

STATE OF VERMONT  
Water Resources Board

In re: Petition for the adoption of rules regulating the use of Arrowhead Mountain Lake  
Towns of Milton and Georgia

10 V.S.A. § 1424

BACKGROUND

On May 16, 1994, a petition was filed with the Vermont Water Resources Board (Board) under the provisions of 10 V.S.A. § 1424 seeking the adoption of the following rule for Arrowhead Mountain Lake:

The use of vessels powered by motor with a capacity of more than 10 horsepower are prohibited.

In response to this filing, the Board proposed the rule requested by petition and scheduled a public hearing for August 3, 1994. The Board also established October 3, 1994, as the deadline for the filing of written comment.

The public hearing was held as scheduled at 7:00 p.m. on August 3, 1994, at the Milton High School Auditorium for the purpose of receiving public comment. Representing the Board at that hearing were Board member Jane Potvin and the Board's Executive Officer, William Bartlett.

OPPORTUNITY FOR FURTHER COMMENT

These findings are intended as a report to the full Board summarizing the testimony received at the August 3, 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 August 3 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

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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.

FINDINGS

1. Arrowhead Mountain Lake (the Lake) located in the Towns of Milton and Georgia constitutes public waters within the meaning of 10 V.S.A. § 1422(6). The Lake is an impounded portion of the Lamoille River and has a surface area of 760 acres.
2. The Lake consists of three distinct segments which are named here simply for ease of reference: (1) the "northern pond" located north of the narrows; (2) the southern pond located south of the narrows to the dam; and (3) the narrows that connects the northern and southern ponds. While there is no precise delineation of where each of these segments begins and ends, these terms are useful on a conceptual level at least for purposes of summarizing the testimony.
3. The "northern pond" itself consists of two distinct parts: (1) the "eastern arm" which is relatively shallow and includes numerous islands and areas of emergent wetland vegetation; and (2) the "western arm" which is relatively deeper and which includes along its western shore the channel of the Lamoille River prior to impoundment.
4. The shoreline of the Lake is moderately developed, generally by year-round residences. A public fishing access is located off Vermont Route 104A at the north end of the Lake. This access is located in the "eastern arm" of the "northern pond" portion of the Lake. A second de facto public access is located on the northwest shore of the "southern pond." However this access has a very limited capacity for parking and therefore plays a very secondary role in providing public access to the Lake.
5. The Lake has traditionally been used for a variety of recreational uses including swimming, fishing and boating by both motorized and nonmotorized vessels. Motorboats have used the Lake since its impoundment at both high speeds (i.e. waterskiing) and at low speeds (i.e. fishing at trolling speeds).

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6. Waterskiing and other forms of "high speed" motorboat use including the use of personal watercraft are generally concentrated in the "south pond" and the western arm of the north pond portions of the Lake. However "high speed" motorboat use also presently occurs on a regular basis through the narrows which connect the south pond and the north pond and occasionally occurs in the eastern arm of the north pond.
7. Fishing, swimming and nonmotorized boating occur throughout the Lake including in the narrows.
8. While the entire Lake provides wildlife habitat, the eastern arm of the northern pond appears to be the area where these values are most concentrated. Within this area a osprey nesting platform is located.
9. Existing Vermont boating law (23 V.S.A. § 3311) requires that all vessels, except for sailboards, police or emergency vessels, not operate at speeds exceeding 5 miles per hour (m.p.h.) within 200 feet of the shoreline, vessels containing people or persons in the water.
10. Some portions of "the narrows" are less than 400 feet wide meaning that even when other vessels or persons in the water are totally absent, operating most vessels at speeds in excess of 5 m.p.h. is prohibited under current law. In most other portions of the narrows, the presence of one or more vessels or people in the water would also require observation of a the 5 m.p.h. speed limit.
11. At the August 3, 1994 public hearing a total of sixty-eight people signed the attendance list of whom approximately thirty-six testified.
12. The designated spokesperson for the petitioners, Robert Jones was the initial speaker at the August 3 hearing. In his testimony Mr. Jones indicated that the underlying issue from the petitioners perspective was excessive high speed boating in at least some areas of the Lake particularly in the area identified above as the northern pond. In response to a question from Board member Jane Potvin, Mr. Jones indicated that in his view the petitioners were open to compromise as to how their underlying concerns could be addressed and that all high speed boating, or all motors larger than 10 horsepower, did not need to be prohibited on the Lake to achieve that objective.
13. Those testifying in opposition to the petition offered the following arguments in favor of their position:

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- a. There are no recreational use conflicts on the Lake that require the adoption of any additional rules.
  - b. Even if some regulation is needed on the Lake, the proposed 10 horsepower limit is an excessive and arbitrary response to any problems or conflicts that may exist.
  - c. The proposed 10 horsepower limit would either eliminate or severely restrict several established recreational uses of the Lake including waterskiing, the use of personal watercraft and fishing.
  - d. Horsepower limits are an arbitrary way of addressing the petitioner's stated reasons for filing the petition as outlined in finding 12 above. Many people who use motorboats on the Lake, including many fishermen, have only one motor which may be used on a number of lakes for a variety of purposes. In a majority of such cases the motor exceeds 10 horsepower and therefore if the rule requested by the petition were adopted, such boaters would be required to purchase a second motor for use on the Lake.
  - e. The petitioners have not presented any "hard data" to support the allegations made in the cover letter to the petition.
  - f. The majority of those using the Lake for recreational purposes oppose the petition.
  - g. Wildlife populations on the Lake are not significantly affected by existing levels and patterns of motorboat use and in fact wildlife populations are increasing.
  - h. Shoreland erosion is largely due to water level fluctuations and natural wave action rather than motorboat wakes.
  - i. Arrowhead Mountain Lake is a body of public water and should therefore be available to all uses including high speed motorboat use.
14. While a number of speakers testified that no additional regulation of recreational uses on any portion of the Lake is needed for the reasons outlined in finding 13 above, several speakers testified in support of more limited regulation than that sought by the petition as filed. This testimony generally was focused on regulating high speed boating in the

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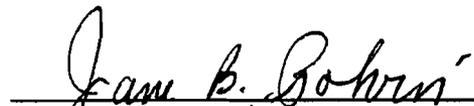
east arm of the northern pond and/or in the narrows were several speakers reported that the 5 m.p.h. within 200 feet of the shoreline requirement is commonly ignored.

15. The broadest support for some regulation was to establish speed limits in the eastern arm of the northern pond as a means of protecting both public safety and wildlife habitat.

Dated this 14th day of September, 1994, at Grand Isle, Vermont.



William A. Bartlett  
Hearing Referee



Jane B. Potvin  
Hearing Referee