

RIVERS MANAGEMENT ADVISORY COMMITTEE

Meeting Minutes
January 3, 2007
DES Rooms 112/113
9:30 am – 12:30 pm

Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Alan Bartlett
Bob Beaurivage
Johanna Lyons
Jennifer Czysz
William Heinz
Deborah Hinman
John Magee
Allan Palmer
Ted Sutton

Representing

Recreational Interests
Conservation Community
Agricultural Community
Public Water Suppliers
Dept. Resources & Economic Development
NH Office of Energy and Planning
Granite State Hydropower
NH Assn. Conservation Commissions
NH Fish & Game Department
Business and Industry Association
Municipal Government

Term

Dec. 28, 2008 V
Dec. 28, 2008 V
Mar. 22, 2009 V
Sept. 28, 2007 V
Indefinite NV
Indefinite NV
Jan. 5, 2009 V
Oct. 12, 2007 V
Indefinite NV
Sept. 28, 2007 V
Nov. 16, 2008 V

Members Absent

Gail McWilliam Jellie
Walter Morse
Wesley Stinson

NH Dept. of Agriculture, Markets & Food
NH Fish & Game Commission
Historic/Archaeological Interests

Indefinite NV
Sept. 28, 2009 V
June 15, 2007 V

Guests Present

Michelle Hamm
Rick Chormann
Carl Paulsen

Contoocook and North Branch River Local Advisory Committee
NH Geological Survey, NHDES
NH Rivers Council

DES Staff Present

Steve Couture
Laura Weit
Paul Currier
Laura Hayes
Wayne Ives
Carolyn Guerdet

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

The Meeting Was Called to Order

Ken Kimball, Chair, called the meeting to order at 9:36 AM.

I. **9:40 – 9:45 Introductions/Minutes/Committee Business**

- a. Introductions of committee
- b. Souhegan Protected Instream Flow to be presented this afternoon at 1:30 pm at the NH Fish and Game Dept.

1) **October 3, 2006 Meeting Minutes - Vote Required**

- ***Michele Tremblay made a motion to accept the October 3, 2006 Meeting Minutes, Ted Sutton seconded the motion and the vote was unanimous.***

2) **RMAC Membership Status**

- a) Alan Bartlett was welcomed as a new member and is representing the Agricultural Community.
- b) Steve noted that we are up to date but in 2007 four individuals terms are said to expire – Bob Beaurivage, Debby Hinman, Allan Palmer and Wes Stinson. Chairman Kimball

encouraged Steve to follow up with those who's terms are set to expire to determine interest and start the process for re-nomination or find replacements if necessary.

3) Correspondence

- a) Statement of Financial Interest must be submitted by each member with a due date of January 19th. Laura had copies available for each member.
- b) Steve reported on the court case relevant to the Rivers Management Protection Program, which was appealed to Superior Court. The Piscataquog Local River Advisory Committee's management plan and testimony were both cited in the decision.
- c) Travel vouchers are available for committee members that are not state employees.

II. 9:45 – 10:00 Introduce new NHDES Commissioner – Tom Burack, NHDES

Tom was unavailable at this time.

III. 10:00 – 10:15 Lamprey WMPAAC Nomination – Steve Couture, NHDES

1) Affected Dam Owner nomination

This is a nomination for the Water Management Planning Area Advisory Committee for the Lamprey River, a replacement for the town of Durham.

- ***Michele Tremblay made a motion to approve nomination of David Cedarholm, Durham town engineer, with a second by Ted Sutton. The vote was unanimous.***

Commissioner Burack arrives.

Steve Couture introduced Commissioner Burack who shared his thoughts, vision and answered committee members' questions.

Paul Currier suggested formalizing the communication between the committee and the Commissioner.

The Commissioner spoke about the DES's Strategic Plan and asked for thoughts and recommendations as this process begins. The Department will be looking at:

- 1) the growth of the state and the management of natural resources, and
- 2) the issue of climate change.

IV. 10:30-11:30 Legislation/Rulemaking/Other

1) Legislation – Steve Couture, NHDES

Steve referred to the handout listing the 2007 Legislative Service Report (LSR) and reviewed the following:

a) **Shoreland Protection Act Commission**

The committee was given a copy of the final report without the appendices. The SPA Commission voted to change the methodology of stream order to the NH Hydrologic Dataset and include 3rd order streams under the provisions of the act.

Four LSRs addressing the recommendations included in the report are:

1. 2007-H-0520-R: relative to funding implementation of the Comprehensive Shoreline Protection Act (CSPA). CSPA Report recommendation #1. This is requiring a new funding stream to add approximately \$600,000 to the budget for additional staff and expenses.

- **Debbie Hinman moved to support, Michele Tremblay seconded. The vote was unanimous.**

2. 2007-H-0536-R: making technical correction to the CSPA. CSPA Report recommendation #10-12, 15-17. Includes removing exemption for Pemi and Saco and including 3rd order Streams.
 - **Michele Tremblay moved to support, Deb Hinman seconded. The vote was unanimous.**
 3. 2007-H-0538-L: relative to permitting responsibilities under the CSPA. CSPA Report recommendation #3-6, 14. Steve recommended that this legislation is the one to consider, follow and testify.
 - **Michele Tremblay moved to support, Deb Hinman seconded. The vote was unanimous.**
 4. 2007-H-0539-R: relative to a natural woodland buffer and protected shorelines. CSPA Report recommendation #2,8,9,13
 - **Michele Tremblay moved to support, Deb Hinman seconded. The vote was unanimous.**
- b) Dam Maintenance Fee**
2007-H-0535-R: relative to annual dam registration.
- **Michele Tremblay moved to support, Deb Hinman seconded. This may be a vehicle for stream gage funding. The vote was unanimous.**
- 2007-H-0540-L: relative to funding dam maintenance fee through the shorefront maintenance fee. With the hope to use some of increased funding to go to recommendation of stream gage taskforce report.
- **Deb Himman moved to support the need to develop a funding source both for maintaining state-owned dams as well as for maintaining stream gages in the state, seconded by Ted Sutton. The vote was unanimous.**
- b) Grandfathered RMPP Sites & Residuals**
2007-H-0618-R: relative to the permanent authorization of biosolids sites.
- **Michele Tremblay moved to support, Ted Sutton seconded. There were five votes in support and two abstentions.**
- c) Ammonoosuc Designation**
2007-H-0041-R and 2007-S-1187-R: designating segments of the Ammonoosuc River into the rivers management protection program.
- **Michele Tremblay moved to support, Deb Hinman seconded. The vote was unanimous.**
- d) Comprehensive Flood Control Plan**
2007-H-0036-R: establishing a commission to develop a comprehensive flood control plan.

- **Michele Tremblay moved to track and watch this bill and make comments on natural systems, culverts, and stream crossings, seconded by Bob Beaurivage. The vote was unanimous.**

e) Setback requirements for new landfills

2007-H-0211-R: relative to setback requirements for new landfills located near designated rivers.

- **Michele Tremblay moved to support the language of no NEW landfills within the corridor, but expansion of existing can be grandfathered but not with an automatic exemption, seconded by Bill Beaurivage. The vote was unanimous.**

2007-H-0240-R: relative to additional appropriations for matching funds resulting from the October 2005 floods.

- **Michele Tremblay moved to track this bill, Deb Hinman seconded. The vote was unanimous.**

2007-H-0683-R: relating to the siting of landfills.

- **Michele Tremblay moved to track this bill, Deb Hinman seconded. When bill language is finalized a decision can be made to support or oppose it. It would be helpful to know what DES position is. The vote was unanimous.**

f) Sludge, septage, and Biosolids

2007-H-0547-L: relative to repealing the authority of the department of environmental services regarding sludge and biosolids.

- **Michele Tremblay moved to track this bill, Deb Hinman seconded. When bill language is finalized a decision can be made to support or oppose it. It would be helpful to know what DES position is. The vote was unanimous.**

2007-H-0599-R: relative to prohibiting wastewater treatment plants from excluding towns for septage treatment and disposal services.

- **Michele Tremblay moved to track this bill, Deb Hinman seconded. When bill language is finalized a decision can be made to support or oppose it. It would be helpful to know what DES position is. The vote was unanimous.**

Allen Palmer arrives at 11:03 a.m.

g) RMAC membership, Management Plans

2007-H-0912-R: Steve Couture referred to the 1 page handout titled "**RMAC Legislative Concepts for Discussion, January 2007**". Concepts that Steve, Ken, and Michele are putting forth to improve the program include:

- 1) 483:3 change "commissioner's office" to "watershed management bureau"
- 2) 483:8 seeks to add a representative of the Local River Advisory Committee and the Department of Transportation, one voting and one non-voting member to the RMAC. Jennifer Czysz suggested that the language be changed to "elected or appointed".

- 3) 483:10 allow LACs the opportunity to develop management plans that include tributary drainage areas, moving to a watershed area.
- 4) 483:10-a use tributary drainage areas when developing the long-range river management plan. Include the Department of Transportation and the Department of Safety during the planning process. Change OEP's name to the "Office of Energy and Planning".
- 5) 483:12-a brings in the Comprehensive Shoreline Protection Act and groundwater permitting withdrawals.

- **Michele Tremblay moved to accept all the changes and support the bill, Deb Hinman seconded. Steve will track and provide testimony. The vote was unanimous.**

2007-H-0716-R: establishing a commission to study issues relative to the practice of leasing state-owned real estate on the shore of public waters.

- **Michele Tremblay moved to support, Deb Hinman seconded. The vote was unanimous.**

2007-H-0819-R: relative to river protection and restoration.

- **Michele Tremblay moved to track, Deb Hinman seconded. The vote was unanimous.**

2) **Administrative Rules – Steve Couture, NHDES**

a) **RMPP Env-Wq 1800, Office of Legislative Services annotations**

The Fish and Game Department, the US Fish and Wildlife Service, and the State Geologist submitted changes to Env-Wq 1800 as requested by the DES Commissioner.

- **Allan Palmer moved to accept the recommendations to the rules, seconded by Ted Sutton. The vote was unanimous.**

b) **Residuals Management Rules, Env-Wt 800, proposed revisions**

"Class A" exemption discussed.

- **Allan Palmer moved to track the proposed revisions, seconded by Ted Stinson. The vote was unanimous.**

3) **SGTF Recommendations – Steve Couture, NHDES**

The Stream Gage Task Force recommendation is in the Capital Budget process and is moving forward.

- **The Committee requested Steve Couture write a letter of testimony that is consistent with the actions taken.**

V. 11:30-12:15 **Surplus Land Reviews (SLR)- Disposal of state-owned properties – Laura Weit & Steve Couture, NHDES**

1) **AG opinion re: CORD & LMAC/RMAC authority**

Laura Weit summarized the AG's letter. The recommendations of the RMAC and LMAC are only advisory when reviewing proposed surplus disposals of state-owned property. It was noted that the Rivers Management and Protection Program Act RSA 483 is slightly

different than the Lakes Management and Protection Program Act RSA 483-A. Michele Tremblay suggested that the Committee ask for a second opinion as the statutes are different.

- **Laura Weit was asked to resend the DES attorney's opinion to the committee via email.**

Ken Kimball suggested that Laura Weit write a letter to the AG's office requesting clarification on their opinion. The RMAC has a legal opinion from DES that states that the intent of the statute is clear "no state-owned surplus land can be disposed of without the review and recommendation of the RMAC".

Jennifer Czysz noted the distinction of the CORD review process, where CORD cannot make a recommendation until it has received RMAC's recommendation. This language is not included in Lakes Management and Protection Program Act. It was also noted that CORD is only advisory also.

The NH River Council is also drafting a letter.

- **Carl Paulsen offered to contact the NH Rivers Council attorney and forward any pertinent language.**
- **The Committee asked Laura Weit to write a letter to the AG requesting clarification on its opinion relative to the RMAC's jurisdiction. She is to direct the AG to Gretchen Rule's opinion and send the draft to Ken and Michele for their review.**

2) **DOT 06-06 Franklin (Upper Merrimack) – Vote Required**

The Department of Transportation wishes to dispose of 2.3 acres located on the easterly side of US Route 3 just south of Old South Main Street in the City of Franklin. The Committee first received this request in July of 2006. On August 4, 2006, Kenneth Kimball sent a letter on behalf of the RMAC to William Janelle, DOT Administrator of the Bureau of Right-of-Way indicating that the RMAC will not submit its recommendation until DOT has deemed this parcel surplus to its needs. Laura Weit contacted Phil Miles, with the DOT to determine if DOT had any additional information on this parcel. Phil indicated that perhaps in another three months, DOT might be able to provide some more information.

Michele Tremblay noted that the Upper Merrimack River Local Advisory Committee reviewed the proposed disposal, but determined they did not have enough information to take a vote on the issue.

- ***RMAC still did not have the information that was requested from DOT, thus no vote was taken.***

3) **DOT 06-08 Hooksett (Merrimack River) – Vote Required**

DOT received a request from Cabela's Retail, Inc. concerning the availability of two portions of Limited Access Right-of-Way of Interstate 93 Exit 11 interchange located on the Town of Hooksett. These two parcels consist of 13.6 acres and 19.6 acres. Parcel "B" is located approximately 130 feet from the Merrimack River and Parcel "A" contains a portion of Brickyard Brook, a perennial stream. Both areas were purchased with state transportation funds in the 1950's.

The proposed use is to construct a commercial enterprise. The proposal includes the Tax Increment Financing (TIF) district and falls within the Groundwater Resource Protection District, which means all local ordinances and regulations would apply.

Both the Fish and Game Department and the Natural Heritage Bureau expressed concerns about potential threatened and/or endangered species on the property.

Jennifer Czysz noted that according to RSA 9-B:2 state agencies are required to act in ways that encourage smart growth. As presented, this proposal is not consistent with smart growth policies.

Ken Kimball added that this area is a sandy, re-charge aquifer. It would be counter productive to allow this type of development on this kind of resource.

John Magee stated that all state agencies have a responsibility to conserve threatened and endangered species. He offered to forward exact language from the RSA to Steve Couture.

- **Michele Tremblay moved not to act on this until further information received, including but not limited to the assessments this winter and spring by the Fish and Game Department and DRED's Natural Heritage Bureau. Michele also added that a statement requesting an explanation as to the rational for the level and type of development on a significant aquifer be provided by the state. The Long Range Capital Planning and Utilization Committee will be cc'ed on the letter. Laura Weit will distribute a draft that has been approved by Ken Kimball and Michele Tremblay to the Committee for their approval. Seconded by Allan Palmer; the vote was unanimous.**

3) RMAC/LMAC SLR subcommittee efforts

This subcommittee was formed in October to discuss concerns relative to the disposal of state-owned land. The subcommittee met with the Governor's office last fall to propose the creation of a study committee to evaluate the process of how state owned lands are leased, whether or not the lands need to reviewed and prioritized, and to determine if certain lands should be kept in trust by the state. Jennifer Czysz reported the Governor's office has requested DES, DRED, Fish and Game, and DOT to catalog and geo-reference all of their state-owned lands in proximity to any water bodies. This information will be given to the Office of Energy and Planning, where Ken Gallager will compile it into one database.

Jennifer noted that CORD will be meeting next week. One of their items is to review a draft application that all applicants wishing to purchase or sell state-owned surplus land would complete. They will be reviewing the draft to determine if they should require even more up-front information from the applicant. This step will hopefully eliminate duplicate agency efforts and put the burden on the developer.

Another subcommittee meeting will be scheduled in another couple of weeks.

VI. 12:15-12:30 Other Business/Action Item Reviews

Johanna Lyons reported the State Parks Study Commission that was established by Senate Bill 5 last year posted their final report on their website at www.nhparks.org. Hard copies are

available at the state library and all regional libraries. DRED expects legislation will be drafted to implement the recommendations in the report.

Steve Couture suggested holding an upcoming meeting at the Coastal Office to gain a better understanding of the rivers located in that area and the issues facing that region. He also offered to bring in some speakers who work in the area to share their knowledge and expertise. The Committee agreed the concept had merit and should consider a different venue for a future meeting.

Deb Hinman requested the RMAC consider pulling together a "Lessons Learned" pamphlet for flood recovery. With the recent floods on the Cold River it was often difficult to navigate which resources, federal and/or state, could be used to stabilize and restore a river. Ken Kimball suggested wrapping this into House Bill 36 – Comprehensive Flood Control Plan. He stated that this should be one of the study topics that the commission looks at. The RMAC could include this as a recommendation in their letter of testimony. Deb will work with Steve on language.

VII. Next Meeting Date(s)/Adjourn:

Action Items –

1. Membership - follow up with terms set to expire in 2007 (Hinman, Beurivage, Palmer, and Stinson)
2. Legislation – track and develop testimony.
3. SLR
 - a. Send Gretchen's opinion to RMAC
 - b. Letter to NHDOT re: Hooksett
 - i. Draft for review by all RMAC members
 - ii. Jennifer and John to send RMAC staff relevant Smart Growth and Endangered Species information
 - c. Draft letter to AG's office asking for clarification on RMAC authority opinion

Next meeting date: – Tuesday, March 27, 2007 from 9:30 am - 12:30 pm at Fish and Game.

- **Motion to adjourn by Bob Beurivage, second by Ted Sutton. The vote was unanimous.**

Meeting Adjourned at 12:35 pm