



**RIVERS MANAGEMENT ADVISORY COMMITTEE**  
 NH Rivers Management and Protection Program  
 and  
**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

**JOINT RMAC/LMAC MEETING MINUTES**  
**December 5, 2013**  
**NH Fish and Game Conference Room**  
**11:00 am – 1:15 pm**

**RMAC Members Present**

Ken Kimball, Chair  
 Michele L. Tremblay, Vice Chair  
 Anne Krantz  
 Kathryn Nelson  
 Allan Palmer  
 Jim Ryan  
 Larry Spencer  
 Donald Ware  
 Patrick Hummel  
 John Magee  
 Susan Slack

**Representing**

Recreational Interests  
 Conservation Community  
 Historical & Archaeological Interests  
 Local River Management Advisory Comm.  
 Business and Industry Association  
 NH Fish & Game  
 NH Association of Conservation Comm.  
 Public Water Suppliers  
 Commissioner, DRED  
 Executive Director, F&G  
 Director, Office of Energy and Planning

**Term**

Dec. 28, 2014 V  
 Dec. 28, 2014 V  
 June 15, 2016 V  
 Sept. 5, 2016 V  
 Sept. 28, 2016 V  
 Sept. 28, 2015 V  
 Oct. 12, 2016 V  
 Sept. 28, 2016 V  
 Indefinite NV  
 Indefinite NV  
 Indefinite NV

**RMAC Members Absent**

Roger Noonan  
 Frederick McNeill  
 Gail McWilliam Jellie  
 Kevin Nyhan  
 Elizabeth Peck  
 Vacant

Agricultural Community  
 Municipal Government  
 Commissioner, Dept of Ag., Markets & Food  
 Commissioner, DOT  
 Commissioner, DOS  
 Granite State Hydropower

Mar. 22, 2015 V  
 Nov. 16, 2014 V  
 Indefinite NV  
 Indefinite NV  
 Indefinite NV  
 Jan. 5, 2015 V

**LMAC Members Present**

David Packard, Chair  
 Susan Slack, Vice Chair  
 Shane Bradt  
 Linda Brownson  
 Fred Clews  
 Robert Compton  
 John Cooley  
 Eric Feldbaum  
 Kimberly Hallquist  
 Dick Smith  
 Mary Truell  
 Bob Wolff

**Representing**

NH Lakes Association  
 Director, Office of Energy & Planning  
 Scientific Community, UNH  
 State Conservation Committee  
 Fish & Game Commission  
 Planning Boards  
 Conservation Community  
 Commissioner, DRED  
 Municipal Officials  
 Fishing Interests  
 NH Association of Realtors  
 Commissioner, Dept. of Agr., Markets & Food

**Term**

Aug. 1, 2015 V  
 Indefinite NV  
 Aug. 22, 2016 V  
 Aug. 1, 2015 V  
 Aug. 22, 2015 V  
 Aug. 1, 2014 V  
 Sept. 19, 2013 V  
 Indefinite NV  
 Aug. 1, 2015 V  
 Nov. 17, 2013 V  
 June 27, 2014 V  
 Indefinite NV

**LMAC Members Absent**

Wendell Berry  
 Capt. Tim Dunleavy  
 Mark Hemmerlein  
 John Irwin  
 Jim Morash  
 Martha Twombly  
 Vacant

NH Business and Industry Assn.  
 Commissioner, DOS  
 Commissioner, DOT  
 NH Marine Dealers Association  
 Tourism Industry  
 NH Assn. of Conservation Commissions  
 Exec. Director, F&G

July 8, 2013 V  
 Indefinite NV  
 Indefinite NV  
 Aug. 22, 2014 V  
 Aug. 1, 2013 V  
 Aug. 22, 2016 V  
 Indefinite NV

**DES Staff Present**

Collis Adams	Wetlands Bureau
Jacque Colburn	Rivers and Lakes Program
Shane Csiki	NH Geological Survey
Carolyn Guerdet	Water Division
Tracie Sales	Rivers and Lakes Program

**Guests**

Tom O'Brien	NH Lakes Association
Robert Snelling	Shoreland Advisory Committee Chair
Rep. Judith Spang	NH House of Representatives

**Meeting Was Called to Order**

RMAC Chair Ken Kimball called the meeting to order at 11:06 a.m.

**I. Introductions/Announcements**

Chairman Kimball asked everyone to introduce themselves.

**II. Instream Flow Program Update**

As neither Commissioner Burack nor Watershed Bureau Administrator Ted Diers could attend the meeting, Jacquie Colburn presented Commissioner Burack's letter, dated October 9, 2013, responding to the RMAC's and LMAC's request for DES to adopt the committees' jointly authored *Comprehensive Surface Water Resource Management* document as policy. As a follow up to the letter and per Chairmen Kimball's and Packard's request, Jacquie sat down with the Commissioner to discuss how the department intends to apply the guiding principles contained within the document. The Commissioner said that the principles would first be introduced and applied within DES, and later outside of DES. Administrator Diers will present the principles to the Watershed Management Bureau at a bureau meeting first, and will note how many of the principles are already being applied. Later, Water Division Director Harry Stewart will share the principles with the Water Division, again emphasizing the ways they are already being applied and how they can be used within the Climate Change Initiative. Finally, they will be presented to other relevant groups and committees including the Water Quality Standards Advisory Committee, the Water Council, and possibly the Wetlands Council. Legislators will also be introduced to these principles, especially the members of the SB 330 Committee.

Vice Chair Tremblay commented that she would like to see how DES applies these guiding principles, and was pleased that they will be discussed among a broader group. She asked if the document was posted on the RMAC and LMAC webpages, and if it could be posted on the Dam Bureau's webpage? Jacquie replied that the document is on the instream flow webpage and could be put on the Rivers and Lakes pages, but that she would have to check with the Dam Bureau about their website.

Larry Spencer asked about the difference between policies versus rules, and if they are enforceable or not. Chair Kimball replied that rules are enforceable, and Allan Palmer noted that policies can bring many rules together.

**III. Shoreland Advisory Committee**

Chair Kimball introduced the concept of improving applicability of the Shoreland Water Quality Protection Act (SWQPA), noting the currently there is no continuity town-to-town as to how the Shoreland standards are being applied. The Clean Water Act provides the baseline for the SWQPA, but "are the shoreline regulations providing a high enough bar to protect NH's waters?" The RMPP requires a management plan for all designated rivers, but these plans may or may not be adopted by the towns involved, and many rivers are not designated, so the RMPP is unable to fill that gap. The Shoreland Advisory Committee (SAC) is considering potential changes to the regulations to make them more protective. Chair Kimball introduced SAC Chair Bob Snelling.

**1) Update regarding the work of the Shoreland Advisory Committee**

Bob Snelling commented that a major rewrite of the SWQPA was done in 2008, which included the 50, 150, and 250 ft delineations in the legislation. In 2011 there was significant push back on the 2008 regulations and the regulations were revised again, but SAC was also created. 2013 saw more changes to the SWQPA regulations, which returned protections almost to the 2008 standards and extended SAC

to December 2015. SAC is a venue for stakeholders to express concern or support for the standards in the act. The committee has broad representation and is charged with making recommendations to DES.

2) Opportunities for Collaboration with the RMAC and LMAC

SAC's primary concern: How do we manage the upland area adjacent to a waterbody to protect the water and the habitat? The original standards were generic with respect to the type of waterbody. However, is there justification for having a different set of standards for rivers versus lakes versus estuaries? Would it make sense to collaborate by putting together an ad hoc committee with 2-3 members from each committee (RMAC, LMAC and SAC) plus relevant experts to examine if the Shoreland rules should be different by type of waterbody, and create recommendations? The recommendations will need to be supported based on science and existing policy. The SAC will move ahead anyway, but would like input, especially if it is going to recommend an LSR for the 2016 legislative session.

Chair Kimball asked the committees if they want to get involved. Vice Chair Tremblay responded that Jody Connor had worked hard on the SWQPA, and it currently best fits lakes. She suggested that the Piscataqua Region Estuary Partnership (PREP) be included, as well as DES' fluvial geomorphologist, and asked if DES could assist with a literature search. Larry Spencer commented that the waterbody types have different functions, and thus the differences should be examined. Tom O'Brien asked about the existence of overlapping jurisdictions.

Rep. Spang noted that the name of the Shoreland Act has changed 3 times. She also asked "what will the regulations look like" for the different surface waters and she suggested focusing on items that are affected by land use changes and for which rules are already available. Vice Chair Tremblay thanked Rep. Spang for her work on the SWQPA.

Kath Nelson asked if wetlands have different standards. Snelling commented that there are 2 issues: the re-write of wetlands rules and update of shoreland rules.

Chair Kimball noted that science can give one answer, while property rights and politics may give another answer. Snelling said the hope was to find a balance, and that SAC is looking to see if it is worth modifying the rules for these issues. This ad hoc committee has been approved by SAC.

Allen Palmer asked where the science backing for the SWQPA had been derived? Snelling replied that they did quite a bit of research and some field surveys, most with the U.S. Forest Service. They looked at the effect of the percent of impervious surface on water quality.

Chair Kimball asked members if they would like to be involved in the subcommittee, noting that this would require an investment of time? Vice Chair Tremblay suggested polling for consensus, then determine who the subcommittee volunteers would be later. A hand vote with a majority (~15) approved moving forward with this.

Rep. Spang suggested gathering data first then putting together another group to determine how to apply the data.

#### **IV. Wetlands Bureau – Wetland Rules Rewrite**

Collis Adams, Wetlands Bureau Administrator, spoke to the RMAC and LMAC and explained that DES is undertaking a complete rewrite of the wetlands rules. The rules have become disjointed over the last 30 years. DES hopes to have the rewrite complete by the end of 2015. There are 3 overarching goals:

- 1) Make process more transparent and predictable so that the rules are easy to understand and apply;
- 2) Review the standards and ensure consistency;
- 3) Ensure decisions are science-based.

Currently they are reaching out to other state programs and federal partners. All members of the Wetlands Bureau are involved. There will be public listening sessions, drafts published for review, and an effort to work with the regulated community to make it better. They are writing the new rules from scratch.

Chair Kimball asked about the timeline of the rewrite, particularly with respect to the RMAC/LMAC joint meetings. Adams responded that they are conducting outreach now through the spring, and then will be writing the draft in an iterative process with stakeholder input. He noted that they may have more substance and more to share at the next joint meeting, and he is glad to give updates.

Vice Chair Tremblay asked about the Army Corp of Engineers (ACOE) mandates, to which Adams responded that the ACOE is proposing a New England-wide general permit. The states are opposed to this and feel that the existing permits are working fine. ACOE also has not conducted any public outreach regarding the proposed permit.

## V. RMPP and LMPP Statute Review

### 1) Shared Statutory Elements

Jacque distributed and reviewed the handout “NH RMPP and LMPP Shared Statutory Elements,” which is a side-by side comparison of the programs in the areas of the programs’ policies, intents, management, state-owned waterfront surplus land disposals, river and lake management plans, and funding mechanisms.

Vice Chair Tremblay asked if the Rivers Program Long Range Management Plans correlate to Lake Management Plans. Jacquie replied that they did not because the Rivers Long Range plans are tools for state agencies to manage state-owned lands within designated river corridors while the lake plans are broader-reaching.

Chair Packard asked if there is anything the LMAC should be doing that they have not been. Jacquie responded that the provisions of 483-A:5 I, recommendations to state agencies regarding lake management and protection, is not getting done, and has not since 2011. Vice Chair Tremblay noted that this section of RSA 483-A is an unfunded mandate. Discussion ensued about the decision to eliminate the Lakes Coordinator position when cuts were mandated, and how the position could be reinstated, which would have to happen through legislation. The group agreed to work toward this. Jacquie noted that only one Long Range River Management Plan had been drafted, even with full river program staffing.

O’Brien asked if the Rivers and Lakes programs, including the RMAC and LMAC, should be watershed-based. Chair Kimball commented that many states have tried watershed-based organization, but he was not sure if it would work. Are there bite size changes we could work on together? Surplus land disposal reviews, for example, have been reactive, but could be pro-active if management plans for state owned lands were developed. Vice Chair Tremblay added that the Public Waters Access Advisory Board should be included in this effort. Jacquie showed the map of the 2007 State Managed Land Abutting Water.

Vice Chair Tremblay commented that there are two ways to proceed, one would be to rewrite the statute based on current science, the other would be to tweak the existing statute to make it more politically effective. The Rivers Program has had good luck in the past making changes to the statute, but the focus now would need to be on staff in order to create a fulltime position for lakes.

Chairs Kimball and Packard will coordinate to have recommendations for changes by the end of the summer.

### 2) New Hampshire Watershed Approach

Jacque explained that at the request of Commissioner Burack and Assistant Commissioner Quiram, students at the Nelson A. Rockefeller Center at Dartmouth College are undertaking a review of RSAs 481-488 with the goal of assisting DES in developing a watershed approach to managing the state’s water resources. A team of 3 undergraduate students and their advisor will analyze the water-based statutes and administrative rules. The analysis will include a comparison NH laws to those of other states that have implemented a watershed approach, especially Vermont’s. In order to highlight the differences between NH and VT water laws, the students will also trace the path of a raindrop that falls in each state and the regulations that affect it as it travels through the watershed. The students have been asked to have the project completed in March 2014.

Rep. Spang asked what the students’ definition of a watershed would be in terms of scale, for instance is it the 5 largest watersheds, or by a particular HUC level? Chair Packard asked if the study would be economic or ecologic, but Jacquie did not yet know.

Chair Kimball commented that the questions the students are attempting to answer may be too large, and that they might do better to narrow their focus to where the statutes overlap, conflict or complete each other. Rep. Spang added that the students must have a clear assignment and a strong advisor in order for DES to get a useful product out of the effort. Vice Chair Tremblay commented that buffers may bog the students down, but Kath Nelson noted that for designated rivers, the LAC management plans provide a data source for buffers and set-backs.

Chair Packard asked what the LMAC and RMAC roles would be. Jacquie asked for volunteers to work with the students, and received agreement from the New Hampshire Rivers Council and from Tom O'Brien on behalf of the New Hampshire Lakes Association.

## VI. Recommendations for Program Funding

### 1) Review and Discuss Existing Federal and State Funding for River and Lake Programs

Jacquie provided a handout that explains the programs and funding sources within the Watershed Management Bureau. Of the 42 or 43 staff positions within the WMB, only 6 are general funded. Chair Packard asked about the source of "other" funds for Biology, which Jacquie replied came from boat registration fees that are used for invasive species eradication. Vice Chair Tremblay commented that the Coastal Program gets a lot of funds, much of it from NOAA, and can also use Watershed Assistance funds.

### 2) Future Funding Sources

Chair Kimball commented that DES needs a larger 'pie' of funding sources, particularly with federal funding being cut. He noted that staff could be cut, and DES may need a paradigm shift to maintain funding. Vice Chair Tremblay commented that with grants being cut so as to maintain staff positions, there may not be enough projects for staff to manage in the future.

Jacquie brought up the Water Infrastructure Report (SB 60 report), which could turn into a bill for the following year.

John Cooley asked if other states were experiencing the same problems. Chair Kimball replied that a high percentage of staff were federally funded. O'Brien noted that fee-based funding is no longer adequate. Other ideas mentioned included charging something at the wholesale level dedicated to fund these projects and some kind of private funding mechanism to fund DES.

Vice Chair Tremblay commented that the budget determines policy, but the budget is done based on what is available. Cuts in these funds affect VRAP, VLAP and the LACs, which touch the public.

Shane Bradt noted that the Cooperative Extension is also looking at these problems, but thought that sometimes people value something more if they have to pay for it.

Chair Kimball commented that he assumes the DES Commissioner is looking into the issue, and asked to hear what he and DES see for future funding. What is DES's game plan? He suggested that the Commissioner consider how the RMAC and LMAC could help push something forward, and requested DES's outlook and strategies in order to help the committees prepare. Chair Kimball concluded by requesting a breakdown of funding sources, and discussing this topic again in the spring.

## VII. Other Business and Action Item Review

### 1) Other Business

- A celebration of Ray Burton's life is scheduled for December 14<sup>th</sup>. Larry Spencer will email information for distribution.
- Tom O'Brien mentioned possible legislation that would require registration fees for canoes and kayaks, with the funds going to support Fish & Game.

### 2) Action Item Review

- Inform Ted Diers that RMAC would like updates regarding DES application of the *Comprehensive Surface Water Resource Management* guiding principles.
- Strategy/proposal for funding issue for discussion at spring Joint meeting.
- Post LMAC/RMAC Comprehensive Surface Water Resource Management document on other web pages.

### 3) Next Joint Meeting – Proposed for late spring 2014

Meeting adjourned at 1:39 p.m.