

**STATE OF VERMONT  
WATER RESOURCES BOARD**

**In re: Petition seeking the prohibition  
of the use of electric motors on  
Indian Brook Reservoir,  
Town of Essex**

**10 V. S. A. § 1424**

**BACKGROUND**

In May of 2000 the Vermont Water Resources Board (Board) was petitioned (the petition) under the provisions of 10 V.S.A. § 1424 by the Town of Essex Selectboard to amend the current rules regulating the use of Indian Brook Reservoir (the Reservoir) by prohibiting the operation of vessels powered by electric motors. Currently the use of such motors is allowed on the Reservoir at speeds not exceeding five (5) miles per hour.

In response to this petition, the Board proposed to amend the current rules for Indian Brook Reservoir, as requested by the petition, for purposes of receiving public comment. Following public notice, the Board held a public hearing at Essex, Vermont on July 18, 2000 and established August 15, 2000 as the deadline for the filing of written comment regarding the proposed amendment.

**DECISION**

At its meetings on August 30, 2000 and again on September 19, 2000, the Board reviewed and discussed the public comment received both at the public hearing and in writing. At its meeting on September 19, 2000 the Board voted unanimously to deny this petition and to issue this decision. Accordingly, the Board will not proceed with the adoption of amendments to the current rules for Indian Brook Reservoir.

The Board has denied the petition because it is not persuaded by the evidence that the prohibition of the use of electric trolling motors on the Reservoir is warranted on the grounds of the only argument presented by the proponents of the petition, that is to assist in on going efforts by the Town of Essex to control Eurasian water milfoil (milfoil). Moreover such a prohibition will adversely affect the continued use of the Reservoir for fishing, a normal or established use of that body of water.

**FINDINGS**

1. Indian Brook Reservoir is located entirely in the Town of Essex and has a surface area of approximately 58 acres.

**In re: Petition Seeking the prohibition of the use of electric motors on Indian Brook Reservoir, Town of Essex**

**September 19, 2000**

**Page 2 of 3**

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2. Indian Brook Reservoir 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 Indian Brook Reservoir in 1989 in response to a petition filed under 10 V.S.A. § 1424.
4. The current rules applicable to the Reservoir allow the use of electric motors only at speeds of up to five miles per hour.
5. The Reservoir is located within, and is surrounded by, the 500 acre Indian Brook Conservation Area which is undeveloped forest land owned by the Town of Essex. The only access to the Reservoir is located at the southerly end.
6. The Town of Essex Conservation Commission which drafted the Indian Brook Conservation Area management plan, opposes the prohibition of electric trolling motors on the Reservoir.
7. The Reservoir is used for a variety of recreational uses including but not limited to: boating by both nonmotorized vessels and vessels powered at very low speeds by electric motors as well as fishing and swimming.
8. The use of electric trolling motors at low speeds on the Reservoir has occurred on a regular, frequent and consistent basis since prior to 1994 and therefore is a normal or established use. The use of electric trolling motors is most commonly associated with recreational fishing which is also a normal or established use of the Reservoir.
9. Currently, the Vermont Department of Fish and Wildlife stocks the Reservoir annually with 1500 rainbow trout and 1000 brown trout.
10. The Reservoir offers the only still-water trout fishing opportunity in Chittenden County and is popular with anglers using small boats and canoes. Most trout fishing occurs in the months of April and May and to a lesser extent September and October.
11. Trout fishing is less common in the summer due to higher water temperatures which tend to make trout less active. However, the Reservoir has a self-sustaining warm water fishery including small mouth bass, yellow perch and sunfish.

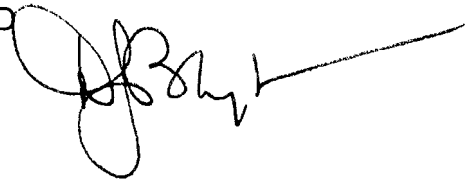
**In re: Petition Seeking the prohibition of the use of electric motors on Indian  
Brook Reservoir, Town of Essex  
September 19, 2000  
Page 3 of 3**

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12. The Vermont Agency of Natural Resources (Agency) first became aware that the Reservoir is infested with milfoil in the spring of 1999. The Agency's evaluation at the end of the summer of 1999 was that the Reservoir at that time had a moderate milfoil infestation.
13. The Reservoir is relatively shallow with no depths greater than approximately 24 feet.
14. 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.
15. Milfoil fragmentation can occur at any time due to human disturbance of established plants due to both motorized and nonmotorized boating or swimming.
16. No evidence was presented in this proceeding to show that persons operating vessels powered by electric trolling motors are more likely to promote the spread of milfoil due to fragmentation than are swimmers or those paddling nonmotorized vessels.

Dated at Montpelier, Vermont on this 19th day of September 2000.

VERMONT WATER RESOURCES  
BOARD



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David J. Blythe, Chair

Board members concurring:

Jane Potvin  
Barbara S. Farr  
John D.E. Roberts