

STATE OF VERMONT  
WATER RESOURCES BOARD

Petition of 10 freemen to  
regulate the use of the  
public water of Lake Willoughby,  
Town of Westmore, Vermont

10 V.S.A. § 1424

DECISION

The petitioners requested the Water Resources Board (Board) to adopt rules regulating the use of the public waters on Lake Willoughby. Two petitions were submitted: one for each requested rule. The petitions were consolidated into one proceeding in which the following requested rules were considered:

1. Use of personal watercraft is prohibited.
2. The operation of vessels at speeds which exceed 35 miles per hour (m.p.h.) is prohibited.

On the basis of its record in this proceeding, the Board has determined that although there is evidence of developing conflicts regarding the use of personal watercraft and the potential for conflicts involving excessively high-speed boating on Lake Willoughby, the petitioners have not shown that the requested rules are necessary or appropriate under the guidance provided by 10 V.S.A. § 1424(b)&(c). Accordingly, the Board has decided not to proceed with the adoption of such rules at this time. The basis for this decision is described below.

The Board does intend to review with the Vermont Legislature the issues of whether the further regulation of personal watercraft and/or the establishment of a maximum speed limit where high speed boating is allowed is appropriate before considering requests to address these issue on a lake-by-lake basis.

BACKGROUND

On November 9, 1990, two petitions signed by 10 freemen each were filed with the Board under the provisions of 10 V.S.A. § 1424, to adopt rules regulating the use of public waters on Lake Willoughby. In response to those petitions, the Board proposed the requested rules on June 19, 1991, for the purposes of public review and comment.

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

In considering this petition, the Board was guided by the provisions of 10 V.S.A. § 1424(b)&(c). This provision of Vermont law directs 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.

FINDINGS

1. Lake Willoughby (Lake) is located in the Town of Westmore and has a surface area of approximately 1653 acres, making it the fourth largest lake located entirely within Vermont. Lake Willoughby constitutes public waters within the meaning of 10 V.S.A. § 1422(6).
2. Personal watercraft have been present on the Lake for the past several years, but in relatively limited numbers. Among the established uses on the Lake are: swimming, sailing, sailboarding, rowing, paddling, fishing, waterskiing, scuba diving, wildlife observation, and the peaceful enjoyment of the Lake's aesthetic value.
3. 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 3312a 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.
  - (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.

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- (d) Persons operating a personal watercraft shall utilize a lanyard if provided by the manufacturer.
4. Under 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.
  5. Under 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.
  6. There is no credible, scientifically based evidence to indicate that the use of personal watercraft has an adverse impact on crayfish populations.
  7. Conflicts between personal watercraft and other uses of the Lake seem to be concentrated at the swimming area at the north end of the Lake (North Beach) and therefore does not constitute a basis for prohibiting or restricting their use on a lake-wide basis.
  8. A speed limit of 35 m.p.h. could prevent some forms of waterskiing on the Lake.
  9. Although there are records of accidents and boating law violations, they do not indicate a chronic problem with high-speed boating of sufficient magnitude to warrant establishing a 35 m.p.h. speed limit.
  10. Enforcement of existing laws regarding boat speeds and the use of personal watercraft will result in fewer recreational use conflicts. Community participation in reporting conflicts to the Department of Public Safety Marine Police Division will aid in the enforcement of existing laws.
  11. The use of buoys to demarcate the 200 foot boundary from shore or high use areas (swimming areas) on other lakes has been shown to reduce use conflicts. Educational programs to inform recreational users of existing laws and

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appropriate "jetskiing" and boating behavior has also been shown to reduce conflicts. These measures can be initiated by the Lake Willoughby community in an organized effort to reduce use conflicts.

Dated in Burlington, Vermont, this 20<sup>th</sup> 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