

**STATE OF VERMONT
WATER RESOURCES BOARD**

**In re: petition seeking the
prohibition of the use of
internal combustion motors on
Star Lake, Town of Mt. Holly**

10 V.S.A. § 1424

Background

In May of 1998 the Vermont Water Resources Board (Board) was petitioned (the petition) under the provisions of 10 V.S.A. § 1424 to amend the current rules regulating the use of Star Lake by prohibiting the use of internal combustion engines on Star Lake.¹ Currently the use of such motors to power vessels on the Lake at speeds not exceeding five (5) miles per hour is allowed.

In response to this petition, the Board proposed to amend the current rules for Star Lake as requested by the petition for purposes of receiving public comment. Following public notice, the Board held a public hearing at Mt. Holly, Vermont on August 4, 1998, and established August 14, 1998, as the deadline for the filing of written comment regarding the proposed amendment.

Decision

At its meetings on September 15, 1998, October 6, 1998, and October 27, 1998, the Board reviewed and discussed the public comment received both at the public hearing and in writing. At its meeting on October 27, 1998, those Board members present voted unanimously to deny this petition and to issue this decision. Accordingly, the Board will not proceed with the adoption of the amendments to the current rules for Star Lake requested by the petition.

The Board has denied the petition because it is not convinced, based on the testimony at the public hearing and in written comment, that prohibiting the use of internal combustion motors on Star Lake is warranted at this time. The use of such motors to power vessels is a normal, long-established use of Star Lake.

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As filed the petition seeks the prohibition of the use of internal combustion motors on Star Lake which arguably might include the use of snowmobiles in the winter. However the petitioners have subsequently made it clear that their intent was only to limit the use of such motors to power vessels on Star Lake.

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With regard to recreational use conflicts on the Lake itself involving the use of vessels powered by internal combustion motors, the proponents of the petition have failed to meet their burden of showing that such conflicts rise to a level that warrants further regulation, particularly the prohibition of the long established use of internal combustion motors to propel vessels at relatively low speeds. The current rules have been in place for the past several years with no documented history of serious problems or conflicts. If there are occasional violations of the five mile per hour speed limit, the first remedy would be to insure that boaters are aware of the speed limit and if needed to seek enforcement through the Vermont State Police. There is little if anything in the record of this proceeding to show that such remedies have been tried to the point that they can be said to have proven inadequate.

Finally, the Board is not persuaded at this time that the requested rule would reduce risk of the spread of the existing Eurasian water milfoil (milfoil) infestation in Star Lake to an extent that warrants the prohibition of internal combustion motors. While the Board commends the efforts of local volunteers to contain the existing milfoil infestation, the Board is simply not convinced that the risk of the spread of this infestation within the lake would be substantially reduced by or otherwise warrants the regulatory restrictions requested.

FINDINGS

1. Star Lake is located entirely in the Town of Mt. Holly and has a surface area of approximately 63 acres.
2. Star Lake constitutes public waters of the state of Vermont within the meaning of 10 V.S.A. § 1422 (6).
3. The Water Resources Board (Board) adopted the current rules regulating the use of the public waters of Star Lake in 1994 when it adopted the Vermont Use of Public Waters (VUPW) Rules under 10 V.S.A. § 1424.
4. The current VUPW Rules allow the use of internal combustion motors to power vessels on Star Lake at speeds of up to five miles per hour.
5. The use of internal combustion motors to propel vessels at speeds of up to five miles per hour continues to be a normal use of Star Lake.
6. The Lake is used for a variety of recreational uses including but not limited to: boating by both motorized and nonmotorized vessels, fishing and swimming.
7. The only public boating access to the Lake is located at the southerly end of the Lake.

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This access is used by both cartop and trailered vessels.

8. In close proximity to the public boating access is a Town beach and recreational area.
9. Star Lake has been infested with milfoil since at least 1997.
10. One of the main ways that milfoil spreads is by fragments of established plants breaking off and drifting to new locations where the fragments eventually develop into rooted plants. This process accelerates in the fall when plants fragment as part of their natural means of propagation.
11. Milfoil fragmentation can occur at any time due to human disturbance of established plants due to both motorized and nonmotorized boating or swimming.

Dated at Montpelier, Vermont on this 29th day of October 1998.

VERMONT WATER RESOURCES BOARD



William Boyd Davies, Chair

Board members concurring:

Gail Osherenko

Ruth Einstein

Jane Potvin