

RIVERS MANAGEMENT ADVISORY COMMITTEE

Meeting Minutes

July 2, 2009

DES Rooms 113/114

12:30 pm – 4:30 pm

Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Bob Beurivage
Jennifer Czysz
Gary Kerr
Anne Krantz
Frederick McNeill
John Magee
Kathryn Nelson

Representing

Recreational Interests
Conservation Interests
Public Water Suppliers
NH Office of Energy and Planning
Granite State Hydropower
Historical & Archaeological Interests
Municipal Government
NH Fish & Game Department
Local River Management Advisory Comm.

Term

Dec. 28, 2011 V
Dec. 28, 2011 V
Sept. 28, 2010 V
Indefinite NV
Jan. 5, 2012 V
June 15, 2010 V
Nov. 16, 2011 V
Indefinite NV
Sept. 5, 2010 V

Members Absent

Alan Bartlett
Gail McWilliam Jellie
Johanna Lyons
Walter Morse
Kevin Nyhan
Allan Palmer
Larry Spencer

Agricultural Community
NH Department of Agriculture
Dept. Resources & Economic Development
NH Fish & Game Commission
NH Dept. of Transportation
Business and Industry Association
NH Association of Conservation Comm.

Mar. 22, 2009 V
Indefinite NV
Indefinite NV
Sept. 28, 2009 V
Indefinite NV
Sept. 28, 2010 V
Oct. 12, 2010

DES Staff Present

Steve Couture
Laura Weit
Paul Currier
Wayne Ives
Carolyn Guerdet

NHDES Rivers Coordinator
NHDES Lakes and Rivers Asst. Planner
NHDES Watershed Bureau Administrator
NHDES Instream Flow Specialist
NHDES Administrative Assistant

Guests Present

The Meeting Was Called to Order

Ken Kimball, Chair, called the meeting to order 1:35 PM.

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

1) April 13, 2009 RMAC Meeting Minutes

- *Michele L. Tremblay made a motion to accept the April 13, 2009 RMAC meeting minutes, second by Anne Krantz. Motion passed unanimously.*

2) RMAC Membership Update

- 1) Michele Tremblay, representing the NH Association of Conservation Districts, is working to have three names for the governor's office as Alan Bartlett is no longer an incumbent.
- 2) Walter Morse is not seeking reappointment. He has identified a possible replacement.
- 3) Larry Spencer will be available in August but will be out of the country through December.

3) Rivers Coordinator Transition

Laura Weit will be acting Rivers Coordinator and has been working with Steve during this time of transition. Steve's last day with DES will be the first week of August. He will return in October 2010.

4) DES LAC Permit coordination SOP

Steve expects the SOP will be established before he departs. The LAC Permit SOP will implement the statutory requirement of RSA 483:12-a, (I-a), in which "the rivers coordinator shall develop, in conjunction with affected state agencies and local river management advisory committees, the procedure by which the state shall notify the appropriate local river management advisory committee when state action is being considered which affects a designated river." The LACs have been very involved in the development of the SOP. Discussion concerning the benefit of developing of a blog for RMAC/LAC permit reviews was held. RMAC meeting minutes are available online back to 2006 and all minutes are available on cassette tape.

5) Annual LAC presentation to RMAC

Last year, the Upper Merrimack River LAC hosted a summer RMAC meeting with an afternoon paddle on the Merrimack River. Discussion was held to determine if something similar should be undertaken this year. Kath Nelson offered to reach out to the LACs to understand what they are working on and obtain a list of priorities/wish lists. There are 15 designated rivers, with the Cocheco River becoming the 16th on July 21, 2009. There are currently 14 active LACs, with 13 of the 14 submitting annual reports last year.

Chairman Kimball suggested holding a joint meeting with the RMAC/LACs, with the purpose of reviewing and evaluating RSA 483 to ask where we are, what have we done, and what changes might be proposed. It was pointed out that the LACs would need to be educated on what the RMAC is and what it does prior to a joint meeting. Steve noted the biennial report is due in October, which is an excellent opportunity for the RMAC to highlight any deficiencies in the Rivers Program. He also noted there will be reduced staff support over the next year or so. Steve recommended scaling back and providing an opportunity for the RMAC to interact with the LACs. Invite the LACs to meet with the RMAC and ask the LACs to explain what they are doing at the local level. Michelle Tremblay supported the recommendation that the LACs be invited to an upcoming meeting with one LAC providing a feature presentation followed by an open forum discussion.

Kath suggested developing a powerpoint presentation, explaining what the RMAC is, and having it available to the LACs to include on their agenda. It was also suggested that RMAC members take the powerpoint presentation out to the LACs to explain what the RMAC does and answer any questions. Topics that could be covered are instream flow, review of state owned-lands, and VRAP.

- ***Michele L. Tremblay made a motion that the LACs get the RMAC meeting notices and that volunteers be solicited, Michele included, to act as a speakers bureau for the RMAC. The powerpoint presentation would be given by a RMAC member to each of the LACs. Kath will coordinate the relevant RMAC member to the request. We will, via Kath, solicit the LACs to come to the next meeting and Kath will work with them to determine which LAC will be featured at the meeting by providing a brief presentation. Second by Anne Krantz. Discussion ensued. Motion was withdrawn by Michele.***

Action Items:

- 1) Add LAC list serve to RMAC meeting agenda notification.
- 2) Recruit RMAC members to serve as Speakers Bureau to advocate the purpose of the RMAC to the LACs.
- 3) Invite an LAC to talk about what they do at the local level.
Welcome others who may want to attend.

It was suggested to ask the Lamprey River LAC as a presenter with a short presentation on the connection between the LAC and the RMAC but also ask them for their feedback on the instream flow process.

II. InStream Flow Update – Wayne Ives, NHDES

The Instream Flow Program has two pilot studies, one on the Souhegan River and the other on the Lamprey River, to determine how protected instream flows will be established for the rest of New Hampshire's designated rivers.

Protected Instream Flows were defined for flow-dependent protected entities listed in RSA 483. These protected entities can be grouped as fish, riparian wildlife and vegetation, and human uses. Protected instream flows for fish were developed using MesoHABSIM, a habitat simulation model, and those for riparian wildlife and vegetation were developed using a floodplain transect survey model. Flow needs for the human recreational (boating and swimming) and water supply uses of flow were developed using questionnaires and surveys. The flow requirements for fish, riparian wildlife and vegetation were found to be the determining factors for instream flow protection because of their dependence on specific flow magnitude, duration and frequencies to support habitat and life cycle needs. The human recreational uses of flow are considered to be opportunistic, meaning that boating and swimming are seasonal uses supported by recurring natural flows. The resulting protected flows were developed and evaluated within the framework of the Natural Flow Paradigm. Maintaining these flows will protect human uses by maintaining the natural hydrograph variability.

The development of the protected instream (PISF) values was performed within the framework of the Natural Flow Paradigm. The Natural Flow Paradigm recognizes that the natural variability of stream flows is what determines the geomorphic and biologic characteristics of a stream or river. The native riverine ecosystem adapted to a natural flow regime that was not affected by diversions, discharges or withdrawals. Too great a change from the natural flow regime will cause impairment of the ecosystem; however there is flexibility within the variability for water use. The Natural Flow Paradigm also recognizes that minimum flows were not adequate for describing the natural variability of flows. Flow has other components beside magnitude that are important to sustaining the ecosystem. Description of protected flows requires the use of the components of the Natural Flow Paradigm: flow magnitude, frequency, duration, timing and rate of change.

The application of the Natural Flow Paradigm concept in these studies implies that the principal management objective is to allow streams to flow as close to its natural flow regime as possible. Low flows and floods are expected to occur as natural conditions and occur within the range of natural flows. Typical human influences tend to reduce flow variability by removing floods and droughts. This may make the availability of stream flow more reliable for human use, but is detrimental to biological integrity.

It is important to recognize that the natural river flow (even in the absence of any human intervention or water use) will not always meet all of the flow ecosystem needs, nor should it.

Native communities are adapted to meet periods of stress that occur within the natural ranges of frequency and duration. The Natural Flow Paradigm recognizes that rare natural extremes such as flood and droughts have important functions in supporting riverine ecosystems. Protecting flow variability is necessary to insure that the ecosystem provides the variety of habitat conditions necessary to support the entire ecosystem. Variability, described by components of timing, duration, frequency, magnitude and rate of change, is necessary because of the disparate species that make up the ecosystem, and their life-stage needs. Some species thrive in low flows and others in high flows, yet they coexist in the river system. This is possible because the natural variability; over short, intermediate and inter-annual timescales; which provides support for these dissimilar species. Water management measures will be required where our use increase the duration of frequencies of flow conditions below specified flows.

The Souhegan River Protected Instream Flows were established in April of 2008, and it is expected that the Souhegan River Watershed Management Plan will be completed by the end of the year. The Lamprey River Protected Instream Flows are expected to be established in July 2009. The Lamprey River Watershed Management Plan will continue into 2010.

Steve recommended that an instream flow update be included as an agenda item at every future RMAC meeting, since we are in the implementation phase of the pilot program. Kath also suggested the LACs be informed of process made as well.

It was decided to review the Stream Crossing Rules at this time.

Stream Crossing Rules – initial proposal should be going out the beginning of July to the Wetlands Council, with a rule making notice being filed July 29th and published by August 2nd. Hearings will be held in September. The RMAC could review the formal proposal at the next RMAC meeting, which would allow time to comment.

V. **Surplus Land Disposal – Laura Weit, NHDES**

1) DOT 09-07 Warner/Sutton (Warner River) RMAC reviewed this parcel in 2008, at which time the RMAC concurred with the NH DOT Bureau of Environment's recommendation against disposal of the property due to the important functions and values the property provides. The packet received this time does not include the letter sent from the RMAC in 2008 to DOT. It was recommended again that the RMAC recommend against disposal and concurs with the DOT's Bureau of Environment. John Magee noted an apparent discrepancy. Page 8 is not included in the packet and that there is a house on the property that is not shown.

- ***Michele L. Tremblay moved that the RMAC recommend against disposal and further point out the discrepancy that John has brought to our attention, as well as request that not only this letter but our previous letter be attached to the file, and point out that the previous one was not. Second by Anne Krantz. Motion passed unanimously.***

Steve had recommended that John send an email to Kevin Nyhan, which he did, and cc Laura and Steve, indicating this discrepancy.

3) RMPP Nomination Rules -

Steve reported we are waiting for HB 102 to be signed by the Governor before this can be acted upon. This change will allow tidal rivers to be nominated into the RMPP. A public notice will be issued by the DES legal unit to get the minor rule change in place.

Drought Management Plan - Chairman Kimball drafted a letter for consideration by the Drought Management Plan Commission. Fred McNeil volunteered to represent the RMAC on this team.

- ***Bob Beaurivage moved that Fred McNeil be appointed as the RMAC representative to the Drought Management Plan Committee, second by Kath Nelson. Motion passed unanimously.***

Michele asked that UMLAC be changed to Upper Merrimack LAC for clarity and consistency on the copy list when sending out RMAC correspondence.

III. Sustainability Initiative – Laura Weit, NHDES

Handouts were distributed that were compiled by Jenn Rowden. A DES workgroup is going to be brought together to work on better tracking of water quality data and watershed related trends. The purpose is to increase the accessibility of watershed information indicators to the public.

Updates have been made to the tracking sheet, as the Long Range Management Plan for State-Owned Lands within the Exeter River Watershed has been completed. The Local River Corridor Management Plan has also been updated as 14 out of 15 rivers have management plans. The recently designated Ammonoosuc River does not have one yet.

A discussion was then held on the language contained in the tracking sheet pertaining to management plan implementation. It was suggested to change “Implementation is minimal” to “Implementation varies among LACs.” It was pointed out that the intent was to draw attention to the fact that there are no direct resources for LACs to develop and implement management plans, besides RMPP staff.

Chairman Kimball thanked those from DES who have put this together as it shows how we are doing state-wide. It is good to use with the LACs and it shows where the statutory responsibilities and limitations are.

Word smithing was discussed in various areas and Laura and Jenn will work on it.

3:30 PM – Bob Beaurivage, John Magee, Garry Kerr, and Fred McNeil leave the meeting.

IV, Legislation/Rulemaking/Other

- 1) HB 1 stayed the same, which still includes funding for part-time staff. The stream gages have also been retained. The Fluvial Erosion Program has a budget, which includes funding for a permanent position.
- 2) HB 2 - RMPP Budget and Committee sunset clause. DES will be issuing a letter to Legislative Services stating that we believe HB 2 does not apply to RSA 483 as the RMAC and LACs are quasi regulatory. The final language of HB 2 initiated a study committee. Exemptions have occurred already.
- 3) HB 452, Ammonoosuc River, Upper Reach nomination. There was a change to the Report to the General Court and ISF amendment. A copy of the changed language was provided to the RMAC.
- 4) HB 102 – relative to the RMPP, established the VRAP and named the bridge at the intersection of NH Route 12A and Route 123 in Alstead. Inserted into the purpose statement of the RMPP, is a powerful clarification of which characteristics takes precedent over other characteristics: “If conflicts arise in the attempt to protect all valued

characteristics within a river or stream, priority shall be given to those characteristics that are necessary to meet state water quality standards.”

The LSR deadline this year is September 25th. It was suggested requesting a place holder relative to exempt the RMAC/LACs from the sunset clause in HB 102. The wording will be worked on at the next meeting.

When all river-related bills are received by the governor, there will be a river-related event in the Dover area.

Steve applauded the RMAC for their efforts since 2006 on all legislative work. The efforts have been great and very successful.

VI. Other Business/Action Item Review

Michele requested that the RMAC meetings be made available to the public via video. It was voted on at a prior meeting and denied. It was decided not to pursue this at this time.

Michele would also like to have a discussion about the 604(b) grants and the decision process used to award grants to the RPCs. How can the RMAC affect this policy and is the current review process effective and appropriate?

VII. Next Meeting(s)/adjourn:

Next meeting will be September 3, 2009.

The next three river nominations, Mascoma River, Squamscott River, and the Oyster River, are expected to be submitted in June 2010.

Agenda items for next meeting:

- 1) 604(b)
- 2) Biennial report
- 3) LSR
- 4) LAC/Lamprey River
- 5) Instream Flow update

Adjourned at 3:57 P.M. with no quorum present.