

STATE OF VERMONT
WATER RESOURCES BOARD

Appeal of Lake Morey Protective
Association In re: Management
of Lakes and Ponds Permit #87-12
Reconstruction of Lake Morey
Fishing Access Ramp
Lake Morey, Fairlee, Vermont

29 V.S.A. §406
Findings of Fact;
Conclusions of Law
and Order

INTRODUCTION

Following a public hearing held on July 29, 1987 the hearing referee on August 5, 1987 issued preliminary findings of fact. All parties received copies of the preliminary findings and were given an opportunity to file exceptions or requests with regard to the referee's preliminary findings. No such filings were made by the August 31, 1987 deadline.

On the basis of its record in this proceeding, the Water Resources Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Water Resources Board adopts in their entirety the preliminary findings of fact regarding this proceeding issued by its hearing referee on August 5, 1987.
2. The Water Resources Board concludes that the replacement and enlargement of an existing boat ramp at the Lake Morey fishing access area will not adversely affect the public good within the meaning of 29 V.S.A. §405(b).

ORDER

On the basis of the above findings of fact and conclusions of law, the Water Resources Board hereby denies the appeal of the Lake Morey Protective Association. Management of Lakes and Ponds Permit #87-12 is hereby affirmed as issued on May 12, 1987 except that condition #4 is modified to read as follows:

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4. No construction below the mean water level is allowed during the period between October 1, 1987 and June 1, 1988. The permittee shall complete the approved construction by October 1, 1988.

Done this 30th day of September, 1987, at Waterbury,
Vermont.

Vermont Water Resources Board


Catharine B. Rachlin, Chairman

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**State of Vermont
Water Resources Board,**

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29 V.S.A. §406
Preliminary Findings of
Fact

Introduction

On May 12, 1987, the Department of Water Resources and Environmental Engineering issued Management of Lakes and Ponds Permit #87-12 to the Department of Fish and Wildlife authorizing the replacement and enlargement of an existing boat ramp at the Lake Morey fishing access area located in the Town of Fairlee. This decision was appealed under 29 V.S.A §406 to the Water Resources Board by the Lake Morey Protective Association, Incorporated on June 4, 1987. A public hearing regarding this appeal was conducted at Fairlee, Vermont on July 29, 1987 by a hearing referee appointed by the Vermont Water Resources Board.

The following were given party status in this proceeding:

- (A) Agency of Natural Resources
- (B) Lake Morey Protective Association
- (C) Town of Fairlee
- (D) Kenneth LaClair
- (E) Doreen Gardner
- (F) James Redmund

During the course of the hearing the, following documents were entered into the record:

- Exhibit #1 A site plan drawing entitled "Lake Morey Access-Title and Quantity Sheet - Boat Launch" sheet 1 of 3 prepared by the Facilities Division of the Agency of Environmental Conservation dated April 1987.

- Exhibit #2 A drawing showing construction details entitled "Lake Morey Access-Ramp and Slab Details-Boat Launch" sheet 2 of 3 prepared by the Facilities Division, Agency of Environmental Conservation dated April 1987.

- Exhibit #3** A **drawing** showing the proposed construction in profile and **cross** section entitled "Lake Morey Access-Profile, and Cross Section Boat Launch" sheet 3 of 3 prepared by the Facilities Division, **Agency of Environmental Conservation**.
- Exhibit #4** An undated letter addressed to "Dear Lake Residents" from Holly **Crosson**, Aquatic Biologist **of the** Department of Water Resources and Environmental Engineering concerning the nuisance aquatic plant Eurasian milfoil'.
- Exhibit #5** A letter dated **July 26, 1987** from **Bill Breetz** (former president of the Lake Morey Protective Association) to Will Chapman (a Selectman in the Town of Fairlee).
- Exhibit #6** A drawing prepared by X.A. **LaClair** dated May 6, 1961 entitled "Plan of Land of Reginald Cramer to William **Eppy.**"
- Exhibit #7** A copy of pages 566 and 567 of a publication entitled "Surveying by Davis and Foote."

Preliminary Findings of Fact

1. Lake Morey Protective Association (**Association**) indicated' that as shown by **Exhibit #5**, the **matters at** issue in this proceeding are limited to the impact of the proposed reconstruction of the boat ramp. on recreational and public uses including fishing and swimming and on aquatic vegetation by **facilitating** the launching of an increased number of boats and boats of **a larger** size than have customarily used the access area. With regard to the affect of the proposed reconstruction o.f the boat launch on aquatic vegetation, the Association's concerns are limited to the increased potential for introduction of **Eurasian milfoil** into Lake Morey via boats or trailers using the access area.
2. Lake Morey, with **a surface** area of approximately 536 acres, is the largest body of water in Orange County and therefore is a significant public resource for water based recreation in the area. The Fish and Wildlife Department actively **manages the fishery of the** lake for sport fishing.
3. The existing boat launch ramp was designed in the 1950's and consists of two parallel rows of concrete slabs or "logs." Each "log" is 12 **feet long** and approximately 18 inches in width. The existing ramp extends from the ordinary high water level of Lake Morey 10 or 12 feet into the Lake itself. The lake bottom **in** the area of the ramp is a compact **gravel-like** surface which would support the **weight**

of boat trailers and vehicles. The access drive between the parking area and the boat launch ramp is configured in such a way that boaters have to pull down the access **drive** pulling "head first" into the turn around area and then backing onto the boat launch ramp. This configuration, the turning radius at the turn around area and the **skill of** the driver in backing the boat trailer determines the size of boats which can be launched at the access area.

4. The Fish and Wildlife Department relies on Vermont's share of special federal tax revenues to develop and maintain access areas throughout the state. For many years prior to 1986 the source of these funds **was** a tax on fishing tackle and equipment. During this period the Vermont Fish and Game **Board**, in response to Federal requirements related to the allocation of these tax revenues, adopted a regulation prohibiting the use of **such** access areas for any use other **than the** launching of boats used for purposes of fishing.
5. This regulation did not, in fact, **result** in limiting the use of the access area on Lake Morey to the launching of boats for the purpose of fishing. However, it may have served to **reduce** the use of this area as a **boat launch** facility for other types of recreational purposes.
6. In 1986, the Federal **tax** which the Department of Fish and Wildlife relies upon for funding the maintenance of the access areas was expanded to cover purchases of boats and marine fuel. In response to this change in federal tax policy, the Vermont Fish and Game Board has amended its previous regulation to allow the use of existing access areas to launch boats for general recreational purposes, while retaining their use for fishing access as a **first** priority.
7. The Department of Fish **and Wildlife** has experienced reoccurring maintenance problems with the existing **Lake Morey boat launch ramp**. The concrete "logs" are regularly heaved by wave and frost action which creates gaps between logs themselves. Subsequent wave action washes the gravel out from between the "logs" creating a "pot hole-like" type affect. The tires of vehicles and trailers using the boat launch often get caught in the "pot hole-like" gaps.
8. **The reconstruction of the** boat launch ramp proposed by the Fish and Wildlife Department is limited to a work area which is 44 feet wide and, starting a point above the ordinary high water level, extending 26 feet into the lake as shown on Exhibit #1. Construction is scheduled to commence after

Labor Day and will be supervised by a State Engineer. During construction the work area **will be** surrounded by a silt screen fence to protect water quality. Clean crushed stone will be placed as a base throughout the work area.

The proposed new boat launch ramp will consist of **two** pre-cast concrete pads which together will cover an area 28 feet **in width** and 26 feet in depth (i.e. **extending toward and into** the lake).


1. Other than the reconstruction of the boat launch ramp as described in Preliminary Finding #8 above, the Department of Fish and Wildlife proposes no change to the existing access area. There will be no change in existing parking capacity, the access drive or the turn around area. All property owned by the Department of Fish and Wildlife at this location **is** already developed to its maximum capacity.
0. The Lake Morey Protection Association does not object to the reconstruction of **the existing** boat launch ramp, but does object to the design proposed by the Department of Fish and Wildlife. The Association feels that the proposed design will encourage and facilitate the launching of a larger number of boats and boats of a larger size to the detriment of existing recreational and public uses of the Lake for recreational boating, fishing and swimming.
 1. There has been a trend in recent years toward increasing boating activity on the Lake partially on weekends. Some of this **increased** boating activity can **be attributed** to shoreline property owners, but some is attributable to boats launched at the access area. The change in the Fish and Game Board regulation allowing the access to be used as a general purpose recreational boat launch will increase the number of **boats on** Lake Morey.
 2. The proposed boat launch ramp is four feet wider than the existing ramp when **all..** the concrete **"logs"** at the existing ramp are perfectly aligned. **However,** when these **"logs"** have been moved by wave and ice action, their actual, width approximates that of the proposed ramp.
 3. **The Lake Morey Protective Association** is also concerned **that** the proposed ramp, by facilitating the use of the access area by an increased number of vessels, will increase the potential for **Lake Morey** to become infested by Eurasian **milfoil and** on that basis **seeks to** require the Department of Fish and Wildlife to provide a washing facility **so** that prior to launching **users of** the access area can wash their boats.

4. Eurasian milfoil can be removed from boats and trailers as efficiently by hand as it can by a washing. Such a washing facility **could itself** become a source of infestation of Eurasian milfoil and would create a further maintenance problem for the Department of Fish and Wildlife.
5. The Agency of Natural Resources has an ongoing program to educate boaters **and** lake associations about how to prevent the spread Eurasian milfoil and believe that this is the most efficient means of controlling this problem.

Opportunity for Parties to File Exceptions or Requests

The above preliminary findings of fact are issued in accordance with 10 V.S.A. §905 by the referee appointed by the Vermont Water Resources Board. All parties in interest to this proceeding as identified above have the opportunity to file exception or requests to these findings. In order to be considered by the Water Resources Board any such exceptions or requests must be postmarked or received at this office on or before August 31, 1987. Any questions and all correspondence regarding this matter should be addressed to the Vermont Water Resources Board, State Office Building, Montpelier, Vermont 05602 (telephone 802-828-2871).

Done this 5th day of August, 1987 at Montpelier, Vermont.



William A. Bartlett
Hearing Referee

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