

## RIVERS MANAGEMENT ADVISORY COMMITTEE

### Meeting Minutes

April 13, 2009

DES Rooms 113/114

12:30 pm – 4:30 pm

#### Members Present

Ken Kimball, Chair  
Michele L. Tremblay, Vice Chair  
Alan Bartlett  
Bob Beaurivage  
Jennifer Czysz  
Gary Kerr  
Anne Krantz  
Frederick McNeill  
John Magee  
Walter Morse  
Kathryn Nelson  
Kevin Nyhan  
Allan Palmer  
Larry Spencer

#### Representing

Recreational Interests  
Conservation Interests  
Agricultural Community  
Public Water Suppliers  
NH Office of Energy and Planning  
Granite State Hydropower  
Historical & Archaeological Interests  
Municipal Government  
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, 2011 V  
Dec. 28, 2011 V  
Mar. 22, 2009 V  
Sept. 28, 2010 V  
Indefinite NV  
Jan. 5, 2012 V  
June 15, 2010 V  
Nov. 16, 2011 V  
Indefinite NV  
Sept. 28, 2009 V  
Sept. 5, 2010 V  
Indefinite NV  
Sept. 28, 2010 V  
Oct. 12, 2010

#### Members Absent

Gail McWilliam Jellie  
Johanna Lyons

NH Department of Agriculture Indefinite NV  
Dept. of Resources & Economic Development Indefinite NV

#### DES Staff Present

Steve Couture  
Laura Weit  
Jenn Rowden  
Darlene Forst  
Amy Smagula  
Jocelyn Degler

NHDES Rivers Coordinator  
NHDES Lakes and Rivers Asst. Planner  
NHDES Lakes and Rivers Program  
NHDES Shoreline Section Supervisor, Wetlands Bureau  
NHDES Limnologist/Exotic Species Program Coordinator  
Environmentalist IV, Wetlands Bureau

#### Guests Present

Greg Whitman  
Carl Paulsen  
Rich Cook  
Jim Ryan

Assistant, Senator Fuller Clark  
NH Rivers Council  
Fish and Game, Land Agent  
NH Fish & Game

#### The Meeting Was Called to Order

Ken Kimball, Chair, called the meeting to order 12:30 PM.

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

Introductions were made.

##### **1) February 2, 2009 RMAC Meeting Minutes**

- ***Michele L. Tremblay made a motion to accept the February 2, 2009 RMAC meeting minutes with the spelling correction noted, second by Larry Spencer. Motion passed unanimously.***

**2) RMAC Membership Update**

- 1) Gary Kerr has been appointed through January 5, 2012 to represent Granite State Hydropower.
- 2) Michele Tremblay's reappointment has been approved through December 28, 2011.
- 3) Allen Bartlett's nomination letter has been submitted to the Governor's office.

There are now 10 voting members.

**3) Rivers Coordinator Transition**

This is Steve's last RMAC meeting as he will be serving overseas. Laura Weit will be acting Rivers Coordinator in his absence. Chairman Kimball wished Steve good luck.

**4) DES LAC Permit coordination SOP**

As this is a DES Standard Operating Procedure (SOP), it will have certain legal standing so the language is being fine-tuned. This is how DES will handle permit notification to LACs.

It was decided to move the budget discussion to tie in with the legislation.

**III. Lamprey River Water Management Planning Area Advisory Committee Nomination**

Richard Kelly has been nominated by the town of Durham to fill the vacant position. He will be the third government official on the committee.

- *It was unanimously voted to accept his nomination.*

**IV. Exeter River Long Range Management Plan – Laura Weit**

According to RSA 483:10-a, DES must prepare and adopt a long-range management plan for *state-owned* lands in each designated river watershed to address the management and protection of instream values and management of the properties. All *state-owned* land within the designated river watershed shall be administered and managed in accordance with the plan. In particular, the *state* management of fisheries, streams, waters, wildlife and boating shall be consistent with the plan.

To accomplish this, the RMAC voted on January 23, 2008, to support the commencement of a pilot study on the Exeter River to develop the first long-range management plan for *state-owned* land, including land held by DOT, DRED, and Fish & Game in the designated river watershed. Since that time, RMPP staff have held several meetings with state agencies and the Exeter River Local Advisory Committee, Rockingham Planning Commission and local elected officials to solicit input and suggestions on the development of the plan. The plan is now ready for RMAC review and consideration.

It is important to note the plan only includes state-owned land within the *designated* portion of the Exeter River watershed. According to RSA 483:15, XI the Exeter River is designated as protected from "its headwaters in Chester at the Route 102 Bridge, 29.7 miles to its confluence with Great Brook in Exeter." The designated Exeter River watershed contains only portions of the river upstream of its confluence with Great Brook; it does not contain any portion of the Exeter River downstream of Great Brook, the Great Dam in Exeter or the Squamscott River.

The plan also provides background information on the designated Exeter River watershed; land use and impervious cover; cultural, recreational, and managed resources; parcel specific information and recommendations; and makes general recommendations. The parcel specific information includes background information, water resources, vegetation and wildlife, agricultural resources, property buildings and infrastructure, current recreational uses and

special permit uses. The plan also summarizes existing natural resource protection efforts and applicable guidance documents. All of this information was taken into consideration when developing parcel specific recommendations for *state-owned* land.

There are approximately 560 acres of *state-owned* land located within the designated Exeter River watershed; this represents 1.2% percent of the watershed. DOT holds the majority of *state-owned* land as right-of-ways and bridges; DOT also owns a patrol shed in the town of Chester. DOT and DRED own the Rockingham Recreational Trail, which runs through the designated Exeter River watershed communities of Hampstead, Sandown, Danville and Fremont. Lastly, Fish & Game own the Brentwood State Game Farm in the town of Brentwood.

Based on the results of this pilot study and the adoption of a long-range management plan for the designated Exeter River watershed, long-range management plans for other designated rivers will then be developed.

Chairman Kimball questioned if the development of one plan for each designated river is the most efficient way as opposed to only developing one plan for the entire state.

Steve explained that it would take legislative action to amend the statutory requirement.

Discussion then revolved around several topics. The first topic was whether the local LACs would or would not want to incorporate these plans into existing local plans. It was explained that the intended audience for these plans are state agencies. The second topic was if disposition consequences were considered during the development of the plan. The plan does not currently consider disposition of state-owned land. It was agreed that language would be added to the plan that explained the CORD process and the statutory requirements of RMAC and LACs review and recommendations for the disposition of state-owned land. The third topic was whether or not to include descriptions of easements in the plan. It was explained the state-owned land was defined by properties owned in fee simple, and any state-owned easements would be removed from the plan. The fourth topic was informal fishing and boating access at state-owned bridges. Kevin requested that this information be removed from the plan, as no recreational use including jumping, swimming or fishing is condoned by DOT.

## **V, Sustainability Initiative – Jenn Rowden**

A data needs subcommittee composed of members from the LMAC and RMAC was proposed at the joint meeting in January. Jenn is currently working internally with the DES Strategic Planning team to work out how to combine this committee along with the DES strategic planning effort to fill in the data gaps and get information to the public. Work is also being done on updating the recommendations of the Sustainability Initiative that were put forth last year.

## **II. RMPP Budget**

Steve mentioned the RMPP budget has passed the House, as submitted, and has now moved on to the Senate. Instream flow is now part of the RMPP program. The RMPP budget is general funded.

Section 82 of HB 2, which would sunset advisory committees, was discussed. The House passed an amendment in which “all non-regulatory boards, commissions, councils, advisory committees, and task forces in state government created by statute or administrative rule shall expire on June 30, 2011, unless reinstated by the general court.” The RMAC and the LACs fall under this definition. Discussion then revolved around the concerns of these committees being eliminated and how to best get the RMAC and the LACs exempted. Another important

consideration is that *if* the RMAC and the LACs are not reinstated the Rivers Program will not exist.

- ***Kathryn Nelson made a motion to move preemptively, to write a letter regarding the exemption with justification. Second by Gary Kerr. Discussion ensued.***

Michele Tremblay offered the following:

- 1) that agencies that are non-voting members of this committee should be allowed to examine the value of their participation on this committee and decide to continue it or not (agencies be allowed to exempt themselves from the statute). This will demonstrate that we are sympathetic to the budget plight.
- 2) agree to have talking points prepared for this committee and the LACs.

***Original amendment withdrawn by Kathryn Nelson and Gary Kerr.***

- ***Michele L. Tremblay made the motion that the RMAC write a letter and make telephone calls, as appropriate, including its own membership doing same, asking that all of the provisions of RSA 483 not be included in this sunseting. Which means, that the RMAC and the Local River Advisory Committees continue and that we do offer in the letter that we are willing to work with the Senate, the House, the Governor's Office to see if the departments would like to reevaluate their participation or their levels of participation to address the issues with budget and staff resources. That we will provide talking points to, not only our RMAC members, but also the Local River Management Advisory Committee members so that they can speak with one voice. This recommendation is to be made by October 2009 as part of the biennial report to the general court. Second by Kathryn Nelson. Motion passed with a majority of ayes and one nay by Gary Kerr because he believes every agency within the state, even the governor, needs to prove himself, and this may be the time.***

Steve noted the RMPP biennial report will be submitted to the Senate EE&ED and House RR&D committees by October 1<sup>st</sup>. Discussion with the LACs will occur prior to and recommendations be included in that report. The compilation of all the LAC reports will also be added.

Chairman Kimball suggested not approaching the Dept. of Safety right now about being added to the RMAC membership.

Steve explained that legislation has already passed the House to add a representative from the Dept. of Safety to the RMAC.

- ***Michele L. Tremblay made a motion that the Department of Environmental Services write a letter that is supportive of what the RMAC just voted on. Second by Anne Krantz. Motion passed with a majority of ayes with one nay, Gary Kerr as he believes that any state agency needs to prove itself.***

Staff will assist with the letter that is going to Senate Finance and the memo to the commissioner. The bill will not be enacted on until May or June. It was also suggested that the heads of the agencies represented at the table write letters of support.

Amy Smagula, Limnologist/Exotic Species Program Coordinator presented the proposed changes to the Exotics Rules pertaining to rivers. These changes would give rivers an equal

standing with lakes to receive funds. Money varies each year but generally \$60,000 to \$100,000 is available yearly. Requests however are for four times that amount. All monies are from the general fund, none are federal. The ranking system does give higher points to water bodies with public access.

### III. Legislation/Rulemaking/Other – Michele L. Tremblay

Michele L. Tremblay, chair of the RMAC policy and legislation subcommittee, thanked Kath Nelson and Allan Palmer for their time in reviewing and making recommendations on the following:

#### **Tier 1 House Bills:**

HB 102 – relative to the rivers management programs and the rivers coordinator. The four amendments were listed. Support

HB 290 – authorizing fluvial erosion hazard zoning. A recommendation of the Flood Commission. Support

LSR 345 – relative to aquatic resource compensatory mitigation. Track

HB 503 – relative to the state's authority to lease submerged land. Track

HB 607 – relative to residential pharmaceutical waste. Support.

HB 654 – relative to the dam maintenance revolving fund and tax abatements for dam owners. Tracked

HB 681 – relative to aquatic resource compensatory mitigation. Track

#### **Tier 1 Senate Bills:**

SB 44, SB 60, SB 65, SB 107, SB 134 and SB 139 – positions on all Senate bills were affirmed by vote, there were no changes.

HB 452 Amendments – Ammonoosuc River

The Mount Washington Resort is seeking an amendment to HB 452 to bring attention to their private and riparian rights.

- ***Larry Spencer moved the RMAC oppose amendment if submitted. Second by Kathryn Nelson. Motion passed unanimously.***

HB 102 Amendments - RMPP Improvements

- ***Vote in favor of HB 102 as amended. Majority voted aye with one nay by Michele L. Tremblay for the condition on instream flow.***
- ***Michele L. Tremblay made a motion to reaffirm the position that was taken previously on everything but HB 102 and HB 452, both House and Senate bills. Second by Kathryn Nelson. Motion passed unanimously***

#### **Tier 2:**

No changes or amendments to the bills as presented.

- ***Kathryn Nelson made a motion to support the positions taken before. Second by Bob Beurivage. Motion passed unanimously.***

### VII. LAC Annual Reports - Steve Couture

In accordance with RSA 483:8-a, III(d) the LACs report annually to the DES Commissioner on the status of compliance with federal and state laws and regulations, local ordinances, and plans relevant to the designated river. All LACs have submitted their annual reports, except for the Souhegan River LAC. Copies were provided to those in attendance and will be included as part of the biennial report.

**VIII. CSPA Urban Exemptions – Jennifer Czysz, OEP and Darlene Forst, NHDES**

RSA 483-B:12 authorizes the governing body of a municipality to request a exemption of all or a portion of the protected shoreland within its boundaries. Env-Wq 1410 describes the process and the evidence required for an exemption. Ten exemptions have been granted, three are pending approval. According to RSA 483-B:4, XXV, urbanization is defined as “the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for commercial or industrial use, or mixed residential, commercial, and industrial use. The evidence required includes: current and historic building density, current commercial or industrial uses, municipal or other public uses, and current land use regulations. Applications are submitted to OEP and DES with evidence, OEP provides a recommendation to DES within 30 days, and DES issues a decision within 30 days.

Steve Couture questioned if the potential for 100 year floodplain encroachments are considered in the exemption process. Jennifer noted that is not. Steve recommended that CSPA Urban Exemptions include the assessment of the potential for 100 year floodplain encroachments. Jennifer concurred that would be a logical piece of evidence to require.

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

## 1) CORD 09-004: Town of Danbury (Gulf Brook)

The Fish and Game Department (NHFG) has reached a tentative negotiated land deal with RMR Pacific, LLC, the owners of Ragged Mountain Resort that involves two actions which require the review and approval of the RMAC. In exchange for two waterline easements across a 111.3 acres parcel and the transfer of ownership of 1.3 acres of land containing the Danbury Bog to the Ragged Mountain Resort, NHFG would receive 100 acres of wetlands and forest surrounding the Danbury Bog Wildlife Management Area.

- ***Larry Spencer made a motion to support, conditional on 401 certification, 404 and all required permits, second by Walter Morse. Motion passed, six in support and two opposed.***

## 2) DOT 09-004: City of Manchester (Merrimack River)

The Department of Transportation wishes to dispose of a parcel of state-owned land approximately 2 acres located on the westerly side of Allard Drive, in the City of Manchester. The property was acquired in 2004 in connection with the FE Everett Turnpike at Exit 5 improvement project.

- ***Michele L. Tremblay made a motion to support the disposal of the land, second by Bob Beaurivage. Motion passed unanimously.***

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

The next meetings will be Thursday, July 2, 2009 at 1:30 PM and Thursday September 3, 2009 at 1:30 PM.

**Meeting adjourned at 4:00 pm.**