

**RIVERS MANAGEMENT ADVISORY COMMITTEE**  
**Meeting Minutes**  
**February 13, 2006**  
**NHDES, Concord, NH**  
**Rooms 112/113**  
**12:30 p.m. – 3:30 p.m.**

**Members Present**

Ken Kimball, Chair  
Michele L. Tremblay, Vice Chair  
Bob Beurivage  
Ken Gallager  
William Heinz  
Bill Ingham  
Johanna Lyons  
Allan Palmer  
Ted Sutton

**Representing**

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

**Term**

Dec. 28, 2005 V  
Dec. 28, 2005 V  
Sept. 28, 2007 V  
Indefinite NV  
Jan. 5, 2006 V  
Indefinite NV  
Indefinite NV  
Sept. 28, 2007 V  
Nov. 16, 2005 V

**Members Absent**

Deborah Hinman  
Gail McWilliam Jellie  
Walter Morse  
Vacant  
Wesley Stinson

NH Assn. Conservation Commissions  
Department of Agriculture  
NH Fish & Game Commission  
Agricultural Interests  
Historical & Archaeological Interests

Oct. 12, 2007 V  
Indefinite NV  
Sept. 28, 2006 V  
March 22, 2006 V  
June 15, 2007 V

**Guests Present**

Rep. Richard T. Cooney  
Mark Hemmerlein

NH Legislature - Resources, Recreation & Development  
NH DOT

**DES Staff Present**

Steve Couture  
Jacquie Colburn  
Laura Weit  
Lori Sommer  
Amy Clark  
Bethann McCarthy  
Bobbi Benedict

Rivers Coordinator, Watershed Mgmt Bureau  
Lakes Coordinator, Watershed Mgmt. Bureau  
Lakes and Rivers Asst. Planner  
Mitigation Coordinator, Wetlands Bureau  
Engineer, Alteration of Terrain  
Engineer, Dam Bureau  
Admin. Asst., Water Division

**I. 12:30-1:00 p.m.: LUNCH - Introductions/Minutes/Committee Business**

RMAC Chair, Ken Kimball, opened the meeting at 12:40 p.m.

- 1) Acceptance of November 21, 2005 Meeting Minutes  
(See Page 5, after item IV.)
- 2) Welcome Steve Couture back  
Dr. Kimball, on behalf of the committee, welcomed back Steve Couture, Rivers Coordinator, who recently returned from active duty in Iraq.
- 3) Thank Jacquie Colburn for her assistance during Steve's military service  
Dr. Kimball expressed appreciation to Jacquie Colburn for assisting the RMAC during Steve's absence, as well as performing her other duties as Lakes Coordinator.

4) Committee Business - Steve Couturea) RMAC Binder

Laura Weit prepared and distributed binders to committee members. The binders include the RSAs, RMAC policies, rules and other information relevant to the RMPP.

b) RMAC Membership Status

- i) William Heinz has been appointed to the RMAC to represent Granite State Hydropower.
- ii) Ken Gallager was introduced to the committee. Mr. Gallager has been designated to represent the Office of Energy & Planning on the RMAC.
- iii) Reappointments and Vacancies
  - Dr. Kimball has been reappointed to the committee through December 28, 2008.
  - Jamie Robinson resigned as representative for the agricultural community and that position remains vacant. Dr. Kimball stated that a letter of appreciation has been sent to Mr. Robinson for his contributions to the RMAC.
  - Michele Tremblay and Ted Sutton are both in the process of reappointment.
- iv) Set Date for Chair and Vice Chair Elections  
Dr. Kimball suggested that the committee set a formal policy for the election of the committee chair and vice chair.

**Steve Couture and Michele Tremblay advised that they would gather information on procedures used by other councils and committees at DES for electing officers and bring the information to the RMAC for discussion at its next meeting.**

c) New River Nominations - Update on the Ammonoosuc

Steve Couture advised that work is continuing on the Ammonoosuc River nomination. One community outreach meeting has been held and four more are scheduled for this month. Laura Weit anticipates that the paperwork for nomination will be submitted in March. Michele Tremblay suggested that the RMAC meet in April so the committee can review and discuss the nomination prior to public hearing. It was decided to schedule the meeting for the morning of Wednesday, April 12, 2006.

**Michele Tremblay requested that Steve Couture e-mail the dates and locations of the four community outreach meetings to the committee.**

d) Stream Community Workshop - RMAC member volunteer to attend

Steve Couture advised that the Nature Conservancy, DES, F&G and others have scheduled a workshop for February 23, 2006 from 10:00 a.m. to 2:00 p.m. at DES to discuss the technical aspects of fish management.

**Steve will e-mail additional details to the committee members and requested that any members interested in attending contact him.**

e) Testimony submitted by RMAC since last meeting (HB 722 and 1495)

Copies of testimony letters submitted on HB 722 and HB 1495 were previously distributed to committee members.

\*Steve Couture left the meeting.

II. **1:00-2:15 p.m.: Legislation/Rulemaking/Other**

## 1) Rules:

a) Wetland Mitigation Rules - Lori Sommer

Lori Sommer, Mitigation Coordinator, discussed that status of SB 140. This bill authorizes the acceptance of in-lieu payments for restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas. The bill was amended by the House and is being

reviewed by the Senate on March 10. Language relative to the option for stream projects was taken out of the bill.

Lori responded to committee members' questions as follows:

- In lieu payments will be used in the same watershed in which the funds are generated.
- Three factors determine the amount of in-lieu payments: a per acre fee of \$65,000, plus an equalization factor determined by the Department of Revenue, plus 5% overhead. Fees would likely run between \$90,000 to \$100,000 per acre.

b) Site Specific Program Rules - Amy Clark

Amy Clark explained that there are major changes proposed for the terrain alternation rules.

- Stormwater treatment practices are focused on five methods: (1) stormwater ponds, (2) stormwater wetlands, (3) infiltration practices, (4) filtering practices, and (5) vegetative buffers.
- Groundwater recharge requirements have been added.
- Channel protection requirements have been added.
- Copies of plans must now be submitted to LACs at the time they are submitted to DES.
- The rules will provide LACs with 40 days notice to respond to DES on proposed projects.
- Developers must show less than 10% effective imperious cover on site for projects or go through the Watershed Management review process. If the developer cannot meet the Watershed Management criteria for pollutant loading calculations, they must do their own impaired water study.
- Criteria are being considered regarding discharging to wild trout waters based on a list prepared by Fish & Game and to provide further protection of the trout waters during fish spawning season.

Michele Tremblay commended Amy for her work on coordination of the advisory committees involved in working on the rules revision. Michele asked if the proposed rules are likely to create more standing water in light of the concerns that some municipalities have with EEE and West Nile virus. Amy commented that although there are options for creating stormwater wetlands and ponds, other options exist such as infiltration, filtering and providing buffers, which encourage groundwater recharge and will be required at each site.

2) Legislation:

a) Shoreland Protection Act Commission - Rene Pelletier

Michele Tremblay provided an update on the Shoreland Protection Act Commission in Rene Pelletier's absence. The commission has requested that each organization represented on the commission submit its position on the CSPA by the end of next month. This will lay the groundwork for discussions at future meetings. At this point, only the New Hampshire Lakes Association has submitted its position to the commission. All designated rivers are included in the CSPA except the Pemigewasset and Saco.

Michele expressed concern about delegating authority to municipalities for regulation and enforcement of the CSPA as an unfunded mandate and an additional burden on the towns, which would result in inconsistent management of waterbodies held in public trust. (See further update by Rene Pelletier, Page 4).

b) HB 1315 - Bethann McCarthy

Bethann McCarthy, P.E., DES Dam Bureau, discussed HB 1315, a bill relative to the definition and classification of dams. This bill would exempt from Dam Bureau regulation detention basins under 10' or with storage of less than 6 acre-feet. Proposed language in the bill would give the Dam Bureau regulation authority over manure impoundments at farms. However, the legislature has indicated some opposition to this language. A subcommittee meeting is

scheduled on February 14. A study committee may be formed to determine the number, size and management practices for these sites currently and report back to the legislature.

Michele Tremblay suggested that the RMAC and New Hampshire Association of Conservation Districts, as well as Department of Agriculture, Markets and Food, the Farm Bureau and NRCS, should participate in the study committee.

It was suggested that this bill be kept on the RMAC's "watch list."

Bethann distributed copies of changes to administrative rules which were recently adopted. The changes include reclassification of some dams from Class AA to Class A, which would make them subject to inspection every six years.

c) HB 722 (SB 87)

Dr. Kimball reported on HB 722, relative to the spreading of biosolids in certain designated areas. A letter was written on behalf of the RMAC which indicated it was the majority opinion to support the bill with the floor amendment. Michele Tremblay added that the floor amendment passed by a narrow margin, but the entire bill did not pass. The grandfathering of the sites along the Merrimack, Pemigewasset and Connecticut Rivers where spreading is occurring will sunset next year.

d) HB 1495

Michele Tremblay reported on HB 1495, relative to setback requirements for landfills located near rivers. Michele presented RMAC's letter at the hearing. The testimony was generally in favor of the concept of the proposed legislation. Those in opposition felt the setbacks were excessive for solid waste facilities. Michele attended a subcommittee work session last week where the bill was voted ITL. It will now go back to the full committee to be voted on.

**It was suggested that Steve Couture re-implement the procedure previously in effect for reviewing and flagging relevant legislation and providing the committee with summaries for the committee to discuss and develop a position. The RMAC is charged with the responsibility of advising the Commissioner on legislation which affects RSA 483 and concern was expressed that input was not sought or provided on legislation this session. A process needs to be in place to ensure that interaction occurs.**

e) HB 1343, HB 1684-FN

Laura Weit reported on HB 1343, establishing a committee to study the administration and jurisdiction of the council on resources and development; and HB 1684, establishing a commission to study the effects of leasing state-owned waterfront property and placing a moratorium on the leasing of state-owned waterfront property. These two bills have been combined and amended. Placing a moratorium on leasing of state-owned waterfront property has been taken out. It was determined that only representatives from the Senate and House will be on the study committee.

f) HB 1737

Representative Cooney reported on HB 1737, establishing a beverage fee to be paid by beverage manufacturers and distributors. Rep. Cooney advised that the House committee has recommended that HB 1737 go to interim study. The bill is scheduled to come to the House floor on Wednesday, February 14<sup>th</sup>. Rep. Cooney is hopeful that a committee will be established to study this bill along with SB 155, which involves the same issues and that new legislation will be introduced in the next session. An initial estimate of revenue which would be generated by a beverage fee is \$15 million per biennium. Rep. Cooney is concerned about providing a revenue source for several programs including instream flow studies and implementation, USGS gages, and water management plans.

**2) Legislation - Cont'd:**

a) Shoreland Protection Act Commission - Rene Pelletier

Rene Pelletier, Assistant Director, Water Division, updated the committee on a meeting of the Shoreland Protection Act Commission which he attended today. Mr. Pelletier indicated that issues raised included the following:

- Percentage limit for impermeable areas. The State of Maine uses a 20% limit.
- Permit process. This would educate the public on the CSPA.
- Municipality responsibility. Many people felt municipalities would be in the best position to oversee the law, whereas others felt there would be too much inconsistency.
- Boathouses. There was considerable discussion whether boathouses should be allowed.
- No cut zone. Most towns have a 50' buffer by statute, but many towns have grandfathered setbacks less than 50'. There was discussion that as of the date legislation is passed that those setbacks would no longer be permitted to be used. A 75' setback was proposed.
- Riparian rights. Discussion focused on what is considered reasonable use of one's waterfront property.

Rene suggested that if the RMAC has concerns with the CSPA, that the commission would be interested in hearing from the committee. Representative Currier, Chairman of the commission, has requested that reports/positions be submitted to the commission in March, although submission in April would likely be considered.

**Dr. Kimball requested that Laura Weit work with Steve Couture to obtain the most current reports available and forward copies to the committee in advance of its April meeting.**

### III. 2:15 - 2:30 p.m. Request from DES for RMAC member to serve on Stream Gage Strategy Committee in NH

Dr. Kimball reported that he met with Commissioner Nolin, Harry Stewart and Paul Currier regarding RMAC's letter of concern about the reduction of USGS gages by approximately 25%. At the meeting, Commissioner Nolin agreed that DES would form a committee which would be charged with developing recommendations for input to existing legislative study committees to address issues related to the reduction of gages, location of gages, interaction between state and USGS program, and establishment of a long-term dedicated revenue stream for the program. Dr. Kimball indicated that he would participate on the committee and asked for another volunteer from the RMAC. Allan Palmer volunteered to serve.

### IV. 2:30-2:45 p.m. Instream Flow Update

Dr. Kimball reported that the Souhegan Technical Instream Flow Committee is meeting this morning and the Lamprey committee is meeting this afternoon. Normandeau Associates, the University of Massachusetts, and the University of New Hampshire were hired to do pilot studies on both the Souhegan and the Lamprey Rivers. The Souhegan draft protected instream flows are expected to be available for review by the technical committee in March and the required public hearing is targeted for sometime in May. Work is progressing simultaneously on the water management plans.

### I. Introductions/Minutes/Committee Business

- 1) Acceptance of November 21, 2005 Meeting Minutes  
***Michele Tremblay made a motion to accept the November 21, 2005 meeting minutes as presented. Bob Beaurivage seconded the motion and it was unanimously voted.***

**Michele Tremblay noted that Steve Couture agreed to e-mail the committee members soon after the meeting with action items to serve as a reminder and so clarifications could also be addressed immediately.**

### V. 2:45-3:20 p.m. Surplus Land Reviews (SLR) - Disposition of State-Owned Properties - Laura Weit

- 1) Changes to process - LMAC/RMAC Notification  
Laura Weit updated the committee on progress made on determining a process for notification of SLRs for properties in which CORD is not involved. A memo has been drafted to DOT and comments have been received from the Bureau of Rail and Transit and Bureau of Right-of-Way. It has been suggested that DOT review the SLRs and make determinations whether they fall within the jurisdiction of the LMAC or RMAC, and notify the appropriate committee. Laura indicated that the process is leaning toward drafting an MOU between LMAC, RMAC and DOT.
- 3) Status of AG Comments/response to CORD & LMAC/RMAC Letters  
There has been no response to date from the Attorney General's Office to either CORD's requests or the joint letter by the LMAC and RMAC requesting clarification of jurisdiction. Additional follow up with the AG's office by telephone and/or correspondence is under consideration. Dr. Kimball added that the RMAC will continue to function as it has in the past until notified otherwise by the AG.
- 2) SLRs - 6 Received from CORD, 3 within RMAC Jurisdiction  
Laura Weit reported on SLRs received since the last RMAC meeting. It was determined that of the nine SLRs received, four fall within the jurisdiction of the RMAC. The RMAC voted by e-mail on the following three SLRs:
  - SLR 05-018 Hart's Location - RMAC recommended for disposal by majority vote.
  - SLR 05-021 Epping - RMAC recommended for disposal by majority vote.
  - SLR 05-022 Rindge - RMAC recommended for disposal with conditions.

**Dr. Kimball requested that Laura maintain an updated spreadsheet of the status of SLRs on the RMAC webpage.**

**Michele Tremblay requested that Laura provide copies of all documentation submitted by the state agencies to the committee members when reviewing SLRs.**

Laura presented the remaining SLR for consideration by the committee:

**SLR 06-002 - Nashua:** This property is referred to as the Gilson Road Superfund Site and is held by DES. Two parcels adjacent to this property have been conveyed to the City of Nashua. The city would like to use all three of the properties for Parks and Recreation. Although this parcel is referred to as a superfund site, it is not contaminated. The property is located within approximately 176' of the Lyle Reed Brook.

Laura reviewed the checklist with the committee and the following comments/questions were noted:

- Use of property: The stated planned use is for Parks and Recreation open space. The city also owns acreage across the street from this parcel.
- Size of parcel: The parcel is approximately .278 acre.
- Cultural resources: The checklist noted that there were no cultural resources known at this time. It is unclear whether Cultural Resources has reviewed the request.

***Ted Sutton made a motion that Laura Weit confirm with Cultural Resources that there are no resource impacts on the property which is the subject of SLR #06-002. If there are no impacts, then the RMAC shall recommend for disposal. If impacts are reported, the SLR will be brought before the committee at its meeting scheduled for April 2006 for reconsideration. The motion was seconded by Bob Beurivage and unanimously voted.***

Discussion ensued regarding the SLR process and in particular leasing of railroad rights of way properties. Laura Weit indicated that Phase II of the 18-Mile Point property in Meredith has been submitted to CORD and the LMAC will be reviewing it at its next meeting. Johanna Lyons added that because of a shortened timeline for some leases, the leases go directly to G&C and bypass CORD. Dr. Kimball suggested that this is one of the issues which should be raised with the legislative study committee reviewing the process of disposal of state-owned land.

Mark Hemmerlein added that there has been a significant increase in the volume of lease requests to DOT recently. Mr. Hemmerlein requested that the RMAC policy/criteria be forwarded to DOT to make sure notification is sent on all parcels which should be reviewed by the RMAC. Michele Tremblay added that a joint meeting with the LMAC should be established at least annually because of the committees' overlapping interests.

**VI. 3:20-3:30 p.m. - Update: Rivers/Watershed Conference Planning**

Laura Weit reported that she, Steve Couture and Jacquie Colburn met with Carl Paulsen recently for an update on the plans for a rivers watershed conference. The NH Rivers Council has decided to postpone the conference until November 2006. A small network event is considered for March, April or September. A preliminary planning session is scheduled for June.

**VII. Next Meeting Date/Other/Adjourn**

- It was suggested that travels vouchers be provided at the next meeting.
- The next meeting will be April 12, 2006. A decision will be made at that time if the meeting tentatively scheduled for June 20<sup>th</sup> will go forward, which will depend on the status of the Ammonoosuc River nomination.

***Michele Tremblay made a motion to adjourn. Ted Sutton seconded the motion and it was unanimously voted.***

**The meeting adjourned at approximately 3:30 p.m.**