

UPW-96-03

STATE OF VERMONT
WATER RESOURCES BOARD

In re: Petition to amend the
current rules regulating
the use of Greenwood
Lake, Town of Woodbury

10 V.S.A. § 1424

BACKGROUND

The Vermont Water Resources Board (Board) was petitioned under 10 V.S.A. § 1424 to adopt rules for Greenwood Lake (the Lake) in 1983 and in 1988. The current rules regulating the use of the Lake were adopted by the Board in 1992.

In May of 1996 the Greenwood Lake Association (Association) petitioned the Board to amend the current rules to allow waterskiing every day of the week between noon and sunset.

In response to the 1996 petition, the Board proposed the amendments requested and, following public notice, held a public hearing on August 14, 1996 at 7:00 p.m. at the Hardwick Town Hall for the purpose of receiving public comment. Representing the Board at the August 14 hearing as hearing referees or fact finders were Board Chair William Boyd Davies and the Board's Executive Officer William Bartlett.

The Board initially established a deadline of September 13, 1996, for the filing of written comment on the petition. This deadline was extended until October 7, 1996.

DECISION

On the basis of its record in this proceeding Board decided to proceed with the adoption of the following amendments to its current rules regulating the use of Greenwood Lake in Appendix B of the Vermont Use of Public Waters Rules (VUPW Rules).

- a. Unless otherwise prohibited by law, vessels powered by motor when towing water-skier(s) shall travel in a counter-clockwise direction.
- b. Unless otherwise prohibited by law, waterskiing shall be limited to the following days and times:

[(1) Monday, Wednesday and Friday from 2:00 p.m. until 7:00 p.m.]

**Petition to amend the current rules regulating the use of
Greenwood Lake, Town of Woodbury
Page 2**

[(2)] Monday, Wednesday, Friday, Saturday and Sunday from
noon until 7:00 p.m.

FINDINGS

The Board adopts the findings as issued on September 16, 1996 by its hearing referees with the following modifications and corrections:

1. The section entitled "Background" is corrected to reflect the fact that the Board was previously petitioned regarding Greenwood Lake in 1983 and 1988. It was in response to the 1988 petition that the current rules were adopted in 1992.
2. Finding # 6 is amended by the addition of the following sentence: "Without the 200 foot waiver waterskiing would, for all practical purposes, be prohibited because the surface area of the Lake not within 200 feet of a shoreline occurs in several separate areas, not in one contiguous area."
3. Finding # 8 is amended to reflect that seven rather than five persons testified in favor of the petition at the August 14, 1996, hearing.

RESPONSIVENESS SUMMARY

In reaching this decision, the Board considered and overruled the following arguments offered at the public hearing and in writing by the deadline of September 13, 1996 for the reasons indicated below (3 V.S.A. § 841(b)).

1. **The current rules regulating the use of Greenwood Lake adopted by the Board in 1992 represent a reasonable balance between waterskiing and other uses of Greenwood Lake and therefore should not be changed.**

Perhaps the most significant aspect of the public comment in response to the current petition is the limited scope of the disagreement and the civility of how those disagreements were presented to the Board. While the Board generally agrees that its 1992 rules struck a reasonable balance between waterskiing and other more passive uses of Greenwood Lake, the Board has decided to make a minor adjustment to those rules in response to this petition.

The Board is persuaded, principally by the comments of the Agency of Natural Resources, of the need to simplify the current rules regarding the times when waterskiing is allowed. The current rules,

**Petition to amend the current rules regulating the use of
Greenwood Lake, Town of Woodbury**

Page 3

although they reflect a rough consensus forged in the 1991-92 rulemaking, are potentially confusing due to the fact waterskiing is allowed at differing times on different days of the week. Accordingly the Board has decided to standardize the times during which waterskiing is allowed while still retaining the basic structure of its 1992 rules including the retention of the two full days on which the more passive recreational uses of the Lake do not have to compete with the potentially more intrusive use of waterskiing.

2. **The current rules regulating the use of Greenwood Lake adopted by the Board in 1992 are overly restrictive on waterskiing and should be amended to allow waterskiing every day of the week from noon until sunset.**

The Board is not persuaded that allowing waterskiing every day of the week, given the Lake's small size, its configuration and the apparent level of acceptance of the current rules is warranted. Several of the proponents of such a result acknowledged potential problems with the idea of allowing waterskiing until "dusk" or "sunset." Accordingly, the Board has concluded that, considering all the circumstances on Greenwood Lake the 1992 rules as now amended represents a reasonable allocation of time for the use of waterskiing.

Undoubtedly any allocation of time can be said by some to be less equitable than some other allocation but the Board is hopeful that, absent a petition with very broad support amongst all the users of Greenwood Lake, this issue can be laid to rest for the foreseeable future.

Dated at Montpelier, Vermont this 8th day of January, 1997.

Vermont Water Resources Board by



William Boyd Davies, Chair

Board members concurring

William Boyd Davies
Stepehn J. Dycus
Ruth Einstein
Gail Osherenko
Jane B. Potvin

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