

RIVERS MANAGEMENT ADVISORY COMMITTEE
Meeting Minutes
March 18, 2011
NH Dept. of Environmental Services
12:30 – 3: 00 pm

Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Jennifer Czysz
Gary Kerr
Anne Krantz
John Magee
Frederick McNeill
Allan Palmer
Jim Ryan
Larry Spencer
Donald Ware

Representing

Recreational Interests
Conservation Interests
NH Office of Energy and Planning
Granite State Hydropower
Historical & Archaeological Interests
NH Fish & Game Department
Municipal Government
Business and Industry Association
NH Fish & Game
NH Association of Conservation Comm.
Public Water Suppliers

Term

Dec. 28, 2011 V
Dec. 28, 2011 V
Indefinite NV
Jan. 5, 2012 V
June 15, 2013 V
Indefinite NV
Nov. 16, 2011 V
Sept. 28, 2013 V
Sept. 28, 2012 V
Oct. 12, 2010
Sept. 28, 2013 V

Members Absent

Vacant
Gail McWilliam Jellie
Kathryn Nelson
Johanna Lyons
Kevin Nyhan
Lance Harbour

Agricultural Community
NH Department of Agriculture
Local River Management Advisory Comm.
Dept. Resources & Economic Development
NH Dept. of Transportation
NH Dept. of Safety

Mar. 22, 2009 V
Indefinite NV
Sept. 5, 2013 V
Indefinite NV
Indefinite NV
Indefinite NV

DES Staff Present

Steve Couture
Paul Currier
Phil Trowbridge

NHDES Rivers Coordinator
NHDES Watershed Bureau Administrator
NHDES Watershed Bureau

Guests Present

Bob Johnson
Jane Bealieu

NH Farm Bureau
Piscataquog River LAC

The Meeting Was Called to Order

Chairman Ken Kimball called the meeting to order at 12:35 p.m. with introductions.

I. Introductions/Minutes/Committee Business

1) January 24, 2011 RMAC Meeting Minutes

- *Michele Tremblay made a motion to accept the January 24, 2011 RMAC meeting minutes with corrections, second by Gary Kerr. Motion passed unanimously.*

2) RMAC Membership Update

Allan Palmer, Kathryn Nelson, and Anne Krantz, have all been reappointed. Larry Spencer is expected to be nominated on March 30, 2011. The Farm Bureau Federation is working with the Governor's office on an agricultural representative.

3) Public Waters Access Advisory Board (PWAAB)

The rivers representative position is vacant on this board. They advise Fish and Game on public water access.

II. Legislation/Rulemaking/Other

1) Water Quality Standards update – Phil Trowbridge

3 updates regarding WQSAC:

1. **Rulemaking** – for a section related to anti-degradation and water withdrawals.

- Env-Wq 1708.10 – Anti-degradation, Alternatives Analysis; Economic or Social Importance
 - Clarifies the processes for alternatives analysis and DES approval
 - Replaces 1995 economic guidance from EPA with state-specific requirements
- Env-Wq 1708.12 – Transfer of Water
 - Clarifies the criteria that must be met for water transfers
 - No exotic aquatic species or other species that would upset the biological and aquatic community
 - Existing and designated uses maintained in source and receiving waters
 - Antidegradation regulations applied to source and receiving waters
 - An approved water conservation plan
- 2/17/11: Rulemaking Notice published
- 4/14/11: Public Hearing at DES
- 4/25/11: Written comments due

2. **Triennial Review of Surface Water Quality**

40 CFR 131.20 requires States to hold public hearings to review surface water quality standards at least every 3 years.

Two Stage Process

- Solicit suggestions from the public for possible revisions to the standards
- Suggestions will be considered by the WQSAC for modifications to standards over the next three years
- NH's Surface Water Quality Standards consist of:
 - RSA 485-A: 1-4, 8-11
 - Env-Wq 1700

3. **Classification Subcommittee** – a long term effort to revise the classification system

WQSAC subcommittee to update the list of designated uses and criteria for surface waters, including wetlands

- Concept is to replace Class A/B system with designated use matrix
- Any interested party may participate

ONE IDEA FOR A MATRIX OF DESIGNATED USES AND SUBCLASSES							
AQUATIC LIFE	SWIMMING	BOATING	DRINKING WATER SUPPLY	FISH CONSUMPTION	SHELLFISH CONSUMPTION	WILDLIFE	GEOMORPHIC INTEGRITY
Natural	Frequent	Frequent	Source Water	Fishing possible	Shellfishing possible	Natural	Natural
Rural	Occasional	Occasional	Potential Source Water	Not Fish Habitat	Not Shellfish Habitat	Rural	Managed
Community	Rare	Rare	No Water Supply Potential			Community	
Urban						Urban	

New Designated Uses (proposed so far)

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

Next Steps

- Definitions for new designated uses
- Designated uses for wetlands
- Review Clean Water Act requirements for designated uses

Phil then answered questions from the committee. Next WQSAC meeting is March 21st at 1 p.m. here at DES.

2) Legislation and Policy Subcommittee – Michele Tremblay, Vice Chair, RMAC and Chair of Policy and Legislation Subcommittee

Michele Tremblay, Chair of Policy and Legislation Subcommittee thanked Allan Palmer and Gary Kerr for meeting earlier today to go over the legislation.

An update and next steps were provided for the 4 river designations. Mascoma and Exeter/ Squamscott went through committee as written, as well as to the House floor. The Oyster and Lamprey Rivers were amended to exempt the 1st, 2nd, and 3rd order streams from the CSPA. The recommendation is to list those changes that have the following detrimental affects: 1) creates inconsistent/spot legislation that is confusing and 2) the communities knew what the existing statute was and they supported as is. The letter of testimony will be written to the Senate stating these issues.

- ***Michele Tremblay made a motion that RMAC submit a letter of testimony that while they're in support of the nominations, we are opposing the spot changes with CSPA, for the reasons stated, second by Gary Kerr. Motion passed unanimously.***

This will request the Senate to reverse the language back to the original way it was proposed by the nominating committee for HB 149 & 44.

HB 27 – This bill makes changes to statute RSA 483. Some language has been added – ‘*shall give written notice to riparian landowners and the governing body...*’ This puts a higher burden on the volunteer effort and there is no precedence for this. It is suggested that language be consistent with RSA 675:7 (regarding notice of public hearings) which is an adequate and appropriate notification. It would be then be required pre-submittal to DES. Application would only be complete if the public meeting documentation was attached.

Also in paragraph 4:I, there is wording moved which is repetitive but makes no changes. The subcommittee recommends it be left as is.

Under paragraph 5 – the 5 year grandfathering for the Upper Merrimack, Pemigewasset, Connecticut, and the Saco will expire January 1, 2012, for the existing application of sludge for those that are permitted. This is to add an additional 5 years to 2017. The subcommittee recommends this and it encourages and supports riparian landowners to keep their working lands as such.

- ***Michele Tremblay moved to go forward with a Letter of Testimony to change riparian landowner notification and add the additional 5 years of grandfathering for the sludge, second by Larry Spencer. Discussion held re: Upgrade language from a meeting to a hearing. Amendment made by Michele Tremblay, seconded by Larry Spencer to add: either referencing RSA 675:7or if an issue, take the text verbatim for the amended language in HB 27. Motion passed unanimously.***

HB 621 - as originally submitted would have allowed municipalities, regarding stream crossings, submit a Notification to the DOT and \$25 and the work could be done. It also creates a committee to examine if the DES Stream Rules are an unfunded mandate and if DES has exceeded its regulatory authority with the stream crossings. DES was opposed to this. As it is amended now, which DES supports, it requires municipalities to use the Permit by Notification (PBN) process, using DOT's Best Management Practices(BMPs), but increases the size of the culvert maintenance considered from 36" to 48".

- ***Allan Palmer made a motion to support the expansion of the PBN process and stay silent on the other issues the bill addresses, second by Jim Ryan. Discussion. Motion passed unanimously.***

HB 470 – repealing the comprehensive shoreland protection act. Retained in Committee pending outcome of SB 154.

SB 154 – the subcommittee agreed on the permission issue. 1) It states land owners must give permission for DES to enter a property to perform an inspection and get a court order to do an inspection and for monitoring. 2) Another one provides for the refunding of fees when a permit is denied by DES. 3) A waiver would be able to be given by Commissioner, which will give rise to inconsistent treatment and grounds for appeals. It also removes the civil penalties currently under CSPA., and there are just administrative fines left. The sunset clause is also eliminated. Steve also noted that the subcommittee did not come to consensus about the PBN processes in the bill.

- ***Michele T. moved to have the RMAC to write a letter of testimony in opposition to the 3 items noted above, second by Gary Kerr. Discussion. Motion passed unanimously.***
- ***Allan Palmer made a motion that the RMAC be in support of the Permit by Notification concept included in SB 154, second by Gary Kerr. Discussion concerning size of lots, disturbance percentage of lot size, limits, cumulative impacts, etc. Amendment offered by Allan Palmer to include: individual or cumulative impacts under a PBN could not exceed 1500 sq ft of construction impact, or for impervious surface 900 sq feet of or 20% of a lot, whichever is less. Motion passed unanimously.***

Discussion: The Letter of Testimony should be specific as to the ramifications of how it is currently written and why we are proposing this as solutions. DES is comfortable with the language as written. What is already relative could not exceed the impacts already outlined provide justification. Recommend cumulative individual projects cannot exceed 20% impervious under PBN, cumulative could not exceed the 900-1500 sq ft. limitations that are already in that section.

Michele noted that HB 514 relative to landowner consent for administrative inspection of land has been retained. The other bills of concern have either been retained or ITLd and some were Ought to Pass with amendments.

SB 19 , SB 20, and SB 21 have all cleared the Senate with amendments and are going to the House.

SB 142 – innovative permitting process that is a DES requested bill. RMAC did not have a position. Still watching.

Michele then proposed that any prior vote to either support or oppose stand unless there has been anything significantly changed. They will work on those Letters of Testimony after crossover.

Chairman Kimball and Vice Chairman Tremblay gave their thanks to those on the subcommittee for their work on the legislation.

III. RMPP Budget and Staffing – Steve Couture, DES

Jenn Rowden has taken a full time position with the Drinking Water Ground Water Bureau. She is still helping one day per week on the Watershed Conference.

Chairman Kimball will send a thank you to both Jenn and Laura for their work while Steve was gone.

Paul Currier summarized the budget status

CHANGES TO DES BUDGET IN GOVERNOR'S PHASE:

1. Agencies asked to prepare revised budget that is 95% of FY 11 Adjusted Authorized Budget for General Funds and Other Funds Federal excluded)
2. For DES that meant reducing our Gen Fund budget to \$18 Million per year from \$21/\$20M
3. Our Maintenance Budget prepared this summer was at \$28M Gen Funds FY12.

Overall:

Adjusted Authorized Budget FY 2011 \$225.9M

Original Maintenance Budget FY 2012 \$218.4M
Governor's Budget Proposal FY 2012 \$210.9M

4. *Hard decisions, hard choices were made in order to achieve the Governor's goal*

5. *Changes Made:*

- *Reduce overall staffing levels from 547 to 488*
- *Unfund 26 vacant positions*
- *Unfund 14 filled positions*
- *Transfer Water Lab to DHHS – Public Health*
- *Fund state aid grants only for existing grants*

THIS IS ONLY THE FIRST ROUND OF THE BUDGET

Impacts to general fund programs are likely just the beginning

Various bills in legislature seek to reduce DES fees & may impact fee programs & staff

Congress is seeking major reductions in funding for EPA in FFY 11 & 12

*** this would impact our federal programs greatly*

Every one of our programs is now subject to potential reduction

The House of Representatives budget, with their additional 10% cut, would completely eliminate the Rivers and Lakes Programs -eliminating 3.5 positions and at a savings of only \$300,000. The additional 10% cut of general funds would eliminate the limnology lab, VRAP and VLAP, the public beach, pool, and spa inspections, the Water Well Board, and the shellfish program. This is not the time to lobby. House Finance Committee will exec on Monday. Now the budget will be going to the Senate where it will be worked on. After that It will go to the committee of conference and then to the Governor for his signature or veto.

Paul stressed the importance of the connection with the local advisory committees. The Rivers Program establishes a grassroots watershed based process. DES has been working towards this model of the Rivers Program managing the watershed. If removed, all the progress made getting watershed implementation for the grass roots level going away. All the progress made on instream flow protection would stop. Nominations would stop.

There are six opportunities, specific to the Rivers Program, coming up in the Senate: the 4 river nominations, the instream pilot project extension, and HB 27.

- ***Michele Tremblay made a motion that the RMAC write Letters of Testimony to the Senate at the appropriate time and to the appropriate committee that supports and provides documentation and justification for the Rivers and Lakes Management and Protection Programs, second by Larry Spencer. Discussion ensued. In the Letter of Testimony they will put forth the value of the program. Motion passed unanimously.***

The committee will need to be ready for the budget hearing with presentations from all segments. Steve encouraged members to get permission to have their group testify individually which will lend more weight.

The LMAC has voted to have their Chair and Vice Chair coordinate with RMAC Chair and Vice Chair on strategies if they want/willing. It was agreed to work with the LMAC.

V. Lamprey and Souhegan River Water Management Planning Area Advisory Committees

Steve shared that the RMAC has an advisory role to the DES Commissioner as to who the Commissioner recommends to the Governor and Executive Council for appointment to the Water Management Area Advisory Committees for the two instream flow pilot projects. There are three Nominees for each river which fill vacancies, there is no competition.

- ***Larry Spencer made a motion to recommend to DES commissioner all the following names: Lamprey River - Brian Giles, William Hall, Doug Bechtel, Souhegan River – Eli Levine, Ryan***

Crosbie, and Ronald Hamel as presented, second by Fred McNeill. Motion passed unanimously.

IV. LAC Roundtable

Steve noted this was a concept that has been talked about which identified the need to get back to the LACs specifically on some of their training and informational needs. Kathryn did a survey of the LACs regarding having a meeting and the response was yes. There will be a half-day meeting at DES specific to LAC members with details to be worked out. The goal is to provide opportunity for new LACs in the fall to become informed and have interaction. With limited staff time there won't be as much one-on-one assistance. A possibility is to have mentoring of LACs for newer LACs which would be helpful and could be a part of agenda. This could facilitate the RMAC and LAC's need for more interaction. Chairman Kimball recommends doing something like this a few times well rather than multiple times due to time constraints. This is planned to be an annual event. Michele noted the NH Rivers Council will have their Wild and Scenic film festival in November and this could be combined with the workshop.

VI. Other Business/Action Item Review:

It was suggested that members consider bringing their computers and not print out all the paperwork to save staff time and printing expenses. If you want hard copy please notify Steve.

Steve reported that 2 CORD/DOT property disposals came in yesterday. These are non-CORD reviews that have 60 days to review.

Registration is still open to the Watershed Conference, which will probably be filled soon.

The Water Management Plan for the Lamprey River will most likely have a public hearing sometime early May.

VII. Next Meeting(s)/adjourn:

The next meeting will be May 9, 1 – 3:30 p.m. at DOT.

Jim Ryan moved to adjourn, second by Donald Ware at 3:08 p.m. Motion passed unanimously.