towns of Benson and Orwell, Vermont. It has a surface area of 52 acres and a maximum depth of 43 feet. The Lake constitutes public waters within the meaning of 10 V.S.A. §1422(6).
2. The Lake is surrounded by 23 camps and a Boy Scout camp. There is no public access to the Lake although the public gains access from the road which crosses a shallow area at the inlet.
3. The Lake is used for swimming, fishing, canoeing, the quiet enjoyment of the Lake's aesthetic value, and limited low-speed boating. The Boy Scout camp instructs novice canoeing, rowing and paddling, and conducts swims across the Lake as a requirement of a merit badge. Three camp owners currently own internal combustion motors.
4. The Association serves three adjacent lakes. The Board adopted a rule prohibiting internal combustion motors in 1974 for Perch pond. The results of the rule are seen as favorable and the Association is therefore requesting the same rule for Sunrise Lake. High speed boating and use of internal combustion motors is an established use on the adjacent Sunset Lake.
5. The Board has decided not to prohibit the use of internal combustion motors as requested by the Association because that would prohibit an established, albeit low-level, use of the Lake. The Board feels the establishment of a 5 mph speed limit will substantially achieve the results sought by the Association's petition.
6. The Lake is currently colonized by Eurasian milfoil, its shoreline exhibits signs of excessive erosion, and the dam is in frequent need of repair.
7. The petitioners by their designated representative indicted that the recent enactment of legislation prohibiting the residential use of vessels on any lake or pond which does not have a state approved sanitary waste pumpout facility (23 V.S.A. § 3315(g)) adequately addresses the concern which prompted their request for a rule prohibiting "houseboats or boats with living facilities."

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8. The petitioners by their designated representative indicated that their requested rule requiring nonpolluting dock materials was redundant with Vermont's Water Quality Standards which prohibit the discharge of pollutants into waters of the state.

9. Shoreline erosion may be caused by the wake of motorboats although not necessarily attributable to internal combustion motors. Limiting boat speed will diminish wakes, thereby decreasing the erosive forces caused by wakes.

10. The adoption of rules limiting the speed of vessels powered by motor to 5 mph will not affect any established uses on the Lake and indeed will prevent conflicts with those uses which are established.

Dated in Burlington, Vermont, this 20th day of November, 1991.

Vermont Water Resources Board

BY: Dale A. Rocheleau
Dale A. Rocheleau, Chair

Board Members Concurring:

Dale A. Rocheleau
Elaine B. Little
Mark DesMeules
Jonathan Lash

Board Members Opposed:

None