



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
riversprogram@des.nh.gov



LMAC MEETING MINUTES
October 22, 2015
NHDES Conference Room 208C
1:00 pm – 3:50 pm

Members present

David Packard, Chair
Susan Slack, Vice Chair
Shane Bradt
Linda Brownson
Fred Clews
Robert Compton
John Cooley
Capt. Tim Dunleavy
Kim Hallquist
Mark Hemmerlein
Frank Lemay
David Rousseau
Dick Smith
Mary Truell
Martha Twombly

Representing

NH Lakes Association
Director, Office of Energy & Planning
Scientific Community, UNH
State Conservation Committee
Fish & Game Commission
Planning Boards
Conservation Community
Commissioner, DOS
Municipal Officials
Commissioner, DOT
NH Business and Industry Association
Comm., Dept. of Agr., Markets & Food
Fishing Interests
NH Association of Realtors
NH Assn. of Conservation Commissions

Term

August 1, 2018 V
Indefinite NV
August 22, 2016 V
August 1, 2018 V
August 22, 2018 V
August 1, 2017 V
September 19, 2016 V
Indefinite NV
August 1, 2018 V
Indefinite NV
July 8, 2016 V
Indefinite NV
November 17, 2016 V
June 27, 2017 V
August 22, 2016 V

Members not present

Eric Feldbaum
Garret Graaskamp
Jim Morash
VACANT

Commissioner, DRED
Executive Director, F&G
Tourism Industry
Marine Trades Assoc.

Indefinite NV
Indefinite NV
August 1, 2016 V
August 22, 2014 V

Staff Present

Ken Edwardson Watershed Bureau
Eugene Forbes Water Division Director
Clark Freise Assistant Commissioner
Carolyn Guerdet NHDES Administration
Tracie Sales Rivers and Lakes Programs

The Meeting Was Called to Order

Chair Packard called the meeting to order at 1:03 p.m. and welcomed all present.

I. Introductions/Minutes/Committee Business

Members and guests present introduced themselves.

1) Clark Freise, NHDES Assistant Commissioner

Clark Freise has just joined NHDES as the new Assistant Commissioner. Clark is an oceanographer, worked previously for the Navy as well as in industry, and has been living in New Hampshire for 12 years. He has a strong background in lakes and coastal issues.

- 2) Acceptance of the June 25, 2015 LMAC/RMAC Joint Meeting Minutes
The committee did not have a quorum present at the July meeting, thus a vote is necessary.
 - **John Cooley made a motion to accept the June 25, 2015 Joint LMAC/RMAC minutes, second by Fred Clews. Motion passed unanimously.**
- 3) Acceptance of the July 23, 2015 LMAC Meeting Minutes
 - **John Cooley made a motion to accept the July 23, 2015 LMAC minutes, second by Fred Clews. Motion passed unanimously.**

II. LMPP Program Updates

- 1) LMAC Membership Update
Tracie Sales reported that all members are current, with the exception of the vacant Marine Dealers Association representative. However, Ed Crawford said he has submitted his application form to the Governor's office, so he is expected to be officially on board soon.
- 2) Status of Lakes Coordinator Position
With input from Chair Packard and RMAC Vice Chair Tremblay, the position descriptions for the Lakes Coordinator and the Rivers Coordinator have been combined into a single position with a new title – "Rivers and Lakes Programs Manager." The position is still funded out of the Rivers Program, but the hope is that with the name change, we can provide a little more support to lakes, and also move toward a watershed perspective. No comments were received on the draft position description e-mailed out to members.

The state now has a budget and the hiring freeze has been removed. Jacquie's retirement payout is still in progress, but now only \$3,000 will be owed as of the beginning of January. The goal is to now have the position posted in December, with interviews in January and someone hopefully on board in February. A rivers or lakes management advisory representative is invited to be on the interview team so please let Ted Diers or Tracie know if you're interested. Dave Packard indicated he would be interested.

- 3) Budget Recap
With the approved state budget, we are no longer running under the Continuing Resolution. The CR had little impact on NHDES in general, it has mostly required a lot of additional administrative work to get approvals for work like sampling and monitoring, where the bulk of the work occurs July – September, but for which we had received only 50% of the funds.

The budget itself has not changed for NHDES from what was approved by the legislature in June but then vetoed by the Governor. This budget has unfunded 2 vacant general funded positions in the Water Division, and has decreased the appropriation for State Aid Grants. Of the two unfunded positions, one is unfunded for 1 year (River Restoration Coordinator) and one for 2 years (wetlands). All other aspects of the NHDES budget were unchanged.

(Gene Forbes was not yet present, so the committee moved ahead to Ken Edwardson's presentation.)

IV. Surface Water Quality Assessment Program & the 303(d) List

Ken Edwardson, Surface Water Quality Assessment Programs Coordinator, presented the Draft 2014 Surface Water Quality Assessment. These assessments are due every 2 years to the EPA. The 303(d) list is a subset of the list of Impaired Waters, it consists of those waterbodies that require a TMDL. The 305(b) list includes all assessed waterbodies, even those with TMDLs. The CALM is the NH method for determining how water quality data is used to make water quality attainment decisions. The draft 2014 Assessment considers almost 2 million water quality standard comparisons based on data from NHDES, UNH Lay Lakes Program, VLAP/VRAP, and other sources. Despite this, less than 50% of lakes and ponds have enough data to be able to assess their status. This year, more waterbodies were removed from the 303(d) list than were added.

Ken demonstrated a new online user interface that allows easier access to data about each waterbody and assessment unit. Comments on the 2014 303(d) list are due by December 11th and must be written (e-mail preferred).

Shane Bradt asked about multi-state waterbodies, as water quality criteria are state-based. Ken replied that New Hampshire collaborates with Maine on the Salmon Falls River (the Connecticut River is fully within New Hampshire). In response to a question about who comments on the report, Ken said he hears more from lawyers and municipal officials than from individuals or lake associations. Mark Hemmerlein noted that New Hampshire's assessment system and database is superior to most other states, and the List of Impairments is critical for DOT. The draft 2014 Assessment was sent to 1,700 email addresses and published in a press release.

III. Land Resources Management Bureau Proposal

Gene Forbes, NHDES Water Division Director, introduced a proposed internal reorganization within NHDES to consolidate the Wetlands, Subsurface Systems, and Alteration of Terrain Bureaus and the Shoreland Program into a single unit called the Land Resources Management Bureau (LRMP). This reorganization began with a process improvement exercise combined with the 2013 legislation for integrated permitting. The Drinking Water and Groundwater Bureau will continue to be separate. After 2 years of work and internal discussions, NHDES is now hosting public meetings in 5 locations to solicit public input.

The goals of this reorganization are to improve:

1. Efficiency with limited resources, i.e. site visits, and combine compliance and permitting which have significant overlap but which had previously been siloed responsibilities.
2. Environmental outcomes – better understanding of an area, developers, public works officers, etc.
3. Employee development – support multidisciplinary skill sets, consistent with the industry.

The new Bureau will have three sections:

1. Administration, including data management, research and program development.
2. Engineering and technical support group.
3. Regional administration – 5 state regions.

Benefits of new approach include a better understanding of impacts across areas, improved customer service and more opportunities for staff. After the public meetings, NHDES will submit the proposal to Bureau of Personnel, and then to Governor and Council for approval.

Mark requested that individual permits be maintained. Gene replied that the integrated permits are not ready as they have no rules yet, but individual permits will be retained. The reorganization is related to the integrated permits, but is not contingent upon them.

V. LMAC Comments on the Draft Instream Flow Pilot Program Report

Tracie announced that the comment period for the draft Instream Flow Pilot Program is open until October 25th. The legislative study committee that oversees the ISF Pilot Program met last week, and they have already voted to accept the final ISF Pilot Program report as their report and recommend by December 15th to the full legislature that the program's 'pilot status' be removed. Staff are now working on revising RSA 483 to implement ISF on all designated rivers, and these statute revisions will be presented to the legislature during this upcoming session rather than during the 2017 session as previously expected.

As a result, there will be some modifications to the draft report regarding the timeline for moving forward as well as the sunseting of the legislative oversight committee. Additional program funding will wait until the 2017 budget cycle, but there is preparatory work, such as updating the ISF rules and developing the target fish communities, that can be done in the interim with existing funds and a \$50,000 per year appropriation for FY2016 and FY2017.

Chair David Packard spoke with RMAC representatives, and their concern is how long it has taken to do the 2 pilot rivers, and how much longer it will take to do the rest of the designated rivers. According to Wayne Ives, the RMAC is hoping to implement an interim short list of criteria that would trigger releases of water in times of crisis until full flow protections can be developed. Wayne is against this concept. David suggested that a joint LMAC/RMAC subcommittee be formed to develop this idea.

David asked members for comments on the report. He shared a clarification on recommendation bullet #4 on page 15 regarding a stakeholder advisory committee. These committees will be local for each river, based on but not limited to the LAC members, and the language in the report will be edited to reflect this point. Lake front property owners will be invited onto these stakeholder committees. Tracie added that statutory language is being proposed that will require a public meeting/hearing be held in conjunction with the Senate E&NR and the House RR&D committees before the ISF process starts for each river. All potential stakeholders would be informed of this meeting, at which members for the stakeholder committee would be sought. The RMAC and LMAC should also be notified of these meetings. One issue still to address is the notification process for normal dam operations by DES versus ISF releases.

Tracie noted that when instream flow is applied to a designated river, it will affect all upstream water users, dam owners, and lakefront property owners, even those on undesignated tributaries. Issues considered in the ISF process include water quality, and the dam facilities needed to conduct a controlled release. Tracie suggests that the comment letter support DES' analysis of resources required to implement ISF, and David said it should recommend resurrecting the LMAC & RMAC ISF subcommittee.

- **Martha Twombly made a motion to approve a comment letter on the draft Instream Flow Pilot Program Report written by Chair Packard on behalf of the LMAC to Wayne Ives based on the conversation just held, second by Linda Brownson. Motion passed unanimously.**

David will include the recommendation to re-form the Joint RMAC/LMAC ISF subcommittee, and will follow up at the next meeting for LMAC volunteers who would like to sit on that joint subcommittee. Tracie recommended that the joint subcommittee being formed to further the Hybrid Watershed Approach could be the same subcommittee.

VI. Lakes-related Legislation

1) 2016 LSRs Submitted by the House

House representatives have submitted their Legislative Service Requests (LSRs). The Senate LSR submission period is still open. The list of LSRs of potential interest include 2 that are specific to the Rivers Program: 1) LSR 2492 making updates to the rivers statute and addressing the treatment of 1st – 3rd order streams in the Shoreland Act with only a 50 foot buffer, and 2) LSR 2491 which will be retitled to fully implement the instream flow program. Also of interest to the LMAC is LSR 2722 submitted by the Senate, which will maintain the Shoreland Program permitting fees.

2) NH Lakes Aquatic Invasive Species Bill

David explained that NH Lakes is working with parties to prevent the spread of aquatic invasive species, both animal and plant, by not transporting them via boat. Draft bill language for LSR 2452 was forwarded to the LMAC. Enforcement can be done by any state or town law officer, but education is the focus. Bill text covers the draining of bilges as well the location of boat cleaning for winter storage. Please send comments or bill text changes to David, which he will forward to NH Lakes.

Dick Smith commented that plant and animal invasive species should be dealt with jointly. He also noted the difficulty of completely draining most boats, and thus warned against over-

regulating this issue. Captain Tim Dunleavy commented that Marine Patrol's focus has been on education, and that the Clean, Drain and Dry would take care of the most of the problem, but we rely on people doing as asked. Upcoming boat registration renewals will hopefully include the new Clean, Drain and Dry card, and Safety's contacts with the public and event organizers also include the card and information as much as possible. Tracie added that, according to Amy Smagula, plants and animals must be separated in the bill because of jurisdictional differences.

VII. LMAC Priorities

- 1) Future Statutory or Program Changes - No discussion at this time.
- 2) Coordination with the RMAC & Membership of the Joint Subcommittee
Chair David Packard and Bob Compton volunteered for the Joint RMAC/LMAC subcommittee on the Hybrid Watershed Approach. Susan Slack is already on the subcommittee.

VIII. Member Comments and Updates

- 1) Other Member Comments - None.
- 2) Ossipee Lake Visit Follow-up
Tracie reported that the situation of the falling down house that was observed during the lake tour was researched, and there is nothing that DES can do until it actually falls into the lake. DES continues to encourage the town to do something about it, as it is in Ossipee's jurisdiction.

Susan Slack reported on the deteriorating relationship between the Ossipee boating community and the Natural Heritage Bureau over the natural area. There has been vandalism at the site. The boating community feels they get no help from DRED, little enforcement from marine patrol, no support from the courts, and no fines applied for trespassing. Captain Dunleavy asked officers not to focus on the natural area as much because there are only 2 officers for the region, and no incentive to continue enforcement with no fines, and the cost to DoS. DRED had to pull back, too. Communications need to re-open.

- 3) NHDES Flood Preparation
In response to a question from David about flood preparation on lakes, Tracie discovered that there are protocols but none are specific to lakes. During storm events, the DES Water Division works to minimize damage. The Dam Bureau will release water ahead of time to increase storage, and dam owners must have emergency plans in place. NH's major lakes all have gages that are monitored during rain events. The 2007 legislative Comprehensive Flood Management Study Commission recommendations focused on data, especially flood plain maps and building codes, as well as improving land management to reduce stormwater runoff. NH OEP coordinates with FEMA and municipalities on flood plain management and meeting federal requirements. Municipalities must have emergency management plans.
- 4) WQSAC
The LMAC does not have a representative on WQSAC, and did not feel the need for one. WQSAC is working on an update of the water quality rules, Env-Wq 1700, to make them up-to-date with EPA. A complete draft is almost ready. Wastewater treatment plants will be affected, but not the average person.

IX. Other Business and Action Item Review

- 1) Action Item Review
 - Submit comments as desired to David on the invasive species legislation.
 - David will update the Instream Flow Program comment letter and submit it to Wayne Ives.
 - Tracie will send out a Save the Date email for the next meeting.
 - Tracie will send weekly legislation updates as soon as bill text is available.

- The LMAC Policy & Legislation subcommittee will meet in January prior to the LMAC meeting on January 28th, probably via teleconference.
- The RMAC/LMAC joint subcommittee on the hybrid approach will meet in mid-January.

2) Next LMAC Meeting

Thursday morning, January 28th, with a joint meeting with the RMAC following.

3:55 p.m. – Meeting Adjourned