

STATE OF VERMONT
WATER RESOURCES BOARD

Petition of 10 Freemen to
regulate the use of the public
waters of Greenwood Lake,
Town of Woodbury, Vermont

10 V.S.A. § 1424

DECISION

The petitioners requested the Water Resources Board (Board) to adopt the following rules regulating the use of public waters on Greenwood Lake:

1. Waterskiing is prohibited.
2. The use of motors, other than electric motors is prohibited.
3. Vessels powered by electric motors shall not exceed five miles per hour (m.p.h.).
4. Houseboats and boats with living facilities are prohibited.
5. Personal watercraft are prohibited.

On the basis of its record in this proceeding, the Board has decided to proceed with the adoption of the following rules:

1. Unless otherwise prohibited by law, vessels powered by motor when towing water-skier(s) or operating at speeds exceeding 10 m.p.h. shall travel in a counterclockwise direction.
2. Unless otherwise prohibited by law, waterskiing and the operation of vessels powered by motor at speeds exceeding 10 m.p.h., shall be limited to the following times:
 - a. Monday, Wednesday and Friday from 2:00 p.m. until 7:00 p.m.
 - b. Saturday and Sunday from noon until 7:00 p.m.

All concerned should understand that the continuation of waterskiing and other high-speed boating activities on Greenwood Lake is contingent upon the issuance of a waiver of the requirement that motorboats not exceed five m.p.h. within 200 feet of the shoreline by the Department of Public Safety (DPS),

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under 23 V.S.A. § 3311(c)(1). The Board believes that the adoption of the above rules establishing a time sharing arrangement will enhance the likelihood that such a waiver may be granted.

The Board does intend to review with the Vermont Legislature the issue of whether the further regulation of personal watercraft is appropriate. The basis for the Board's decision on the Greenwood Lake petition is described below.

BACKGROUND

On August 22, 1983, the Board was petitioned to adopt rules to establish a 10 m.p.h. speed limit within 100 feet of the shoreline, limit boat motors to 55 horsepower, prohibit waterskiing between the hours of 6:30 p.m. and 10:00 a.m., and prohibit boats with living facilities. On November 8, 1983, the Board decided not to adopt any rules for the Lake and instead encouraged the Association to seek an "informal resolution" to their recreational conflicts. As a result, the Association established a counterclockwise route for high-speed boating.

On July 17, 1989, a petition signed by 10 freemen was filed with the Board under the provisions of 10 V.S.A. § 1424. In response to that petition, the Board proposed the requested rules on June 19, 1991, for the purposes of public review and comment.

On July 23, 1991, the Board conducted a public hearing at the Frank R. Adams School, St. Johnsbury, Vermont, to consider the merits of the petition, and a deadline of August 21, 1991, was established for public comment.

Based on the July 23, 1991, hearing, the Board's staff conducted a meeting on August 6, 1991, to negotiate with the interested participants in an attempt to reach a compromise. A tentative negotiated agreement was reached which incorporated a temporal limitation on high-speed boating based upon hours of the day and days of the week. This agreement was distributed to all interested participants and an additional deadline of October 2, 1991, for public comment was established.

In considering this petition, the Board was guided by the provisions of 10 V.S.A. § 1424(b)&(c). These provisions of Vermont law direct the Board to consider, among other things, the characteristics of the water body and the surrounding land, the predominant use of the waters, and the availability of recreational opportunities. The Board is also directed to manage public waters in a manner where multiple uses may be

enjoyed in a reasonable manner and all normal uses shall be provided for to the greatest extent possible, consistent with public safety and environmental limitations.

It is our hope and expectation that this proceeding will help lay the groundwork for all established recreational uses to continue without the need for further action by this Board. Indeed, the Board will be reluctant to revisit this matter in the near future except in response to either new evidence indicating serious safety problems or a consensus request to modify the time sharing arrangement established in the rules.

FINDINGS

1. Greenwood Lake (Lake) is located in the Town of Woodbury, Vermont. The Lake has a surface area of 83 acres and a maximum depth of 41 feet. The Lake is irregularly shaped and has several islands. The Lake constitutes public waters within the meaning of 10 V.S.A. § 1422(6).
2. The Lake is surrounded by approximately 60 camps. There is a public boat launch at the southeastern end of the Lake which receives moderate use.
3. Personal watercraft have been present on the Lake in relatively limited numbers. Among the established uses on the Lake are: low-speed and high-speed motorboating, waterskiing, swimming, paddling, rowing, fishing, snorkeling, and the quiet enjoyment of the Lake's aesthetic value.
4. The Lake is stocked with trout by the Department of Fish and Wildlife, Agency of Natural Resources. The Lake also supports loons, beaver and otter.
5. The Vermont Legislature has enacted legislation which prohibits the residential use of vessels on any lake or pond which does not have a state approved sanitary waste pump out facility (23 V.S.A. § 3315(g)). The Lake has no such facility and one is not planned for the immediate future.
6. Under the Vermont Boating Safety Operating Laws and Regulations (23 V.S.A. § 3302) a "personal watercraft" is considered a Class A vessel, and is therefore subject to regulation. Section 3312(a) of these regulations establishes the following limitations on the operation of personal watercraft:
 - (a) A person under the age of 16 shall not operate a personal watercraft;

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- (b) All persons operating or riding on a personal watercraft shall wear a Type I, II or III U.S. Coast Guard approved personal flotation device.
 - (c) Personal watercraft shall not be operated at any time during the hours between one half hour after sunset and one half hour before sunrise.
 - (d) Persons operating a personal watercraft shall utilize a lanyard if provided by the manufacturer.
7. Under the current Vermont boating laws (23 V.S.A. § 3309), any internal combustion engine powering a vessel must be effectively muffled so as to operate at a noise level of not more than 82 decibels. Most personal watercraft operate at a decibel rating well below this standard. It is the pitch at which they operate that noncompliance with this standard is perceived.
 8. Under the current Vermont boating laws (23 V.S.A. § 3311(c)(1)), a person shall not operate a vessel within 200 feet of a shoreline, a person in the water, another vessel, an anchored or moored vessel containing a person, or anchorages or docks except at a speed of less than five m.p.h. which does not create a wake. Complaints regarding dangerous operation of vessels including personal watercraft are primarily a result of noncompliance with this provision of the law.
 9. Under state law, of the total 83 acres of the Lake, a total of 9.6 acres fall outside 200 feet from the shoreline as described in finding 8 above. The 9.6 acres are located in five segmented portions of the Lake. Therefore, under current boating law, all boating activities exceeding five m.p.h., including waterskiing, would have to occur within the 9.6 acres, provided each boat is also operating at a minimum distance of 200 feet from other vessels, persons in the water, anchorages or docks.
 10. In order to expand waterskiing outside of the 9.6 acres currently allotted under state law, a waiver of the 200 foot zone described in finding 8 above would be required from the Department of Public Safety.
 11. There is no record of accidents on the Lake that can be attributed to high-speed boating. However, it is evident that high-speed boating does raise serious safety concerns and conflicts with other established uses on the Lake including swimming, nonmotorized boating, and fishing.

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12. Limiting high-speed boating to specified times will be a benefit to other recreational uses and reduce potential conflicts, especially during popular times for fishing and enjoying the tranquility of the Lake in the morning and evening. The limiting of high-speed boating to specified times would not prevent the continued enjoyment of established uses.

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