

LAKES MANAGEMENT ADVISORY COMMITTEE
NH Lakes Management and Protection Program



New Hampshire Department of Environmental Services
29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
phone: 603-271-2959 fax: 603-271-7894
e-mail: jacquie.colburn@des.nh.gov



MEETING MINUTES
March 18, 2011
DES Conference Room
9:00 a.m. – 12:00 p.m.

Members present:

Diane Hanley, Chair
Wendell Berry, Vice Chair
Jennifer Czysz
Mark Gallagher
Jim Haney, Ph.D.
Mark Hemmerlein
Don Kent, Ph D.
Jeff King
Eric Orff
Dick Smith
Bill Carpenter

Representing:

NH Assn. of Conservation Commissions
NH Business and Industry Assn
Director Rep, Office of Energy & Planning
Commissioner Rep, DOS
Scientific Community, UNH
Commissioner Rep., DOT
State Conservation Committee
Exec. Dir. Rep, F & G
Fish & Game Commission
Fishing Interests
Commissioner Rep. DRED

Term:

August 22, 2013
July 8, 2013
Indefinite
Indefinite
August 22, 2013
Indefinite
August 1, 2012
Indefinite
August 22, 2012
November 17, 2013
Indefinite

Members not present:

Fred Murphy	Planning Boards	August 1, 2011
Phil O'Brien, Ph.D.	NH Lakes Association	August 1, 2012
Jim Morash	Tourism Industry	August 1, 2013
Dennis Pavlicek	Municipal Officials	August 1, 2011
Bo Quackenbos	NH Association of Realtors	June 27, 2011
Larry Sunderland	Conservation Interests	September 19, 2010
Ken P. Wilson	NH Marine Dealers Association	August 22, 2011
David Rousseau/Robert Wolfe	Commissioner, Dept. of Agr., Markets & Food	Indefinite

Staff Present

Jacquie Colburn Lakes Coordinator, Watershed Management Bureau (WMB)
Amy Smagula Exotic Species Coordinator (WMB)

Guests:

Opening

Chairman Hanley called the meeting to order at 9:03 a.m. with introductions and welcomed all those present.

Introduction and Committee Business

1. Minutes

January 7, 2011 minutes were reviewed. Chairman Hanley noted the correction to the name of one of the guests. Mark Gallagher was present for the meeting.

No quorum, will vote on in May.

February 4, 2011 minutes were reviewed.

No quorum, will vote on in May.

2. Committee Membership Update

Jacquie reported that four committee members are up for reappointment this summer –Bo Quackenbos, representing realtors, Fred Murphy – municipal planning boards, Dennis Pavlicek – municipal officials, and Ken Wilson – Marine Trades Association. Ken is going to resign prior to his term expiration; however, the Marine Trades Association may nominate John Irwin to take his place.

The four organizations that need to nominate a conservation interests representative have nominated Harry Vogel, Executive Director of the Loon Preservation Committee and have submitted his name to G & C.

The NH Lakes Association has submitted a letter to G & C nominating David Packard to fill Phil O'Brien's place.

3. Committee Business – Membership Updates

Mark Hemmerlein, DOT: I-93 Construction - With the recent large snow melts and rains there are 2 flocculent operations going on Exit 3. One is on Canobie Lake, no discharge is allowed into the lake (b/c it is a drinking water supply) so it is being pumped to Cobbett's Pond. The second operation is up where the Dunkin Donuts used to be located. They are using tank mixing and settling operations with flocculants being added there. EPA wants passive system use of flocculants, using soil stabilizers, small settling basins, and set ponds. Mark explained what the flocculating agent is and what DOT is doing with the sediment.

After listening to Jody Connor's presentation in January regarding the management of exotics species by the state agencies, Fred Murphy suggested that the LMAC write a letter to Commissioner Burack expressing its concerns. Jacquie suggested that the LMAC wait until after the multi-agency exotics species meeting (in late January) to see what progress is made before writing the letter.

Amy Smagula, DES: Exotics – Amy gave an update as to the issues relative to exotics and the interagency mediation meeting that was held. First she updated the January LMAC minutes – 60 waterbodies have long-term management plans of the 76 infested waterbodies. For a plan to be successful a waterbody has to have a good solid connection locally such as an association; and many are in the first 5 years of their plans. Plans need to be detailed but not over done. She said that it takes about a week with the template to develop a plan (basically to gather field data, process it, develop maps, gather data) and they are updated from year-to-year with data. Jim Haney asked to have them go through an actual plan with the committee.

Amy provided an overview of the mediated session that took place among the agencies on January 28th at the Bridges House. Fish & Game, Agriculture, DRED, and DES met to review and discuss all of the elements involved in exotic plant management. It was agreed that exotic plants are a problem to the natural environment. Then the meeting attendees conducted an evaluation of the whole management process. There were 15 people in attendance including the commissioners. It was elevated to the level of commissioners because they weren't able to reach consensus at the staff level.

At the meeting, each agency provided background on their rules, regulations, and mission and all four agencies concurred that invasive species are in fact a problem, they are a threat and do need management. There is a need to focus on a waterbody by waterbody & species by species basis and evaluate everything that can be done to make sure that we are protecting the resource and the species that are tied to it. All agreed that management plans are a good vehicle for conveying information and the resources that are there, the problems that invasive species are causing, and then how to go about managing this in a long term, integrated approach. There was discussion regarding herbicides and their use, designated uses of a waterbody, research needs, and the permitting process. The outcome of the meeting was to get working groups established; DES and Agriculture Commissioners agreed to a LEAN (Continuous Improvement) process. They will convene technical groups to talk about long term management plan content, including an evaluation of control techniques. The groups agreed that native plant management needs to be addressed as well. The four agencies agreed that 3 steps need to be taken: 1) a statewide, inter-agency MOU should be developed as a guiding document to lay out agreed principles; 2) the detailed review of current format of management plans and a process to enhance them; and 3) initiate the LEAN process with pesticide rules and permit applications reviews.

Amy continued, this is really a combination of grassroots efforts and state efforts. The town & lake associations provide input, data, desired outcomes, review, and comments and are very involved in the process. She expects that there is going to be tension between water users and environmental concerns. Amy didn't feel a letter from LMAC to the commissioners was needed at this time as things are moving forward well. If there is a time in the future that one would be appropriate she will let the LMAC know.

Don Kent, who attended the meeting, added that there was also discussion regarding which agency is most appropriate to be issuing aquatic herbicide permits. Are we managing lakes or managing chemicals? We may need to question which agency is best suited to oversee this – Dept. of Agriculture or Dept. of Environmental Services. Amy will ask others in the work group for their thoughts. Don suggested the LMAC look at MOA drafts between DES and F&G regarding the exotic plants management or native plant management. This could be done in May.

Jacque Colburn, DES: Realtors Workshop: Jacquie said that a 3 hour workshop (worth 3 CEUs) for the Lakes Region Board of Realtors called “Healthy Waterfront Property” will be held in April by Jody Connor, Jay Aube, Darlene Forst, Jeff Schloss and herself. It will cover the economic value of our waters, emphasizing the relationship between water quality and property values. Jody will provide an overview of the water quality, focusing on the Lakes Region. He will also talk about issues of concern such as exotic species, and cyanobacteria. Jeff will talk about the land/water connection and how the development on land affects water quality. Jay will do an overview of what the buyer can do with their property; this will help realtors understand how the provisions of the Shoreland Protection Act provide opportunities for development.

LMPP Budget and Program Staff Update – Jacquie Colburn

Staff – Jacquie explained that Jenn Rowden moved to a full time position in the Drinking Water Ground Water Bureau. Laura is still on maternity until April 8th and when she returns there will be 1 ½ people working on Lakes (Jacquie FT and Laura ½ time), no intern will be hired nor will Jenn’s position be filled. Steve Couture and Jacquie are looking for alternatives and have applied for some non-paying intern possibilities.

Budget – Jacquie said that Commissioner Burack gave an overview and update of the department’s budget at the DES Town Hall meeting in February. The Governor’s proposed budget cut 15 positions at DES, none out of the Watershed Management Bureau. The proposed House Finance budget may eliminate the Lakes and Rivers Programs effective June 30th, however, the statute would still be in place and the LMAC would still exist. Jacquie recommended that once it is known what is actually coming out of the House that Diane & Bud meet to discuss with Rivers next week. Jacquie also said that DES is expecting cuts to its federally funded water quality programs; maybe as much as 15 – 20%. There will probably be more reductions in DES Watershed Management Bureau staff in the future.

Committee members said that calls should be made to state senators. Jacquie suggested that they wait to see what actually comes out of the House before members contact their senators. Don felt it is time to start conveying to the legislators that it is not good to have our natural resource management gutted from the state.

Water Quality Standards Advisory Committee Update -

Jacque explained that work is ongoing to review the state’s existing designated use categories. Diane represents the LMAC on the WQSAC. A subcommittee of WQSAC has been established to update the list and criteria pertaining to the designated uses of surface waters, including wetlands. The concept is to replace the existing Class A/B system with a designated use matrix; some new designated use categories that are being considered include:

- Existing drinking water supply
- Cold water fishery
- Agriculture
- Geomorphic integrity
- Wetland habitat

The process is underway and if you would like more information it is available on the DES website and you can contact Phil Trowbridge. The next steps in this process include:

- Developing definitions for new designated uses
- Developing proposed designated uses for wetlands
- Reviewing the Clean Water Act requirements for designated uses

Diane or Jacquie will provide an update of the WQSAC subcommittee work at the May meeting.

2011 Lake-Related Legislation

Many bills that the LMAC was monitoring have been ITL’ed or retained in some way. Jacquie highlighted those bills where the LMAC submitted a letter of testimony. Jacquie and the committee reviewed the Legislative spreadsheet.

SB 154 - reforming the Shoreland Protection Act. When this bill was first introduced the LMAC opposed it. Jacquie explained that SB 154 had been amended and that it will go to Senate Finance because of the provision relative the sunseting of the fees that fund the Shoreland Program; the fees would sunset July 1st and SB 154 extends it to 2016. The bill also adds “Water Quality” into the title. Jacquie reviewed a few provisions of the bill that she and Steve Couture are concerned with:

- 1) Section 13 Enforcement – this modification means that written notification must be obtained prior to an inspection for a possible violation. It means the department would have to get a warrant. Concern the language may get picked up and inserted into other programs.
- 2) Section 19 Impervious Surfaces - this section is not well written and what would be achieved is not specified.
- 3) Section 20 Waivers - adding that waivers can be granted by the commissioner gives the commissioner a lot of authority.
- 4) Section 25 Penalties – this is a whole new section, it would replace what exists in statute now and it reduces the penalty amounts.

HB 612 - establishing a commission to study septic systems and new technologies. This bill was introduced at the request of NH Lakes Association because of the potential for older septic systems to impact lake water quality. It went to the House Science, Tech, and Energy Committee; Diane testified in favor of the bill on behalf of the LMAC. The Committee Chair asked Diane if this was something the LMAC could address. The Science Tech Committee killed the bill but included in the House Journal that the LMAC could address these issues. Jacquie has spoken with Jared at NH Lakes and she asked for volunteers from their board to work along with the LMAC and DES staff. Jacquie said that wants to decide if the LMAC should take on this task, but there is no legislative mandate to do this. Diane said that at the legislative hearing the concerns expressed by the committee was that they want new septic technologies to be available in the state; however, they don't want to create any new commissions. Jacquie said that if the LMAC and NHLA decide to pursue this that an intern could possibly work on this in cooperation with the Subsurface Systems Bureau. She will follow up with NH Lakes and will report back to the LMAC at the May meeting.

Updates, Review and Discuss LMPP/LMAC Projects and Reports – Jacquie Colburn

- 1) Public Trust White Paper
With Jenn leaving the program work on the paper is on hold; however an intern could develop the appendix portion of the paper.
- 2) Proposed Administrative Rules
These are the rules regarding how grants to the regional planning commissions would be administered. Jacquie met with RPC Directors regarding the rules; they were appreciative of Jacquie coming to them with the draft rules ahead of time. They will get back to her by the end of March with any input they may have. She then will prepare them for JLCAR.
- 3) Sustainability Initiative
No progress to report.
- 4) Letter to DES and DOT
She was waiting for input from staff and now would like to meet with Director Stewart.
- 5) Comprehensive Lake Inventory and Guidelines document
Documents were reviewed and revised by Jenn and Laura. Jacquie will also review them for additional edits and/or additions and then post the latest editions to the LMPP webpage.

State Level Lakes Management Criteria/Recommendations

Laura presented the draft Criteria document in January and then sent the document to the committee after the meeting for comments/recommendations/or suggestions. Jacquie explained that with the revisions made to RSA 483-A last year, that the LMAC needs to review the Criteria document every 10 years. The original document was produced in 1996 and there have been no updates produced since then. The draft presented to the LMAC in January included findings and recommendations pertaining to lakes and were taken from the following reports:

1996 *Lakes Management Criteria for New Hampshire State Agencies*;
 2003 *Estimates of Select Economic Values of New Hampshire Lakes, Rivers, Streams and Ponds*;
 2006 *NH Wildlife Action Plan*;
 2007 *Economic Impact of the Potential Decline in New Hampshire Water Quality; The Link Between Visitor Perceptions, Usage and Spending*;
 2008 *New Hampshire Water Resources Primer*;
 2008 *Sustainability of New Hampshire's Surface Waters*;
 2008 *Comprehensive Flood Management Study Commission Final Report*;
 2010-2015 *New Hampshire DES Strategic Plan*;
 2010 *Stormwater Study Commission Final Report*

It also included findings and recommendations derived from the November LMAC meeting and a November DES staff brainstorming session. Since the January meeting, comments were received from Jeff King and Larry

Sunderland. Jeff noted his comment came from the Wildlife Division of F&G regarding consistency with Wildlife Action Plans. This was in regards to dam removals (5.1) and which have been contrary to their findings.

Jacquie asked if any other agency staff had specific items that they would like to bring to the group's attention.

- 1) Mark H. noted that roads salted by DOT and local governments are only a portion of the applicators. He suggested that this be expanded to other applicators that maintain private roads and private properties. He also said to check the culverts data base – done by permit in new stream crossing rules. The information needed to deal with aquatic passage through culverts is addressed by the stream crossing rules. (page 15, #4.6) It is now done by permit (through regulation).
- 2) Jenn Czysz noted recommendation 2.5.2 – OEP has written themselves out of the active role as an agency they are not going to tell the Legislature what they should be creating for laws. Please strike “and OEP”. They will assist in review if asked by the legislature. Could say “by appropriate agencies”.
- 3) Chairman Hanley noted it is important to show progress. The items being addressed – how is it going vs. things that really need to be addressed that aren't listed?
- 4) Jenn Czysz suggested a short summary at the beginning – this was done in 1996 and here is the progress we've made since then. Acknowledge what work has been done, here is what needs to be done. Include that the last progress report was in 2007-2008.
- 5) Jim Haney asked if cyanobacteria problem should be addressed. With lack of movement at the federal level how should the state deal with guidelines and public awareness?
- 6) There needs to be modification to the finding and recommendation regarding beach monitoring since DES will no longer do the beach sampling/monitoring at freshwater beaches for E. coli or cyanobacteria due to budget cuts. This is going to be shifted to DRED for the state parks and to municipalities. Coastal beaches are federally funded so they will still be monitored.

Jacquie will go through the document and if an agency or organization is referenced she will check to see if they are still comfortable with what is written here. She will try and meet with each one and then come back in May with a more final form. It was discussed how to acknowledge progress and how to incorporate this within the current formatting. Jacquie said that when the LMAC concurs with the findings and recommendations, the document will be signed by the members before it is distributed to agencies, legislators, and others.

Ossipee Lake Natural Area Update- Don Kent, DRED/LMAC

Don said they are going into the 3rd season at Ossipee with the Working Group. A Management Plan was developed by the Working Group and it has been implemented the past 2 summers.

Given the number of watercraft that uses the area offshore of the Natural Area, they are working towards having a floating toilet. They are still investigating and hope to get a grant under the Clean Vessel Act to a group who would operate and maintain the toilet. DES does have pump-out boat that would remove the sewage from the floating toilet as needed. The sandy shoreline is where the people/boats congregate and where there are No Trespassing Signs. Marine Patrol has been helping with on-water enforcement but DRED has few rangers to monitor the beach area; thirty summonses were issued last year for misdemeanors. Year One approach included education; Year Two they started issuing the summons, and this year more signs and another fence will be installed.

There was a request for more areas to be opened to the public. The Working Group did not support this expansion for two reasons: 1) Department of Cultural Resources does not want any additional area opened up; and 2) It was determined that the plants are coming back. This is evidence that when they are not being trampled the rare plants will return.

Don said that the process developed and applied at the OLNA may be the model of where we go with state properties, with the inability to manage due to no resources; they will need to be locally managed. There also needs to be a change to Parks rules for volunteers groups who raise funds to be able keep money within the area. The summer cleanup is scheduled for May 14th with a workgroup update meeting the same day. It is good to be able to say the plan is holding up so far.

Other Business/Future Agenda Items

Given the pending budget reductions, Bud Berry noted that what we've heard as to what the State may or may not be able to do is negative, but coming from private sector I know that there are opportunities to call on those who want to see what you're doing, go forward and not go away. Yes, we may lose a program, but don't give up on

the natural resources. There may be friends in the future we didn't have because they did get involved. Mark Gallagher there needs to be caution because quite often those who come forward have an agenda. Jacquie also mentioned that is important that the volunteers are well trained, that the data is accurately collected, in compliance with quality control documents and procedures.

Future Agenda Items/Action Items:

Next meeting is May 20th –

- 1) Have Amy/Jody return to speak about management plans and give an update on staffing. What is in plan, what is appropriate from the LMAC standpoint, and recommendations?
- 2) Meet and/or follow-up with agency & organization representatives relative to the Management Criteria.
- 3) Follow-up to HB 612
- 4) Budget

➤ ***Motion to adjourn Eric Orff, second by Don Kent. Motion passed unanimously***

Meeting adjourned at 12:01pm.