

## RIVERS MANAGEMENT ADVISORY COMMITTEE

### Meeting Minutes

October 3, 2006

DES Rooms 112/113

9:30 am – 12:30 pm

#### Members Present

Ken Kimball, Chair  
Michele L. Tremblay, Vice Chair  
Bob Beurivage  
William Carpenter for Johanna Lyons  
Jennifer Czysz  
William Heinz  
John Magee  
Walter Morse

#### Representing

Recreational Interests  
Conservation Interests  
Public Water Suppliers  
Dept. Resources & Economic Development  
NH Office of Energy and Planning  
Granite State Hydropower  
Fish & Game Department  
NH Fish & Game Commission

#### Term

Dec. 28, 2008 V  
Dec. 28, 2008 V  
Sept. 28, 2007 V  
Indefinite NV  
Indefinite NV  
Jan. 5, 2009 V  
Indefinite NV  
Sept. 28, 2009 V

#### Members Absent

Deborah Hinman  
Gail McWilliam Jellie  
Allan Palmer  
Wesley Stinson  
Ted Sutton  
Vacant

NH Assn. Conservation Commissions  
Dept. of Agriculture, Markets and Food  
Business and Industry Association  
Historical & Archaeological Interests  
Municipal Government  
Agricultural Interests

Oct. 12, 2007 V  
Indefinite NV  
Sept. 28, 2007 V  
June 15, 2007 V  
Nov. 16, 2008 V  
March 22, 2006 V

#### Guests Present

Pat McCotter  
Tim Fortier

Essex Hydro  
McLane, Graf, Rauleson & Middleton, Law Firm

#### DES Staff Present

Steve Couture  
Laura Weit  
Wayne Ives  
Marie Loskamp

NHDES Rivers Coordinator  
NHDES Lakes and Rivers Asst. Planner  
NHDES Watershed Management Bureau  
NHDES Watershed Management Bureau, Executive Secretary

#### The Meeting Was Called to Order

Michele Tremblay, Vice Chair, called the meeting to order at 9:40 AM.

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

##### 1) **July 24, 2006 Meeting Minutes - Vote Required**

- *William Heinz made a motion to accept the July 24, 2006 Meeting Minutes, Walter Morse seconded the motion and the vote was unanimous with the inclusion of Ken Kimball's editorial comments which are not substantive. The vote was unanimous.*

##### 2) **Nomination to the Souhegan River and Lamprey River Instream Flow Technical Committee – Vote Required**

- *Motion made by Ken Kimball, seconded by Bob Beurivage to accept nomination for John Magee to replace Bill Ingham on the Souhegan River and Lamprey River Instream Flow Technical Review Committees, Vote was unanimous by those present. Debby Hinman voted by proxy.*

##### 3) **RMAC Membership Status**

- a) The NE Organic Farmers Association has finally submitted its nomination for the agricultural interest representative on the RMAC. Alan Bartlett was chosen by the Governor's Office to represent that interest and his appointment was put on the G&C agenda. He should be confirmed in time for our next meeting.
- b) Mr. Morse - His term expired in September. The Governor's office called Mr. Morse and asked him to submit a letter from F&G and his resume by October 6<sup>th</sup>.
- c) Jennifer Czysz is the new NH Office of Energy and Planning designee.

4) **Correspondence**

- a) None

II. **9:45 – 10:00 Ammonoosuc River Nomination – Steve Couture, NHDES**

1) **RMAC, Rivers Coordinator, and Commissioner - letters of recommendation**

Steve issued a memo to Commissioner Nolin supporting the nomination of the Ammonoosuc River. The Commissioner issued a letter to the NH House of Representatives and the Senate supporting the nomination. A Press Release was issued stating the RMAC's support and it was also included in the DES Environmental News.

2) **October 2, 2006 Press Event**

A press event was held in Littleton on October 2, 2006 where Ray Burton expressed his support for the Ammonoosuc River Nomination.

3) **Legislative support**

Steve contacted Rep. Remick of Lancaster on behalf of DES to put in a placeholder for the Ammonoosuc Nomination. The LSR has been submitted.

III. **10:00 – 10:30 Stream Gage Task Force (SGTF) – Ken Kimball, RMAC & Wayne Ives, NHDES**

1) **SGTF Report and Submission of Report to Legislature**

Update: Wayne Ives – The RMAC made a resolution last year to convene a Stream gage Task Force and the Commissioner approved it on 2/1/06. Stakeholders were recruited to serve on the SGTF; meetings were held in May, June and August. The existing gages were assessed as to what gages supported current uses and where new gages were needed. The report was finalized on Sept. 15<sup>th</sup>.

The SGTF identified gaps in the stream flow gaging network. There were no partial record gages recommended; all were permanent gages with a few temporary gages. There was a 50/50 split between watersheds that do have a gage and those that do not have a gage. All the existing gages have enough support to maintain them. Seventeen gages need to be added to the HUC-10 watersheds and a funding mechanism needs to be developed to implement this network. The Commissioner sent the results to the Senate Bill 162 committee. The SB162 chairman was Senator Green, but he is not running again. The RMAC needs to articulate and quantify the requested actions and track the progress of any associated legislation.

A web page for the SGTF was created and Wayne will notify the RMAC when it goes on-line.

Paul Currier suggested that funding for stream gaging should begin with the capital budget. The capital budget hearings are scheduled to start in November.. Steve can inform the RMAC if the budget was approved.

Actions requested by Ken Kimball:

- ***RMAC action is needed to keep on top of this and make comments and recommendations as needed.***
- ***Steve will keep the RMAC informed as to when the SB162 committee will meet and how funding will be secured.***

- ***Paul Currier will pull together the amount of capital needed to run gages and how that figure compares with the budget and annual state personnel costs***

**Suggestions:**

The Committee suggested looking into some kind of permit process to bring in revenue to stabilize the funding for the existing and future steam gage network.

There is a potential to tap into the national weather forecast, since this is a safety issue. There is also the possibility of seeking something more permanent with a federal earmark.

- ***Subcommittee to consist of Ken Kimball, Wayne Ives, and Steve Couture. Also need Ted Sutton, Bill Heinz and Allan Palmer on Committee. Steve will contact Ted, Bill and Allan to work on the subcommittee.***

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

**1) Legislation**

**a) Shoreland Protection Act Commission – Ken Kimball, RMAC**

Ken addressed the Commission on August 14, 2006. One issue is the order of streams that are covered as not all fourth order streams are covered under the Act. Also, two designated rivers the Saco and the Pemi are not covered. Another issue is calculating basal area, which is confusing to landowners and enforcement alike. The Commission discussed funding and/or permitting recommendations.

Steve sat in for Rene Pelletier, as a voting member, at the September Commission meeting. The Commission made several motions, all relative to stream issues. The first was to use a more accurate data set, the NH Hydrologic Database, and include all third order streams and higher, thus doubling the amount of mileage that is covered. The second was to include both the Saco and Pemi under the Act. The third was to establish a 50 foot setback for primary structures in all towns, no exceptions.

A final report will be submitted to the legislature by the end of November. The report will include all the above recommendations.

- ***Michele Tremblay will work with Steve Couture and Debby Hinman to track progress,***

**b) Grandfathered RMPP Sites & Residuals**

The initial process started in 1998 and was continued in 2003 & 2005. The exemption for existing sites expires in July 2007. The RMAC has been supportive of continued grandfathering and should take a lead on this and do what's best for rivers.

- ***Michele will draft legislation, find a sponsor, and submit an LSR to permanently grandfather existing land application sites.***

The deadline for LSRs is December 18. With this legislative deadline in mind, the RMAC will need a formal vote in January once the LSRs are in.

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

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

Steve Couture gave a status report on the Administrative Rules. Requests were sent to the State Geologist, the State Historic Preservation Officer, the US Fish & Wildlife Service, and the NH Fish & Game Department requesting their input on the items that JLCAR felt were subjective in nature and/or were open to oral rulemaking. A deadline of December 1, 2006 was given. The timeline is flexible as to when JLCAR is expecting revisions to the rules.

**b) Wetlands in-lieu fee, Env-Wt 800, Interim rules**

Steve is seeking comments on the enclosed packet. Several items included either reference Local Advisory Committee's or their management plans. Michele expressed some concern that designated rivers were not considered as separate resource with a required mitigation compensation ratio. Steve indicated that during the rule making process any language relevant to mitigation for stream or river impacts was deleted; several stakeholders were opposed to including it at this time. Michele pointed out that the Administrative Rule reference to RSA 483:10, River Corridor Management Plans, may be problematic as many LACs are developing river corridor and watershed management plans. Steve commented that DES is hoping to address the lack of authority for watershed management plans in the upcoming legislative session..

### **3) Stream Crossings Guidance – John Magee, NHF&G**

John Magee agreed to write a stream crossing guidance document for NHDES. The intent of the document is to provide guidance for folks that are applying for a Wetlands permit and to incorporate the guidance by reference into the NHDES Wetlands Administrative rules. 30 to 40 resource agency personnel and a couple of consultants will be involved, with DOT being heavily involved. The kick-off meeting is scheduled for October 4, 2006 and will be held at DES. The Stream Crossings Guidance document will be fish focused with the goal of having the least impact. In NH there are many stream crossings that obstruct fish passage.

Consultants are not up to speed on how to design stream crossings that do not obstruct the movement of native fish, which is required by the Army Corps of Engineers. The document aims to provide better construction methods for culverts and bridges. Several states already have stream crossing guidelines – MA, ME, VT, and GA. Massachusetts used the same stakeholders as NH. Vermont is working on improving their document. Maine's DOT adopted a policy derived from MA with detailed construction guidelines. MA's document is more general. Georgia is way ahead of the game. NH is in the middle of the road on this issue in comparison to other states.

NHDOT is very interested and wants to comply with regulatory obligations. Representatives from the Stream Team, US Forest Service, RMAC and Wetlands Council will be attending the meeting on October 4<sup>th</sup> at 1:00 pm.

- ***Consensus is to have the RMAC work with this committee. Michele offered to be a representative on this committee and Steve will contact Ted Sutton to see if he can attend or weigh in. John Magee will get Michele an agenda.***

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

### **1) DOT 06-06 Franklin (Merrimack River) – Vote Required**

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

### **2) SLR 06-009 Franconia and Lincoln (Second Presidential State Forest)**

A copy of the checklist and maps, including a map of the Laconia parcel, were distributed to RMAC members via mail and email prior to the meeting. A letter from Commissioner Murray to Governor Benson dated July 22, 2003 was distributed to Committee members present. The letter detailed the conditions of the MOU on the Secondary Presidential Forest located in the Town of Franconia. Specifically, the letter states that if the Department of Transportation needs any or part of the land for highway use or other such public purpose they deem appropriate, control shall automatically revert back to DOT.

- ***RMAC tabled any further discussion until DRED can demonstrate how the land would be legally transferred, since according to the letter, DOT still holds rights to the land. The Committee requested Laura Weit to follow up with DRED to obtain clarification on this issue.***
- ***The Committee also asked Laura Weit to compile a letter to be signed by Ken Kimball, stating what the RMAC has done regarding this request so that CORD is aware.***

### **3) DOT 06-04 Plymouth (Pemigewasset)**

Laura provided an update to the RMAC regarding surplus land review DOT 06-04. At the July 24, 2006 meeting the RMAC voted to approve the disposal with the following conditions: 1) review and approval by the Town of Plymouth Planning Board is received prior to the disposal of the property to ensure that the well protection provisions are met; those recommendations should be incorporated into the provisions of the disposal; 2) the Committee reminded the NHDOT that for any portion of the parcel that falls within the Comprehensive Shoreland Protection Act, those provisions should be followed; 3) the Committee also requests that the continued use of the parcel does not impact the existing trail system. Laura spoke with Phil Miles, DOT over the phone and he said he was not comfortable with putting these conditions in the deed. He indicated that the new owner should contact the town. He also said that DES should go after people who are in violation of the Shoreland Protection Act. But, he did say he would be willing to verbally discuss the last condition with the potential purchaser to install a barrier between the trail system and the parcel. Laura explained that the RMAC was not looking for the conditions to be placed in a deed; the Committee just wanted documentation indicating that the conditions were met. With that, Phil indicated that he would be willing to add a general statement that said the parcel should meet the conditions of the well protection provisions.

- ***The Committee requested that Laura Weit call Phil Miles back and explain to him that the conditions are not negotiable. All of the conditions are reasonable and the RMAC is seeking documentation to make sure they are adhered to. The Committee also requested that Laura document her telephone conversation with Phil.***

### **3) Meeting with Governor's Office re: SLR – Ken Kimball**

Ken, Steve Couture, Jacquie Colburn and representatives from the LMAC met with the Governor relative to the surplus land disposal process. The Governor was receptive to the issue - the state is disposing of state land but has no inventory, abutters are not notified, and land it is being leased to outside interests at a fraction of the cost, thus providing an economic gain to outside interests, while jeopardizing public trust.

A recommendation was given to the Governor to create a task force with sharp deadlines so it could move forward with legislation to resolve these issues.

Governor Lynch instructed Alice Chamberlin to work with the LMAC and RMAC. The RMAC needs to make sure this stays as a number one issue.

- ***Steve Couture and Jacquie Colburn are tracking this and will continue communications with the Governor's office.***

Steve Couture informed the RMAC that a joint thank you letter from the RMAC and the LMAC was sent to the Governor.

### **4) Status of AG comments/response to CORD & LMAC/RMAC letters – Laura Weit**

Allen Brooks came to the last LMAC meeting and indicated that he had written the opinion, but it had not been approved yet. He doesn't think it will change much before it is approved. He did not give any inclination as to what the ruling might be.

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

Tom Burack was confirmed as the new Commissioner of DES starting November 1, 2006.

- ***RMAC would like to invite Tom Burack, the new DES Commissioner to our next meeting and introduce ourselves to him. The Committee requested that Steve formally invite him.***

#### VII. Next Meeting Date(s)/Adjourn:

##### **Action Items –**

- 1) Incorporate the changes that Ken Kimball has to the minutes and post to web
- 2) Keep the RMAC informed of the proposed legislation for the Ammonoosuc nomination, so they can testify
- 3) Ken Kimball will form a subcommittee to track the progress of the SGTF recommendations. Steve Couture will contact Allen, Ted, and Bill to serve on the subcommittee.
- 4) Steve Couture will provide the Committee with progress on the capital budget relative to stream gage funding.
- 5) Steve Couture will work with Michele and Debby to track progress on proposed changes to the Comprehensive Shoreland Protection Act.
- 6) Michele Tremblay agreed to draft language relative to grandfathered sludge and septage land application. Michele will seek a sponsor and submit an LSR.
- 7) Michele Tremblay will attend the stream crossing meeting. John Magee will send Michele a copy of the agenda. Steve will contact Ted to see if he can attend.
- 10) Laura Weit will follow up with DRED to obtain clarification on the legal issue of transferring land for SLR 06-009.
- 11) Laura Weit will also draft a letter to CORD relative to what the Committee has done relative to SLR 06-009. Ken will review letter and sign.
- 12) Laura Weit will call Phil Miles to clarify what the RMAC is requiring for DOT 06-04. Laura will also follow up her conversation with an email to Phil.
- 13) Steve Couture will continue to work with the Governor's office relative to the surplus land disposal process.
- 14) Invite Tom Burack to the next RMAC meeting

***Next two meeting dates: – Thursday, January 4, 2007 from 9:30 am - 12:30 pm***

- ***Please note that the above meeting date was changed to Wednesday, January 3, 2007 from 9:30 am – 12:30 pm in rooms 111 & 112 at DES.***  
***- Thursday March 29, 2007 from 9:30 am – 12:30 pm***

**Meeting Adjourned at 12:45 pm**