

**From:** [Ed Larson](#)  
**To:** [Woods, Laura](#)  
**Subject:** Comments to petitions filed under Use of Public Waters for Berlin Pond  
**Date:** Monday, June 02, 2014 1:21:45 PM

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## **Comments to petitions filed under Use of Public Waters for Berlin Pond**

**These comments are in response to the following petition:**

**Petition filed February 6, 2014 by the Citizens to Protect Berlin Pond seeking the prohibition of recreational use of the surface waters of Berlin Pond.**

Since I am aware that the Department plans to rule on two petitions at the same time, both related to restrictions on Berlin pond, please consider these comments to apply to the following petition as well:

**Petition filed July 25, 2013 by the City of Montpelier seeking the prohibition of internal combustion motors, including tools powered by internal combustion, the prohibition of the use or presence of petroleum-based fuels, and the prohibition of the use or presence of ice shanties on Berlin Pond**

Thank you for the opportunity to comment on these petitions. I am a resident of Montpelier and a customer of the Montpelier public water supply. I have consumed the water from the tap in our home since 1989. Since water filtration upgrades a number of years ago, I have experienced a noticeable improvement in the quality of the water coming into our home. Since the Supreme Court Case that allows recreation on Berlin Pond, there has been no change in the quality of water we have received since the upgrades.

I have reviewed both petitions presented to the Department requesting the State to restrict uses on Berlin Pond. In my opinion, both petitioners lack the evidence that, if allowed to remain, these recreational uses would cause harm to the water quality or wildlife habitat of Berlin Pond. As I understand the law, the burden of proof that the activities in which these petitions seek to restrict is necessary to protect the public good lies with the petitioners. In my opinion, nothing in the petitions demonstrate these uses harm the environment, the ecology of the pond or the ability of Montpelier to provide safe drinking water to its citizens, guests and customers. As I see it, granting their requests would do just the opposite with respect to public good. In my opinion, without evidence of public harm, the State must comport with the public trust doctrine.

There are some 60 municipal water filtration plants that draw water from ponds, lakes, rivers and streams in which recreational activities as those sought to be restricted by these petitions currently exist. For years these recreational activities have co-existed with these water filtration facilities and appear to be compatible.

The public trust doctrine is a body of common and statutory law that provides that the state holds title to navigable waters in trust for public purposes and that it has a duty to protect public uses including commerce, navigation, fishing, hunting and other recreational activities. Only if it is in the State's broader public interest, may the state limit public uses for a local interest. As I follow this reasoning, to grant all or any part of the petitioners request, there are some 60 other bodies of water that provide water for municipal water supply systems that would be subject to the same restrictions.

Therefore, I oppose both petitions based on their lack of proof and ask the State to deny their requests in full.

In addition, I request that if the State does decide in favor of either or both petitions in its entirety or in part, that the State thoroughly describes what evidence had been presented by these petitioners to cause this decision. Furthermore, I ask that the State explain it's rationale for granting such limits or restrictions in the context of environmental protections, ecological integrity and social values.

Again, thank you for the opportunities presented,

Ed Larson  
117 Towne Hill Road  
Montpelier, VT 05602

**From:** [Susan Sanderson](#)  
**To:** [Woods, Laura](#)  
**Subject:** BERLIN POND  
**Date:** Monday, June 02, 2014 1:31:19 PM

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Dear Laura

I am sending this quick letter off to you today as a follow up to one I sent a short time ago. I am hoping that the decisions made by your agency will find in favor of restoring this water to it's former state of undisturbed habitat. Our water is quickly becoming a scarce and fragile entity. With massive droughts in the west and southwest, diminishing water tables, pollution and global warming threatening our water sources, it should be the absolute priority to protect drinking water from human invasion. I truly believe that the water and it's safety and potability without an influx of chemicals to offset any issues is paramount and should prevail over the demands by sportsmen and the Fish and Wildlife agency.

Thank you so much for taking the time to read my letter. It is really and truly appreciated.

Sincerely  
Susan Sanderson  
149 Berlin Street  
Montpelier, Vermont 05602  
802-839-5149

**From:** [Woods, Laura](#)  
**To:** [Woods, Laura](#)  
**Subject:** FW: Berlin Pond  
**Date:** Tuesday, June 03, 2014 3:14:30 PM

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VERMONT DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION  
**WATERSHED**  
MANAGEMENT DIVISION  
ADMINISTRATION & COMPLIANCE  
PROGRAM

**Laura Woods, Environmental Technician**  
1 National Life Drive, Main 2  
Montpelier, VT 05620-3522  
P: 802-490-6100 | [Laura.Woods@state.vt.us](mailto:Laura.Woods@state.vt.us)  
[www.watershedmanagement.vt.gov](http://www.watershedmanagement.vt.gov)

*Written communication to and from state officials is considered public record and is subject to public review.*

**From:** Michael Despines [<mailto:michaeldespines@gmail.com>]  
**Sent:** Friday, May 30, 2014 10:46 AM  
**To:** Markowitz, Deb  
**Subject:** Berlin Pond

Please reinstate the recreational restrictions on Berlin Pond (e.g. no fishing, no boating, etc.)

Thank you.

Michael Despines

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717.451.4350 cell  
[michaeldespines@gmail.com](mailto:michaeldespines@gmail.com)  
Blog — Sustainable Thoughts  
<http://sustainablethoughts.org>

Wildlife/Nature Photography  
[www.despines.com](http://www.despines.com)

**From:** [Woods, Laura](#)  
**To:** [Woods, Laura](#)  
**Subject:** FW: Berlin Pond  
**Date:** Tuesday, June 03, 2014 3:16:37 PM

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**Laura Woods, Environmental Technician**  
1 National Life Drive, Main 2  
Montpelier, VT 05620-3522  
P: 802-490-6100 | [Laura.Woods@state.vt.us](mailto:Laura.Woods@state.vt.us)  
[www.watershedmanagement.vt.gov](http://www.watershedmanagement.vt.gov)

*Written communication to and from state officials is considered public record and is subject to public review.*

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**From:** Wendy Dale [<mailto:montpelierdales@hotmail.com>]  
**Sent:** Sunday, June 01, 2014 9:46 PM  
**To:** Markowitz, Deb  
**Subject:** Berlin Pond

Dear Ms. Markowitz,

I am writing to lend my voice in support of the petition to reinstate recreational restrictions on Berlin Pond. Safe drinking water trumps any argument for continued use of it as a recreational body of water. Vermont has many other ponds and lakes for such purposes. Thank you in advance for supporting the petition and a clean, safe water supply for our citizens.

Sincerely,  
Wendy Dale  
28 Terrace St.  
Montpelier

**From:** [Woods, Laura](#)  
**To:** [Woods, Laura](#)  
**Subject:** FW: Berlin Pond  
**Date:** Tuesday, June 03, 2014 3:17:00 PM

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Laura Woods, Environmental Technician  
1 National Life Drive, Main 2  
Montpelier, VT 05620-3522  
P: 802-490-6100 | [Laura.Woods@state.vt.us](mailto:Laura.Woods@state.vt.us)  
[www.watershedmanagement.vt.gov](http://www.watershedmanagement.vt.gov)

Written communication to and from state officials is considered public record and is subject to public review.

-----Original Message-----

From: Peg Lawson [<mailto:marglaw@comcast.net>]  
Sent: Sunday, June 01, 2014 10:02 PM  
To: Markowitz, Deb  
Subject: Berlin Pond

Dear Deb,

The meeting at the Berlin School Library last week was well run, and well worth our time. At the same time it was scary--- scary to realize that there are people who are so at variance with everything that Vermont stands for, environmentally---Vermont, which is known and revered for its respect for the purity of the air and the water.

The argument that there are already pollutants in Berlin Pond, is a specious argument. We all know there are a certain amount of impurities in this body of water, which is why we have the water treatment plant, which apparently is, so far, able to take care of these impurities. However it will not be able to adequately handle the onslaught of pollution that will result from continued use of the pond for recreational purposes. This will result in more expense for citizens of Montpelier and the portion of Berlin that avails itself of the pond for its water supply, as more chemicals will be needed and more equipment at the treatment plant will be needed to accommodate the increased pollution. And that doesn't address the most important concern---that of the health implications and ramifications of the increased pollutants and (subsequent) remedial chemicals on the human body---and we're talking about a lot of human bodies of all ages and in all stages of well-being as the water served our hospital as well.

Use of the pond for recreational purposes is unthinkable, especially inasmuch as there are so many other bodies of water nearby that can be used for boating, swimming and fishing. We KNOW all of this---these are not new facts and feelings. How can we, in all good conscience, and with any sense of responsibility, even think about using for recreation, a drinking water source that serves 2 communities?

Thanks for giving us the opportunity to weigh-in on this!  
Peg Lawson

**From:** [loon@sover.net](mailto:loon@sover.net)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Monday, June 02, 2014 2:10:25 PM

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Just wanted to share a comment or two. I did go to the meeting, but did not speak at the time.

Ecosystems are a lot more fragile than people realize. Although there are cars nearby, and a moose or two pooping in the pond, the ecosystem at Berlin Pond is faring well. BUT, add some mifoil or zebra mussels or motor oil and ...who knows what might happen.

The water we drink, with help from the filtration plant, is quite good. Thousands of us benefit each day from the water. I don't want to have to start buying bottled water or extra filters for my water. The testimony from the woman who suffers from chemicals purifying the water where she lives is scary. More and more people are growing sensitive to chemicals.

Why disrupt either of these systems? So that a few people can go fishing? When problems such as milfoil or zebra mussels start, they are very very hard to get under control.

The wants of sportsmen versus the needs of thousands of birds, fish, moose, deer, insects, and humans...it just doesn't make sense.

Sincerely,

Abby Colihan  
Montpelier, VT

**From:** [Devon Craig BR14](#)  
**To:** [Woods, Laura](#)  
**Subject:** BERLIN POND  
**Date:** Monday, June 02, 2014 3:25:23 PM

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Laura,

I attended last week's meeting in response to the petition to close Berlin Pond to recreational use. I have a few comments:

- 1) Recreational use will only minutely add to the water filtration problems. The current Interstate highway and the other roads currently bordering and crossing the Pond area far greater problem. The petroleum products, anti-freeze and other carcinogens washed into the pond from these roads is existing now and has been for quite some time. Turbidity caused by recreational use is far outweighed by that caused by mother nature, storms, ice-out, etc.
- 2) The Pond is NOT pristine...it is surrounded by housing and motor vehicles and airplane noise and is constantly already being bombarded by runners, walkers, and annual running events.
- 3) The filtration/ treatment system used by the City of Montpelier is of current design, fairly new. It uses methods being used by countless other municipalities world-wide.
- 4) As far as someone purposely sabotaging the pond with chemicals or organics, it is a mute point. It can be done at any time by anyone. This has nothing to do with the issue.
- 5) Huge numbers of bodies of drinking water have recreational use of their waters.
- 6) Yesterday, I drove around the pond, stopped a few times...and observed only THREE kayaks and no one fishing? It was a gorgeous day...why not more use? The "newness" of the Pond has worn off and recreational use will dwindle. Enough so that overall contact will be very small.
- 7) At the meeting, there was very little "scientific" research alluded to...most was just innuendo and supposition. Much of the paranoia was entirely due to people who are having their own little "space" being used by others. Very disconcerting to them?
- 8) Berlin Pond is owned by the people of Vermont...not by a select few ! and it's use should be for all types of endeavors.
- 9) The citizens of Berlin...who live and work and play by the Pond...overwhelmingly voted to have recreational use !!!

The Pond should be opened to recreational use with no motorized water craft allowed and with no other no other use by snowmobiles or motorized ice augers, etc. The Pond is a State body of water and should be available to all it's citizen's.

It was very interesting to note that many people said that they even though they lived by the pond and in Berlin, and fished and boated, they wouldn't use Berlin Pond. They would go somewhere else to do those activities. So it seems it's OK for them to "pollute" other waterways...not their "own"? This is probably the finest example of NIMBY I can find!

Devon Craig



**From:** [Russel](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Monday, June 02, 2014 3:29:09 PM

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Ms. Woods, please leave Berlin Pond open for public recreation just as I have left my wood lots open to the public. Sure there are times when I have been left standing and scratching my head wondering why some folks do some of the things they do but the vast number of individuals using "open" properties are respectful of same. I have asked several people to check with me before entering simply to determine if we will be in each other's way and I suspect they appreciate that as much as I do. We can not just keep taking away, we can learn to share respectfully. Thank you, Russel Farrar Chester VT.

Sent from my iPad

**From:** [Roberta Harold](#)  
**To:** [Woods, Laura](#)  
**Cc:** [Mears, David](#); [Markowitz, Deb](#)  
**Subject:** Montpelier's drinking water supply  
**Date:** Monday, June 02, 2014 4:36:15 PM

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Dear Laura, David, and Deb--

First, compliments to Laura on the well-run meeting the other night under challenging circumstances.

I'm adding my voice as a long-time Montpelier resident to the chorus of pleas to protect the City's drinking water supply. While opponents of the citizens' petition rightly pointed out that Berlin Pond has not been "pristine" in some time, that makes all the stronger argument, in my view, for trying to keep it as clean and at as little risk of pollution as possible. As the petitioners point out, recreational boaters, swimmers, fishers and hunters have many attractive alternatives available to them within a short distance of Berlin Pond. We who drink its water only have one--unless we turn to bottled water, one of our era's major environmental abominations in my opinion. Besides, safe drinking water is a far more fundamental human need than recreation. Thousands of people worldwide can, and do, die without it every year.

I think all of us have had the experience of traveling around the country and seeing so many people relying on purchased drinking water in plastic bottles. Those containers represent a growing source of environmental degradation, compounding the harm from polluted or over-treated drinking water supplies that cause people to turn to water in plastic bottles. If Montpelier's water system is compromised by pollution produced by recreational use, that phenomenon is only likely to worsen in Vermont.

The Supreme Court did not say that Berlin Pond was not to be protected. It only said that it is the State's responsibility and authority to do so, not the City's. Please exercise that critical responsibility and restore Berlin Pond to its former state of protection, closed to on-water recreational uses.

I've just finished work on helping the Agency of Commerce redraft the state's Comprehensive Economic Development Strategy. It's very clear from the public input to that document that Vermont's clean air and water are perceived by citizens and entrepreneurs alike as among the State's most precious economic development resources as well as environmental assets.

Thank you in advance for making the responsible decision to protect the pond, and for all the good work you do.

Robbie Harold  
5 Towne St.  
Montpelier, VT 05602  
802-223-6738  
rah53@comcast.net

**From:** [Welts, Leslie](#)  
**To:** [Woods, Laura](#)  
**Subject:** FW: Berlin Pond  
**Date:** Monday, June 02, 2014 4:50:50 PM

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-----Original Message-----

From: Ben Huffman [<mailto:benjhuffman@comcast.net>]  
Sent: Saturday, May 31, 2014 3:01 PM  
To: Welts, Leslie  
Subject: Berlin Pond

Dear Ms. Welts,

I am writing to urge your agency to prohibit any human use of Berlin Pond other than as a water supply for Montpelier, the CV medical center, and Berlin properties.

Sincerely,

Ben Huffman, resident of Montpelier

Sent from my iPadf

**From:** [Woods, Laura](#)  
**To:** [Woods, Laura](#)  
**Subject:** FW: Berlin Pond  
**Date:** Tuesday, June 03, 2014 3:48:34 PM

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-----Original Message-----

From: Peg Lawson [<mailto:marglaw@comcast.net>]  
Sent: Monday, June 02, 2014 12:50 PM  
To: Welts, Leslie  
Subject: Berlin Pond

Dear Leslie,

The meeting at Berlin Elementary School was well done, well run and well worth our time! I was impressed with the order maintained in a potentially volatile atmosphere, but respect and dignity was maintained, for all views, pro and con.

I, personally, am in favor of keeping Berlin Pond restricted from recreational use for all the reasons that have been cited, and there were no reasons in favor of its use for recreational purposes, that had any modicum of credibility, validity or, most importantly, civic responsibility. The fact that within a few miles there are many other attractive and suitable bodies of water for recreational use cancels out any compelling need to keep Berlin Pond open to the public for boating, fishing or swimming.

In yesterday's Times-Argus, there was an article regarding Lake Champlain and the remedies needed to restore its present lamentable condition. This could well be a harbinger for us as decisions are made concerning Berlin Pond. Do we want the identical article to be written up in a few years, with the name, Lake Champlain to Berlin Pond, the only change needed in the write-up?

Thanks again, for a great meeting last Tuesday evening. and for giving us all the opportunity to speak to an issue that means so much, and carries such important ramifications for the future.

Sincerely,  
Peg Lawson

**From:** [Theodore Wager](#)  
**To:** [Woods, Laura](#)  
**Subject:** berlin pond  
**Date:** Monday, June 02, 2014 12:20:19 PM

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I support continued non-motorized access to Berlin Pond and to deny the petition brought filed by Citizens to Protect Berlin Pond.

**From:** [Bard, Michael - RD, Montpelier, VT](#)  
**To:** [Woods, Laura](#)  
**Subject:** opposition to the Petition to ban all recreational use of Berlin Pond by the Citizen's To Protect Berlin Pond.  
**Date:** Monday, June 02, 2014 4:58:12 PM

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6-2-14

Dear Laura,

Please add this letter as testimony to oppose Citizen's To Protect Berlin Pond petition to ban recreational uses for Berlin Pond.

I, Michael Bard, am writing this letter in opposition to the Petition to ban **all** recreational use of Berlin Pond by the Citizen's To Protect Berlin Pond. The Petition bears little merit. If you side with the petitioner all bodies of water that are used for public drinking sources could be subject to recreational ban's. The prospect of this is frightening to the average Vermonter. I like every other conservation minded Vermonter is concerned over the welfare of this valued resource, Berlin Pond. To shut down recreation due to the fears of a few very vocal fear mongers would truly be a tragedy.

The fear mongers disguise their opposition based upon water quality, turbidity, terrorism where their true opposition is to those that recreate and their deep seated prejudice's over those that they feel will infiltrate their pond, the sportsmen and women of Vermont. Sports folk are some of the most law abiding respectful people in this State. It is a sad commentary when this minority group lumps sportsmen as beer toting, trash littering, loud, obnoxious individuals. I am aghast that this small vocal minority perpetuate stereotypes to protect either their pond front properties or lack of tolerance to recreational means other than their own. They disguise their prejudice against those who are not like them as protection for our drinking water and the users can go elsewhere. Well there is no science based research that the fears they espouse are true. Why would our Agency of Natural Resources and the Department of Fish and Wildlife promote the unsafe use of natural resources in the first place. This is why the pond was opened up to the public in 2012. Do we not trust that our Department did not consider all of the very issues that the petitioners raise? I do not think so.

Let me address a few points that are critical in this discourse.

1. **The Public Trust doctrine** is the principle that certain resources are preserved for public use, and that the government is required to maintain them for the public's reasonable use. Many public water supplies are used for recreation. **Even one of the bodies of water the petitioner cites, Quabbin Reservoir is open for watercraft including motorized craft.** Public bodies of water are not the domain of 8000 Montpelier citizens, it is for 650,000 Vermonters and visitors to our State. Our citizenry needs to be trusted with proper use of the resource and not excluded. Wardens and other law enforcement individuals seek to weed

out the bad actors. I was one of the individuals to recommend to the biologist a reduction in the perch limit to preserve the quality of fishing. We need to manage the resource not preserve and keep everything out. Let the people of Montpelier create a manmade, enclosed body of water should their electorate wish to go to that extent if they want to keep the public out. That is for them to decide.

2. Turbidity is not created by the few canoes and kayaks seen on Berlin pond as the petitioners suggest. On a crowded day there will be 4-6 vessels on the entire span of the pond. Turbidity is being caused by the large number of waterfowl using the pond to feed and rest on their migratory journey. This is accompanied by the feces that is part of their occupation on the lake. Maybe the lake should be open to waterfowlers to control the bird populations. I'm sure the petitioners would oppose hunting as well. Many of the invasive species are brought to the pond by migratory fowl versus watercraft as presented.
3. Terrorism. This is the most outrageous claim I have heard. People aimed at committing a terrorist act do not need to use watercraft to deliver hazardous materials to the Pond. Any individual whether in the daylight or darkness of night can drop 55 gallon drums right from shore. If they go in the cover of darkness large amounts of dangerous materials can be administered into the waters of the Pond. The Pond would need to be gated with guards to effectively prevent such attacks, Interstate 89 which skirts the northern border of the pond inherently possess much more of a risk to public safety than recreation. Are we going to re-route the Interstate?
4. Threats to water quality. If recreational users take simple precautions such as the cleaning of their boats many of the threats to water quality can be mitigated. Sportsmen are responsible users of our outdoor resources and will take care of the States waterways. Education goes a long way to prevent conflicting uses. All of the residences and properties that abut the Pond inside of the circular road possess much more inherent threats to the safety of the pond. Is ANR going to seize all of the properties by Eminent Domain to make the water supply safer? I doubt it. Many of these same residents are the same vocal opponents just trying to legislate out people with different recreational patterns. As some their testimony says there are many other lakes and ponds and they could just go elsewhere. They just are selfishly keeping the resource to themselves.
5. The people have spoken. The Town of Berlin voted overwhelmingly voted .to allow the non-motorized types of recreation. The people of Vermont were right in their decision.
6. Outdoor Recreation for kids. Local children can enjoy the outdoors close to home versus having to travel to moderate size bodies of water. The positive impact of outdoor recreation close to home is critical to fight obesity and other children's malady's versus getting them away from the electronic devices that permeate their lives.
7. Degradation from opening the Pond to recreation. As someone who has been paddling and fishing the pond on occasion since its opening in 2012 I can tell you that, contrary to the opinion of certain minority of people, I haven't seen much negative impact on the pond and fish and wildlife that inhabit it. I live in

Waterbury and come to the Berlin Pond for a quality experience that has not in the two seasons that it has been open to recreation been degraded. The fear mongers are going to hypothesize everything to try to create fear over how people live. History has told us that the fear mongers do not win in the end. Don't let prejudice win over sound management.

8. I work for USDA Rural Development as a Program Director. My views do not represent any agency positions. Rural Development financed the Water Treatment plant for Montpelier. If water based recreation was such a concern our Agency would have asked for a covenant in the facilities documents if risk from watercraft was such a concern. Knowing about the treatment facilities history the water has been treated with chlorine and other chemicals that in reasonable levels are safe to consumers. The effect a few recreational users will seem to pose a small threat compared to other variables that could affect the pond. Public water supplies and non-motorized recreation can co-exist.

If there is any sanity in our State please do not let the fear mongering of a minority of vocal individuals who showed up at the public hearing on 6-28-14 dictate without any scientific evidence the loss of quality public access to a valued public resource. Please deny the petition of the Citizen's to Protect Berlin Pond.

Sincerely,

Michael Bard  
406 Mansion Hollow Road Waterbury Center VT 05677  
debandchina@comcast.net

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**From:** [Welts, Leslie](mailto:Welts, Leslie)  
**To:** [Woods, Laura](mailto:Woods, Laura)  
**Subject:** FW: Berlin Pond  
**Date:** Monday, June 02, 2014 5:03:56 PM

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-----Original Message-----

From: lindacvt52@myfairpoint.net [<mailto:lindacvt52@myfairpoint.net>]  
Sent: Monday, June 02, 2014 1:42 PM  
To: Markowitz, Deb; Welts, Leslie  
Subject: Berlin Pond

Hello,

I would just like to comment on the issues concerning the recreational use of Berlin Pond.

I have lived on the Pond for 30 years and love where I live. The natural beauty and serenity of the area is relaxing and food for the soul. The loons, the ducks, the canadian geese (who come to the pond on their twice a year migration:spring & fall) the occassional deer, moose & even bear are wonderful to see to me. Since the pond has been opened I have noticed a decline in all animals, which is a shame. Wildlife habitat is shrinking fast & we must all work to preserve what we can.

With the increased use of the pond, the amount of roadside trash has also increased. This is my neighborhood & I find it very offensive that people feel they can just throw garbage out their car windows in my neighborhood. I would love to go to their neighborhoods & do the same thng & see how they like it. I take pride in keeping my yard & my home neat & clean as do all the people who live around the pond. It bothers me that people think it is okay to block the road (Mirror Lake road) with cars, lawn chairs, coolers, etc & the people who live in the area can bearylly get through to their homes. I have heard Fish & Wildlife is thinking about opening the pond to hunting !! What about the people who live so closely to the pond. It terrifies me to think of people out on the pond in boats, maybe having a beer or two and shooting at ducks right across the street from where I live. There is a fear that gas powered boats may soon be allowed.

Where is all of this going? I know the arguement that there are plenty of bodies of water in Central Vermont that are opened to recreational activities is considered an old arguement, but it is, in my opinion, still a valid arguement. Why do we have to give up a pristine body of water that is great for walking, joggin & bicycling around to recreational boating & swimming when there are so many other places that are available?

The city of Montpelier also has a valid point in relation to their drinking water. They should be concerned especially since the treatment plant was not built to handle anything other than water not contaminated by humans and the possibility of outside invasive organisms being introduced to the pond. The people who say our septic systems are already contaminating the water need to prove that to me. I know of no septic system in the area that is polluting the pond.

I am sure you are getting a lot of opinions about the pond. If you haven't guessed my opnion yet, I will say it is I am not in favor of opening the pond to recreational use.

Please save the Berlin Pond and the surrounding area, my neighborhood, from recreational use and all the associated issues that come with increased use (noise, trash, traffic,etc.). We like our neighborhood the way it is and welcome the people who come to walk, jog & bicycle around the pond & enjoy the quiet beauty & serenity that is Berlin Pond.

Thank you for taking the time to read my email.

Sincerely,  
Linda Christensen

2102 Paine Turnpike South  
Berlin, VT 05602

**From:** [Brody Flood](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond  
**Date:** Monday, June 02, 2014 6:03:25 PM

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To whomever it may concern :  
I am writing to let you know I am strongly for the access of Berlin pond. As I don't believe the general public should loose access because of so few aren't happy.

Sincerely Brody Flood  
Sent from my iPhone

**From:** [Martin Kovacs](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond use  
**Date:** Monday, June 02, 2014 6:07:41 PM

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Laura

I don't understand why the pond can't be used for boaters and fishing. Isn't the pond water treated before it is put into the water supply for the city? Any contaminants will be (or should be removed) by the treatment process.

Other areas of Vermont have pond/lake water supplies that are used for public use so I don't see why the Berlin pond can't be used too.

I can understand if there was be an issue if waste products were to introduced by business or private individuals but not by recreational use of the pond.

Keep the pond open for all to enjoy.

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Thanks  
Marty Kovacs

**From:** [Norm Arseneault](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond Comments  
**Date:** Monday, June 02, 2014 6:36:31 PM

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Dear Laura,

In regards to DEC's deliberations over the future of Berlin Pond, I wanted to provide this comment: I strongly support keeping the Berlin Pond open to non-motorized access and use all year. I also request that you deny the petition filed by Citizens To Protect Berlin Pond.

I am an outdoorsman, a forester and a canoeist who has extensive experience managing public lands, including a number of municipal watersheds. I have been in the position of receiving public comment on various issues and I have seen my share of over-reaching positions taken by activist organizations. But I have never seen such a parade of ludicrous and unscientific claims and fears as are contained in the petition. I am staggered that otherwise sensible people have gone so far off the deep end on this matter. Berlin Pond is not a pristine watershed and it never will be what with I-89 running through it and houses, septic systems and roads circling the pond. Many communities in Vermont get their potable water quite satisfactorily from similarly-developed lakes and ponds with much more intensive motorized use. I fully believe that with good planning and management, Berlin Pond can continue to serve the City of Montpelier while supporting non-motorized uses and improved public access.

Norman Arseneault  
Granville, Vermont  
802-767-3853

**From:** [colleen kutin](#)  
**To:** [Woods, Laura](#)  
**Subject:** berlin pond  
**Date:** Monday, June 02, 2014 6:14:57 PM

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i oppose the petition to prohibit non motorized boat on berlin pond.

thanks.  
colleen kutin

**From:** [John Wager](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Monday, June 02, 2014 8:05:11 PM

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Laura,

Late this winter I spent one of the most memorable days I have ever had with my 13 year old son ice fishing on Berlin Pond. We joined a friend who showed us the pond and although we spent most of the day it was still hard to get him to leave. He grinned for days afterward and is begging me to go back. It would be a shame if such a wonderful resource was closed to non-motorized recreation. Please keep access open so that all may enjoy it. Please deny the petition filed by the Citizens to Potect Berlin pond.

Sincerely,  
John Wager  
985-2544

**From:** [Frank Partlow](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond  
**Date:** Monday, June 02, 2014 8:09:49 PM

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The request to stop all activity on Berlin pond should be denied because of the low risk of any type of interference with Montpelier 's water supply as there intake is upstream of 95 % of the water that is shallower then the depth of the intake with the present safeguards the should be no change in the condition of the water.

Sent from my iPad



**From:** [Ellen Sulek](#)  
**To:** [Woods, Laura](#)  
**Subject:** Citizens to Protect Berlin Pond petition  
**Date:** Monday, June 02, 2014 8:23:56 PM

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Hello Laura,

I would like to voice my support of the Citizens to Protect Berlin Pond petition.

At some point in the beginning of this controversy on what the use of Berlin Pond should be, an individual sitting next to me at a Berlin select board meeting stated: "Share the sandbox".

I would propose that we think of the state of Vermont as the sandbox. There are many bodies of water in the state (the sandbox). Would it be then appropriate to say that Berlin Pond might be a corner of the sandbox to share? Might not a legitimate public use be the enjoyment by bird watchers, walkers, families biking and citizens looking for a quiet escape from their daily grind in their corner (their share) around Berlin Pond? Might the fisherman, boaters, swimmers, paddle boarders all enjoy their share on the rest of the already open waterways (the majority of the sandbox...the state of Vermont)?

I recognize Berlin Pond as a water supply for many citizens in central Vermont. Any change in activity on this body of water will affect the water quality. Although the area surrounding the pond might not be perfect, that does not imply that further activity on the water should be allowed. Rather it would suggest that more stringent regulations be imposed. The Supreme Court did not state that Berlin Pond should be open to recreation on the water. They only ruled that the existing health ordinance prohibiting it was no longer valid. They suggested other options for protecting this water supply. The petition before you now is pursuing one of those options by asking that you keep Berlin Pond closed to recreational use on or in the water.

Clean water is a precious commodity and cannot be overvalued. After witnessing a snowmobile on the pond this winter I ask: Is this the direction we want to go with respect to protecting our drinking water? I certainly hope not.

Ellen Sulek  
Berlin, VT

**From:** [Anne Sarcka](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Monday, June 02, 2014 9:05:23 PM

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Hello Laura Woods -

I agree that we must do everything possible to keep Berlin Pond water clean for the thousands of Central Vermonters who depend on it. I hope the restrictions on its recreational use will be reinstated. We have plenty of other recreational opportunities.

Clean water is a huge issue worldwide, and becoming bigger by the moment. Let's be a leader and stand up for it here in our own back yard, and keep our population healthy.

Thanks,

Anne Sarcka  
Montpelier

**From:** [Carl Grey Martin](#)  
**To:** [Woods, Laura](#); [EXE - Webmail](#)  
**Subject:** Fully Protect Berlin Pond  
**Date:** Monday, June 02, 2014 9:16:10 PM

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Dear Gov. Shumlin and Ms Woods:

As a resident of Montpelier and an advocate of robust ecological protection, I urge you to (1) ban all recreational access to Berlin Pond, the source of the capital's drinking water, and (2) implement new measures to enhance the Pond's unique flora and fauna.

I attended last week's public hearing, where for two hours I heard an overwhelming majority of well-informed Vermonters express their opposition to increased human activity on this pond. (No significant or clear scientific evidence was presented by attendees who support increased human access to the Pond.)

I went with a handmade sign (attached) expressing my concerns about using motors on the pond--only to learn that even swimming and canoes will likely increase turbidity and the transference of invasive species, necessitating more chemical treatment.

Water is threatened everywhere. Let's model a new water stewardship right here.

Sincerely,

Carl G. Martin  
1 Marvin St.

**From:** [Phil Gentile](#)  
**To:** [Markowitz, Deb](#)  
**Cc:** [Welts, Leslie](#); [Mears, David](#); [Woods, Laura](#); [Warren, Susan](#); [LaFlamme, Pete](#); [Porter, Louis](#)  
**Subject:** Petition, Citizens to Protect Berlin Pond  
**Date:** Monday, June 02, 2014 9:50:14 PM

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June 2, 2014

Deb Markowitz, Secretary  
Agency of Natural Resources  
1 National Life Drive, Davis 2  
Montpelier, Vermont 05620-3901

Dear Secretary Markowitz,

I am writing to support the petition on behalf of the Citizens to Protect Berlin Pond. This political hot potato has landed squarely in your lap, and I wish you luck and sound science as you and your attorneys arrive at a decision.

As a Berlin resident and landowner adjacent to the pond, I have seen firsthand the complexity of this situation. And being a member of the Berlin Conservation Commission, I am acutely aware of the science, both past and present, that is at your disposal in arriving at a decision.

Every day we learn more about the value of clean potable water, as many in this country unfortunately do not have access to clean headwaters like Berlin Pond. The folks in Charleston, West Virginia are a prime example. As a former owner of three different restaurants in Montpelier that tapped Berlin Pond as its water source, I know the business value of clean water for my patrons. I believe it is paramount that you hold fast to this resource being invaluable and irreplaceable. Your agency's three departments are the holders of the key to safe water for future generations.

To argue that more human access to the surface water would not be of any consequence on the quality of water further downstream is shortsighted and unscientific. Good science does not adhere to the logic that because beaver, moose, and bear defecate in the waters, it's acceptable for humans to continue degrading the water quality. Creating more of a potentially bad outcome is not an acceptable standard, irregardless of the technology of an advanced water treatment system.

In light of the agency's oversight of public waters, it is my opinion that keeping the entire Berlin Pond watershed basin free from surface water recreation would fall under the category "legitimate public usage", given the thousands of Central Vermonters who walk, run, train, walk their babies and children, birdwatch, and bike around the pond loop each year. This is not setting precedent but rather using your agency's power to determine and establish unique and protected landscapes such as Berlin Pond on behalf of its citizens. Is not designating a relatively small quiet recreation area as a "legitimate public usage" within the designated rule making of the agency?

I would hope that the Agency of Natural Resources will not duck under the cover of Vermont Constitution's Second Amendment, written in 1777 in reaction to the influence of the relatively few wealthy landowners during the colonial times. There was little sharing back then. Now there is a wealth of public access to waters throughout Vermont. Such a strict interpretation is not reflective of today's life and times. Both the native

Abenakis and early colonists found clean water in abundance. Fast forward 235 years later and we realize what a precious resource water has become statewide, nationwide, worldwide. Droughts and floods are commonplace, clean water ever more precious. Pressure on our water sources are increasing daily.

I would like to think our elected and appointed public officials will uphold the values that reflect what is best for all Vermonters, not just a group with a defined special interest. Throughout Vermont's history, government doctrine has assured it's citizenry thousands of acres of park lands for the recreation of all. The state's "recreational sandbox" is large enough to accommodate everyone's interests, including those who value Berlin Pond's clear headwaters and its historic nature of unintruded human activity for well over a century.

Warmest Regards,  
Phil Gentile

**From:** [Lorelei Lissor](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond  
**Date:** Monday, June 02, 2014 10:19:17 PM

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I would like to continue to have access to kayak on Berlin Pond.  
Thanks,  
Lorelei Lissor

Sent from my iPhone

**From:** [nathan smead](#)  
**To:** [Woods, Laura](#)  
**Cc:** [Welts, Leslie](#); [Markowitz, Deb](#); [Porter, Louis](#)  
**Subject:** Public Comment for Petition to ban all recreation on Berlin Pond  
**Date:** Tuesday, June 03, 2014 12:11:45 AM

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June 2, 2014

To: Vermont Water Resources Panel

RE: Public Comment in regards to the petition to ban all recreational activities on Berlin Pond by "Citizens to Protect Berlin Pond".

With science, the LAW, and common sense, I intend to prove that the petitioner(s) have not met "the burden of persuasion" [\[1\]](#) and that the petition is not consistent with the policies in section 2 of the Vermont Use of Public Waters Rules. I begin my comment with the following article I authored during the summer of 2013.

#### *History*

*For over 100 years, the City of Montpelier has been tapping into Berlin Pond to extract its drinking water. The pond covers 265 acres, has a maximum depth of 56 feet, and lies entirely within the town of Berlin.*

*In the beginning, water was gravity fed directly from the pond to the faucet. At some point in the early 1900's, the Health Department determined that cattle, sheep and other agricultural activities along the shoreline could contaminate the drinking water. As a result, the City began a methodical effort to purchase all of the land around the pond. Pasture land was left untouched to eventually become heavily forested. At the end of the land grab, the City owned more than 99% of the shoreline.*

*In 1926, the Dept. of Health enacted strict penalties for anybody found swimming, boating or fishing in Berlin Pond. In the early years there were two pioneers that challenged the strict law by fishing and boating in the pond. Both men subsequently lost their legal battles.....one at the municipal level and the other at the Supreme Court level.*

#### *Current*

*In the 1990's, the City built a \$14,000,000 water treatment plant. At some point along the way, the governing authority for drinking water switched from the Dept. of Health to the Agency of Natural Resources. Along the way, the 1926 law forbidding fishing, swimming and boating became "null and void". Nevertheless, the general public continued to "respect" the intimidating signs that the City left posted around the pond.*

*In 2009, 3 new pioneers decided to challenge the City. They launched their Kayaks from a culvert that was within the public "right of way" alongside Mirror Lake Road. Local landowners alerted Montpelier Police, who subsequently arrested the 3, citing the 1926 ordinance. A lengthy court battle ensued. The 3 "scofflaws" lost at the municipal level, but appealed to the Supreme Court of Vermont (SCOV). After a lengthy deliberation, in May of 2012 the SCOV ruled in favor of the 3 pioneers. The once forbidden pond was no longer forbidden!*

*The SCOV cited Vermont's Constitution and the Public Trust Doctrine in its ruling. Both are very interesting subjects, but too lengthy for this article. The Court found that Montpelier did not own the pond, just most of the land around the pond.*

#### *The Battle*

*Once the news of the court ruling became widespread, excited anglers flocked to the pond in hopes of catching a state record bass. Many were remiss in the fact that the City still owned nearly all of the shoreline and soon the City began to patrol the area.....citing anglers with trespass warnings. The only legal access was at the culvert on Mirror Lake Road. Shoreline fishing was scant, but that culvert provided access for people with kayaks and small boats.*

*A relatively small group of local landowners began to petition the Berlin Select Board. They demanded that the town close off the access at Mirror Lake Road. The Montpelier City Council also petitioned the town of Berlin to try anything to*

*keep people off the pond. They advised installing a tall fence and even suggested adding several feet of rip rap to extend the "land" beyond the right of way...to keep people from legally accessing state owned waters. The "Antis" began to develop talking points early in the battle. Most of the speech was about the terrible affect anglers would have on wildlife and water quality.*

*During the summer of 2012, while several landowners were trying to organize an "Anti-access" coalition, another group of "Pro-access" individuals was forming. This group became known as "Friends of Berlin Pond". They established a presence through letters to the editor, newspaper columns, a Facebook page, YouTube videos, and vocal presentations at public meetings.*

*"Friends of Berlin Pond" Facebook page has become the "go to" place for any information involving the Berlin Pond."*

I am one of the founders of the Friends of Berlin Pond. We are an organized citizen group that supports conservation of the pond and responsible access and use of the pond. We are poised to move forward and continue to work in conjunction with Fish and Wildlife and the Berlin Select Board so that "the various uses may be enjoyed in a reasonable manner" [\[2\]](#). We have NOT been contacted by the petitioner to discuss any issues pertaining to Berlin Pond, although we have attempted on several occasions to make contact and have a meaningful discussion with that group.

## Use of Public Waters Rules

The petitioner quoted a few short phrases from the Vermont Use of Public Waters Rules, in an attempt to persuade the public (and the Panel) that Berlin Pond must be "protected". I have read the Rules several times. The following is a series of quotes taken directly from the Rules that I believe exemplify the tenor of the document.

".....so that the various uses may be enjoyed in a reasonable manner, considering the best interests of both current and future generations." [\[3\]](#)

" The public waters will be managed so that the various uses may be enjoyed in a reasonable manner, considering safety and the best interests of both current and future generations..." [\[4\]](#)

"Use conflicts shall be managed in a manner that provides for all normal uses to the greatest extent possible....." [\[5\]](#)

".....use conflicts shall be managed in a manner using the least restrictive approach practicable...." [\[6\]](#)

"....uniform and consistent rules shall be adopted when appropriate." [\[7\]](#)

"Those water bodies which currently provide wilderness-like recreational experiences shall be managed to protect and enhance the continued availability of such experiences." [\[8\]](#)

## Predominant Use Prior to Regulation



The Vermont Constitution and the Supreme Court decision make very clear that Berlin Pond is public waters. We are not here to debate that fact. A high bar has been set. The exclusion of Vermonters to enjoy non-motorized recreation on this pond was proven to be overreaching and outside of the boundaries. By matter of law, paddling and fishing has been a legal activity on Berlin Pond for about a quarter of a century. Montpelier got away with intimidating the public for years and years. The SCOV's ruling proved that Montpelier was WRONG. Therefore, by a matter of fact and law, "the predominant use of the waters prior to regulation" [\[9\]](#) includes canoeing, kayaking, fishing, and swimming. That is an indisputable fact and must not be overlooked. The petitioner claims that the pond was "protected" for a century and therefore the predominant use prior to regulation excludes boating, fishing, and swimming. To agree with this line of reasoning, you have to ignore the high Court's ruling and the last 2 years that Vermonters have been legally paddling around the pond. I do not believe that counting how many people went out on the pond in the past 100 years should have any bearing on how this part of the rule is interpreted. This is a legal concept and should apply to how the pond is currently used. Today, the first Monday in June, I am able to legally paddle on Berlin Pond. This is the predominant use "prior to regulation". The petitioner wants you to ignore the past 2 years and use an earlier date. I do not believe you can do this and still work within the framework of this set of rules.

## Turbidity

The word "turbidity" was first mentioned at a board meeting in the summer of 2012. The "T" word soon turned up in a "public" document authored by the members of the BCC. I will add as a point of fact that most of the BCC members reside alongside, or relatively close to the pond. It was quite obvious at the public hearing that the "T" word had been widely passed around in talking point memos. This word has been used to feign a scientific approach but the users stop well short of providing any explanation of what it is and what causes it.

Many of the public comments suggest that Berlin Pond is a small, shallow pond. I can tell you they are painting an inaccurate picture. The pond is made up of 3 sections and each is different and unique.

The northernmost section is small and shallow, averaging less than 7 feet. This is the section most people see from the highway and surrounding roads.

The middle section is considerably larger and less visible from the road. The northern half of it is a big flat weed bed that averages about 10 to 12 feet in depth. The southern half of this middle section is deeper, with depths up to about 23 feet.

The "big bowl" is the largest section of the pond. It's where the intake pipe is. The water flows from the south, through the "big bowl" heading north, toward the highway. The "big

bowl" can be seen from the culvert at Mirror Lake Road. It is more than a mile long and 3/10s of a mile wide. The depths drop dramatically, close to shore all the way around it, with a big flat bottom. Most of the south bowl is between 48 and 56 feet deep. The eastern and western shorelines have a gravel bottom and are NOT muddy. The northern shore has a beautiful sandy bottom.....not mucky at all. The "big bowl" is nothing like the part of the pond most people see from the road. The water is deep. It's not a mucky, shallow pond. Paddling does not cause enough turbidity to be measurable at an intake pipe, 20 feet down, in a 265 acre pond.

The science of turbidity is fairly well known, although not mentioned in this petition. Nearly all the studies on human caused turbidity deal with large vessels with powerful motors. No amount of human paddling can cause as much turbidity as the wind on a stormy day. Rain also causes turbidity. The geese, beavers, snapping turtles, fish, and every other creature cause turbidity. Has anyone in Montpelier ever expressed concern about the number of geese that were paddling around the shallows? Do they measure a difference at the treatment plant during October when hundreds, if not thousands of migrating waterfowl land and paddle on the pond?

## The Treatment Plant

The petitioner would have you believe that the treatment plant was specifically designed to handle the turbidity that is caused by the animals, the wind, the rain, and not a spec more! They claim the plant was designed when humans had no contact with the pond and therefore will be stretched beyond its limits, if humans are introduced. This is one of the most ridiculous claims in this entire petition. The fact is, you could take this same treatment plant and move it over to Nelson Pond in Calais and have fine drinking water. Nelson Pond is lined by camps and gets lots of boat traffic from even gas powered boats. It wouldn't matter! This plant is designed to filter out particles, bacteria and all the other nasty stuff that birds, mammals, and fish leave in the water. The petitioners would have you believe the technology at the plant was specifically designed for Berlin Pond and any tiny change will render this 14 million dollar, state of the art facility.....useless. The fact is, this plant could safely and effectively treat drinking water in most, if not all bodies of water in Vermont! I certainly hope the panel looks beyond these outrageous claims and instead looks at the facts. Non-motorized recreation will not have a measureable impact on the water. It's been 2 years since access was opened and Montpelier cannot show any change in water quality. If they could, believe me....they would!

## What Substance?

I asked the petitioner what 5 contaminating substances were most likely to be introduced by an angler in a kayak. The answer I got was "Turbidity and poisonous skin flakes that drop off your hand when you touch the water". That's it! That is all they got? I want some details!

I want to know what it is, exactly that we are protecting the people in Montpelier from? You won't find an answer to that question in the petition because it's not there. You won't find an answer to that in any letters to the editor, because they don't have an answer.

It is not enough to simply throw around scary words. That may help recruit a few dozen people to speak at a public hearing, but it shouldn't sway your decision making process. I believe that the bar is high. Our State Constitution and the rule of Law is strong enough to overthrow a century long prohibition. It is far too powerful to be overtaken by outrageous claims that cannot be supported by science, reason, and common sense. It has to be! There is a heavy burden on the petitioner to prove the merit of her petition. Simply saying "Why risk it" over and over.....is NOT enough. Tell me what the threat is! Let's hear the science! Let's get specific! Repeating the word "turbidity" over and over means very little when the fears can't be supported in the real world.

## Loons

Worried about the loons? Take a trip over to Nelson Pond and you'll see anywhere from 4 to 6 resident loons thriving on a pond that is surrounded by camps and receives traffic from speed boats pulling skiers. Loons had not nested successfully on Berlin Pond for several years prior to 2012. Last spring, in just the 2<sup>nd</sup> year after humans began paddling and fishing, the loons nested successfully. The anti-access folks have kept very quiet about this because they know it blows their outrageous claims right out of the water.

## Traffic has increased?

After the novelty wore off, usage by anglers and kayakers plummeted to normal levels. The usage after year one has been minimal. 3 to 5 anglers/kayakers will be found on a nice weekend day. On most weekdays, there are 0 to 3 people on the pond. Contrast that with 20 to 30 cars (as many as 12 or more at one time) that park along the pond daily to walk or bird watch. Anglers/kayakers are NOT creating traffic or safety issues and there is ZERO evidence to support such an over the top claim.

## The Real Threat

The number one threat to water quality in Vermont is phosphorus pollution caused by agricultural runoff. This fact is well documented and is the cause of recent algae blooms on Lake Champlain. Humans paddling in a canoe DO NOT create phosphorus pollution. If there is a real concern about algae blooms in Berlin Pond, like some mentioned at the hearing, we should be looking at agriculture in the watershed. If there is real concern, look at how much lawn fertilizer is potentially running into the pond from houses within the watershed. Look for stream bed erosion. Look at new construction sites. Study the pitch of driveways and nearby roads. If there is genuine concern, there are plenty of likely sources of pollution to

look at, but paddling or fishing isn't one of them!

## Conclusion

I realize this may be one of the longer public comments you have read. I trust you read it and I trust you will take this decision very seriously. I thank you for the opportunity to voice my opinions.

“To the greatest extent possible”[\[10\]](#) for all normal uses.....”using the least restrictive approach”[\[11\]](#)

The law, science, and common sense are on our side. Please deny this petition.

Respectfully,

Nate Smead

Friends of Berlin Pond

- 
- [\[1\]](#) Vermont Use of Public Waters Rules pg. 5
  - [\[2\]](#) Vermont Use of Public Waters Rules pg. 2
  - [\[3\]](#) Vermont Use of Public Waters Rules pg. 1
  - [\[4\]](#) Vermont Use of Public Waters Rules pg. 2
  - [\[5\]](#) Vermont Use of Public Waters Rules pg. 3
  - [\[6\]](#) Vermont Use of Public Waters Rules pg. 3
  - [\[7\]](#) Vermont Use of Public Waters Rules pg. 3
  - [\[8\]](#) Vermont Use of Public Waters Rules pg. 3
  - [\[9\]](#) Vermont Use of Public Waters Rules pg. 2
  - [\[10\]](#) Vermont Use of Public Waters Rules pg. 3
  - [\[11\]](#) Vermont Use of Public Waters Rules pg. 3

**From:** [Don Faulkner](#)  
**To:** [Welts, Leslie](#); [Warren, Susan](#); [Markowitz, Deb](#); [Mears, David](#); [Snyder, Michael](#); [Porter, Louis](#)  
**Cc:** [jhollar@montpelier-vt.org](mailto:jhollar@montpelier-vt.org); [wfraser@montpelier-vt.org](mailto:wfraser@montpelier-vt.org); [warren@katzmillier.com](mailto:warren@katzmillier.com); [Woods, Laura](mailto:Woods, Laura); [CTP.PPVT@gmail.com](mailto:CTP.PPVT@gmail.com)  
**Subject:** The Question of Berlin Pond  
**Date:** Tuesday, June 03, 2014 6:08:15 AM

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Dear Ladies and Gentlemen, All of you Friends of Health of the Earth and All Life,

Recently returned to Vermont from our native Virginia to be residents of Vermont expectably and hopefully for the rest of our lives, we landed in the midst of the Berlin Pond/Protection of its Health & of Montpelier's Potable Water Issue, were sure to, and attended the very well conducted Public Hearing 5/27/14 to its conclusion with no time for either of us to speak.

We remain shocked and puzzled that there is any question or any answer other than bringing to the pond and its entire watershed all the protection it has heretofore enjoyed plus all that which practically and legally can be added by the State of Vermont, its Capitol City, and by the citizens and Town of Berlin in the future.. What can be more important Earthwide and locally than restoration of the health of our waters, other than the air all breathe ??

Working hand-in-hand the State of Vermont, Montpelier, and Berlin can achieve this [as bit by bit all states and localities with the will can do so]; and it is in Berlin's enlightened self interest as Montpelier's neighbor economically, politically, and ethically to do so. As goes the health of Montpelier in the longer run so goes Berlin's and the State.

Any question on this issue in Virginia would not surprise us, Virginia regretfully over the adult portion of my 80+ years being at least 25 years behind Vermont in its Ecological, Agricultural, Social, and Health awareness and consciousness [and the last 10-20 slipped further back]... BUT in Vermont ?? I thought/think Not.

Ever since coming to Vermont in the late'60's, early '70's to research, gain guidance, retain professional expertise in advanced thinking and experience in Land Use and Development, I have considered Vermont equal and more likely ahead of all our states in enlightened protection of that which supports and nurtures Life on Earth and in Vermont. Certainly not all we need but ahead of the rest.

I trust each of you and Vermont's Governor will Stand Tall on this Critical Issue and not bend to unhealthy compromise.

Respectfully Submitted with Gratitude for Right Action,

Don Faulkner

Don & Mary Faulkner 171 Westview Meadows Rd., Apt 212, Montpelier, Vt.  
05602

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Sent with [Postbox](#)

**From:** [Theresa Murray](#)  
**To:** [deb.markowitz@state.vt.us](mailto:deb.markowitz@state.vt.us)  
**Cc:** [Woods, Laura](#)  
**Subject:** Berlin Pond Access Ruling  
**Date:** Tuesday, June 03, 2014 6:22:21 AM

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Dear Deb:

Thank you for accepting comments on the access issue surrounding Berlin Pond. As a Montpelier resident, I have significant interest in the outcome of ANR's ruling.

I appreciated Laura Wood's iteration of the laws and rules that will be used to guide this decision. It was very helpful for me to read through those. However, I have no professional experience in applying those rules in a real life situation such as the one we now face so I offer my opinion with that caveat.

It seems clear that ANR can decide the level of access it can place on a body of water that serves as the sole drinking supply source for a community. The following are what I believe to be critical points to consider:

- Berlin Pond is the only drinking water source for the legislature and state government employees, and the only major medical and psychiatric facilities in the area.
- It is the only drinking water source for the hundreds of businesses that service thousands of customers that in turn help support our state and local economies.
- It seems ANR has the authority to determine that not every body of water must be accessible to humans for recreational purposes. One could argue that a certain percentage (or number) of water sources- especially those that serve as primary drinking sources - must be protected and considered inaccessible for recreation purposes.

I believe the health and economic benefits of protecting our community water supply for thousands far outweigh granting recreational access and use of that water source.

Thank you for considering.

Theresa Murray-Clasen

**From:** [Dave](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 6:57:03 AM

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Dear Laura , I oppose the resolution banning non-motorized recreation on Berlin Pond. The Vermont Supreme Court has made the correct ruling on this issue. It is obvious that the people living near the pond want no other Vermonters near their house . Their resolution is extremely "far fetched" ! Rule no on this resolution. Thank you , David Brown , Walden , Vermont

**From:** [Drew Price](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond Regulations  
**Date:** Tuesday, June 03, 2014 6:57:48 AM

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Hello Laura,

I am writing to you in favor of allowing anglers to access Berlin Pond. I am an avid angler that has fished Berlin Pond since it has become available to the public and would like to ensure that it will be so in the future.

While the petition that the opponents have put together does seem impressive I do feel that it is without merit. There is little that a few anglers can do that will cause significant harm to the pond and its water quality. Concerns about E. coli and other bacterium are unfounded and if the few anglers that utilize the pond are being prevented from using the pond then it would be wise to prevent wildlife such as deer, moose, coyote, geese and many other species from accessing the pond as well since they are also vectors of that bacteria.

Please consider that New York City allows people to access its reservoirs for fishing and recreational purposes. If the largest city in the world feels that angling and recreation are not a danger to its water supply why would Montpelier?

Thank you for your consideration.

Drew Price

--

Drew Price

Guide/Instructor/Fly Tyer/Fish Geek  
<http://dponthefly.blogspot.com/>  
<http://www.drewpriceonthefly.com/>  
<http://www.facebook.com/MasterClassAngling>



**From:** [Bruce Jean](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond  
**Date:** Tuesday, June 03, 2014 6:59:19 AM

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Hi Laura that my name is Bruce Jean and I just want to let you know that I support recreational use on Berlin pond and I think that it should be used for the public thank you very much

Sent from my iPhone

**From:** [Bob Hynes](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond Access  
**Date:** Tuesday, June 03, 2014 7:30:35 AM

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Thank you for allowing me to speak at the public meeting on Berlin Pond recently. I would like to provide some additional written information. It has been about two years since the Supreme Court ruling. We have had two seasons of canoeing, kayaking and fishing, two winters of ice fishing and ice skating on the pond, and two years to evaluate the effects of this human activity. What have we learned? I believe the most telling thing is what the City of Montpelier has done and not done. After 14 months of evaluating the effects of recreational use of the pond the City petitioned the State of Vermont for a change in the rules concerning the use of the pond. It asked for the prohibition of internal combustion engines, petroleum, and ice shanties. However, the City's proposal states that their proposed rule "would not prohibit the use of boats which do not have internal combustion engines. People could continue to use kayaks, canoes, rowboats or paddle boards." The Montpelier City Council and the mayor have been very clear that they oppose the recreational use of Berlin pond. However, after over a year of studying the effect of recreational use of the pond on the city's water supply and the water treatment plant they proposed a rule change that would continue to allow such use. I live in Montpelier and I drink the water from Berlin Pond. I hope that if the City believed that recreational use of the pond constituted a reasonable threat to my water supply that they would have asked for a prohibition on recreational use. They have not done so. In a 2013 article in the "The Bridge", a Montpelier newspaper, Montpelier City Manager Bill Fraser was quoted as saying "We see no substantial differences [ in water quality] from before and after [ the Supreme Court's decision]." Mr. Fraser said basically the same thing at the 4/16/2014 Montpelier City Council Meeting. So far as I am aware, no city official has come forward and claimed that recreational use by canoeists, kayakers and fishers has caused any meaningful problems with the water supply. However that has not stopped a member of the Montpelier City Council from going so far as suggesting the construction of a covered bridge spanning the city owned land on either side of the culvert used for boat access. The entire purpose of this "faux" covered bridge would be to prevent otherwise legal boat access to the pond.

To be clear, when I talk of recreational use I am not including the use by internal combustion engines that the City of Montpelier's petition seeks to ban. While City officials indicate that they have not seen snow machine and vehicles on the pond banning their use seems reasonable to me. While swimming is currently allowed, the existing culvert access at the south end of the pond is not at all conducive to swimming and State access areas prohibit swimming. I have not heard anyone suggest that there will much swimming.

I received a copy of the Montpelier 2013 water quality report with my latest water bill. It indicated that the city regularly tests the its drinking water. These regular tests revealed no violations of safe drinking water standards for the latest. I have no doubt that had the city found any violations that they could blame on recreational access they would be quick to publicize the violations.

There has been oft repeated claims that the 1998 state of the art \$11.5 million water treatment plant was not designed specifically to handle recreational access. I have not heard anyone state the water treatment plant cannot **handle** the presence of canoes, kayaks and fishers. There are a number of threats to the water supply that have been extensively documented in such documents as "The Berlin Pond Watershed Conservation Project" report. As a homeowner who is paying for the water treatment plant through my water bill, I will be pretty upset if I am paying for a plant that cannot handle the relatively small impact of some boaters and fishers.

Two threats to the water supply that have been put forward are increased human waste and increased turbidity of the water. It was well documented that human waste and animal contamination from such things as existing septic systems and run-off from the surrounding

watershed was a threat prior to the Supreme Court decision. The deer, moose, beaver, bear and other creatures that inhabit the watershed and shoreline contribute bodily waste. As do the numerous dogs that accompany the walkers and joggers that walk around the pond. The large numbers of waterfowl that use the pond certainly contribute a lot of waste product. Most of us know how messy a few geese can be. It is hard to argue that human activity on and around the pond will not result in human waste getting into the water. Given that little swimming is likely to be done in the pond how much waste will likely be introduced? While it may seem gross to think of urine and feces in the water at what level does it become unsafe in a pond of 1,500 million gallons with a modern water treatment facility? Given all the research that has been done on drinking water the answer probably exists. Or put another way: 1 goose on the pond for 24 hours equals how many hundred hours of human kayaking? The Citizens petition (page 8) claims that the number of geese on the pond has decreased. I, for one, am happy to have less geese crapping in my water supply. If the number of geese is down perhaps the presence of boaters is increasing water quality.

The advocates for closing the pond have repeatedly portrayed Berlin Pond as a shallow body of water that is so full of mud and silt that the mere act of paddling a canoe or kayak so muddies the water that water quality is reduced to the point that chlorination will need to be increased to unsafe levels. In fact the average depth of the lake is 25 feet. The pond is divided into two sections, the larger, deeper south end and the smaller shallower north end. The City of Montpelier's water intake pipe is located in the south end of the pond. Based upon the State's depth map, and included in the Citizen's petition, as well as other sources the intake pipe is located in 27 feet of water. Most of the southern end of the pond is shown to be over 40 feet deep with significant portions between 50 and 60 feet. The maximum depth of the pond is shown to be 59 feet in a few sections. The majority of the water enters the main pond through the culvert at the southern, deep end of the pond flows past the water intake pipe and into the shallower northern end. The water exits the pond near the extreme north end of the pond at the interstate. In effect, the shallower north end of the pond is "downstream" from the water intake pipe. Most all of the pond's bottom is covered in a thick layer of weeds. These weeds anchor the lake bottom silt. I would ask that anyone who is involved in the decision process to go out and see for yourself by paddling the pond.

I would note that the president of the citizen's group testified before the Montpelier City Council that the pond is only 28-30 feet at its deepest due to increased siltation. The citizens group has maintained a booth at the Montpelier Farmer's Market. On that booth is a statement that the pond is 40 feet at its deepest. Luckily for the citizens of Montpelier **neither of these statements are true**. If, in fact, so much of the pond has silted in since the 1972 depth soundings that the vast areas of 40-60 depths are now 28-30 or even 40 feet at its deepest, the pond is quickly becoming a swamp. That is much more a problem to Montpelier's water supply than some canoes and kayaks. As I testified at the public hearing I personally measured the depth of the pond in various areas of the south end and confirmed the maximum depths. My testimony included my methodology and results. It was not rocket science, just dropping a rope off a kayak.

Throughout the whole debate over Berlin Pond the group advocating closing the pond have often questioned or even chastised pro-access advocates for wanting to use Berlin Pond when they claimed there were so many available options nearby. During my testimony before the Montpelier City Council I was asked why I boat on Berlin Pond. I stated that my son and I like to fish on waters that do not allow gas motors. I mentioned that similar sized local waters such as Wrightsville and Waterbury Reservoir's allow gas-powered boats. The petition to close the pond contains a list of 39 ponds and lakes that are supposedly nearby. Of these 39 ponds and lakes, gas powered motors are allowed on 25. Of the remaining 14 only 4 were larger than 40 acres and on only 1, at 69 acres, was more than 50 acres. I am not saying that there are no other places to paddle and fish without hearing gas motors, but Berlin Pond is a special place to paddle. I resent that one of the latter speakers at the hearing compared pro-access advocates to a spoiled child who has lots of toys but when a new toy comes out insists on having it. And that speaker was applauded.

A few more thoughts before I close. The petition included 150 pages of information on the Watchusett, MA water supply and watershed. Yes, some public water supplies are closed to fishing and boating. On the other hand, New York City's drinking water is famous for its taste and quality. New York City allows fishing and boating on its water supply.

I was also surprised to learn that not long ago the City of Montpelier did not want osprey nests built on the pond because the mayor wanted to keep open the option of selling off pieces of the Berlin Pond waterfront as building lots.

The petition states that the risk of terrorist attack on the supply is enough reason to close the pond. Really? Playing the national security card? I wonder what most anti-access advocates would say if Montpelier wanted to increase security by circling the pond with a fence.

In what I thought was a very condescending closing statement the President of Citizens to Protect Berlin Pond suggested that the people who support continued access must not have read the petition. I can tell you that I have read the petition. I didn't need to read Mikhail Gorbachev to know that water is a valuable and scarce resource. I admit that I didn't read all of the 90+ pages of the Oregon Turbidity Technical Review. Based on the testimony I have heard it doesn't seem that most of the people supporting closing the pond to fishing and boating read the petition either.

As you can probably guess, I support continued non-motorized recreational access to Berlin Pond. I am **not** urging the State to grant such continued access. I am asking that the State use its technical, legal and other expertise to arrive at a reasonable decision supported by the law. I do hope that the decision does allow my children and me to continue to use the pond in a reasonable manner. I would also suggest that if it is possible and appropriate that you consider something other than an all or nothing decision. If reasonable restrictions need to be placed on the use of the pond please do so. I understand that some people have legitimate concerns about the effect of continued access. Those concerns should be addressed. If necessary get creative. Thank You.

Bob Hynes



June 3, 2014

Laura Woods  
Vermont Dept. of Environmental Conservation  
[Laura.Woods@state.vt.us](mailto:Laura.Woods@state.vt.us)

Dear Laura,

I am writing this letter on behalf of the entire membership of Hunters Anglers Trappers Association of Vermont (HAT) in support of maintaining access for non-motorized vehicles use on Berlin Pond. This is an extremely low impact use of public waters and has already been adjudicated in Vermont's highest court.

There are so many bodies of water (including Lake Champlain) that are used for unrestricted motor boating but are also sources of drinking water for a large percentage of the entire state. We see this latest assault on public use as nothing less than a blatant attempt to effectively restrict this public pond to personal advantage. Please do not bend to this request and maintain use for all the public.

With much appreciation,

Sam Lang  
President

**From:** [Alan Rome](#)  
**To:** [Woods, Laura](#)  
**Cc:** [Mears, David](#); [Markowitz, Deb](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 8:27:38 AM

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Thank you for your professionalism at the meeting last week. You handled it well. I echo the sentiment of so many that caution is best in this matter. There are so many sad tales of good water destroyed by neglect. It is quite easy for fellow Vermonters to seek other streams and rivers for recreation. There is no need for it on Berlin Pond, thank you, Alan Rome, Esq.

**From:** [Adam Tarmy](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 8:44:44 AM

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Laura,

Is there any scientific data that backs up the motion to deny Vermont Citizens non-motorized access to the pond?

What health problems do you foresee with allowing public access to this pond?

The Champlain Water District's intake pipe in Shelburne Bay is located in an area frequently closed to swimming due to Ecoli contamination. Even with this bacteria and heavy motorized access, these issues don't seem to affect the ability of the treatment center to provide safe drinking water to most of Chittenden County.

As far as I can tell, it has not been shown that access to the pond will put the water system in danger. It sets a very dangerous precedent for the restriction of Vermont's public lakes and waterways.

I am **NOT** in support of banning access to public resources without scientific backing.

***Please educate me if I am ignorant of something in this situation.***

Thank you,  
Adam Tarmy  
Monkton, VT

**From:** [Bob Fisher](#)  
**To:** [Woods, Laura](#)  
**Subject:** Please allow limited use of Berlin Pond  
**Date:** Tuesday, June 03, 2014 9:03:11 AM

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Dear Ms. Woods: Please allow limited use of Berlin Pond. "Pristine water" advocates are right to want safe drinking water but the wildlife that they celebrate introduce more pollutants than would swimmers or kayakers. Those of us who live near the pond have as much right to use and enjoy the water as Montpelier residents have to drink it. These are not mutually exclusive uses, as much as water purists might disagree.

--

Bob Fisher  
283 Point Ridge Road  
Berlin, VT 05641  
(802) 505-4034

The role of the artist in the social structure follows the need of the changing times:

In time of social stasis: to activate

In time of germination: to invent fertile new forms

In time of revolution: to extend the possibilities of peace and liberty

In time of violence: to make peace

In time of despair: to give hope

In time of silence: to sing out

--Judith Malinat.



**From:** [Bob Campo](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 9:12:01 AM

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Hi Laura,

Just wanted to express my feelings that as a central Vermonter...life-long.... I would like to see access to Berlin Pond by non-motorized boats for recreation, swimming and fishing year round.

Thanks so much for your hard work.

Best,

Bob Campo  
16 Windridge Rd  
Barre, VT 05641

**From:** [Cathy Hartshorn](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 9:15:12 AM

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Ms. Woods,

I am in full support of the Citizens' to Protect Berlin Pond's Petition for rule change.

Let us not dwell on the long list of credible, valid, and supported reasons to grant it, but ask the one question: Why would ANR/DEC NOT grant the petition? Why would ANR/DEC NOT protect a small body of water that serve as its capital's only source of drinking water just to please a handful of people? There could not be a more defined case as this to support the Department's mission and purpose.

ANR has the legal authority and social support to do the right thing in this situation.

People outside Vermont have the perception that Vermonters care about the natural beauty that surrounds us. Sadly, not in the case of Berlin Pond. It was allowed to be opened without any responsible planning whatsoever by anyone...and still none to this date. What has been allowed to happen to Berlin Pond and its natural inhabitants is shameful at best.

Berlin Select Board has allowed the right-of-way access (so much land has eroded into the pond to the point that the road is washing into the pond — see attached photo) and they are working on another two possible access points. This very small, shallow body of water cannot and should not be expected to support this.

Ask yourselves, why would you NOT vote in favor of the petition? Let's show our children and grandchildren that some things are worth saving. Show them we care about the quality of the water they ingest.

This issue will not go away. The people have spoken and will continue to speak on this. Protect Berlin Pond.

Thank you.

Cathy Hartshorn

\*Please not that the media and access supporters like to tout the "overwhelming vote" in Berlin for access. First, this case is not about access; the Supreme Court determined that. Secondly, the vote in favor of access was fewer than half of the registered voters...hardly "overwhelming". What was OVERWHELMING was the number of people who filled the Berlin Elementary School to voice their OVERWHELMING SUPPORT of the CTPBP petition.



**From:** [Emily Shedaker](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond: Who Needs It?  
**Date:** Tuesday, June 03, 2014 9:19:36 AM

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Dear Laura Woods,

I believe that the science behind protecting the city of Montpelier's water exists. I believe protecting the water from possible acts of terrorism is better accomplished with fewer, not more, people on the water. I believe that the costs of public access have not been fully explored. In an age when the value of "green spaces" is recognized by our cities and as we watch our pastures turn into subdivisions, I believe it is important to protect natural wildlife habitat -- for our wildlife and our biologists.

I do not believe there is any compelling reason to provide another playground for sporting enthusiasts.

Please, protect Berlin Pond and close it to recreation.

Sincerely,

Emily Shedaker  
1466 Brookfield Rd.  
Berlin, VT 05602

**From:** [Curtis Trousdale](#)  
**To:** [Woods, Laura](#)  
**Cc:** [info@vermonttraditions.org](mailto:info@vermonttraditions.org)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 9:30:05 AM  
**Attachments:** [image001.png](#)

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Dear Laura,

As a private citizen and Vermont business person who sells rural lands I strongly support access to Berlin Pond for non-motorized boating, fishing and general recreation. It is access like this that keeps our rural heritage alive and allows Vermont to grow our tourism economy.

Please deny the petition brought by Citizens to Protect Berlin Pond.

Sincerely,

**Curtis Trousdale** - Broker/Owner, Realtor

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**From:** [William Moore](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond Petition  
**Date:** Tuesday, June 03, 2014 9:40:46 AM

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Ms. Woods,

Please consider my comments and deny the petitioners requests to restrict access for public uses of Berlin Pond. I am in complete agreement with the position of the Friends of Berlin Pond and agree with others that the petitioners have failed to meet any scientific, ecological, public safety or other points with regards the restrictions demanded by the petitioners. No scientific basis can be found and therefore, under both statute and recent court decisions with which I am sure you are quite familiar, petition must be denied and access managed under ruling statute and rules. The cost of appeals and other regulatory relief should be avoided by your decision and the hard work of managing this resources with public cooperation and assistance should recommence immediately.

I would point you to the several other water supply systems regionally which also provide for and manage successfully the multi-use non-motorized access for recreation, fishing and small boats. It should be specifically in your review to access any and all testing results since 2011 from the City of Montpelier water supply managers and if recent tests are not available, your decision should await proper public records process and that city should make every effort to comply with your requests. Please let me know what if any testing results you have obtained and what the results are by email. It has come to my knowledge that these tests have generally and repeatedly shown no adverse impacts since access was begun.

As with any public resource there will be necessary costs of managing a multi-use environmental resource. These are acceptable (signage, parking, etc.) and, under the statutes of the state of Vermont and recent court decisions should not be seen as a factor leading to denial of access.

We seek your denial of petitioners and specific findings of fact to support any outcome from your office. As members of the Vermont Traditions Coalition we support that groups positions specifically.

Sincerely,

Bill Moore  
Legislative Director & County Organizer  
Vermont Farm Bureau

**From:** [Clint Gray](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 10:03:28 AM

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Dear Ms. Woods:

In 2012 the Vermont Supreme Court ruled the Berlin Pond is in the public trust and recreational use of the pond CAN'T be restricted. With that being said, I support the continued access to Berlin Pond. Please deny the petition filed by the Citizens to Protect Berlin Pond.

Thank you in advance.

Clint Gray  
1111 Wheelock Road  
Sutton, Vermont 05867  
802-535-7111

*Clint Gray,  
Immediate Past-President  
Vermont Federation of Sportsmen's Clubs, Inc.*

*Care Trak Northeast*  
<http://www.caretraknortheast.com/>

**From:** [Frank Stanley](#)  
**To:** [Woods, Laura](#)  
**Subject:** Deny Berlin Pond Petition.  
**Date:** Tuesday, June 03, 2014 10:09:52 AM

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Laura: This is from a friend who does not have e-mail.

Dear Ms. Woods:

Please deny the Petition filed by Citizens to Protect Berlin Pond. Their reasoning in the petition lacks any credible scientific backing. Mayor Hollar and his city staff are spreading lies and fear in an effort to get their way. There is no good reason to kick non-motorizes users off the pond. Montpelier restricted access long enough without cause. They have a beautiful water treatment facility now which was paid for by state and federal grants and since they have daily monitoring it shouldn't be an issue. It's a real shame that we need to be spending time on silly issues like this. We should be spending this time on big water quality issues. Such as updating the Montpelier Sewage Treatment infrastructure so we aren't dumping directly into the Winooski River on a regular basis. Now that's a shame and unnecessary in our day and age.

Bert Saldi

Barre, VT  
Ole Town Construction.  
802-249-5856



**From:** [Sam McCuin](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 10:15:08 AM

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Please be advised that I feel it would be a terrible precedent to establish if access to Berlin Pond was changed from it's historical uses.

Thanks for your consideration to outdoor enthusiast.

Sam McCuin

**From:** [Mary Gray](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 10:24:07 AM

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Dear Ms. Woods:

Please deny the petition filed by the Citizens to Protect Berlin Pond. I have continued to support the access to Berlin Pond especially since in 2012 the Supreme Court already ruled on it.

Thank you in advance.

Mary Gray  
1111 Wheelock Road  
Sutton, Vermont 05867  
802-535-7110

*Mary Gray*

<http://www.caretraknortheast.com/>

**From:** [bashedaker@aol.com](mailto:bashedaker@aol.com)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond: Please preserve for future generations  
**Date:** Tuesday, June 03, 2014 10:46:53 AM

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Ms Woods:

As someone who has lived on "the Pond" for 35 years (and whose property value will increase with recreational access) I urge you to protect this valuable resource on behalf of the residents who depend on it for potable water -- and as a relatively safe sanctuary for the wildlife that was allowed to thrive, essentially unfettered by human encroachment, for the better part of the past century.

The "right" of the people to use, in any manner they see fit, the public waters to which their citizenship and taxes afford them some share of common ownership cannot -- or at least, should not -- override common sense health and safety concerns. Nor should it ignore the equally valid aesthetic need of future generations for wild unfettered places as the pressures of growing population threaten even such a low-population-density state as Vermont.

These concerns have been articulated over and over again those whose concerns extend beyond their own selfish desires for instant gratification and the "traditional use" exploitation of this lowest-hanging plum on the tree of Forbidden Fruit the Pond has become.

As a lifelong hunter and fisherman (I was a founding member of the MadDog Chapter of Trout Unlimited) I encourage and support traditional activities with regard to the State's outdoor resources. The "traditional" activity on the Pond, for the past century, has been no activity. I beseech you to return and preserve this definition of "traditional use" of this small, fragile ecosystem for those to whom we will bequeath it in an ever more populous future.

Thank you.

Budd A. Shedaker  
1466 Brookfield Rd.  
Berlin, VT 05602

802 229-0965  
802 272-3591 (C)

[bashedaker@aol.com](mailto:bashedaker@aol.com)

**From:** [Chris Dodge](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 10:50:55 AM

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Hi Laura,

I am a Berlin resident. I support the use of Berlin Pond for non-motorized recreation like kayaking and canoeing.

Chris Dodge

**From:** [Tom Schmidt](#)  
**To:** [Woods, Laura](#)  
**Subject:** Please Keep Berlin Pond Access Open  
**Date:** Tuesday, June 03, 2014 10:57:25 AM

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Laura,

I'm writing again because Vermont is clearly not served by Citizens to Protect Berlin Pond. CPBP seems toxic to Vermont. Less than solid science, staged photography for dramatic effect and fear tactics are not a winning combo for meaningful, responsible policy.

It's troubling that CPBP could set a broad precedent and try to restrict more bodies of H2O.

As you know, fishing in VT is a very special, family winner. Anglers exhibit some model contribution, model ecological respect and model advocacy.

CPBP has behaved irresponsibly in an attempt to restrict access at Berlin Pond. Shouldn't that end the discussion? Vermont can't afford to reward CPBP's brand of advocacy in any discussion.

Sincerely,

Tom Schmidt  
Westford, VT

**From:** [Deb LaCasse](#)  
**To:** [Woods, Laura](#)  
**Subject:** berlin pond  
**Date:** Tuesday, June 03, 2014 10:58:27 AM

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As an outdoors man I feel Berlin Pond should be open to the public. I was born and raised in Vermont and believe we all should have access to this beautiful place. After reading Nathan Smead's letter in the paper yesterday, I laughed. Wildlife and birds access this body of water and leave behind things worse than "human skin". Are the people against this, that ignorant that they believe birds flying over wait until they hit land to leave their droppings? I am in support of the use of this pond for recreational purposes. Let's put some trust in homeland security to keep terrorists away from Berlin Pond. Thank You for your time. Tony LaCasse, Barre, VT

Sent from my iPad

**From:** [Bonnie S. Holbrook](#)  
**To:** [Woods, Laura](#)  
**Subject:** COMMENT PERIOD ON POND ACCESS  
**Date:** Tuesday, June 03, 2014 11:03:03 AM

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Good morning Ms. Woods,

I would like to comment on the Pond Access for Berlin Pond.

It continues to amaze me that there are citizens in Vermont (and elsewhere) that feel they should have exclusive rights and privileges to OUR resources. The Berlin Pond is not owned by the select few neighbors that want and feel they are owed the exclusive rights to the pond. The Vermont Supreme Court ruled appropriately that Berlin Pond is in the “public trust and recreational use of the pond cannot be restricted”.

The City of Montpelier and the “so-called environmental group” named Citizens to Protect Berlin Pond claim that “the petitioners contend that the drinking water supply is in danger due to toxins released from human contact with the water and a possible increase in turbidity from paddlers. They fear that terrorists will now be able to access the pond and kill the citizens of Montpelier.” SERIOUSLY?? Is it not a fact that more than 200,000 people draw drinking water from Lake Champlain alone? People, towns, cities all over draw water from ponds and lakes that have MOTORIZED recreation and their water is safe. These ponds and lakes also have animals that use the ponds and “do their business” in those waters.

This REAL intention for the this group filing the petition is to restrict the use of a PUBLIC TRUST to just the people that own the land abutting the pond.

I beg you to use common sense and legal judgment to uphold the Vermont Supreme Court’s ruling that Berlin Pond’s recreational use cannot not be restricted.

With respect,  
Bonnie

Bonnie Holbrook  
Resident of Thetford Center, VT  
(VAST Life Member & Orange County Snowmobile Clubs member & officer)  
(802) 777-7456 | [Bonnie.Holbrook@dartmouth.edu](mailto:Bonnie.Holbrook@dartmouth.edu) | PO Box 1, E. Thetford, VT 05043

**From:** [David Pastula](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 11:08:23 AM  
**Importance:** High

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Hi Laura,

I will make this short. I and my family enjoy many forms of outdoor recreation. I will admit that we do not use Berlin Pond .....BUT any attempt to close off public use of public land for the reasons the proponents want it closed seem very unreasonable. I would hope that you look beyond this and keep Berlin Pond open.

thank you,  
David Pastula



**From:** [Doug McSweeney](#)  
**To:** [Woods, Laura](#)  
**Subject:** support continued access to Berlin Pond and to deny the petition brought filed by Citizens to Protect Berlin Pond.  
**Date:** Tuesday, June 03, 2014 11:10:52 AM

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Good Day Laura,

I just wanted to express my desire that you support continued access to Berlin Pond and to deny the petition brought filed by Citizens to Protect Berlin Pond.

Thank you

**Doug McSweeney**  
**Sales Manager**  
**BEST WESTERN PLUS Windjammer Inn & Conference Center**  
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**From:** [Howard Dindo](#)  
**To:** [Woods, Laura](#)  
**Subject:** Laura Woods-Berlin Pond  
**Date:** Tuesday, June 03, 2014 11:48:27 AM

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Hi Laura,

The purpose of my email is to respond to the Berlin Pond issue.

I was Born in Barre and have lived in the Central VT area, all of my life, which is 65 years. I am very familiar with the Berlin Pond area and have been there many times. I have friends and relatives living near Berlin Pond, which I have talked to regarding this issue.

I disagree with the main reason why my friends and relatives residing in that area oppose access to the pond by the Public. From my discussions with them, the main reason provided was to keep the area as it was, picturesque, free of human “interference”. The residents in the area have always had their own “nature park” to enjoy, without the interference of those living outside of the area. Now, they have lost control of their “nature park” and are trying to recapture it. I can see why they oppose the use by the Public of their “private, nature park” but disagree with it. This benefit of having a “private, nature park” may have been one of the main reasons why these residents built or bought a home in that area. Now, the value of that home and/or their desire to live there has been greatly diminished.

If the government rules in favor of the residents of this area to have this area as their own, “private nature park”, then it should be taxed as such, to these residents. That area should be valued at the market level of those using it, as a “private nature park” have put on it, and each of the residents bordering or within sight of it, required to pay property taxes on their “private nature park”. Also, before they are sent a property tax bill on that land, they will have to purchase it at the market price.

Thank you for your consideration.

Please feel free to contact me with any questions.

## Howard Dindo

*Howard Dindo, CLU, ChFC, RIFU*

*Paige and Campbell/Taylor-Palmer*

*297 North Main Street*

*P. O. Box 469*

*Barre, VT 05641*

*802/661.3914 (Direct); 802/476.6631 (Local);*

*800/649.6631 (Toll Free); 802/476.5917 (Fax)*

*[hdindo@paigeandcampbell.com](mailto:hdindo@paigeandcampbell.com)*

**From:** [Thomas Willard](#)  
**To:** [Woods, Laura](#)  
**Cc:** [Markowitz, Deb](#); [Mears, David](#)  
**Subject:** Berlin Pond Use of Public Waters Petition  
**Date:** Tuesday, June 03, 2014 11:51:35 AM

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Dear Laura Woods,

Opportunity and Obligation. That summarizes my thoughts on the Berlin Pond petition now before you. You have the opportunity to protect a capital city water supply, and restore and protect an exceptional natural resource and wildlife refuge that has been protected for almost 100 years. You also have the obligation to carefully consider the science and risks of your decision.

### **OPPORTUNITY**

The Vermont General Assembly rightfully gave the ANR the authority to adopt rules relating to the Use of Public Waters. The Water Resources Board understood the politics but did not have the science knowledge. The Department understands both. This rule making authority should be used very judiciously and must carefully weigh the interest those have in the exploitation of the natural resource for recreation purposes against the science that describes the impact of that proposed recreational use.

The Vermont Supreme Court, the petition to protect the natural resources of Berlin Pond by perpetuating the conditions that have existed for nearly 100 years, the comments from the Montpelier and Berlin Conservation Commissions, and the many other thoughtful comments have given you the opportunity to make a difference.

### **OBLIGATION**

Your obligation is to the statute, the rules that govern Use of Public Waters, and the natural resource. The petition, as well as the comments and research submitted from others such as the Berlin Conservation Commission, carefully outline the reasons why protection of the historic conditions is supported by rule and law. Water supplies, natural resource refuges, and quiet use where residents can observe wildlife in their natural condition are all legitimate uses of public waters, and may even be Existing Uses which are protected by State and Federal laws..

The quiet recreation use of the pond has developed as a very popular use and is enhanced by the access and roads that encircle the Pond, although the roads are almost always well buffered from the Pond. Comments I have heard, including from the Berlin Selectboard, describing noise from the airport or interstate, mistakenly interpret quiet use to mean decibel levels in the watershed rather than observing wildlife in their natural conditions without surface water disturbance from humans.

The literature is full of research that describes the impact of human disturbance on wildlife. This research describes impacts that are especially significant in the wetland areas at the south and north ends of the Pond, especially during fall migration and resting, and spring courting and nesting periods. Literature review of research you have been provided by the Berlin Conservation Commission clearly demonstrate the need for refuge areas, percentage of nest failures when various waterfowl and shorebird species are disturbed, effect of interruption of the courting

process, calories expended when disturbed during fall migration of waterfowl, as well as the need to rest, feed, and prepare for a successful migration.

Berlin Pond wetlands at the north end of the pond are an exceptional continuous linear wetland complex that extends for more than 2600 feet or half a mile. I believe it would be eligible for a Class 1 Wetland designation simply as the most important waterfowl resting and nesting area in the central part of Vermont. The proposed Town and State access area would channel hunters, fishermen, kayakers, and other recreationists back and forth through this wetland complex during the most critical periods in the spring and fall.

I have pictures of hundreds of waterfowl in the fall resting and building their resources for the migration. The research has identified a lack of refuges for this function and for 100 years this refuge functioned as the most important site in the Central Vermont area. Clearly these areas on Berlin Pond should be off limits during the migration, courting, and nesting seasons.

I know you have the email I sent to the Berlin selectboard on May 21 and forwarded to you on May 29 by Doug Hill, and I will not reiterate the importance of this rare quiet recreational opportunity or this refuge function because you have a lot of testimony on the issue and very qualified scientists in the Department. But I would like to say a few words regarding what is not your obligation.

Your obligation is not to satisfy the Vermont Department of Fish and Wildlife. I would argue that the Dept F&W has no greater standing in this matter than the petitioners or those who have submitted comments. The Dept of F&W may have as a principal goal to increase the hunting and fishing opportunities of the licensed sportsman or women, but your obligations are much broader. I greatly respect the men and women in Fish and Wildlife and have many very close friends there, but I raise this issue for the following reasons.

Representatives of the Dept of F&W have been to many of the Berlin Selectboard meetings in the last several months working on a MOU to build an F&W access area on Town land on the north end of the Pond. The selectboard on a 2 to 3 vote have pursued this option. F&W has been very aggressive in attempting to establish an access on Town land in the critical refuge area.

Former Commissioner Berry has appeared at least twice promoting the access. Commissioner Berry, in a response to a comment by a resident that she would not feel safe walking around the pond during waterfowl hunting season if the pond was open and an access area constructed, replied that she could do what he does during whitetail hunting season. He stays out of the woods and does not hunt upland birds at that time, suggesting she not walk in her neighborhood during the waterfowl hunting season. Clearly F&W is an strong advocate for a small part of this complex issue.

It is unfortunate that the Berlin Pond management and use issue has been framed as "us vs. you", "hunter and fisherman vs. non hunter and fisherman", or "watershed resident vs. non resident". You have the opportunity to go beyond this and weigh the science. Personally, I fish, own a camp on a lake, hunt whitetail during rifle, archery, muzzle loading seasons, hunt moose, turkey, and upland birds, own a bird dog, and live on the outlet to the Pond. A realtor friend has advised me that my property would increase in value by \$40,000 if the Pond was open for

surface use. Yet I write these comments because I value the natural resources of the Pond area that I have observed for many years and feel they should be protected. Your opportunity is to get beyond the "us vs them" attitude and evaluate the science and potential threats to this very rare place.

Opportunity and obligation. I hope the Department has the courage to carefully consider the science as well as the recreational enhancements, the historic uses as well as the potential changes.

Sincerely,

Tom Willard

**From:** [Welts, Leslie](#)  
**To:** [Woods, Laura](#)  
**Subject:** FW: Comment on petition regarding Berlin Pond  
**Date:** Tuesday, June 03, 2014 11:56:30 AM

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**From:** Ron Wild [mailto:ronhwmail@gmail.com]  
**Sent:** Tuesday, June 03, 2014 11:52 AM  
**To:** Welts, Leslie  
**Cc:** Warren, Susan; Markowitz, Deb; Mears, David  
**Subject:** Comment on petition regarding Berlin Pond

Dear Attorney Welts,

Regarding the petition to prohibit recreational activity on Berlin Pond, I write to echo Governor Shumlin's observation that in our era of climate change, Vermont has a treasured, and potentially valuable resource in its plentiful clean water. Similarly, Rep. Kitzmiller correctly stated that the one thing that can be said with certainty is that recreation on Berlin Pond will not improve the water's quality.

I ask the Agency of Natural Resources to protect public health - and the public's confidence - by protecting the water in Berlin Pond.

Thank you for your consideration.  
Ron Wild

**From:** [Brad Chenette](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond Access  
**Date:** Tuesday, June 03, 2014 12:12:15 PM

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Dear Ms Wood,

I would like to express my support of continued access to Berlin Pond for recreation, boating and fishing. Our family currently owns land just above the pond (below the interstate) and have for the last 100 years. My father has told us that he, as a young boy use to harvest ice from the pond in the 1930's.

As having a degree in water/wastewater engineering myself, I have heard no scientific reason for restricting current use of the pond due to water quality concerns.

I have heard a very vocal group shouting over the majority of quiet Vermonters that again face a reduction in available land and water to access for recreation.

Brad Chenette  
Property owner in the Town of Berlin  
6 Charleston Green  
South Burlington, VT 05403



**From:** [Therrien, Michelle](#)  
**To:** [Woods, Laura](#)  
**Subject:** berlin pond  
**Date:** Tuesday, June 03, 2014 1:15:23 PM

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I support having an open access point for berlin pond! It is treacherous trying to put my kayak in the water on mirror road and it would be much easier if there was an open access point.

☺Thank you!

*Michelle Therrien*

Healthcare Programs Specialist  
ESD Appeals Unit  
1000 River Road 958-1  
Essex Junction, VT 05452  
(802) 769.6581

Be kind whenever possible. It is always possible.  
Dalai Lama

**From:** [Michael Chenette](#)  
**To:** [Woods, Laura](#)  
**Date:** Tuesday, June 03, 2014 1:32:45 PM

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Laura,

I'm writing you in regards to the Berlin Pond petition requesting fishing and non-motorized use be prohibited. As a life-long Vermonter, property owner in Berlin, and professional engineer, I care deeply about the environment and the condition of our lakes and ponds. I know that the group that made the petition has concerns about the pond as a water supply source, but I have not seen any scientific evidence and I don't believe that continued limited use of the pond for such activities as fishing and non-motorized boats has any significant impact on its quality. The watershed of the pond already includes potential sources of contamination such as roads, properties with septic systems and farming operations. So in my opinion, there is minimal additional impacts from the types of recreational activities on the pond we are talking about.

To summarize, I strongly support the continued use of the pond for fishing and non-motorized boating.

Sincerely,

Michael Chenette  
7 Autumn Court  
Jericho, VT 05465

**From:** [kb1nbj@comcast.net](mailto:kb1nbj@comcast.net)  
**To:** [Markowitz, Deb](#)  
**Cc:** [Woods, Laura](#)  
**Subject:** Berlin Pond Comments  
**Date:** Tuesday, June 03, 2014 1:53:30 PM

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Ture Nelson  
Berlin, VT  
(802) 476-6371  
[kb1nbj@comcast.net](mailto:kb1nbj@comcast.net)

Dear Secretary Markowitz:

I am writing in opposition to the Citizens to Protect Berlin Pond's petition to ban all recreational use of the Berlin Pond.

Let me introduce myself, I am the chair of the Berlin Select Board and in the past two years have spent considerable time around the Berlin Pond. I work in the City of Montpelier and I live in the Berlin Fire District #1 so I receive my drinking water from the Berlin Pond both at home and at work. I am not a fisherman, canoeist or kayaker.

I have to admit when the Supreme Court ruling was issued I thought the worst of the situation. But then I started spending a lot of time going around the pond both on foot and on bicycle and quickly discovered that the concerns about the pond were greatly over exaggerated. The complaints of beer cans and dirty diapers just did not pan out (In fact if anyone did see a dirty diaper it was more likely from the walkers with baby strollers going around the pond, and not a sportsman in a canoe). The Berlin Pond is just as beautiful, safe and pristine today as before the Supreme Court ruling.

The petitioner and several of the comments in support of the petition mention Vermont Statute and Agency rules in support of banning access. However, the Department of Environmental Conservation (DEC) must also consider Article 67 of the Constitution of the State of Vermont which says:

“§ 67. [HUNTING; FOWLING AND FISHING]

The inhabitants of this State shall have liberty in seasonable times, to hunt and fowl on the lands they hold, and on other lands not inclosed, and in like manner to fish in all boatable and other waters (not private property) under proper regulations, to be made and provided by the General Assembly.”

The petitioner presents two broad arguments for granting their petition (protection of Montpelier's water supply, and protection of the wetlands/wildlife). Both of these arguments are without merit.

### **Montpelier's Water Supply:**

The petitioners allege that the City of Montpelier's water supply is at risk from accidental or intentional contamination of their water supply because of human use. Currently only non-motorized use of the pond is permitted (canoes and kayaks etc). In fact, the access point being considered by the Department of Fish and Wildlife and the Town of Berlin, will still only provide access for non-motorized use. There is no proposal to allow any motorized use

of the pond, and any mention otherwise is simply false.

Those in favor of the petition have cited cloudy or smelly water. This would be due to the century old (and leaking) water mains used by the City, and not by use of the Berlin Pond and the cloudy water is not seen system wide.

The petition mentions turbidity of the water, any turbidity would be caused by spring runoff and heavy rain and not from human activity any more than the geese landing on the water.

The petitioners specifically mentions Central Vermont Medical Center's water supply being at risk. Once Berlin's water system is operational (approximately summer 2015) this already limited threat will be gone. The town has approached CVMC with the opportunity to connect to this system.

The petition cites the threat for terrorism as a reason to grant this petition. Recreational use of the pond does not provide any opportunity for terrorism. Terrorists would more likely introduce a contaminant from any of the roads surrounding the pond, and in fact would most likely do so at night. In addition, the sportsmen's presence on the pond would prevent a terrorist attack as they would provide eyes and ears to authorities on suspicious activity.

### **Wetlands/Wildlife:**

Berlin Pond is entirely circled by town roads (Brookfield Road, Mirror Lake Road and Paine Turnpike South). In addition, I-89 runs just feet from the North end of the pond. There are houses and farms (with active septic systems) along the land between these roads and the water. In addition, the Berlin Pond is popular with walkers/joggers including dog walkers and baby strollers. There is a parking area at the North end of the pond for these activities; the sportsmen do not use this parking area. This parking area is regularly polluted with food wrappers and water bottles. The sportsmen park along Mirror Lake Road along what is called the south end of the pond (it really isn't because the pond extends to the south for a considerable distance). I have spent considerable time during the past three summers canvassing this area looking for trash. There is simply very little, if any, trash in the area currently used by the sportsmen. While still beautiful, and full of wildlife, the pond is not (and has never been) pristine, and "untouched" by humans.

There are two major areas of wetlands that are currently untouched by humans, and will continue to be untouched if this petition is denied. These areas are north of Brookfield Road, and south of Mirror Lake road, extending all the way to Williamstown. Neither of these areas is conducive to recreational use, and no use is occurring in these areas.

### **Other concerns raised in the petition:**

Number of other areas for recreation within a close radius to Berlin Pond. The petitioners and those in favor of the petition repeatedly state how many other bodies of water there are in close proximity to the Berlin Pond as a reason to approve this petition. However, this alone does not provide any justification to close the Berlin Pond to recreational use. In fact, some if not many of these other bodies may be more beneficial to protect from human use as they do not have an interstate highway, and roads completely surrounding the water.

### "Town of Berlin Residents:

The noticeable increase in vehicle traffic from boaters, anglers, and hunters will increase the cost of road maintenance, police protection, emergency preparedness, and trash cleanup.

AND

People seeking Passive Recreation:

Increased traffic, the road being narrowed in places due to parking, and groups of anglers, boaters and hunters periodically on the road threatens the safety of all runners, walkers and cyclists, but especially small children, and people alone.”

Both of these issues are outside of the jurisdiction of the DEC, but are the responsibility of the Town of Berlin and should not be considered by the DEC. The Town of Berlin has explored these issues, and has determined they are without merit. Specifically, the town has determined that there is no need to restrict parking along Mirror Lake Road (south end of the pond).

Bottom line, this is not a matter where recreation is more important than drinking water or the environment, both sides can and do co-exist. The limited recreational use of the Berlin Pond, which currently exists, does not present a danger to the City of Montpelier’s water supply, or to the environment and the petition must be denied.

Thank you for the opportunity to weigh in on this issue.

Ture Nelson

**From:** [Emily Seifert](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond protection petition  
**Date:** Tuesday, June 03, 2014 2:19:50 PM

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Dear Ms. Woods,

Please accept these comments in favor of the petition filed by the Citizens to Protect Berlin Pond.

I am in full support of the Citizens' petition. I believe that as Montpelier's sole source of drinking water, Berlin Pond must receive the highest level of protection from pollution. Allowing use of internal combustion motors on Berlin Pond will surely lead to reduced water quality and introductions of non-native invasive plants. I am also concerned that recreational access to Berlin Pond will have an adverse impact on the habitat for rare & threatened species that live there.

Many, many other bodies of water in Washington County (and beyond) are available for recreational activities; Berlin Pond does not need to be one of them. Human access to natural areas inevitable degrades them over time. Let's avoid any further degradation at Berlin Pond, and instead focus on keeping the water clean and the plants, animals and natural communities intact & undisturbed.

Returning Berlin Pond to full protection would be the best use of this body of water, and would have the greatest benefit to the people of the State of Vermont. Clean water is an absolute necessity for each and every person.

I hope that the ANR will take a proactive, forward-thinking approach to this issue, and will return Berlin Pond to full protection. Clean water is one of our State's most valuable resources, and must be carefully protected. Please pass the full petition submitted by Citizens to Protect Berlin Pond, and help ensure that Montpelier & Berlin residents and visitors have clean, untainted drinking water.

Thank you for considering my comments.  
Emily G. Seifert  
12 Greenfield Terrace  
Montpelier, Vermont 05602  
[egsgardens@gmail.com](mailto:egsgardens@gmail.com)

**From:** [ronlafreniere@outdrs.net](mailto:ronlafreniere@outdrs.net)  
**To:** [Woods, Laura](#)  
**Date:** Tuesday, June 03, 2014 2:23:31 PM

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Hello Laura,

I would like to go on record of supporting continued access to Berlin Pond for non motorized recreational purposes .

I do not live in town but have been on the pond in a kayak and enjoyed my time there and believe others deserve the opportunity as well .

Thank you  
Ronald Lafreniere  
Bolton Vermont

**From:** [Carole Welch](#)  
**To:** [Woods, Laura](#)  
**Cc:** [Mears, David](#); [Markowitz, Deb](#)  
**Subject:** Berlin Pond protection  
**Date:** Tuesday, June 03, 2014 3:18:00 PM

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I'm writing to urge ANR to do all it can to protect our drinking water supply. We don't need any more chlorine in our water to make it safe, as there is already too much. Really, there is something amiss when the default use for a public resource is recreation instead of drinking water protection. There are so many water recreation opportunities in this area, it seems very shortsighted to continue allowing them on, and in, this Pond.

Thank you for your thoughtful consideration of this issue.

Carole Welch  
22 Valerie Ave.  
Montpelier, VT 05602  
802.229.0698  
802.917.2533 (cell)  
[carole.welch@myfairpoint.net](mailto:carole.welch@myfairpoint.net)



**From:** [Keith Boucher](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 3:20:40 PM

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I am opposed to the petition to stop the access.

Keith Boucher

**From:** [Jed Guertin](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 3:24:15 PM

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First, I'm in favor of the petition submitted by the Citizens to Protect Berlin Pond and feel that the pond should be closed to public recreation.

In May 2012, the Supreme Court stated Montpelier lacked the legal authority to keep the pond closed, and that the authority and responsibility for all aspects of management of the pond resided with ANR. They also acknowledged that ANR had the ability to confer management responsibility for the pond to Montpelier given that it was Montpelier's sole drinking water source and the pond had been fairly untouched by the public for over 130 years.

It also recognized that there was a legitimate conflict of purpose between the issue of the public's access to the pond and the need for clean water for the city of Montpelier.

I did a search of the web and ANR's site looking for information on the decisions and decision-making process ANR used to decide to open the pond. So far all I've found is a Jan 2013 document from Patrick Berry of Fish and Wildlife, saying the pond was open under test waters issues. The only other piece of information I've been able to find is another notice from Berry that the pond was being over fished and the perch limit was being reduced by 500% (50 to 10), after only eight months of fishing.

I have found no information regarding any study by ANR of the increased potential for pollution of the pond from different levels of activity. None. This suggests that you didn't perform the due diligence required by the Supreme Court decision to evaluate all aspects of opening the pond. In fact, it suggests that you did nothing other than check the impact of fishing on the pond's fish population.

Can you (a) point me to the documents that relate to ANR's decision to open the pond to public use after the Supreme Court decision, and (b) provide any documentation on discussions concerning the pond from any ANR departments and divisions.

The reasons I oppose the opening of the pond are found in the petition itself. It has been well researched. However, the fact that there has been no documentation available from ANR suggests a clear bias toward recreation without regard for water quality. And a clearly political bent and lack of professionalism within the Agency, starting with the Agency Secretary.

Jed Guertin

Montpelier

**From:** [Chris Temple](#)  
**To:** [Woods, Laura](#)  
**Subject:** Support for public access to Berlin Pond  
**Date:** Tuesday, June 03, 2014 3:32:33 PM

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I support public access to Berlin Pond. I hope that you deny the petition filed by Citizens to Protect Berlin Pond.

Christopher J. Temple, P.E.  
DeWolfe Engineering Associates, Inc.  
81 River Street  
P.O. Box 1576  
Montpelier, VT 05601-1576  
802-223-4727 x307(Main Office)  
**802-613-3004 (direct)**  
802-249-2801(cell)  
802-223-4740 (Fax)  
[chris.temple@dirtsteel.com](mailto:chris.temple@dirtsteel.com)

**FOR FASTEST RESPONSE PLEASE USE MY DIRECT LINE. THIS LINE AUTOMATICALLY FORWARDS TO MY MAIN OFFICE LINE, MY CELL PHONE, AND EMAIL.**

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**From:** [Peter L. Esperance](#)  
**To:** [Woods, Laura](#)  
**Subject:** pond issue  
**Date:** Tuesday, June 03, 2014 3:38:49 PM

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i was born and raised here, i've seen a lot of areas closed off since i was a kid please keep berlin pond accesable.

**From:** [Larry Russ](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 3:58:04 PM

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Dear Laura, My name is Larry Russ of 2565 Goshen Rd, Bradford,VT and I support continued access to Berlin Pond and to deny the petition brought filed by Citizens to Protect Berlin Pond.

**From:** [Pam Parshall](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond access  
**Date:** Tuesday, June 03, 2014 4:01:11 PM

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Dear Ms. Woods,

Please don't let the ravings of a small vocal minority to deny the right of the public to access to the pond. There are plenty of other ponds, reservoirs, and lakes in this state supplying drinking water without any detrimental effects from non-motorized vehicles. There is no truly valid reason to deny access now, especially since the last couple of years of access to the Berlin Pond has shown no detrimental effects, including the successful nesting last year of loons, which were not bothered by the kayakers on the pond.

Thank you,  
Pam Parshall  
Underhill

Letter to ANR

To Laura Woods: for testimony in support of the CTPBP Petition for Rule Change on Berlin Pond.

When I was a boy, one of my favorite summer things to do was to go to any pond or stream I could get transportation to, and fish. The thrill of finding a pond that perhaps had not been “discovered” was at the very top of my excitement chart and I can still feel the tingle in my spine as I made a first cast into such a place.

In recent years my wife and I have enjoyed many a summer day paddling a canoe on Vermont's many lakes and ponds and, like in my boyhood fishing, discovering a new place in which to put the canoe is always cause for excitement.

When I first saw Berlin Pond it was, of course, fully protected with no possibility of water contact. But as I looked out over the pond, with its expanse of clear, smooth water and untouched shoreline, it seemed like it fairly begged to have a canoe put on it, and maybe a line dropped in. It is not difficult to understand why sportspeople want to keep the current access open.

But Berlin Pond is the water source supply for the city of Montpelier. And no body of surface water has, once exposed to human contact, continued un-degraded. It's a significant reason that the availability of safe drinking water world wide is in such crisis right now. At best, if there is no petroleum spill, and no malicious sabotage of the source, Montpelier's filtration facility will eventually, perhaps sooner, perhaps later, increase the disinfectant added to the water, resulting in an increase in various by-products at the tap.

Here's the thing about chlorine – the current disinfectant now added at the filtration facility. It's toxic. It has to be. If it weren't toxic it wouldn't do the job we put it there for. Adding human contact adds more turbidity and more human-induced bacteria – much nastier to humans than the bacteria from the fauna in contact with the pond – and results in more disinfectant and more toxins that we ingest. It doesn't comfort me much that the EPA puts figures on how much of any toxin is considered “safe”. Chlorine is a deadly poison. That's why we use it. It does cause cancer. So why put more of it in the water than we already do?

The next step, Chloramine, is in many ways worse, as tiny amounts of it on exposed skin cause, in not an insignificant percentage of people, unsightly and painful rashes.

Then we have to look at the invasive species issue. It is inevitable that any watercraft on

the pond will spread the already existing Eurasian Milfoil changing the ecology of the pond and water quality for the worse. Watercraft will also introduce Zebra Mussels which will eventually make the intake pipe inoperative. Not a question of if, but when. These are only two of many invasives possibilities. Here's the thing about invasives. Once they're present, they're almost impossible to eradicate. Ever.

And none of the above talks about petroleum spills (undetectable at the treatment facility) and the ease of contamination by persons of malicious intent.

Berlin Pond is a beautiful place in which to fish & boat. But it is clear to me that, in an age of a rapidly diminishing availability of clean drinking water, the right of the users of Berlin Pond tap water has to trump the right of individuals like me to have contact with its water. There are many other beautiful places to fish and boat. My wife and I have discovered quite a few over the years.

The uses of a protected Berlin Pond: as a water source supply, a wildlife refuge, a place for unique, quiet, no-contact recreation, are all legitimate uses that are in accordance with ANR rules. Because of the unique circumstances and history of Berlin Pond, the ANR, using its own rules can, once and for all, protect Vermont's capital city's water supply source, and provide Montpelier & Berlin citizens and businesses with the cleanest possible water, now and for the foreseeable future. The State of Vermont will stand as a national leader in standing up for clean water, arguably the most important resource we have.

I urge you, in the strongest possible way, to pass in full the Citizens To Protect Berlin Pond Petition now before you.

In 2014 the alternative makes no sense.

Paul Perley  
Berlin



**From:** [pperleycellos@aol.com](mailto:pperleycellos@aol.com)  
**To:** [Woods, Laura](#)  
**Subject:** Fwd: Fish & Wildlife  
**Date:** Tuesday, June 03, 2014 4:24:03 PM

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Laura

Could you please add this to the Citizen's testimony for the CTPBP petition so that it will be included as public record?

Thank you  
Melissa Perley

-----Original Message-----

From: Melissa Perley <mpperley@aol.com>  
To: pperleycellos <pperleycellos@aol.com>  
Sent: Tue, Jun 3, 2014 4:22 pm  
Subject: Fwd: Fish & Wildlife

Hi Melissa-

I just read in my packet of materials that F&W will not be proceeding with the MOU for the moment. Here's part of what Mike Wichrowski sent to Jeff on May 23:

I just had a meeting with our new commissioner yesterday and he asked that we hold off on signing the MOA. HOWEVER, we will hold to our commitment of paying for 50% (up to \$6,000) for the surveying and deed research. Please do not take this as any sort of back tracking or reconsideration on the Department's end. We are still committed to providing public access to the pond. Management is simply trying to take a cautious approach given sensitive nature of this issue.

Just thought you'd like to know.

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Please note that any response to this message may be considered a public record according to Vermont's Public Records Law.

**From:** [hcmc.tds.net](mailto:hcmc.tds.net)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond Access  
**Date:** Tuesday, June 03, 2014 4:28:00 PM

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Hi Laura,

Please accept this email as my testament in favor of access to Berlin pond for non-motorized recreation to remain in effect!

As the Montpelier Drinking Water Treatment Plant is a surface water treatment facility the non-motorized recreational use of the pond has very little if any impact on the drinking water.

The City of Montpelier's Drinking Water's source protection area encompasses Paine Turnpike south, Brookfield Rd, Mirror Lake Rd, and I-89 which carry a larger threat to the pond than the recreational paddler. According the public database, Drinking Water Watch, the City of Montpelier has not had a single MCL exceedance since access to the pond was opened two years ago, but they did before access was granted, not to mention several boil water ordinances in the early 2000's!

Given that most of the communities in Chittenden County including Burlington, Colchester, Milton, Essex, and Williston drink Lake Champlain treated surface water and they do not have MCL violations, I am confident that keeping Berlin Pond open for non-motorized recreation will not affect the finished treated drinking water for the city of Montpelier.

The comments from the "Citizens" suggesting that allowing kayaking and fishing on the pond will provide access to "evil-doers" to poison the water is absurd to say the least, but more an outlandish attempt to scare the public into blocking access to the pond by making manic assumptions not based on scientific data. If an "evil-doer" wanted to poison the water it could have been easily done in the past nearly 100 years that the pond has been used as a drinking water source without ever stepping foot in the water.

Support the Town of Berlin's decision to keep access to Berlin Pond Open!

Heather Collins  
Resident  
Berlin VT.

**From:** [jefflynn](#)  
**To:** [Woods, Laura](#)  
**Subject:** In Support Of Petition To Protect Berlin Pond  
**Date:** Tuesday, June 03, 2014 4:46:33 PM

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Laura Woods,

I am writing in support of the petition submitted by the Citizens To Protect Berlin Pond, which would reinstate the protections that were in place on Berlin Pond prior to the May 2012 Vermont Supreme Court ruling.

Having read and listen to the debate about allowing recreational use of the pond I have heard the question asked “Why should we close the pond?”

That is the wrong question. The real question to be asked here is “Why should we open the pond?”

There is no compelling reason to open the pond to even limited recreational use, especially given its unique status as a very small source of drinking water for thousands of Vermonters.

The only reason I can glean from opponents of the petition who want to open Berlin Pond is that they want another place to recreate. As has been pointed out, there is not a NEED for another pond to be open for even limited recreational use.

Recreational use of the pond will not improve the water quality. In the long run it will only degrade it, whether in the form of pollutants or more introduced invasive species or other causes. Any degradation can put at risk the drinking water thousands of people depend on.

Under a risk-benefit analysis, even a slight risk of grave harm militates against allowing that risk, where the benefits of the risky behavior are small in relation to the gravity of the risk. If Montpelier’s water supply is harmed, the consequences would be very grave indeed. It would cost millions to remedy the situation, millions we would not need to spend if we simply prevent the risk of harm in the first place. The benefits of the risk are de minimus; recreational water users have many, many alternatives already available to them. I know this first-hand; I am an avid kayaker, but I will not kayak on Berlin Pond.

I am a Montpelier resident who believes that opening the pond to recreational use is too great a risk to take with our water supply.

I would hope that the people within ANR realize that this is a very important decision

to make and that you rule in favor of protection and to show all Vermonters that the agency cares about their health.

Thank you  
Jeff Schumann

**From:** [Lawrence Pyne](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond petition  
**Date:** Tuesday, June 03, 2014 4:49:30 PM

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Ms. Woods,

We are writing to express our opposition to the petition presented by Citizens to Protect Berlin Pond. The Agency of Natural Resources is, and should be, encouraging more Vermonters to get outdoors and commune with nature, and this petition runs completely contrary that worthwhile goal.

The Vermont Supreme Court has affirmed that Berlin Pond is a public water and the public has the right to use public waters subject only to reasonable regulations. Having had the pleasure of paddling and fishing on Berlin Pond several times since 2012, we fail to see how non-motorized recreation on the pond is a threat to anything or anyone. The other pond users we have encountered have been respectful of the resource and every bit as appreciative of the pond as we are. We have never seen anyone paddling on the pond toss or dump anything into it other than released fish. As the for the trash alongside the roads closely surrounding Berlin Pond, it is (sadly) no different than what you would find on virtually any road in Vermont. That's because it's being tossed out of car windows, not canoes and kayaks.

While Berlin Pond is special, in large because it has abundant wildlife and a healthy fishery (albeit mostly non-native species), neither it nor its watershed is pristine or unique. It has milfoil and is surrounded by homes with septic systems, and it is only a long cast from a busy interstate highway. We hope that the Dept. of Environmental Conservation uses sound science, backed by substantial evidence, in making its decision, and it keeps in mind that the bar should be very high because an adverse decision to pond users would impact the constitutional right of Vermonters boat and fish on a public water. If the pond is to be taken from the public and given to the City of Montpelier, it should be done by the General Assembly.

And once this petition is dismissed, we hope that the Dept. of Fish and Wildlife then builds an appropriate, low-impact car-top boat access with a port-a-potty, which would go a long way toward alleviating the overblown concerns of the petitioners.

Sincerely,

Lawrence and Stephenie Pyne

Cornwall, VT

**From:** [Eric Nuse](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 5:09:54 PM

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Dear Laura,

I'd like to register my support for continued access by non-motorized boats for recreation and fishing on Berlin Pond. As a former Game Warden and current board member of the Friends of Green River Reservoir I am very familiar with many of the issues. It is clear to me that the public benefit of access far outweighs the potential problems. Many of the dire warnings brought up in the petition to close access verge on ridiculous.

The public trust doctrine as it applies to public waters is a very important and long standing precept with many state and federal Supreme Court rulings upholding it. Closing Berlin pond would set a very bad precedent and would undoubtedly not hold up in court.

Thanks for hearing me out.

Sincerely,

Eric

--

Eric C. Nuse  
657 Maple Hill Rd  
Johnson, VT 05656  
Office: 802-730-8111  
cell: 802-881-8502

[Back Country Hunters and Anglers](#)

[Fair Chase Hunting Blog](#)

[Orion-The Hunters' Institute](#)

A society or culture is ultimately measured not by what it develops or consumes, but rather by what it has nurtured and preserved.

Jim Posewitz

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**From:** [AsteriskVT@aol.com](mailto:AsteriskVT@aol.com)  
**To:** [Woods, Laura](#)  
**Subject:** Deny Berlin Pond Petitions  
**Date:** Tuesday, June 03, 2014 5:19:09 PM

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By now you've heard all the arguments. My OPPOSITION to these petitions is based on the following:

- The Supreme Court decision confirmed Berlin Pond as a public body of water.
- All Vermont citizens have a legal right to access to public waters; including the rights of "Hunting; Fowling and Fishing", as copied below from the Vermont Constitution.
- The wants of a well-organized interest group should not prevail over public rights.
- If either petition is successful, doesn't that open up all bodies of water to petitioning from any number of special interest groups?
- Any arguments that this body of water is special, requiring an exception to Vermont's regulations, because it is a drinking water supply overlook the fact that drinking water supplies all over America are open for recreational use.
- Any arguments that this body of water is special, requiring an exception to Vermont's regulations, because it is "pristine" are ludicrous. It is bounded on one side by an Interstate highway, and ringed by a trafficked road frequented by walkers, joggers, cyclists, dog-walkers, etc.
- Arguments of increased pollution from increased use are not backed up by scientific evidence.

I have faith that the Agency of Natural Resources relies on scientific evidence and best practices to regulate the use of public waters, and that it will not be swayed by special interest groups, even though those groups might be from Montpelier, and include "dignitaries".

--Leslie Sanborn  
Barre Town  
476-8399 (days)

**General Provisions of the Vermont Constitution: § 67. [HUNTING; FOWLING AND FISHING]**

The inhabitants of this State shall have liberty in seasonable times, to hunt and fowl on the lands they hold, and on other lands not inclosed, and in like manner to fish in all boatable and other waters (not private property) under proper regulations, to be made and provided by the General Assembly.

**From:** [Trevor Whipple](#)  
**To:** [Woods, Laura](#)  
**Subject:** Petition filed by Citizens to Protect Berlin Pond  
**Date:** Tuesday, June 03, 2014 5:49:31 PM

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June 2, 2014

Ms. Laura Woods  
1 National Life Drive, Main 2  
Montpelier, VT 05620-3522

Dear Ms. Wood:

This letter is written in support of the petition filed by Citizen's to Protect Berlin Pond.

The mission statement of the Agency of Natural Resources indicates, in part, a mission of building upon Vermonters' shared ethic of responsibility for our natural environment. Opening Berlin Pond to active recreation is nothing short of irresponsible. Already Fish and Wildlife has realized, after the fact, that special regulations are necessary to protect the pond. The pond was open to active recreation as of March 11, 2012. On June 15, 2012, just one month after opening F&W placed a catch and release regulation on bass fishing. On January 17, 2013 Fish and Wildlife placed a 10 fish limit on perch coming from the pond. The pond was opened without any study or analysis of what impact use would have on the ecosystem, water quality or wildlife. It seems odd that to change the use of land in our state one is required to undergo extensive permitting and review process yet to open a pond for active recreation after being closed for more than 100 years requires no studies, review, thought or planning at all.

Some who have spoken on this issue use majority opinion as a reason to keep the pond open. I challenge one to look at the definition of majority. On November 6, 2012 voters of Berlin were asked to vote on the question "Should the Town of Berlin allow public access to the Town owned land along Berlin Pond for recreational use?" Of the 1,883 registered voters 1,272 voted with 793 voting in favor and 441 against. By my calculation it was 42% of the registered voters who were in favor of this question, hardly an overwhelming majority. One should also look to the balance of those who spoke at the public hearing and of those who submitted written comment to see what the citizens of Vermont desire.

I also offer a reminder from the Supreme Court decision where the justices said "Our opinion today does not hold that recreational use of Berlin Pond must be permitted. We conclude only that valid regulation would require action by the State-either by direct regulation or by delegating such power to the City-and this has not yet occurred."(Paragraph 2, page 2) To me it seems clear that the Supreme Court was offering a clear path to protecting Berlin Pond.

When I travel around our country I am often drawn to preserved areas because of their natural beauty. Berlin Pond held this allure. It was natural, undisturbed and a haven for wildlife to flourish in a true natural habitat and a source of high quality drinking water for our residents of our state capital. Thousands of citizens and visitors come to the pond each year to walk, bike, hike, run and enjoy the quite beauty through passive recreation. The numbers of people who continue to enjoy the passive recreation far outweigh those who seek active on pond recreation.

I hope that the Department of Environmental Conservation sees the value in conserving Berlin Pond as the pristine beauty it is. Be true to your mission statement and "be responsible stewards for this and future generations."

Trevor Whipple  
Berlin, VT



**From:** [Ben Eastwood](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 5:55:39 PM

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As a conservation Commissioner in Montpelier, I find it incredible that we even have to debate whether or not to preserve and protect our water supply. Please protect Berlin pond, by adopting the petition submitted by the citizens to protect Berlin pond, and prevent all recreational access to this environmental treasure, and crucial piece of infrastructure for our capital city.

Thank you,  
Ben Eastwood, Montpelier, Vt

**From:** [David Laskey](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond  
**Date:** Tuesday, June 03, 2014 6:22:11 PM

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Thank you for the time and effort you have put into this situation  
On that note I would like to say I am in favor of keeping these waters open to the public for recreational use . I can't see how non motorized vessels on this impoundment could be a threat when all water from natural sources are treated before they are sent to the public. As we all know the beavers that inhabit Berlin pond pose a bigger threat to water quality than canoeing. So is it in the best interest to the public to shut down these waters I think not.  
So I am in favor of keeping it open for all to enjoy. Thanks again for your time

Sent from my iPad . Dave

**From:** [JLowery115](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond  
**Date:** Tuesday, June 03, 2014 7:03:09 PM

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Yes to keeping it open

Sent from my iPhone

**From:** [Robert Patterson](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 8:42:53 PM

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I support continued access to Berlin Pond. I drive by it daily and what a waste not to be used by fishing boaters. Thanks....

**From:** [vtbuckrulr@aol.com](mailto:vtbuckrulr@aol.com)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 8:54:21 PM

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Hello, I would like to say that I support the court's decision to allow people who do not live on Berlin Pond the right to boat, fish and any other type of recreation currently allowed upon its waters. Pat Rayta

**From:** [Erik Swanson](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 8:55:20 PM

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I oppose the petition to close access to Berlin Pond for common recreational activities.

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Erik Swanson

**From:** [jeremy ballantine](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond access  
**Date:** Tuesday, June 03, 2014 8:55:24 PM

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I think ALL Vermonters should have access to all kinds of recreation on the pond!

Sent from my iPhone

**From:** [Liz Mason](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond access  
**Date:** Tuesday, June 03, 2014 8:56:35 PM

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To whom it may concern,

I oppose the petition to close the pond to fishing, paddling, and other recreation. I support continued access to Berlin Pond for all Vermonters. Thank you.

Liz Monteith  
Hyde Park, VT  
(802)888-9492



**From:** [Jeff Royce](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 9:10:28 PM

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Please refrain from the petition to make the Berlin Pond unacceptable for public use. While a safe water supply is important, I believe that other options should be explored.

Thank you,  
-Jeff Royce

**From:** [Goodwin, Walter](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond  
**Date:** Tuesday, June 03, 2014 9:20:22 PM

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I oppose the petition to close the pond to fishing, paddling, and other recreation. I support continued access to this resource for all.

Walt Goodwin

**From:** [loveis2b1](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond  
**Date:** Tuesday, June 03, 2014 9:21:02 PM

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Laura,  
I am opposed to the petition to close Berlin Pond to fishing, paddling, and other recreational activities.  
I support continued access to this resource for all.  
It is not private property and should not be treated as such.  
Love and Gratitude,  
Alicia

Sent from my Verizon Wireless 4G LTE Smartphone.

**From:** [DodgerElvis@aol.com](mailto:DodgerElvis@aol.com)  
**To:** [Woods, Laura](#)  
**Subject:** Friends of Berlin Pond"s  
**Date:** Tuesday, June 03, 2014 9:33:39 PM

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**PLEASE LEAVE BRTLIN POND OPEN FOR FISHING, BOATING AND  
OTHER RECREATION  
THANK YOU**

**From:** [Cruickshank, Andy](#)  
**To:** [Woods, Laura](#)  
**Subject:** please keep Berlin Pond open  
**Date:** Tuesday, June 03, 2014 9:53:03 PM

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I'm very much opposed to the closing of Berlin pond to recreational use.. It is a place I can bring my kids that is close for my commute. The fishing is great and just a all around great place. I waited many years for it to open and now that it has, we have cherished every moment we have been on it. The city of Montpelier now has a treatment facility to purify the water coming out of it. But the many times I have been on the pond people are respecting the waters and cleaning up after themselves.. My vote is to keep it open!

Sent from my iPhone

**From:** [Metalpackr@aol.com](mailto:Metalpackr@aol.com)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond Viewpoint  
**Date:** Tuesday, June 03, 2014 10:19:21 PM

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To whom it may concern:

I am worried about the situation regarding the proposal prohibiting recreational use of any kind in Berlin Pond.

I'm an avid recreational fisherman and consider myself to be strong believer in the Conservation of "our" natural resources. Our is in quotations because the use of the pond should be allowed for the entire public, not just some close-minded individuals.

I realize the drinking water issue is an area for concern, but I believe without an in-depth scientific study and reliable results, the current prohibition of motorboats is adequate at this time. (I don't see how electric motors need to be included within it, but it's not nearly as significant as the current proposal).

To eliminate all recreational use is completely absurd. All government agencies whether local, state or federal, want the public to take the full opportunity of the natural world, responsibly, of course. Vermont specifically, in my opinion, is a good example of the ability to experience the outdoor for all. Fishermen, birding enthusiasts, and paddlers would all lose a special place.

In regards to the government's position on encouraging the public to experience the outdoors, closing this popular water body is an enormous mistake. In the event that ANR agrees to close Berlin Pond to all recreational opportunities, it would impact more people who the media, ANR/F&W, and conservation groups don't know about.

I am quite curious to know why the Department of Fish & Wildlife increases the fees for its licenses, specifically fishing licenses when the accessibility for locations keeps reducing? I understand the reasoning for the fee increase and support it but I would hope that

the agencies ANR/F&W would look for a compromise not the drastic measure that is up for consideration.

I hope that the board/committee members assess all opinions and factors before the decision and consequences of that result.

Thank you for the opportunity to express my views on this topic.

Jeffrey K. LaPorte  
Hardwick, VT

Sent from Windows Mail

**From:** [LARRY PERRY](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin Pond  
**Date:** Tuesday, June 03, 2014 10:26:24 PM

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**I would like to see access to Berlin Pond remain open to the public. I think just canoeing and kayaking only would do no harm to the quality of the water. I do believe it should be closed to ice fishing how ever. I have done my share of ice fishing in the past and have seen what can be left on the ice after ice fishing. It's takes just a small percentage to make it look bad for many. Most people are concerned about picking up after them selves but there's always that small percentage. I think it would be a great opportunity for photographers on the pond in a canoe with a camera..**

**Larry Perry Berlin resident..**



**From:** [Frank Stanley](#)  
**To:** [Woods, Laura](#)  
**Subject:** I urge DEC to deny the petitions filed by Citizens to Protect Berlin Pond  
**Date:** Tuesday, June 03, 2014 10:57:16 PM

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The Vermont Department of Environmental Conservation  
Attn: Laura Woods

Hello Ms. Woods

I urge DEC to deny the petitions filed by Citizens to Protect Berlin Pond.

In 2011 the Vermont Supreme Court ruled that Berlin Pond is in the public trust and recreational use of the pond cannot be restricted by municipal ordinance. Title 24, section 2995 also sets similar obligations on municipalities. Since that time, limited use (fishing, canoeing and kayaking) of the pond has occurred.

More than half of Vermonter's receive their drinking water from our lakes, ponds and rivers and there is no scientific evidence that recreational use poses public health risks. Although Montpelier has a fourteen million dollar, state of the art water treatment facility, the petitioners contend that the drinking water supply is in danger due to toxins released from human contact with the water and a possible increase in turbidity from paddlers. They have brought up concerns that an increase in road traffic has put walkers and bikers at risk, (especially those that are alone), and that the anglers and paddlers have caught all the perch, have been littering the roadsides, throwing soiled diapers in the pond and running over geese and their goslings. They worry of the increase in road maintenance of the public highway that circles the pond. These claims are all based on anecdotal evidence of those who are lobbying for a ban on all access. One frequent visitor of the pond contends he watched a woman walking the roadside gathering trash, make a small pile, take a picture and walk away leaving the trash behind. Likely...in my mind that picture was used in the petition. I fished the Winooski River all day on Sunday not catching a single trout. One might contend there are no trout left, another may contend that I am not an effective angler, another might say they just weren't biting.

Concerning water quality in general, I find it interesting to say the least that those opposing fishing and kayaking at the drinking supply level should have such little disregard for the drinking supply of others. Montpelier on average has a raw sewage discharge every few months. About a year ago over a long weekend Montpelier dumped 400,000 gallons of untreated sewage into the Winooski River before it was discovered. One would think these self-acclaimed environmentalists and city officials would make improvements to their failing infrastructure to help protect the environment and human health downstream. Apparently their social values are lacking. After researching it I am unaware of any steps the city has taken to make sure their system is not compromised again and again.

The petitioners claim that now that the pond is open to recreational access there is an increased risk of a terrorist attack on the water supply. According to the Office of Homeland Security, the 2010 report called [The Potential Terrorist Risk of Drinking Water Contamination](http://publicintelligence.net/the-potential-terrorist-risk-of-drinking-water-contamination/) terrorists would likely use the distribution system and not the raw water supply to launch a terrorist attack. According to the report, backflow contamination requires fewer resources and can be instigated at access points such as fire hydrants and most types of residential and commercial connections. The claim that there is a higher probability of a terrorist attack because the pond is

legally open to non-motorized recreation is not supported by the report.

The claim that anglers or canoers and kayakers will displace waterfowl, shy bird species and the “endangered” common loons is also unfounded. The petitioners neglect to accurately reflect that the common loon was taken off the endangered species almost ten years ago, since the loon recovery program was a major success thanks to the support and financial assistance by Vermont’s sporting and conservation communities. The loon population rebounded from 7 nesting pairs in 1983 to 81 nesting pairs in 2013. The 2013 report from The Vermont Center for Eco-Studies, which oversees the loon recovery program, attributes the success of the loon to the relatively few nest failures due to human disturbance and the number of successful nest near camps and on busy lakes and ponds. Today for the first time since 1992 loons have nested successfully on Berlin Pond. Other species of waterfowl thrive in the presence of humans including herons, ducks and geese to the point that they cause human health threats mainly by spiking e-coli and other bacteria levels during the warmer months of the year.

The Berlin Pond Watershed Conservation Plan states that even land based wildlife observation is a threat to water quality.

The opinion of the petitioners that people should not need to recreate on Berlin Pond because there are other nearby ponds to recreate on is nothing more than an opinion or preference per say. If ANR was to apply this opinion statewide we wouldn’t have many lakes, ponds, or rivers to recreate on. 200,000 people draw drinking water from Lake Champlain alone. Hundreds of thousands of Vermonter’s and those who visit are afforded drinkable water and access to a variety of recreational pursuits on dozens of water bodies that act as water supplies.

The petitioners also claim that Zebra Mussels and other invasive species to move in quickly. Milfoil is already established in the pond and rather than taking a proactive approach such as hand removing the invasive species, which has been successfully done on numerous ponds, there hasn’t been any remediation to stop it from spreading. Zebra mussels entered Lake Champlain in 1993 and later spread to Lake Bomoseen (which is a short distance away) in 1998 long before an education program on the invasive species was launched. No other waterways have been affected since then. Like a terrorist attack the likelihood of the Zebra mussel hitchhiking to Berlin Pond is slim and should not be considered a reasonable argument.

The Petitioners claim that since the Orange Reservoir was opened to fishing in 1994 that there have been issues with trespass, trash and campfires. The 2013 Bare Town Consumer Confidence Report shows there were no deficiencies to the quality of the drinking water.  
<http://www.barretown.org/PDFfiles/publication/2013waterreport.pdf>

The petitioners also attempt to compare Berlin Pond to the Wachusett Reservoir in Massachusetts. This reservoir is the water supply for over two million people and is within a short distance to another million people. It’s only twelve times the size of Berlin Pond which serves 2,000 people and hosts a few vessels a day at best. This argument bears the “comparing apples to oranges” label on so many levels. I am surprised the petitioners did not use a reservoir in China in an attempt to make their point.

According to the Public Trust Doctrine the DEC has an obligation to manage Vermont’s lakes and ponds in a manner which preserves and protects a healthy environment, guarantees the right to hunt, fish, boat and swim and enjoy other recreational opportunities, providing the greatest benefit to all the people of the state. During the last election the residents of Berlin overwhelmingly supported access.

The mission of the ANR is to draw from and build upon Vermonters' shared ethic of responsibility for our natural environment, an ethic that encompasses a sense of place, community and quality of life, and understanding that we are an integral part of the environment and that we must all be responsible stewards for this and future generations. Prohibiting participation is not consistent with

this mission.

The mission of DEC is to preserve, enhance, restore, and conserve Vermont's natural resources, and protect human health for the benefit of this and future generations. This being said the extensive Vermont Surface Water Management Strategy does not mention angling and non-motorized use as a possible threat to the environment or public health.

The mission of the Fish and Wildlife department is the conservation of fish, wildlife and plants and their habitats for the people of Vermont. The Department supports access. Many of the conserved lands (including 547 acres surrounding Berlin Pond) that act to protect drinking water supplies have been purchased through funding by the department. These funds come from hunting and fishing license sales and federal excise taxes on hunting and fishing equipment. No other user group contributes to conservations efforts in this manner.

Very few of Vermonter's live here for the big paychecks and low taxes. We choose to live here for the quality of life, which for the vast majority of us encompasses the enjoyment of the great outdoors and the responsibilities that come with that enjoyment. If we were to put aside the flawed science of this petition and only looked at the social and community values that are up for consideration, I am confident the petition would be denied as well. There is no doubt in my mind that the water quality will continue to be protected in the presence of Vermont's outdoor enthusiasts. Should for some reason Berlin Pond react differently to non-motorized recreational use then dozens of other ponds restrictions should be considered once there is evidence of degradation.

I urge the committee reviewing this petition to deny the petition and allow normal, reasonable use of Berlin Pond to continue.

Thank you, for your consideration

Frank Stanley

Vermont Traditions Coalition  
127 Sports Club Dr. #123  
Bolton, VT 05477

**From:** [Jon Marshall](#)  
**To:** [Woods, Laura](#)  
**Subject:** Berlin pond  
**Date:** Tuesday, June 03, 2014 11:19:06 PM

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Hello, I am emailing in support of continued public use of Berlin pond. I am an avid kayaker and I must say that Berlin's beauty is surpassed by none. It is my favorite place to kayak. I also support fishing from the pond. I am not opposed to restricting motorized boats with the exception of trolling motors. Thank you for the consideration on this matter and taking the time to hear all opinions.

Jon Marshall.

Sent from AOL Mobile Mail

**From:** [Welts, Leslie](#)  
**To:** [Woods, Laura](#)  
**Subject:** FW: Berlin Pond Protection  
**Date:** Wednesday, June 04, 2014 7:30:26 AM

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**From:** June Bascom [mailto:june.bascom@gmail.com]  
**Sent:** Tuesday, June 03, 2014 8:24 PM  
**To:** Markowitz, Deb  
**Cc:** Welts, Leslie; Michael Hoffman  
**Subject:** Berlin Pond Protection

Dear Secretary Markowitz,

We are long time citizens and home owners in Montpelier and are writing you with our concerns about the threat to Berlin Pond. The proposed elimination of the restrictions currently in place preventing recreational use on the pond is frightening. As you well know, Berlin Pond is the drinking water supply for Montpelier and part of Berlin. Montpelier is renowned for the quality of its drinking water. It is extremely short sighted to consider putting that valuable resource at risk. It would be a shame if having clean water was taken for granted and not protected as the rare resource that it is.

It may seem silly to compare Montpelier to New York City, but NYC continues to tout some of the cleanest, safest, best-tasting water of any city in the world. One reason is because the reservoirs in Westchester County that are part of the watershed that feeds the city have been protected for so many generations. But that only happened because of long range planning and a strong, dedicated commitment to that plan.

Please do the same for our water supply and think long term.  
Thank you.

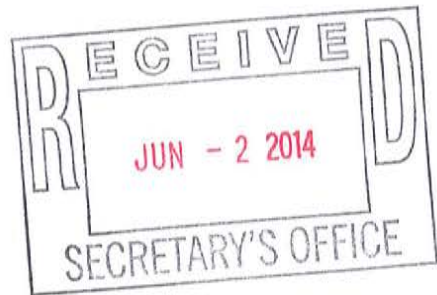
Sincerely,

June E. Bascom  
Michael C. Hoffman

11 Sabin Street  
Montpelier, VT 05602  
802-229-4221

5/30/14

Deborah L. Markowitz, Sec.  
Agency of Natural Resources  
1 National Life Drive, Davis 2  
Montpelier, VT 05620-3901



Dear Secretary Markowitz,

I wish to be counted as one of the many who would like to keep people off from Berlin Pond for any kind of activity. <sup>It</sup> is one of the few chances we have left to keep something beautiful and unique.

I am 88 years old and have seen so many awful things done to our land, our beautiful planet, and our "home".

We have clear-cut so many mountains and hills; we have drained large and essential swamps; we have disturbed our important aquifers, and trampled fragile areas. We have not learned our lessons because we are still eroding our mountains with god-sent wind towers which disturb great areas of the environment. The final word is not in, as to whether these are even paying for themselves.

So, please, add my name to the list of those allowing Berlin Pond to be as beautiful as it is, even if only for the novelty and for a treasure for our grandchildren!!

Thank you.

Yours sincerely,  
Joyce Bean  
460 Barnes Rd.  
Montpelier, VT  
05602

To: Laura Woods  
Department of Environmental Conservation  
Montpelier, Vt. 05602



Dear Ms. Woods,

My name is Tom Slayton and I live in Montpelier, Vt. I attended the May 27, 2014 hearing on Berlin Pond, but did not speak. Please accept my written comments for consideration in formulating your decision regarding the petition from Citizens to Protect Berlin Pond to close the waters of the pond to public recreation.

I am in favor of the petition, and have signed it. Berlin Pond should be closed to all recreational activity, as it has been for the past century. I believe that opening the pond to paddlecraft, fishing, etc. was a mistake, and am concerned that the presence of human activity on the pond will seriously degrade the quality of Montpelier's drinking water.

I felt the comments of those who wish to keep the pond open for boating, fishing and so forth were selfish and misguided. Their primary argument seemed to be that the pond is already compromised, therefore they should be allowed to degrade it further. This is clearly fallacious, and completely disregards the safety of the people of Montpelier and Berlin (including Central Vermont Hospital) who use the pond's water.

It is hard for me to believe that recreational activity would be allowed on the public water supply for more than 8,000 citizens of the State of Vermont. As I'm sure the scientists of the Department of Environmental Conservation are well aware, human activity will inevitably degrade water quality in any body of water, especially a shallow, slow-recharge body of water such as Berlin Pond. Montpelier residents have depended upon the purity of this water supply for more than 100 years. It must be protected now.

Montpelier's water filtration/purification plant was designed with the assumption that no human activity was or would be allowed on Berlin Pond. Increased human activity will likely result in a need for increased chlorination and possibly an upgrade to the plant, which will be costly for the City of Montpelier to pay for. Montpelier already has one of the highest tax rates in the state.

I am sure you will have much testimony from experts on the dangers of allowing recreational activity on public water supplies, which I will not attempt to repeat here. It is

worth noting that both the Montpelier Conservation Commission and Berlin Conservation Commission have advised that the pond NOT be open to recreational activities.

The pond is also an important natural area and has state-protected wetlands on both its north and south ends. In its undisturbed state, it was a unique natural resource. There are more than 30 lakes and ponds within a half-hour's drive of Montpelier-Barre that allow fishing, boating, swimming, etc. Why can't one pond be left in its natural, undisturbed state?

The current controversy has arisen because two groups are contending for use of a valuable public resource: the waters of Berlin Pond. Surely maintaining healthy drinking water for the 8,000 citizens of Montpelier is more important than catering to the desires of a handful of paddlers and fishermen who have more than 30 other alternatives within easy driving distance for their sport.

Please do the right thing: ban all recreational activity on Berlin Pond.

Respectfully Submitted

Thomas K. Slayton

43 Terrace Street

Montpelier, Vt. 05602

*Tom Slayton*  
*May 30, 2014*



5-29-14

Dear Secretary, A. N. R.,

Vermont authorities are always proud of being the first in the U. S. to pass a law, or make a ruling or you name it!

Maybe the A. N. R. can be the first in the U. S. to rule in favor of fishermen's rights of recreation over the health of a city!

Shame, shame!

J. Richardson  
Montpelier, Vt.

Just a note...

96 Cedar Dr.  
Barre, VT 05641  
May 29, 2014

Deborah L. Markowitz, Secretary  
Agency of Natural Resources  
1 National Life Drive, Divis 2  
Montpelier, VT 05602-3901

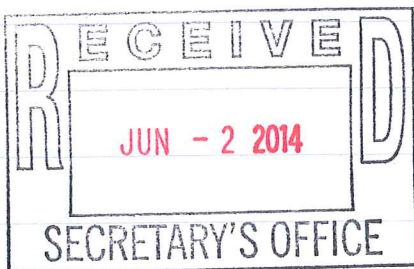
Re: Berlin Pond

Dear Mr. Markowitz,

As a Berlin resident on the  
Montpelier water system, I would like  
to go on record as favoring the petition  
to protect Berlin Pond from recreational  
use. Thank you.

Very truly yours,

Sona Lopez  
Berlin, VT



May 30, 014

To Whom This May Concern,  
I am a resident of Montpelier  
and I attended the meeting  
last evening on the Berlin Food  
Issue.

As a Cancer Survivor I am  
deeply concerned about our water  
with Chlorine being added to  
kill the bacteria, which is  
a carcinogen, please me  
with more anxiety.



Marjorie O'Leary's speech  
and how she emphasized  
that she needs pure  
drinking water, I too have  
reached an age I would  
like to keep our water  
pure and have few more  
years to my life.

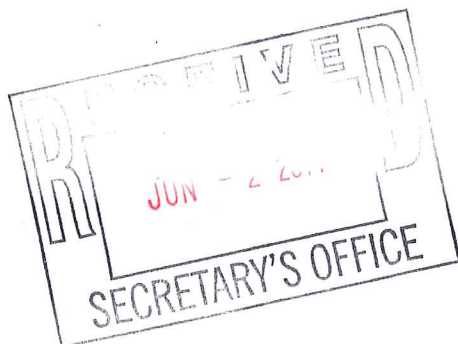
Thank you for taking  
the time to read my letter  
for the Agency of Natural  
Resources

(over)



Resource will give this  
a great amount of consideration.

A very Concerned Resident  
Barbara J. Arley  
Email barbara.arley@  
comcast.net  
or tel. 225-6007



17 Roberts Street  
Montpelier, VT 05602  
May 29, 2014

Deborah L. Markowitz  
Agency of Natural Resources  
1 National Life Drive  
Davis 2  
Montpelier, VT 05620-3901



Dear Secretary Markowitz,

We are in favor of Berlin Pond returning to its recreation-free status. There are many other lovely small ponds or lakes where one can paddle and watch wildlife - all within a short distance from Berlin.

We have been residents of Montpelier for 42 years, but spend time at Lake Carmi in northern Vermont; since the 1960's, we have watched the weeds take over our beautiful lake. The lake is infested with the highly invasive Eurasian Watermilfoil plant. We know that it propagates by small pieces that are broken off, settle to the bottom of the lake and grow more of the invasive plants.

Over the years, we have seen motorboats, personal water craft (jet skis), canoes, and kayaks all being taken out of the lake and loaded onto trailers, roof tops, and truck beds without any effort to check for any bits of Eurasian Watermilfoil that might be clinging to those watercraft and then transported to another body of water. It seems

that there is no effective way to monitor and control everyone's behavior when it comes to cleaning their boats and preventing the transportation of invasive plants — perhaps without knowing they are doing it!

this is our concern for Berlin Pond. Boaters might introduce Eurasian Watermilfoil into that wonderful piece of nature

Thank you for reading and considering our comments.

Sincerely,

Anita Rogers  
Guy Rogers

Michael Sherman  
20 College Street  
Montpelier, Vermont 05602



May 15, 2015

Deb Markowitz, Secretary  
Agency of Natural Resources  
1 National Life Drive, Davis 2  
Montpelier, Vermont 05620-3901

Dear Secretary Markowitz,

I am writing to support a petition submitted to your agency by the Citizens to Protect Berlin Pond to restrict access and recreational use of Berlin Pond.

For over a century, Berlin Pond has served as the source for safe drinking water for Montpelier and for some large institutions, most notably Central Vermont Hospital. The City of Montpelier has invested heavily in upgrading its water filtration plant to serve this essential need. In addition, the Berlin Pond is an unspoiled wildlife refuge that attracts a wide variety of forest birds and waterfowl for migration, breeding, and nesting. It has been designated an Important Bird Area by the Audubon Society—one of only seventeen such areas in Vermont.

It is important to preserve both the integrity of the water supply and the habitat that fosters the rich biodiversity associated with Berlin Pond. Opening the pond to human recreation, hunting, fishing, and boating will undoubtedly have an adverse affect on the pond's water quality and its suitability, not to mention safety, for wildlife.

I recently received a notice that the Vermont Dept. of Environmental Conservation is recruiting Boat Access Greeters to help stop the spread of aquatic invasive species. The notice reported that "During inspections performed in 2013, a total of 315 boats were intercepted with aquatic plant material or animals. Of those intercepts, Eurasian watermilfoil was removed from 253 boats. This highly invasive species is a threat to the ecological, recreational, and economic health of our lakes and ponds." This notice points to one of the major threats to Berlin Pond. And although the Watershed Management Division website reports that Zebra Mussels, first reported in Lake Champlain in 1988, and found in Lake Bomoseen in 1998, have not been found in any other Vermont lake or pond, I note that the website was last updated in June 2004. This potential threat to Berlin Pond and to Montpelier's water filtration system is another reason to restrict access to the pond.

Finally, but in some ways equally important, Berlin Pond is a quiet place, a place apart from the rush and noise of even our relatively calm environment in Central Vermont. Walkers, runners, and bicycle riders go there from surrounding communities to exercise their bodies and find renewal in the calm enjoyment of nature. We need to preserve that, too.

I hope your agency will act to preserve these special and important qualities of Berlin Pond by restricting access to the waters of Berlin Pond, at the very least by prohibiting motorized craft and making the pond a "quiet lake", but preferably, by honoring the more than a century-old practice of prohibiting all human access to and recreational use of the waters of the pond.

Yours truly,

A handwritten signature in black ink that reads "Michael Sherman". The signature is written in a cursive style with a large, prominent "M" and "S".

Michael Sherman





TOWN OF BERLIN, VERMONT  
Washington County

Selectboard:

Ture Nelson, Chair  
Roberta Haskin, Vice Chair  
Jeremy Hansen, Secretary  
Brad Towne  
Pete Kelly

Town Administrator  
Jeff Schulz

Municipal Office Building  
108 Shed Road  
Berlin, Vermont 05602  
Telephone: 802.223.4405  
Fax Number: 802.223.4404  
E-Mail: [jschulz@berlinvt.org](mailto:jschulz@berlinvt.org)  
Web Page: [www.berlinvt.org](http://www.berlinvt.org)

May 27, 2014

Deb Markowitz, Secretary  
Vermont Agency of Natural Resources  
1 National Life Drive, Main 2  
Montpelier, VT 05602-3522



Re: Petition for Adoption of Rule Change to Prohibit Recreational Use of the Surface Water of Berlin Pond

Dear Secretary Markowitz:

This letter is in response to the Citizens to Protect Berlin Pond's petition for Adoption of Rule Change to Prohibit Recreational Use of the Surface Water of Berlin Pond, and to urge the Department of Environmental Conservation not to amend the rules as outlined in the petition. The Berlin Select Board voted on May 5, 2014 to oppose the petition.

Since the Vermont Supreme Court's ruling regarding Berlin Pond, which had the effect of opening the pond to fishing, canoeing and other recreational uses, the Town of Berlin has held numerous public hearings and debate over whether to allow public access for recreational use of the Berlin Pond through town owned land. Throughout these meetings the Select Board listened to testimony from many different groups and individuals, including: the City of Montpelier, Berlin Conservation Commission, Berlin residents, neighborhood groups, fishing and hunting groups and others. In response to those comments, the Select Board held a town wide vote on the issue of access to the Pond, and the Berlin voters voted 793 to 441 in support of allowing public access to the Pond for recreational use on Town owned land.

Further, based upon public comment, and personal observations, the Board concluded that the currently allowed recreational uses (swimming, kayaking, and fishing) have less

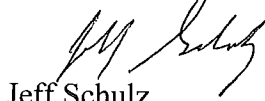
of an impact on water quality, and on fish and wildlife habitats than the other uses directly adjacent to and in the general area of the Pond. These include three public roads, an interstate highway, a watershed of over 10 sq. miles, and an airport flight path.

In addition, over the past two years, the Town has not witnessed any negative impacts on the Pond or the surrounding land from the recreational activities discussed in the petition. In fact, Loons successfully nested on the pond in 2013, the first time in many years. The Berlin Pond is as beautiful and safe today as it was before the Supreme Court ruling.

The concerns in the petition about the City of Montpelier's drinking water supply are unfounded. In fact it is normal to allow limited recreational use of public water supplies of the type allowed today on the Pond. These low impact activities of fishing and kayaking do not provide the opportunity for contamination of the pond. In addition, the petitioners specifically mention the vulnerability of Central Vermont Medical Center. These concerns are also overstated as CVMC will likely be able to hook on to Berlin's new water system within the next year. Also, the City of Montpelier recently conducted an underwater inspection of the pond and did not find much underwater trash in the pond.

In conclusion, the Board reiterates that they strongly feel that the low impact recreational uses currently allowed on Berlin Pond should continue, as use of the Pond is not negatively impacting water quality or fish and wildlife habitats.

On Behalf of the Select Board,



Jeff Schulz  
Berlin Town Administrator

Cc: Leslie Welts  
Kathy Hartshorn  
Robert Wernicke