

**STATE OF VERMONT**  
**Water Resources Board**

**In re: Petition regarding the  
Recreational use of Lake  
Elmore, Town of Elmore**

**10 V.S.A. § 1424**

**BACKGROUND**

In October of 1994 the Water Resources Board (Board) adopted the Vermont Use of Public Waters Rules to provide uniform and consistent guidance for the management of Vermont's public waters. These rules provide that the use of personal watercraft ("jet skis") would be prohibited effective May 1, 1997 on lakes, ponds and reservoirs that have a surface level of less than 300 acres unless the Board agreed to modify that decision on a case-by-case basis in response to a petition.

In May of 1996 the Board was petitioned to allow the use of personal watercraft to continue on Lake Elmore without restriction. In response to this petition, the Board proposed the rule requested and scheduled a public hearing on August 21, 1996 at the Elmore Town Hall to receive public comment. Representing the Board at the August 21 hearing as hearing referees or fact finders were Board Chair William Boyd Davies, Board member Gail Osherenko 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 14, 1996 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 7, 1996 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 21, 1996, hearing have until October 7, 1996, to file written comments on the rule requested by the petition. **All written comments should be addressed to: Vermont Water Resources Board, National Life Records Center Building, 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 7, 1996. All persons attending the public hearing and/or filing written comments will be notified of any final action in this matter.

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Any questions regarding this matter should be directed to the Water Resources Board office at the address indicated above or at 828-3309

**FINDINGS**

1. Lake Elmore (the Lake) is located in the Town of Elmore and has a surface area of approximately 219 acres. The Lake constitutes "public waters" within the meaning of 10 V.S.A. § 1422(6).
2. The Lake has a relatively uniform, long-oval shaped shoreline that is largely developed with approximately 100 cottages and houses some of which are used as year round residences. There is a public access area maintained by the Vermont Department of Fish and Wildlife on the south end of the Lake. The Elmore State Park is located on the northern end of the Lake.
3. The Lake is used for a wide variety of recreational uses including: high speed motorboat use principally associated with waterskiing but also including personal watercraft, low-speed motorboat use principally associated with fishing, nonmotorized boating including canoeing, kayaking and sailing including sailboarding, swimming, and the enjoyment of the Lake's wildlife and aesthetic values.
4. Personal watercraft (PWC) are a normal use of the Lake having been used there on a regular, frequent and consistent basis for approximately the past ten years. PWC usage has occurred during the full range of daylight hours but has normally been most frequent between noon and 7 pm.
5. At the August 21, 1996 public hearing 50 people signed the attendance list of whom 29 testified. Eighteen persons testified in favor of the petition and nine testified in opposition. The Agency of Natural Resources neither supported or opposed the petition.
6. The proponents of the petition, that is those seeking to preserve the use of PWC on the Lake, offered the following arguments in favor of their position:
  - a. The Lake has been used for a variety of high speed boating uses, including the use of PWC's for a long time.
  - b. Due to its size and configuration, the Lake is large enough to allow the continued usage of PWC without

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resulting in recreational use conflicts or safety concerns sufficient to warrant regulation.

- c. The noise level of PWC is below the decibel limit established in Vermont statute.
  - d. PWC are an economical, family oriented form of water based recreation.
  - e. PWC usage on the Lake as measured by the amount of time they are operating on the Lake and number of operators on the Lake at any one time is not preempting other uses of the Lake.
  - f. PWC are less dangerous than conventional motorboats because they do not have propellers.
7. The opponents to the petition, that is those seeking to retain the scheduled prohibition of PWC on the Lake, offered the following arguments in favor of their position:
- a. PWC usage on the Lake has preempted or substantially diminished other recreational uses due to their method of operation and the noise they create particularly when operating early in the morning and late in the evening.
  - b. Only 2% of the homeowners on the Lake own a PWC.
  - c. PWC usage is the second most frequently cited source of interference with other recreational uses accordingly to the 1996 Vermont Lake and Pond Recreation Survey.
  - d. According to the U.S. Coast Guard's statistics, nationwide PWC are involved in a disproportionate number of accidents compared with other vessels.
  - e. PWC, because they are so easily trailered from lake to lake, are more likely than other types of vessels to spread aquatic nuisances including Eurasian milfoil and zebra mussels.
  - f. PWC create noise in way that at times is highly intrusive on shoreline residents and other users of the Lake.
8. Several persons spoke in favor of some sort of compromise that would allow PWC usage to continue on the Lake subject to some restrictions in an effort to reduce current and


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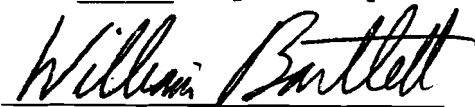
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possible future conflicts. Some discussion between the petitioners and some of those in opposition occurred last fall but did not reach fruition. Those discussions included among other things a proposal limiting PWC usage to between 10:00 a.m. and 6:00 p.m. and possibly limiting of the number of PWC that could be in use on the Lake at any one time to four.

9. Several persons supporting the concept of some sort of a compromise suggested that 6:00 p.m. was too early a time limit for PWC usage in the summer. Others suggested that a rule limiting the number of PWC using the Lake at any one time was impractical.
10. Several participants at the hearing indicated a willingness to discuss the idea of compromise following the conclusion of the Board's hearing at approximately 9:15 pm.

Dated at Montpelier, Vermont this 16<sup>th</sup> day of September, 1996.

  
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William Boyd Davies  
Hearing Referee

  
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William A. Bartlett  
Hearing Referee

  
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Gail Osherenko  
Hearing Referee

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