

LET THE RIVERS FLOW

Though the passage of New Hampshire's first-ever rivers protection program was celebrated back in June, environmentalists now fear some of the language in the original bill has been weakened during the legislative process, and preserving those resources may be less certain than first hoped for.

The New Hampshire Rivers Management and Protection Program, hailed as a landmark piece of environmental legislation when it went into effect last July, has already afforded resource protection to the Swift, Saco and Lamprey rivers, and the Upper and Lower Merrimack. The legislation recognizes designated rivers as "community," "rural" or "natural," in accordance with the degree of development on their banks and their water quality. The rivers are then subject to certain usage restrictions in an attempt to protect water quality and in-stream flow rates.

Besides the prohibition of new dams and restrictions on channel alterations, protective measures include prohibiting water transfer from one river basin to another and placement of trash or toxic waste disposal facilities in proximity to designated rivers.

Charges of Watered-Down Legislation

As the initial five rivers entered into the program, some environmentalists argue changes were made which diluted the intent of the protection measures, but which legislators maintained were necessary to preserve such public uses as withdrawals of water for public water supplies. "We're not going to take the use of the rivers away from anybody; we're going to protect it for everybody," defends state Sen. Charles

Bond (R-Jefferson) of those legislative changes. "There is nothing wrong with a private business using public property for the public good."

Tagged onto the original bill by the Senate Resources, Recreation and Development Committee which Bond chaired was recognition of hydroelectric power generation as an acceptable use of public waterways. But what really raised the ire of those who drafted the legislation was a last-minute committee change which allows the Pennichuck Water Works the right to withdraw up to 30 million

gallons a day from the Merrimack.

Headed by former Nashua Mayor Maurice Arel, the firm provides water to Nashua and parts of Merrimack and Milford, and has drawn from the river since 1985. According to Arel, Pennichuck has never drawn more than two-thirds that amount, but the company lobbied for the 30-million-gallon per day provision because it represents the maximum the waterworks can handle. Future demand potential was a consideration, noting the firm does not transfer water from one river basin to another, in keeping with the rivers program guidelines, says Arel.

Still, Kenneth Kimball, Ph.D., vice chairman of the Rivers Advisory Committee, counters there was no scientific basis for the withdrawal rights granted to the waterworks. "The environmental community is very concerned about this portion of the bill because it sets the precedent for giving withdrawal rights away as part of the political process," he adds.

"The hydroelectric power interests succeeded in having [it] added to the list of purposes that are public interests in water which we regretted very much," says Syd Howe, chairman of the New Hampshire Rivers



The Saco River

SHARON MCNEILL

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Campaign, a largely grassroots group instrumental in drafting the legislation. "We feel that industrial uses such as hydropower may or may not be appropriate in a given place."

While the legislation was aimed at preserving river values for the good of the public, Howe charges the operator of a hydroelectric generating plant may not necessarily operate for the public good. "It's not inherently a public interest in water; it's a private or commercial interest in water."

But Bond defends the changes on the grounds that public water supply and electricity generation do provide substantial benefits to the public. "I do not understand their perspective. The environmentalists—and I'm an environmentalist in my own way—believe we shouldn't do a lot of things," he says. "Somehow, we're going to have to go on. One of the cleanest ways to generate electricity is to use the power of the water as it comes from up there and flows to down here. To simply make it an evil thing to dam up rivers and say, categorically, it's wrong, is going to be detrimental to our survival in the long haul."

Bond also disagrees with Howe's opposition to commercial exploitation of river resources. "So what? We're a capitalist country. To say that to make a profit from management of a thing like a river is wrong—I wouldn't be able to fathom that."

Advisory committee members and rivers campaign representatives were also frustrated at the changes made by the senate committee, Howe points out, especially because the legislation was two years in the making and its components had been trotted out in several public hearings.

But Bond asserts changes and compromise are part of the process, adding that Pennichuck was already drawing water from the Merrimack and claimed a need to be able to draw more. "The people who opposed it came forth with no

**Sen. Charles Bond
(R-Jefferson)
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other alternative other than, 'We shouldn't do it right now.' We certainly would've listened to an alternative proposal if something had been available."

Still smarting from those "late hits," Howe fears the amendments may set precedents that run counter to the campaign's original purpose. "We

fear the next water company coming in on the next designated river," he states, and vows to be vigilant in preventing a replay of that scenario.

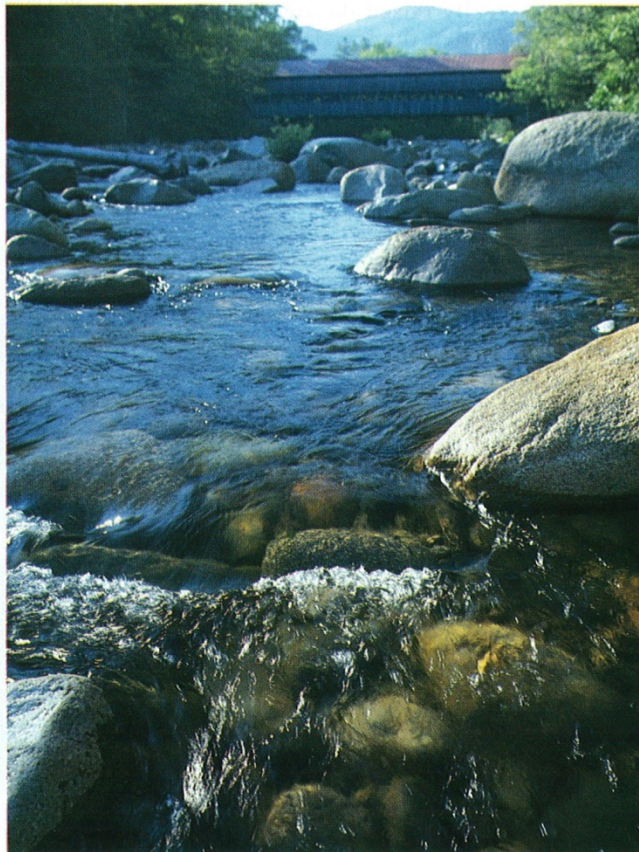
How the Legislation Works

Designation of the five river segments already in the program took about two years of study by advisory committees set up to create the specifics of protection measures and to help hammer out the language of the legislation. Those efforts set the wheels of change in motion for a state with no prior solid rivers management plan and no solid program in operation. Since these five passed, there are already three other rivers actively under study for possible inclusion in the program: the Contoocook, Pemigewasset and part of the Connecticut—each afforded interim protection until July 1, 1991.

Cognizant of the state motto and the rights of private landowners along the designated rivers, legislation drawn up in 1988 to kick off the rivers program acknowledged that communities through which rivers flow would have jurisdiction over them, and would play a part in creating the management plans for those rivers.

"Once a river is [so] designated, [it is] required to have a local advisory committee to draw up a management plan, with my assistance. The communities along the rivers can accept it or not," says Katherine Ueland, river corridor planner with the State Department of Environmental Services (DES). "A lot of people thought, 'If we have a designated river, we're going to be told what to do with our land,' and that's not the case with this bill."

The DES rivers coordinator works with a rivers management advisory committee to evaluate nominated rivers, identify significant resources worthy of protection and draw up potential management measures. The department is also responsible for

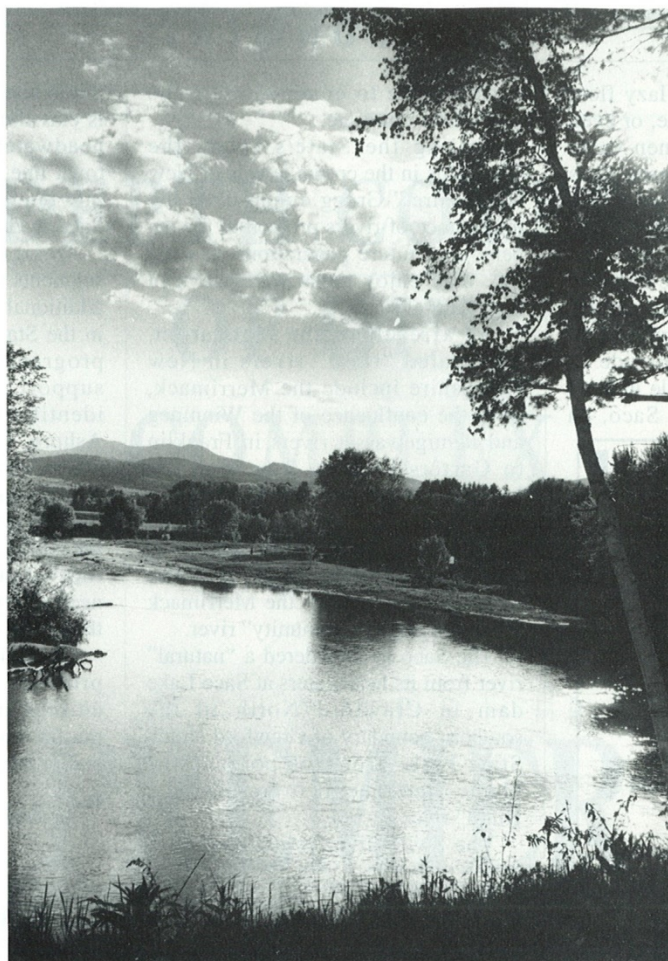


The Swift River

SHARON MCNEILL

determining minimum permissible in-stream flow rates, a step which rivers campaign representatives felt was effectively bypassed by the Pennichuck amendment. "Strong local support will be an important factor in determining whether a river will be recommended for designation," reports a program pamphlet distributed by the department.

In fact, any New Hampshire river can be nominated for protection under the program by any resident or group in the State. Then the DES—the administrative arm of the program—works with local advisory committees to determine under which classification a given river should be placed, and what level of protection it should be provided with. Ultimately, proposed legislation works its way through the state legislature, where amendments are made, and rivers are afforded their designation or denied protected status.



The Saco River

ROB BURBANK/MOUNTAIN EAR

History of N.H. Rivers Programs

Advocates of river protection became acutely aware of the lack of a State Rivers Program in the early 1980s, when the town of Jackson sought to halt the development of a proposed hydroelectric plant on the Wildcat River at Jackson Falls. The spectacular, stair-step falls serve as the scenic centerpiece in that tiny, tourism-dependent community located just below Mt. Washington and north of Conway. Opponents claimed the river's volume was too slight for the proposed hydroplant to be viable and feared it would draw away too much water causing the falls to dry up.

After an eight-year struggle, and with help from the State's Congressional delegation and the National Park Service, the Wildcat in 1988 was included in the federal Wild and Scenic Rivers System, a move which prohibits development of such hydroplants on the river.

"The Wildcat kind of got the

wheels in motion, and pointed out the fact that the State had no rivers program," explains Sarah Kimball, a Jackson resident and member of the advisory committees for the Saco and Swift rivers. "The Rivers Program is not a direct result of the Wildcat, but the effort that went into designating

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the Wildcat [as] Wild and Scenic helped to get the whole process going." (U.S. Reps. Bob Smith and Chuck Douglas, both New Hampshire Republicans, have sponsored similar bills to study portions of the Merrimack and Pemigewasset rivers for possible inclusion in the federal Wild and Scenic Rivers System. Those bills were passed by the House July 31.)

The Future for Our Rivers

Despite the controversy, Howe believes the process of creating the program resulted in a good deal of cooperation between a wide range of interest groups. "I see new hope for getting along between environmental and commercial interests," he predicts, adding the greatest significance of the legislation is New Hampshire's first establishment of a program paying attention to protection and management of its chosen rivers.

Likewise, Kimball calls the legislation a step forward overall in the State's attempts to preserve river quality. However, Kimball is also concerned about the future of the Saco River because of a planned sewage treatment plant to be built in North Conway. While he doesn't question the need for that plant, he worries about the level of nutrients in treated wastewater which will be discharged into the river. While that discharge is not expected to lower the technical quality of the Class B waterway, he fears nitrate-rich wastewater may encourage algae growth in the currently clear waterway. In his capacity as research director of the Appalachian Mountain Club, he is investigating the possibility of requiring a higher level of treatment to be carried out on wastewater discharged from that plant.

The Saco River drops quickly from high in Crawford Notch and meanders through Hart's Location, Bartlett and Conway on its way to Maine and the sea, and is a popular waterway for

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recreationists who enjoy a lazy float on innertubes in summertime, or even a leisurely paddle. Fishermen value the Saco for its trout, and naturalists appreciate the river for the wildlife it supports along its banks: moose, deer, waterfowl. Primarily, though, the Saco is a paddler's river, and more than one outfitter in Conway and the nearby villages of western Maine are quick to cater to those who come to ride it. Even Gov. Gregg took paddle in hand this summer and rode the Saco, an

outing made to commemorate the legislation's passage.

Calling the State's rivers the "emeralds in the crown jewels of New Hampshire," Gregg emphasized the importance of rivers protection for the benefit of future generations so they, too, may enjoy these waterways in their natural state.

As a result of the legislation, designated "rural" rivers in New Hampshire include the Merrimack, from the confluence of the Winnipeg and Pemigewasset rivers in Franklin to Gartons Falls in Bow, and the Lamprey River from the Epping/Lee town line to the Durham/Newmarket town line. From the Bedford/Merrimack town line to the Massachusetts border, the Merrimack is considered a "community" river.

The Saco is considered a "natural" river from its headwaters at Saco Lake dam in Crawford North to the southern boundary of Crawford Notch State Park. From the point to the Maine State line, it is considered a "rural" river.

The Swift River, which begins in

the White Mountain National Forest, is classified a "natural" river from its headwaters to the Conway/Albany town line, and as a "rural" river from that point to its confluence with the Saco in Conway.

Designation of the five river segments this year is likely to lead to additional nominations for other rivers in the State. Inclusion of rivers in the program is based on grassroots support, and the legislation has identified additional waterways—Ashore, Isinglass and Pisa's, among others—for future consideration. "The significance of the program, at the broad level, [is] the protection measures, and also the fact that an individual can decide that a river needs to be protected, and can begin the process," says Ueland.

Though not necessarily a simple process, at least New Hampshire citizens can now have a say in how the State's rivers are managed, today and in the future. ■

Rob Burbank / Concord

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Garbage In/Garbage Out

by Van Roubaud

Throwing out the garbage is not quite as simple as it used to be.

Today, garbage and the subject of solid waste has become big business—so big that legislation is being introduced in Congress to prevent it from being exported from one state to another.

Round and round it goes and where it stops nobody knows.

New York and New Jersey, with megatons of repugnant waste, would like to continue shipping it all the way to the Hoosier State—as well as Pennsylvania, Ohio and Kentucky. But Sen. Dan Coats, the Indiana Republican proposing the legislation, wants the doors slammed shut on the hundreds of canvas-covered flatbed trucks seen daily rolling toward the Holland Tunnel.

As for Vermont, rumors have it that they are already exporting 20 percent of their trash over-the-border to Granite State. It would be impolite to ask exactly how much of that trash might contain small-business hazardous waste, and New Hampshire officials say they really don't think it is important enough to try to document it or to take steps to put a stop to it.

"It hasn't been a significant issue. It's obviously a consideration but the problem is broader than that," said Robert Varney, New Hampshire Department of Environmental Services commissioner.

You can say that again, Bob!

In fact, on the very same day that Hazardous Waste Collections were being scheduled in 17 towns around the Lakes Region of New Hampshire, a public notice by the New Hampshire Department of Environmental Services appeared in the local newspapers announcing the proposed discharge into the Winnepesaukee River and "unnamed tributary" of wastewater from aluminum, magnesium and copper-base investment castings, as well as metal finishings, by the Arwood Corporation in the town of Tilton.

We are given every assurance by both agencies—the U.S. Environmental Protection Agency and the New Hampshire Department of Environmental Services—that "the effluent limits and permit conditions imposed have been drafted to assure that State Water Quality Standards and provisions of the Clean Water Act will be met."

But the real question on anyone's mind should be an obvious one: "Why, in God's name, is it being discharged into the Winnepesaukee River—and unnamed tributary—the Merrimack!"

And no one cares to touch that one—not with a 10 Foot Pole.