



LAKES MANAGEMENT ADVISORY COMMITTEE
NH Lakes Management and Protection Program
and the
RIVERS MANAGEMENT ADVISORY COMMITTEE
NH Rivers Management and Protection Program



New Hampshire Department of Environmental Services
29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
phone: 603-271-2959 fax:603-271-7894
jacquie.colburn@des.nh.gov

DRAFT
JOINT LMAC/RMAC MEETING MINUTES
December 18, 2012
DES Conference Rooms 112-114
10:15 am – 1:45 pm

<u>LMAC Members Present</u>	<u>Representing</u>	<u>Term</u>	
Wendell Berry, Chair	NH Business and Industry Association	July 8, 2013	V
Dennis Pavlicek, V. Ch. (phone)	Municipal Officials	August 1, 2015	V
Jim Haney, Ph.D.	Scientific Community, UNH	August 22, 2013	V
David Packard	NH Lakes Association	August 1, 2015	V
Dick Smith	Fishing Interests	November 17, 2013	V
Martha Twombly	NH Assn. of Conservation Commissions	August 22, 2013	V
Susan Slack	Director, Office of Energy & Planning	Indefinite	NV
Bob Spoerl	Commissioner, DRED	Indefinite	NV
Bob Wolff (phone)	Commissioner, Dept. of Agr., Markets & Food	Indefinite	NV
<u>LMAC Members Absent</u>			
John Cooley	Conservation Community	September 19, 2013	V
John Irwin	NH Marine Dealers Association	August 22, 2014	V
Jim Morash	Tourism Industry	August 1, 2013	V
Fred Murphy	Municipal Planning Boards	August 1, 2014	V
Eric Orff	NH Fish & Game Commission	August 22, 2012	V
Lt. Tim Dunleavy	Commissioner, DOS	Indefinite	NV
Mark Hemmerlein	Commissioner, DOT	Indefinite	NV
Jeff King	Executive Director, F&G	Indefinite	NV
Vacant	State Conservation Committee		V
Vacant	NH Association of Realtors		V
<u>RMAC Members Present</u>			
Ken Kimball, Chair (phone)	Recreational Interests	Dec. 28, 2014	V
Michele L. Tremblay, Vice Chair	Conservation Interests	Dec. 28, 2014	V
Kathryn Nelson (phone)	Local River Management Advisory Comm.	Sept. 5, 2013	V
Roger Noonan (phone)	Agricultural Community	Mar. 22, 2015	V
Jim Ryan	NH Fish & Game Commission	Sept. 28, 2015	V
Larry Spencer	NH Assn. of Conservation Commissions	Oct. 12, 2013	V
John Magee	Executive Director, F&G	Indefinite	NV
Susan Slack	Director, Office of Energy & Planning	Indefinite	NV
<u>RMAC Members Absent</u>			
Gary Kerr	Granite State Hydropower	Jan. 5, 2015	V
Anne Krantz	Historical & Archaeological Interests	June 15, 2013	V
Frederick McNeill	Municipal Government	Nov. 16, 2014	V
Allan Palmer	NH Business and Industry Association	Sept. 28, 2013	V
Donald Ware	Public Water Suppliers	Sept. 28, 2013	V
Lance Harbour	Commissioner, DOS	Indefinite	NV
Johanna Lyons	Commissioner, DRED	Indefinite	NV
Gail McWilliam Jellie	Commissioner, Dept. of Agr., Markets & Food	Indefinite	NV
Kevin Nyhan	Commissioner, DOT	Indefinite	NV

Staff Present

Jacque Colburn	Rivers and Lakes Programs
Ted Diers	Administrator, Watershed Management Bureau
Wayne Ives	Instream Flow Specialist
Jenn Rowden	Drinking Water & Groundwater Bureau
Tracie Sales	Rivers and Lakes Programs

Guests

Tom O'Brien	NH Lakes Association
Larry Sunderland	Former LMAC Member
Mark Traeger	Chair, Shoreland Advisory Committee

The Meeting Was Called to Order

LMAC Chairman Bud Berry and RMAC Vice Chairman Michele Tremblay called the meeting to order at 10:23 a.m. and welcomed all those present.

I. Introductions/Announcements1) Committee members introduced themselves

The LMAC did not have enough voting members present for a quorum.

2) Announcement

Jacque Colburn mentioned that per the request of the RMAC, Tracie Sales continues to improve and remove the redundancy between the committee blogs and websites, for example – all of the past meeting minutes from 2010 onward are now posted on the blogs.

II. Instream Flow RMAC/LMAC Joint Subcommittee – Wayne Ives

Using a presentation, Wayne discussed the purpose of the ISF RMAC/LMAC Joint Subcommittee and introduced the draft Comprehensive Surface Water Resource Management document.

Purpose of the draft document: RMAC & LMAC recognized the potential for conflict between lake and river water quality resulting from management for instream flow. They determined to develop a guideline for decision making.

An example of conflicting interests and needs has arisen regarding the Lamprey River and Pawtuckaway Lake. Here, the proposal calls for the use of water from the lake to provide relief pulses for the river to protect aquatic life. However, lakeshore residents are concerned about water levels in summer and winter and resulting effects on recreation, dock damage and real estate values, among others. DES has responded by taking additional actions including stakeholder meetings, public hearings, test pulse releases, additional water quality analysis, and proposing revisions to the draft water management plan.

The subcommittee met 4 times and developed, with assistance from DES, the draft Comprehensive Surface Water Resource Management document, which is designed to be recommendations from the LMAC and RMAC to guide DES. The goal for this meeting was to discuss and vote on the document. However, the LMAC did not have a quorum present for voting on the document.

The guiding principles of the document, very briefly, are:

1. Achieve Designated Uses in all surface waters.
2. Water resources management program includes all waters and uses.
3. Imitate natural water conditions to meet WQ Standards.
4. Watershed-specific evaluations are necessary.
5. Infrastructure to support sustainable water use.
6. Management based on the public trust and riparian rights doctrines.
7. Follow water resource emergencies by the development of avoidance strategies.

Ken Kimball brought up the his preference for making the document a recommendation for policy, feeling that these guidelines (and the lake level recommendations) would be stronger if they were policy, especially since the Instream Flow guidelines will be implemented at the policy or regulatory level. Ted Diers responded by summarizing a statement by Commissioner Burack stating that DES does not make policy, but rather implements it. This document is more closely related to guidance so calling it a recommendation for policy

would be confusing. Michele pointed out that the Instream Flow program has been statute for 25 years yet has not been fully implemented, so making the recommendation a statute is no guarantee.

Larry Spencer asked if ISF includes groundwater. Wayne responded that it includes groundwater withdrawals within 500 ft. of the river.

Bob Wolff asked, relative to principle #6, how reasonable use versus public interest would be reconciled. Wayne responded that the goal was to avoid conflict through management, and that the available water would be divided by the number of users, based on the season and level of demand. Users were not allowed a fixed volume, but rather an amount based on a sliding scale.

Larry Spencer expressed concern relative to snowmaking and degradation. He felt that users should not be allowed to degrade water quality. The cost of use must be balanced versus the public benefit.

Bud expressed concern about principle #7 during high flow events, particularly with respect to lowering lake levels prior to a storm to provide storage and the resulting mixing of the water. This issue is not covered well in the recommendation #7. Bud asked if lakes could be lowered more slowly to prevent mixing, but also noted that this would have a greater negative impact on recreation. Wayne noted that public health and safety will always be a primary consideration in management.

Ken thanked DES staff and the subcommittee for their hard work putting this document together. He suggested that each Committee vote on the document separately when they had a quorum. Ken reiterated his preference that this be a recommendation for policy, allowing for parity between lakes and rivers, since ISF is mandated by law. Michele agreed with Ken.

Ken noted that there remained some redundancy in the document, and that there should still be some latitude for minor wording changes after Committee approvals.

Roger Noonan noted that there was no specific identification of agricultural uses and irrigation in the document. He felt that agricultural uses should be spelled out directly.

Michele closed the discussion with the note that voting would occur by the Committees when a quorum was present.

III. Shoreland Advisory Committee Update – Mark Traeger, Chair Shoreland Advisory Committee

Mark thanked the Committees for inviting him to speak, and noted that Tom O'Brien was a new member of the Shoreland Advisory Committee (SAC).

SAC was established in 2010 with HB 1462 and is made up of interested associations, organizations and individuals including Regional Planning Commissions, Resource Scientists, Septic Designers, NH Lakes Association, NH River's Council, NH Home Builders, Landscape Architects, DES, Marine Trades Assoc., The Nature Conservancy, and landowners from lakes and rivers.

The SAC has worked hard to ensure that we still have a Shoreland Protection Act. The group has educated members on shoreland and Great Bay science and NH property rights. The SAC voted to break the single set of standards in the law into three separate standards for lakes, rivers, and tidal areas, forming sub-committees for each type of waterbody. The full SAC meets once a quarter.

The NH Rivers Council has assisted the SAC by hosting listening sessions around the state in an effort to determine how the 2011 and 2012 revisions to the Act are working and to get input regarding standards specific to rivers.

The SAC will be making the following recommendations to Commissioner Burack:

- Parameter based permitting, which will eliminate the need for re-permitting due to minor changes that remain within the rules
- Single permit combining Wetlands, Shoreline and Alteration of Terrain
- Funding for updates to DES databases to improve permit information retrieval
- Change in the point system for tree cover from 25 points for 12" – 24" trees to 15 points for any tree over 12"
- Separate trees from shrubs in the point system for replanted areas

- Wording change in the definition of Woodland Buffer to be more protective
- Tie impervious surface standards to the AoT requirements for non-conforming properties
- Standardized enforcement across all divisions of DES.

An LSR has been introduced for the SWQPA, with provisions that will be based on SAC discussions. Homebuilders are on-board with the changes, as they prefer to have one set of standards to meet statewide, rather than standards that change from town to town.

Larry Spencer commented that local Conservation Commissions no longer feel that they are “in the loop” for informational purposes with regards to the permitting. Mark T. responded that the Legislature wanted the permitting process expedited but that the SAC had brought up this (Larry’s) point to Commissioner Burack.

Michele T. commented that Representative Spang’s bill was watered down but did include the point changes. She forwarded a strong response from the LACs, received at the March 2012 workshop that the LACs want to see plans. Mark T. responded that the LACs should talk to their representatives.

Michele T. commented that the public wants a simple set of shoreland standards, but not necessarily a one-size-fits-all set. Surprisingly, engineering firms want an even simpler set of standards. Unfortunately, the permit-by-notification system does not allow towns to easily get an overview of what is happening town-wide.

Mark T. concluded by saying that the SAC will be crafting its recommendations into a letter to Commissioner Burack, and that it planned to hold 4 meetings in 2013. The SAC will also be closely tracking the LSR/bill submitted by Rep. Spang.

(Note: The meeting broke for a lunch break and reconvened at 12:11 pm.)

IV. Review Summary of the Reduction in Services Spreadsheet – Jacquie Colburn

Jacquie presented the revised Summary Spreadsheet to the Committees, pointing out specifically the revised summary text at the beginning of the spreadsheet. She also noted that item #33, Administer 604(b) Contracts for FY 12-13, had been given to the Watershed Assistance section, but that item #34, Administer the 11/12 Grant with CT River Valley Resource Comm./CRJC, was a new responsibility for the Rivers and Lakes Programs.

Michele T. suggested reorganizing the chart based on river activities and lake activities, particularly the activities required by statute. Jacquie replied that she would sort the list by river, lake, or both.

Michele T. also commented that tasks relating to Legislation had been listed with Program Need or Demand levels of Low, whereas she felt they should all be High, even if the effort expended on them since 2011 has diminished.

Jacquie asked the group for suggestions on how the spreadsheet could be reorganized to better tell a story about how the budget cuts have affected the work the programs have been able to accomplish. Dave Packard suggested highlighting the statute mandated activities. Michele T. suggested adding the subtitle “Detail of reduction in services”

V. Legislation Involving Both Committees – Jacquie Colburn and Michele Tremblay

The LMAC and RMAC create subcommittees to track relevant legislation. The RMAC subcommittee consists of Michele T., Allan P., Kath N., Fred M. and Gary K. Those present for the LMAC were not sure who had been on the LMAC Legislative subcommittee, headed by Dick Smith. Staff will follow-up with Bud. *(Follow-up determined that Bud B., Dick S., Dennis P. and Larry S. were the subcommittee members.)*

Final wording on LSRs is due by January 2, 2013. Michele expressed concern about issues affecting the RMPP and LMPP tacked onto unrelated bills. However, she noted that staff positions for the programs could be tacked onto other bills, which is a topic for subcommittee discussion.

Larry Sunderland shared the list of LSRs that he is tracking, noting several that DES and program staff had not yet found. It was decided that we would share our keywords for our LSR searches.

Budgets – Currently the budget for the Lakes and Rivers Programs is being maintained, with no cuts proposed. Outside of the programs, budgets for dam maintenance and state aid to municipalities are at risk.

Overall, the Watershed Management Bureau (WMB) expects minor impacts to state funded positions, but federally funded positions could be significantly impacted because about 90% of the WMB is federally funded. Ken asked if the federal funds to the WMB come through the EPA, and Michele and Jacquie agreed that yes, the majority do.

VI. Introduction to Possible RMPP & LMPP Program Revisions – Jenn Rowden

Jenn began by comparing the staffing levels of the two programs (which also includes ISF staff) between 2008 (4.5 FTEs) and 2012 (2.5 FTEs). She continued by reviewing the *Sustainability Initiative*, which was an effort conducted in 2008 to review the statutory duties of the RMPP and LMPP to see how well program goals were being achieved. At the time, the most significant program shortcoming was in the development, and especially the implementation, of management plans. It was also noted that the programs needed more technical assistance.

More recently, program staff agreed that we need to determine if there are changes that should be made to the programs to make them more efficient, particularly in the wake of staffing cuts. Jenn has taken the lead on developing a questionnaire asking:

- What is the purpose of Lakes and Rivers Programs?
- What aspects of the Program duties are most/least important?
- Where do the programs overlap?
- What activities support the programs' purposes, but are not legislatively mandated? Are there any that don't?
- What are others doing that the Lakes and Rivers Programs do? (And should the RMPP/LMPP keep doing them?)
- What is not being done because of reduced staffing?
- What changes can or should be made? Administrative? Internal policies? Legislative changes (2014)?

Ideas, thoughts and suggestions are needed.

Michele T. asked who the questionnaire will be sent to. Jenn responded that it will be sent to a subcommittee of LMAC and RMAC members, to a few relevant outside agencies, and to some staff members. It will also be sent to the LACs, which engendered discussion about whether the questionnaire will be sent to individual LAC members, or if there was a way to get responses from each LAC as a group. The subcommittee can guide further input.

Ken K. thought it would be helpful to have a diagram of the overlap in the RMPP and LMPP programs. Overlap could lead to partnerships or collaborations both with staff and the committees. He also made a comment about citizens groups versus citizens helping DES. Michele T. commented that while it was important to meet the statutory regulations, it was also important not to lose track of the other programs/tasks that the programs do discretionarily.

Jacquie said that staff would revise the questionnaire per the above comments and would send it to the Committee Chairs and Vice Chairs for comment.

Ken asked what DES's perspective is on the proposed changes. Jenn responded that she has a file of some internal responses and ideas. Ken continued that only 1% of rivers in the state are designated, which means that most rivers in the state are not protected under the RMPP, while all lakes are covered under the LMPP, though the protections under the LMPP are less robust.

Larry Spencer asked who is responsible for growing the programs, and getting additional rivers designated. Michele responded that she was concerned about the lack of promotion for the programs. The Suncook River nomination process was very difficult, and resulted in a threat to eliminate the program altogether.

Ken K. recommended setting a timeline and deadline for legislation with proposed changes to the programs.

Jacquie closed the discussion by announcing that she and Tracie would be following up on this effort as Jenn had accepted a new position and would be leaving DES at the beginning of 2013. Committee members thanked Jenn for all of her contributions to the Rivers and Lakes Programs.

VII. Other Business & Updates/Action Item Review

- 1) Next Meeting – January 2013 – Joint meeting with the RMAC
Michele proposed either January 21st or 23rd for the next Joint LMAC/RMAC meeting. Given that January 21st is a state holiday, the 23rd was preferred. Given the number of people not present at the meeting, program staff will send out a Doodle Poll to LMAC and RMAC members to determine the best date for the next meeting.
- 2) Other Business & Updates
The Water Sustainability Commission released its report on December 17, 2012. John Gilbert is the chair of the commission, and will be invited to speak at the next Joint LMAC/RMAC meeting.
- 3) Action Items
 - a. The RMAC will discuss, and hopefully vote on, the ISF subcommittee document at its meeting.
 - b. Jacquie will update the Reduction in Services Summary spreadsheet
 - c. Staff will look into who will succeed Jenn Rowden
 - d. The Committees will write Thank You letters to Jenn R.
 - e. Ken K., Michele T. and Dave P. volunteered to be on the subcommittee for RMPP & LMPP Program Revisions, but the group will need to ask for more volunteers.

The meeting was adjourned at 1:05 p.m. by Michele Tremblay.