

STATE OF VERMONT
Water Resources Board

In re: Petition for the amendment of 10 V.S.A. § 1424
rules regulating the use of
Woodward Reservoir, Town of Plymouth

BACKGROUND

On May 2, 1994, a petition was filed with the Vermont Water Resources Board (Board) under the provisions of 10 V.S.A. §1424 seeking the amendment of the current rules for Woodward Reservoir. The petition sought the repeal of all current Board rules and the adoption in lieu thereof, a rule establishing Reservoir-wide a speed limit for vessels powered by motor of 5 miles per hour.

In response to this filing, the Board initiated a rulemaking as requested by the petition and scheduled a public hearing for July 27, 1994, at the Plymouth Municipal Building for purposes of receiving public comment. The Board also established October 3, 1994, as the deadline for the filing of written comment. The Board held a public hearing as scheduled.

Representing the Board at this hearing were Board member Mark DesMeules and William Bartlett, the Board's Executive Officer.

OPPORTUNITY FOR FURTHER COMMENT

These findings are intended as a report to the full Board summarizing the testimony received at the July 27, 1994, public hearing without offering judgements as to the validity of any particular argument or fact presented.

Copies of these "findings" have been sent to all persons who signed the attendance sheet circulated at the hearing. Those persons have until October 3, 1994, to file written comments as to the thoroughness and accuracy of the findings. In addition, all persons whether or not they were at the July 27 hearing have until October 3, 1994, to file written comments on the rule requested by the petition. All written comments should be addressed to: Vermont Water Resources Board, 58 East State Street, Drawer 20, Montpelier, Vermont 05620-3201.

In deciding what, if any, action to take in response to the petition, the Board will consider this report as well as all written comments filed by October 3, 1994. All persons attending the public hearing and/or filing written comments on this matter will be notified of any final action in this matter. The Board will make every effort to make its decision as quickly as possible.

Any questions regarding this matter should be directed to the Water Resources Board office at the address indicated above or at 828-2871.

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FINDINGS

1. Woodward Reservoir is one of several lakes located along the Route 100 corridor in the south central portion of Vermont. The other lakes in this region, in addition to Woodward Reservoir, include Amherst Lake, Echo Lake, Lake Rescue. High speed boating currently occurs on all of these "lakes."
2. Existing Vermont boating law (23 V.S.A. § 3311) prohibits vessels, except for sailboards, police or emergency vessels, from operating at speeds exceeding 5 miles per hour within 200 feet of any shoreline, any occupied vessel and any person in the water. This provision of Vermont boating law is often popularly referred to as the "200 foot rule."
3. Woodward Reservoir (the Reservoir) located in the Town of Plymouth constitutes public waters within the meaning of 10 V.S.A. § 1422 (6). The Reservoir is a natural body of water on which the water level has been raised by a dam located its north end. The Reservoir has a surface area of 106 acres and has an elongated configuration oriented on a roughly north-south axis.
4. The southern portion of the Reservoir (south of "Bear Pit Point") is roughly oval shaped and is over 1000 feet wide at its widest point. This portion of the Reservoir has approximately 36 acres of surface area that is more than 200 feet from the shoreline.
5. The northern portion of the Reservoir consists of a series of relatively narrow linear "arms" extending in a northerly direction on both sides of Bear Pit Point. Essentially the entire northern portion of the Reservoir is within 200 feet of the shoreline.
6. A public fishing access, the only public access to the Reservoir, is located near the north end of the northern portion of the Reservoir.
7. Much of the shoreland on the eastern shore of the southern portion of the Reservoir is owned by Farm and Wilderness which has operated summer camps for children in this area for the past 54 years. In conjunction with those camps, three separate swimming areas have been designated. Farm and Wilderness also owns the dam which controls the water level on the Reservoir. The balance of the Reservoir's shoreline is privately owned and is moderately developed with summer and year round residences.
8. The Reservoir contains geologic features and uncommon plant communication of note. Bear Pit Point and Ant Island are esker formations of sand and gravel left by glaciation. These features have been noticeably eroded over the past 40 years with Bear Pit Point being reduced an estimated 20-30

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feet. A unique floating sphagnum bog is located in an extension of the northern portion of the Reservoir.

9. In 1972, the Board adopted the 11 current rules regulating the use of Woodward Reservoir (current rules) in response to a petition filed at that time under the same authority (10 V.S.A. § 1424) that the pending petition was filed. The rules adopted in 1972 that currently govern the use of the Reservoir are as follows:

Rule 1. No power boat shall be operated anywhere on Woodward Reservoir at a speed in excess of 5 m.p.h. between 6:00 p.m. and 10:00 a.m. local time.

Rule 2. Any power boat operated north of a line from shore to shore passing through the southern-most point of the long, narrow island on the west side of the lake (sometimes called Tucker's Island) and the southern-most point of the long, narrow peninsula on the east side of the lake (sometimes called Bear Pit Point) shall be limited to a maximum speed of 5 m.p.h. at all times.

Rule 3. For the remainder of the lake, no power boat shall be operated at a speed in excess of 5 m.p.h. with 200 feet of any shore or island.

Rule 4. In the area where power boat speeds are permitted in excess of 5 m.p.h., only one boat will be permitted to conduct water skiing at any time and the operation of any power boat in excess of 5 m.p.h. will be in such a manner as to not interfere with or create a hazard to a water skier, other watercraft, or other persons.

Rule 5. Any power boat launched at the public Fish and Game access is to be utilized solely for the purpose of fishing on Woodward Reservoir and shall be limited to a speed of 5 m.p.h. regardless of when or where operated on Woodward Reservoir. A clearly visible and legible sign will be posted by the Agency of Environmental Conservation at the Fish and Game access area stating this rule and any other pertinent restrictions or regulations on the operation of such watercraft which apply.

Rule 6. No houseboats with living facilities are permitted on Woodward Reservoir at any time.

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- Rule 7. Any person possessing shoreland on the waters of Woodward Reservoir south of the line established in Rule 2 may establish an area of water for swimming. Any such established swimming area shall be marked by the property owner with buoys placed not more than 75 feet apart and shall not extend more than 150 feet out from the shoreline nor more than 300 feet along the shoreline. When not otherwise prohibited by law, the conduct of any nude swimming, or the nude operation of or riding in, on or about any watercraft or similar device, shall be permitted only within the limits of any such marked swimming area.
- Rule 8. No person shall operate a motorboat in a manner which produces turbidity in violation of the applicable Regulations Governing Water Classification and Control of Quality.
- Rule 9. These rules supplement and are in no way intended to modify other applicable laws and regulations.
- Rule 10. To the extent they have authority to do so, the selectmen of the Town of Plymouth may amplify or make ordinances to enforce these rules, in a manner consistent with them, as the public interest of all the citizens of the State warrants.
- Rule 11. The Vermont Water Resources Board retains continuing jurisdiction over the subject matter of these rules and may modify them, pursuant to statute, as it should determine the need to.
10. Both the "200 foot rule" and the current rules already establish a 5 m.p.h. speed limit in the northern portion of the Reservoir. Current rules 4 and 5 limit motorboats launched at the public fishing access area (the only public access on the Reservoir) to the use of fishing at a speed of 5 m.p.h. and limit waterskiing, where not otherwise prohibited to one vessel at a time.
11. At the July 27, 1994 public hearing a total of nineteen people signed the attendance list of whom twelve testified.
12. The Reservoir has traditionally been used for a variety of recreational uses including swimming, fishing wildlife observation, the enjoyment of the aesthetic value and quiet solitude, and boating by both motorized and nonmotorized vessels.

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13. Waterskiing and other forms of high-speed motor boating have occurred on the Reservoir for 20 or more years at relatively low levels of intensity due to several factors: current rules 4 and 5, the Reservoir's size and configuration, and the availability of more attractive locations for transient waterskiing nearby.
14. During the summer when weather conditions are favorable, high speed motorboat use which is generally associated with waterskiing, occurs 2 or 3 times per day on weekends and 2 or 3 times per week on the weekdays.
15. Swimming, fishing, nonmotorized boating (principally canoeing) and motorboating at relatively low speeds (principally associated with fishing) have traditionally been, and remain, the predominant active recreational uses of the Reservoir.
16. Approximately 500 children attend the Farm and Wilderness summer camps located adjacent to the Reservoir during the summer from mid-June through the end of August. The camps have extensive water based recreational programs that feature both swimming and canoeing.
17. The proponents of the Petition seeking to replace the current rules with a Reservoir-wide 5 m.p.h. speed limit offered the following arguments in favor of their position:
 - a. There is a need for non-high speed recreational opportunities within the south-central region of Vermont. Of the lakes in this region (see finding 1 above), Woodward Reservoir is the most appropriate candidate for such usage based on established regional recreational patterns.
 - b. The predominant uses of the Reservoir over an extended period of time have been for recreational uses that are not dependent on high speed motorboat use including fishing, swimming and low speed motorboat use. High speed motorboat uses are intrusive and out of character with the predominant uses of the Reservoir.
 - c. Waterskiing on the Reservoir frequently violates the "200 foot rule" referred to in finding 2 above, in part because the area in the southern portion of the Reservoir that is more than 200 feet from shore is simply too small for enjoyable waterskiing.
 - d. The Reservoir contains fragile natural features and plant life that would be better protected by prohibiting high speed boating. Shoreland erosion would be reduced.
 - e. The current rules are inherently confusing, unfair and therefore unenforceable. The same rules should apply to

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- e. The current rules are inherently confusing, unfair and therefore unenforceable. The same rules should apply to all users of the Reservoir.
 - f. The economic benefit to the local economy provided by the Reservoir would be protected and enhanced. Shoreland property values would be enhanced.
 - g. The wildlife values of the Reservoir would be enhanced. The Reservoir would be better protected from the prospect of infestation by eurasian milfoil and zebra mussels.
18. The opponents of the petition offered the following arguments in favor of their position:
- a. High speed motorboat use is an established, normal use of the Reservoir and therefore should not be prohibited by new regulation.
 - b. There is less high speed motorboat use on the Reservoir today than in the 1980's.
 - c. The current rules have worked well, there are no problems or conflicts on the Reservoir that warrant more restrictive regulation.
 - d. There is no record of boating accidents on the Reservoir.
 - e. The proposed rules would reduce the value of shoreland property.
 - f. The shoreland erosion that has occurred on the Reservoir has been overstated and what has occurred is largely the result of wave action during periods of high wind and the fact that the Reservoir's current shoreline is not natural and is therefore more susceptible to erosion than a natural shoreline would be.
 - g. The floating bog is in a remote portion of the Reservoir that is not presently affected by high speed boating.

Dated at Montpelier, Vermont this 16th day of September, 1994.



William A. Bartlett
Hearing Referee



Mark DesMeules
Hearing Referee