

## RIVERS MANAGEMENT ADVISORY COMMITTEE

**Meeting Minutes**  
**September 3, 2008**  
**DES Rooms 112/113**  
**1:00 pm – 4:00 pm**

### **Members Present**

Ken Kimball, Chair  
Michele L. Tremblay, Vice Chair  
Jennifer Czysz  
William Heinz  
Anne Krantz  
John Magee  
Walter Morse  
Kathryn Nelson (via phone)  
Kevin Nyhan  
Allan Palmer  
Larry Spencer

### **Representing**

Recreational Interests  
Conservation Interests  
NH Office of Energy and Planning  
Granite State Hydropower  
Historical & Archaeological Interests  
NH Fish & Game Department  
NH Fish & Game Commission  
Local River Management Advisory Comm.  
NH Dept. of Transportation  
Business and Industry Association  
NH Association of Conservation Comm.

### **Term**

Dec. 28, 2008 V  
Dec. 28, 2008 V  
Indefinite NV  
Jan. 5, 2009 V  
June 15, 2010 V  
Indefinite NV  
Sept. 28, 2009 V  
Sept. 5, 2010 V  
Indefinite NV  
Sept. 28, 2010 V  
Oct. 12, 2010 V

### **Members Absent**

Alan Bartlett  
Bob Beaurivage  
Johanna Lyons  
Gail McWilliam Jellie  
Vacant

Agricultural Community  
Public Water Suppliers  
Dept. Resources & Economic Development  
NH Department of Agriculture  
Municipal Government

Mar. 22, 2009 V  
Sept. 28, 2010 V  
Indefinite NV  
Indefinite NV  
Nov. 16, 2008 V

### **DES Staff Present**

Steve Couture  
Laura Weit  
Jen Rowden  
Paul Currier  
Carolyn Guerdet

NHDES Rivers Coordinator  
NHDES Lakes and Rivers Asst. Planner  
NHDES Lakes and Rivers Asst. Planner  
NHDES Watershed Bureau Administrator  
NHDES Administrative Assistant

### **Guests Present**

Leslie Bergum  
Laurie Chase  
Bill McCann  
Julie LaBranche  
Tom Fargo  
Irene Creteau  
Sandy Keans  
Bruce Berke

Amonoosuc River Representative  
Cocheco River Representative  
Dover Conservation Commission  
Strafford Regional Planning Commission  
Chairman, Cocheco River Watershed Coalition  
Cocheco River Watershed Coalition  
Cocheco River Watershed Coalition  
Mount Washington Resort

### **The Meeting Was Called to Order**

Ken Kimball, Chair, called the meeting to order 1:05 PM.

#### **I. Introductions/Minutes/Committee Business**

Introductions were made.

##### **1) July 23, 2008 RMAC Meeting Minutes- Vote Required**

- ***Michele L. Tremblay made a motion to accept the July 23, 2008 RMAC Meeting Minutes, Walter Morse seconded the motion and the vote was unanimous.***

## 2) **RMAC Membership Update**

Steve reported that Larry Spencer's nomination was confirmed this morning at the Governor and Council meeting. It was determined he was official as of the confirmation.

Fred McNeil is being considered for nomination to the NH Municipal Association position.

The Committee discussed, at length, the lack of geographic diversity of RMAC members and the difficulty of finding North Country representatives. The majority of RMAC members are located in the southern half of the state, where the majority of the population resides. It was also noted that the burden of finding a representative who lives in a particular geographic area, should not be placed on the nominating organization(s), when a replacement needs to be found. Especially, if a suitable representative has already been located that does not live in the required geographic area.

According to RSA 483:8, at least three RMAC members shall represent the North Country; there are currently two. Chairman Kimball suggested revising the statute to requiring only two representatives due to the difficulty of finding three members. Chairman Kimball and Larry Spencer are the two North Country representatives.

## III. **Sustainability Initiative – Jenn Rowden**

The July meeting with the Commissioner was cancelled. This meeting is expected to be rescheduled in September. The purpose of the meeting is to bring the Commissioner up-to-date with the changes that have taken place since the June report was issued. The main changes are: 1) all major funding initiatives have been removed, 2) only items that reflect the rivers, lakes and exotic species program have been included, and 3) a recommendation to determine the final methodology for establishing instream flow protocols for all designated rivers, using the timeliest and most cost-sensitive approach has been added. December 1, 2010 is the due date for the report to the general court relevant to the pilot studies.

Steve indicated that DES can present the status of the pilot projects and other methods used for instream flow determination at a future RMAC meeting. The pilot projects are being completed on the Souhegan and Lamprey Rivers.

## IV. **LAC Permit Notification**

Kath Nelson noted that the overall goal is to build upon the existing partnership and strong collaboration between the state and local advisory committees (LAC). A subcommittee of the RMAC was formed and a survey was developed and sent out to the LAC chairs for feedback. Based on this feedback, the LACs clearly want to be notified of all activities occurring in the designated river corridor (i.e. permits, enforcement actions, etc.) Specifically, concerns were raised that the LACs were not being properly notified of all activities in a timely manner.

The RMAC subcommittee developed recommendations for the consideration of the full committee. Notifications fall into two distinct categories: Tier 1: Comprehensive Notification and Communication and Tier 2: Basic Notification. Consideration was also given to changing the statute to require applicants provide full copies to the appropriate LAC for Wetlands, Alteration of Terrain (AoT) and Shoreland applications.

Chairman Kimball added that DES should continually update the LAC Chairs Contact List as needed and inform the permitting entities when updates occur. The permitting entities, in turn, are then responsible for notifying the applicants of the appropriate LAC contacts.

Kath Nelson also noted that the development of a handbook, which includes a checklist, as an important part of this process.

Michelle asked to include a recommendation to revise all rules to require the same number of copies be submitted for every permit type, whether it is AoT or Wetlands and have one copy be sent directly to the LAC by the applicant.

- ***Michele L. Tremblay made a motion to forward the tiered system recommendation to the permitting entities within DES for their input. Steve Couture will work with the various permitting entities to determine the feasibility of the recommendation and how to move forward. Steve will then develop a proposal for the consideration of the RMAC. Second by Walter Morse. Motion passed unanimously.***

## **V. Ammonoosuc River, Upper Reach Nomination**

Chairman Kimball first asked if there were any issues on the classifications relative to the way the rules are set out. Kath Nelson, who was on the tour, stated that the segments were appropriately classified. Chairman Kimball then reviewed each segment.

Chairman Kimball noted that 23 letters of support were received. The Mount Washington Resort did have some concerns regarding water withdrawals for snow making in the future, but they have remained neutral. There were no recommendations to make any changes to the nomination as submitted. Bruce Berke, representing the resort, expressed frustration that the resort had not been contacted to participate in the development of the nomination document, as they are the only land owner along the river. Steve noted that based on several prior discussions, DES understands the resort's issues and concerns relative to potential implications for future use.

- ***Michele L. Tremblay made a motion that the RMAC recommend inclusion of the Ammonoosuc River, Upper Reach, into RSA 483, and forwarded to the Commissioner. Second by Kath Nelson. The motion passed unanimously.***

The RMAC strongly encourages the town and the existing LAC to include the Mount Washington on the LAC.

## **II. Cochecho River Nomination**

Chairman Kimball reviewed the river segments. There were no comments.

The hearing was well attended by approximately 30 people. Seven people testified in favor of the nomination, with one person requesting the nomination be tabled, due to the perceived incompleteness of the nomination. A total of 24 letters of support have been received, one letter to table, and one letter in opposition. The Selectmen and Planning Board from the Town of New Durham, the Selectmen from Middleton, the Conservation Commission, City Planner and Riverwalk Committee from the City of Rochester, and the Mayor, City Council and Conservation Commission from the City of Dover are all in favor. The Town of Farmington chose not to comment and the Mayor and City Council of the City of Rochester are opposed.

Michele noted that the application was complete and available on the website; in addition the comment period was extended to ensure due diligence. The City of Rochester and the Town of Farmington expressed concerns about the unknowns concerning instream flow withdrawals. Steve noted that some minimal mistakes/errors were made in the nomination, but it was a very

detailed, thorough and complete nomination. There are some minor changes being recommended to clarify/correct the nomination. Bill Heinz requested a roll call vote.

- ***Michele L. Tremblay motioned that the RMAC recommend designation of the specified segment(s) of the Cocheco River, as presented in the nomination, for inclusion in RSA 483 to the DES Commissioner for consideration by the General Court. Second by Anne Krantz.***

Vote:	Ken Kimball	Yes
	Anne Krantz	Yes
	Allan Palmer	No
	Larry Spencer	Yes
	Michele Tremblay	Yes
	Kath Nelson	Yes
	William Heinz	No
	Walter Morse	Yes

***Motion passes by majority, 6 to 2.***

Steve assured the RMAC that the report to the General Court will be accurate and will only contain information that is relevant to the nominated reaches.

Kath Nelson leaves meeting at 2:43.

## **VI. Legislation/Rulemaking/Other – Steve Couture**

### **1) Flood Management Commission:**

John Magee reported they had their final meeting and the report was due August 31st. The four specific areas with recommendations in the report include:

1. Landscape management
2. Floodplain management
3. Dams
4. Flood forecasting and data collection

- ***Michele L. Tremblay made a motion that the RMAC authorize John Magee to support these recommendations when he votes on behalf of the RMAC. Second by Allan Palmer. Motion passed unanimously.***

### **2) Stream Crossing Rules**

Michele indicated the lack of process made regarding the suggestions the RMAC formally submitted to the Stream Crossing Rules Committee.

Proposals:

- 1) Have the Wetlands Bureau do random spot checks at some of the Permit by Notification sites. Response: Nothing proposed at this time.
- 2) Have the proposed in-lieu stream crossing program base its permit fee calculations on the true value of comparable sized restoration projects, so that the fee covers the total cost of a corollary restoration or protection project. Response: Not addressed during this process because it would require a statute change.
- 3) Have DOT update the manual maps of designated rivers, both physically and online. Response: DOT concurs.
- 4) Work with NH Fish and Game to develop and provide a matrix that justifies the most appropriate watershed cut-off point. Response: no change.

Michele suggested that the RMAC could support, be neutral, or point out these recommendations at JLCAR. Steve thanked Michele for all the time spent on this process. They both agreed that this is a significant improvement over what is in place currently.

John Magee noted that there is not a lot of data for the small streams in regards to fish. He also noted it has been discussed to start gathering data for the future. Chairman Kimball summarized that this is a major step forward over where things are currently. The rules are reviewed every six years and the science may catch up over time. What we are doing is recommending that these go forward as improvements and be commented on at the JLCAR level, so that it does go down on record.

Steve reviewed the tiers: Tier 1 is the notification process; Tier 2 is the 200 acre criteria including the stream power analysis; and Tier 3 is the same, but requires mitigation.

Michele thanked John Magee and Bill Heinz for representing the RMAC on their respective study commissions. The Committee also thanked Michele for her work on the stream crossing rules.

### 3) Lease of State Owned Land Commission

Bill Heinz reported that the full commission will meet on September 16<sup>th</sup> with the final report completed in October. There are three subcommittees:

#### 1) Public Access and Water Quality

Bill was assigned to the Public Access and Water Quality subcommittee. The area of greatest concern is the railroad right-of-ways, where there is the greatest opportunity to access state waters. A disconnection was found between the science and the politics concerning water quality. Bill suggested that the leasing policy be connected to the 303(d) list, by eliminating leasing on all impaired waters.

#### 2) Future and Current Leasing Policy

Jen Czysz is on this subcommittee and noted that a presentation will be given to the full Commission in September. The subcommittee has decided that existing lessees should be able to renew their leases, as long as they are in 100% compliance with every term in their lease, have legally obtained all permits as required by local, state, and federal laws, and all structures have been built in compliance with those permits. If these conditions are not met, leases will not be renewed. The leases can be renewed for a five-year period to cut down on staff time.

For future leases, as of January 1, 2011 only adjacent property owners can lease state property. If the property is not developed or invested as of January 1, 2011, the land cannot be leased. This is to limit the leasing of state land to areas where there has already been some form of environmental impact. If undeveloped, it will remain unavailable.

#### 3) Pricing Policy.

The subcommittee has submitted a summary report, which includes the following information:

Docks appreciate in value 12 – 18% every year.

The average value of vacant land on Winnepesaukee is \$221,000.

The contributory value of a dock or boat slip to a parcel on the lake is \$143,000.

### 4) Legislation - RSA 483

Steve referred to a handout of the final draft of RSA 483 included in the meeting material packet. The largest change was the addition of a definition for 'restore'; which includes the natural protection measure. A minor change was the addition of the pesticide enabling statute on page four. Chairman Kimball recommended altering the definition of "restore" to a closer

approximation of its natural condition prior to disturbance'. He also suggested adding 'to its more natural condition' to RSA 483:9. Lastly, he recommended changing page two to say, 'all members shall be New Hampshire residents and there should be an effort to represent all geographic areas of the state and nominating organizations should make an effort to help achieve geographic diversity for RMAC representations'. Consideration will be given to including unincorporated places.

- ***Michele L. Tremblay moved that the RMAC include the recommended changes made today to RSA 483, pending the outcome of the local governing body/municipality/unincorporated places wording, for an LSR for the coming legislative session. Second by Allan Palmer. Motion passed unanimously.***

Kath Nelson, Michele L. Tremblay, and Allan Palmer are on the legislative subcommittee.

#### **VII. Surplus Land Reviews (SLR)-Disposition of state-owned properties – Laura Weit, NHDES**

- 1) DOT 08-07: Towns of Warner and Sutton, (Warner River) The DOT Bureau of Environment does not support the transfer of this property based on the fact that the functions and values of the property are important. The proposed surplus land disposal is 9.8 acres. RMPP staff recommend against disposal based on DOT's recommendation, due to its important functions and values and the historical features on the property. John Magee indicated that the NH Wildlife Action Plan identifies the whole corridor as the highest ranked habitat in the state of New Hampshire.

- ***Larry Spencer moved that the RMAC concurs with the DOT Bureau of Environment recommendation and they recommend that DOT consider transferring the property to another state agency or local municipality, with the understanding that a conservation easement be placed on it, to ensure the property is managed for its conservation values. Second by Anne Krantz. Motion passed unanimously.***

- 2) DOT 08-08: Town of Alstead, (Warren Brook, tributary to Cold River)  
A potential land owner has approached DOT to purchase the property to build a residential structure. This property was purchased as a temporary roadway when the main road was washed out during the flooding of 2005. The Cold River LAC was contacted, but it is not within a quarter mile of the Cold River.

- ***Michele L. Tremblay moved to recommend disposal. Second by Walter Morse. Motion passed unanimously.***

#### **VIII. Other Business/Action Item Review – Steve Couture, NHDES**

Action Item Review:

- 1) Amonoosuc and Cocheco Nominations
- 2) Permit notification move forward within DES
- 3) Sustainability Initiative – meeting with Commissioner
- 4) John Magee has the authority to vote on behalf of RMAC on the recommendations
- 5) Stream crossing rules, will wait until it reaches JLCAR
- 6) 710 Commission – the vote is entrusted to Bill
- 7) RSA 483 – changes as noted will be made; work group will meet to find a sponsor
- 8) SLRs

Future Meeting Agenda Items:

Kath Nelson has requested a brief presentation and discussion on the treatment of high-bank areas relevant to CSPA permitting.

Steve requested a brief update on where the process is heading with instream flow on designated rivers.

**IX. Next meeting date(s)/adjourn:**

The next meeting will be Monday, December 15, 2008 at 1 PM.

- ***Michele L. Tremblay made a motion to adjourn with a second by Bill Heinz. Motion passed unanimously.***

**Meeting adjourned at 4:03 pm.**