

STATE OF VERMONT
WATER RESOURCES BOARD

Petition of the Department of
Fish & Wildlife for the adoption of
rules regulating the use of the public
waters of Gale Meadows Pond in the
Towns of Winhall and Londonderry,
Vermont.

10 V.S.A. § 1424

Decision

The petitioners requested that the Water Resources Board (Board) adopt the following rule regulating the use of the public waters of Gale Meadows Pond:

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

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

1. Vessels powered by motor shall not exceed a speed of 5 mph.

The basis for the Board's decision on the Gale Meadows Pond petition is described below.

Background

On May 6, 1991, the Department of Fish and Wildlife (Department) filed a request to the Board seeking adoption of rules regulating the use of the public waters of Gale Meadows Pond as described above. In response to the request, the Board, on its own motion, proposed a rule on June 19, 1991, for the purposes of public review and comment. The Board conducted a public hearing on the proposed rule 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.

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

Findings

1. Gale Meadows Pond (Pond) is located in the Towns of Winhall and Londonderry, Vermont. The Pond was created in 1965 as a result of the impoundment of Mill Brook by a dam constructed by the Department. The Pond has a surface area of approximately 180 acres and has a boat access constructed by the Department. The dam and the boat access are located at the southeastern end of the Pond.

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2. The Pond constitutes public waters within the meaning of 10 V.S.A. § 1422(6).
3. The land flowed by the creation of the Pond was conveyed by Henry B. and Alice A. Green (Greens) to the Department by a deed which specified in part that the use of outboard motors on the Pond shall be limited to speeds not to exceed 5 mph.
4. From the time of its construction until the mid 1980's, the use of the boat access on the Pond was restricted by Fish & Game Board regulation limiting the use of the access to the launching of boats for the purposes of fishing. This restriction apparently had the effect of preventing the use of the access for high-speed recreational boating. Changes in federal law resulted in changes to the Fish & Game Board regulations which removed the requirement that boats using the access must be used for fishing. The Department's petition is an attempt to meet their obligation under the deed by which the Greens conveyed the land, to limit the speed of boats on the Pond to 5 mph.
5. The Pond's shoreline is bordered by seven tracts of land and is undeveloped except for one house owned by the Greens.
6. The Pond's established uses include low speed motor boating, sail boarding, paddling, fishing, and wildlife observation, and has limited use for swimming and sailing. A seaplane also occasionally uses the Pond.
7. Loons occasionally use the Pond, but have not nested there since the early 1970's. There is a great blue heron rookery in close proximity to the Pond and there is an unsubstantiated report of an osprey nesting site near the Pond.
8. The established 5 mph speed limit would decrease motor related disturbances to these birds and the speed limit would not prevent the continued enjoyment of the Pond for established uses.
9. Because aircraft would not be affected by the proposed rule since they are not "vessels" under state law, the Board makes no ruling at this time on whether or not their use of the Pond constitutes an established use.
10. The Board has modified the rule originally requested by the Department to have the 5 mph speed limit apply to all vessels powered by motor in order to conform with similar restrictions established on other lakes and ponds.

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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