

**State of Vermont
WATER RESOURCES BOARD**

**In re: Petition seeking the
Designation of Kingsland
Bay as a Mooring Management
Zone and delegation of
Authority to the Town of
Ferrisburgh**

10 V.S.A. § 1424

BACKGROUND

In May of 1996 the Town of Ferrisburgh petitioned the Vermont Water Resources Board (Board) to adopt a rule requiring the regulation of the placement of boat moorings in Kingsland Bay and a delegation of the authority to regulate the placement of moorings within the Bay to the Town of Ferrisburgh. In response to this petition, the Board proposed the rules requested by the petition and scheduled a public hearing for August 19, 1996 at the Ferrisburgh Elementary School to receive public comment. The Board also established a deadline for the filing of written comment.

Representing the Board at the August 19 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 19, 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 the thoroughness and accuracy of the findings. In addition, all persons whether or not they were at the August 19, 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

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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.

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. Kingsland Bay (the Bay), a part of Lake Champlain is located in the Town of Ferrisburgh, Vermont. The Bay constitutes "public waters" within the meaning of 10 V.S.A. § 1422(6).
2. Much of the shore land adjacent to Kingsland Bay is part of the Kingsland Bay State Park (the Park), managed by the Vermont Department of Forests, Parks and Recreation. The Park's facilities while not including a formal boat access, provide access to vessels moored in the Bay.
3. The normal uses of the Bay include use by motorboats, sailing vessels and nonmotorized vessels, fishing from shore and from boats, swimming as well as the seasonal mooring of vessels and the temporary anchoring of transient vessels.
4. There is an important distinction between the "mooring" of vessels and the "anchoring" of vessels.
5. Moorings are generally understood as a means of securing the same vessel (or successive vessels owned by the same individual or family) to a particular location on a seasonal basis. Mooring locations and usage tend to remain in place for several years in succession however usage is sometimes suspended for a season or two and may be discontinued without removal of the mooring device.
6. Anchoring tends to be used to secure vessels for a relatively short period of time typically overnight or for a weekend.
7. Areas that may be suitable for relatively short term anchoring under certain weather conditions (principally determined by the intensity and direction of the wind) may not be suitable for the seasonal mooring of vessels.

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8. The Town's petition seeks to regulate boat moorings but does not seek to regulate the anchoring of boats for periods of less than 72 hours.
9. There are currently about 32 boat moorings in the Bay located in two distinct areas: the eastern shoreline which tends to be shallow and weedy and the western side which is closer to the Park. Only about half of the existing moorings in the Bay are in active use during the 1996 boating season.
10. The number of relatively permanent boat moorings within the Bay are, as a practical matter, limited by the Bay's geography including its exposure to prevailing winds. The specific placement of moorings and annual realignments necessitated by changes in the pattern of actual seasonal usage of existing moorings and the size of the vessels being moored each year has historically been done on a cooperative, self-policing basis with no history of conflict and problems.
11. The number of moorings within the Bay is, and has for some time been at the saturation level. The number of moorings in the Bay has not changed substantively in recent years and cannot expand to any significant extent. The number of the existing moorings in actual usage in any given year can fluctuate somewhat but is generally relatively stable and in fact has been declining since approximately 1990.
12. Because of its location relatively close to Burlington and to Canadian boaters coming from the northern end of Lake Champlain, and because it offers a sheltered location for anchoring overnight or for a weekend under many weather conditions, the Bay typically attracts eight to ten transient boats that anchor overnight or for a weekend. Peak transient boat anchoring tends to occur on Canadian holiday weekends when as many of 30 or 35 boats may be anchored in the Bay. Such peak usage times typically occur two or three weekends during the summer.
13. At the August 19, 1996 public hearing, fifteen people signed the attendance list of whom seven testified. The clear majority of those testifying opposed the petition on the following grounds:

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- a. The petition contains a number of inaccuracies that misrepresent or overstate the situation at the Bay and does not distinguish between "moored" boats and "anchored" boats.
- b. There is not a problem in the Bay with moored boats that warrants regulation. "If it ain't broke don't fix it."
- c. To the extent that there may be a limited management problem at the Bay, it relates to anchored boats and even this is not a "problem" sufficient to warrant regulation.
- d. The petition seeks the regulation of moored boats but would not regulate in any manner the anchoring of boats. The petition seeks to regulate a "problem" that does not exist.
- e. There are many other areas on Lake Champlain that are more crowded or under more pressure from moored and/or anchored boats than is the Bay.

Done this 16th day of September 1996, at Montpelier,
Vermont.



Jane Potvin
Hearing Referee



William Bartlett
Hearing Referee