

STATE OF VERMONT  
Water Resources Board

In re: Petition for the adoption of  
rules regulating the use of  
Holland Pond, Town of Holland

10 V.S.A. § 1424

BACKGROUND

On May 31, 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 Holland Pond:

The use of personal watercraft (jetskis) are  
prohibited.

In response to this filing, the Board proposed the rule requested by petition and scheduled a public hearing for August 1, 1994, at the Holland Elementary School. The Board also established October 3, 1994, as the deadline for the filing of written comment.

Representing the Board at the hearing were Board Chair William Boyd Davies and William Bartlett the Board's Executive Officer.

OPPORTUNITY FOR FURTHER COMMENT

The above findings are intended to fairly and accurately summarize the discussion at the August 1, 1994 public hearing. This summary is intended as a report to the full Board as to what was learned at the hearing on this petition. Toward that end, the above findings have been drafted to provide an accurate "sense" of the hearing without offering judgements as to the merits of any particular argument or position.

Copies of these findings have been sent to all persons who signed the attendance sheet circulated at the August 1, 1994 hearing for their review and comment as to the thoroughness and/or accuracy of the findings. In addition anyone can file comments in response to the rule requested by the Petition. The deadline for filing any such comments is October 3, 1994 (Vermont Water Resources Board, 58 East State St., Drawer 20, Montpelier, Vt. 05620-3201).

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

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

FINDINGS

1. Holland Pond (the Pond) constitutes public waters within the meaning of 10 V.S.A. § 1422(6). The Pond is located in the Town of Holland. The Pond has a surface area of 325 acres. The Pond is generally oriented on a north/south axis.
2. Much of the Pond's shoreland is owned by the Holland Pond Trust and the State of Vermont. The Holland Pond Trust owns much of the Pond's eastern and southern shoreland. The State of Vermont owns the 10,000+ acre Bill Sladyk Wildlife Management Area surrounding the pond, but including only the shoreline on the Pond's north end. There are approximately 40 privately-owned camps concentrated along a one-mile stretch of the western shore.
3. There is a public fishing access located at roughly the mid-point along the western shore of the Pond.
4. The Pond is currently used for a variety of recreational uses including swimming, fishing, wildlife observation, enjoyment of its aesthetic value and quiet solitude, and boating by both nonmotorized and motorized vessels. Motorboats use the Pond at both high speeds (i.e. waterskiing) and at low speeds (i.e. fishing at trolling speed).
5. The Pond is also used as a source of potable water by the International Water Company, a privately owned public water system serving two communities in Quebec as well as the Village of Derby Line.
6. The Pond also supports a small breeding population of Loons which are an endangered species in Vermont.
7. Personal watercraft (PWC) usage on the Pond occurs on a relatively low frequency basis. Currently there is only one shoreland property owner who owns a PWC used on the Pond. PWC are sometimes trailered to the Pond for day use.
8. At the August 1 public hearing a total of forty-one people signed the attendance list and approximately twenty-two people testified.
9. Several speakers commented that there had not been sufficient discussion of the rule requested by the petition prior to its filing and suggested that such discussion might result in a compromise representing a general consensus.

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10. The owners of the one locally owned PWC using the Pond have developed their own "rules" for the use of their PWC. These include: (1) no operation before 10:00 a.m. or after 4:00 p.m.; (2) confining the operation of the PWC certain areas on the Pond; and (3) no operation near Loon nesting sites.
11. The proponents of the rule prohibiting PWC on Holland Pond offered the following arguments in favor of their position:
  - a. PWC usage creates boating safety concerns, they are fun but dangerous.
  - b. PWC usage creates noise impacts that are intrusive on other uses of Holland Pond including the enjoyment of the general lack of noise.
  - c. PWC usage is incompatible with the character of the Pond with its largely undeveloped shoreline, wildlife habitat values and quiet nature.
  - d. PWC usage potentially threatens the viability of the Loon breeding population on Holland Pond.
  - e. The petition is not prompted by the current level of PWC usage on the Pond but rather is intended to preempt this use from expanding to the point that the potential impacts outlined above do in fact become a problem.
  - f. There are alternative locations for PWC usage within a reasonable distance of Holland Pond that are more suitable for PWC usage.
12. Those opposed to the prohibition of PWC requested by the petition offered the following arguments:
  - a. With the development of newer models of PWC, they are becoming quieter and in any event louder sources of noise are common, including chainsaw and some social events.
  - b. The PWC users resident on Holland Pond have used their vessels responsibly and set their own "rules" before the Petition effort was initiated. To prohibit the continued use of PWC under such circumstances would send the message that being responsible doesn't matter.
  - c. PWC usage has occurred on Holland Pond for many years without any demonstrated need to regulate their use. There are too many regulations already, any problems that may arise in the foreseeable future can and should be resolved locally - "if it ain't broke don't fix it."
  - d. The regulation of PWC on Holland Pond would reduce tax revenues to the Town of Holland.

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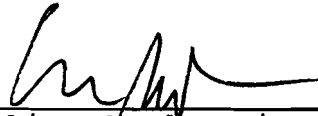
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- e. The use of PWC are not inherently a threat to Loons, there is no reason to assume PWC users are any more likely than other recreational users to bother Loons.
  - f. Holland Pond is large enough to safety and resumably accommodate all uses. There is no record in Vermont of any boating accidents involving PWCs.
13. Several speakers supported the intent of the petition at least to the extent that some restrictions might reasonable be placed on PWC usage at Holland Pond.
14. Most speakers opposed the petition voicing one or more of the arguments outlined in Finding 12 above. The Town of Holland Selectboard and Planning Commission testified in opposition to the Petition, however the Selectboard offered its help in attempting a negotiated resolution.
15. A several speakers suggested exploring alternatives to a total prohibition of PWC. Among the ideas discussed by such speakers were limiting PWC usage by time and/or area of usage as a "compromise" between the petitions stated intent to preempt PWC usage from becoming a problem on Holland Pond and the objection of opponents of the petition to the prohibition of a use of the Pond that has occurred for many years without what many consider an objectional impact on other users of the Pond.
16. A representative of the Vermont Institute of Natural Sciences (VINS), which monitors the success of Loon breeding populations in Vermont, testified that two of the twelve successful nesting pairs in Vermont were located on Holland Pond. Loon nesting sites are most sensitive between the end of May and the end of July. Loon chicks are also vulnerable to human interference. While PWC have the potential to impact Loons, so do many other human activities.

Dated this 15th day of September, 1994, at Montpelier, Vermont.



William A. Bartlett  
Hearing Referee



William Boyd Davies  
Hearing Referee