



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
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DRAFT
JOINT LMAC/RMAC MEETING MINUTES
January 23, 2013
DES Conference Rooms 213-214
10:45 am – 1:15 pm

LMAC Members Present

Wendell Berry, Chair (phone)
John Cooley
John Irwin (phone)
Jim Morash
David Packard
Dick Smith
Jeff King

Representing

NH Business and Industry Association
Conservation Community
NH Marine Dealers Association
Tourism Industry
NH Lakes Association
Fishing Interests
Executive Director, F&G

Term

July 8, 2013 V
September 19, 2013 V
August 22, 2014 V
August 1, 2013 V
August 1, 2015 V
November 17, 2013 V
Indefinite NV

LMAC Members Absent

Dennis Pavlicek, Vice Chr.
Jim Haney, Ph.D.
Eric Orff
Martha Twombly
Lt. Tim Dunleavy
Mark Hemmerlein
David Rousseau
Susan Slack
Bob Spoerl
Vacant
Vacant
Vacant

Municipal Officials
Scientific Community, UNH
NH Fish & Game Commission
NH Assn. of Conservation Commissions
Commissioner, DOS
Commissioner, DOT
Commissioner, Dept. of Agr., Markets & Food
Director, Office of Energy & Planning
Commissioner, DRED
Municipal Planning Boards
State Conservation Committee
NH Association of Realtors

August 1, 2015 V
August 22, 2013 V
August 22, 2012 V
August 22, 2013 V
Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV
August 1, 2014 V
August 1, 2012 V
June 27, 2011 V

RMAC Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chr.
Gary Kerr
Anne Krantz
Frederick McNeill
Kathryn Nelson
Roger Noonan
Allan Palmer
Jim Ryan
Larry Spencer
Donald Ware
John Magee (phone)

Representing

Recreational Interests
Conservation Interests
Granite State Hydropower
Historical & Archaeological Interests
Municipal Government
Local River Management Advisory Comm.
Agricultural Community
NH Business and Industry Association
NH Fish & Game Commission
NH Assn. of Conservation Commissions
Public Water Suppliers
Executive Director, F&G

Term

Dec. 28, 2014 V
Dec. 28, 2014 V
Jan. 5, 2015 V
June 15, 2013 V
Nov. 16, 2014 V
Sept. 5, 2013 V
Mar. 22, 2015 V
Sept. 28, 2013 V
Sept. 28, 2015 V
Oct. 12, 2013 V
Sept. 28, 2013 V
Indefinite NV

RMAC Members Absent

Lance Harbour
Johanna Lyons
Gail McWilliam Jellie
Kevin Nyhan
Susan Slack

Commissioner, DOS
Commissioner, DRED
Commissioner, Dept. of Agr., Markets & Food
Commissioner, DOT
Director, Office of Energy & Planning

Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV

Staff Present

Jacque Colburn	Rivers and Lakes Programs
Ted Diers	Administrator, Watershed Management Bureau
Wayne Ives	Instream Flow Specialist
Tracie Sales	Rivers and Lakes Programs

Guests

John Gilbert	Chair, NH Water Sustainability Commission
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The Meeting Was Called to Order

RMAC Chairman Ken Kimball called the meeting to order at 10:50 a.m. and welcomed all those present.

I. Introductions/Announcements1) Introductions

Meeting attendees introduced themselves.

2) Announcement – Jacquie Colburn

Jacque asked members of both committees to fill out the Financial Interest form, and to let Jacquie know when they had completed it. Michele L. Tremblay noted that there is a fillable form on the website.

3) Acceptance of December Joint RMAC/LMAC Meeting Minutes

Each committee would approve the minutes separately. The LMAC did not have enough voting members present for a quorum, so postponed the LMAC's vote on the minutes.

- ***Michele L. Tremblay motioned for the RMAC to approve the December 2012 Joint RMAC/LMAC meeting minutes as presented. Larry Spencer seconded the motion. Motion passed unanimously with no further discussion.***

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

Wayne updated the committees on the progress of Joint Subcommittee recommendation document, which had been further refined since the draft presented at the December 2012 meeting. He noted that each committee would have to vote on the document separately.

The subcommittee 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 draft was presented to the RMAC and LMAC at the December Joint meeting; discussion at that meeting determined that a few edits still needed to be made to the draft document. Changes made since the December meeting:

- Simplified the recommendation headings and incorporated the detailed headings into the text
- Added statutory references for defining emergency declarations

Using a presentation, Wayne discussed the purpose of the ISF RMAC/LMAC Joint Subcommittee and reviewed the draft *Comprehensive Surface Water Resource Management* document. The presentation was very similar to the one given in December 2012, so only new information is included here.

Revised GUIDING PRINCIPLES

1. Support Designated Uses in all surface waters.
2. Water resources management program includes all waters and uses (watershed.)
3. Imitate natural water conditions to meet Surface Water Quality Standards.
4. Watershed-specific evaluations are necessary.
5. Use infrastructure to support sustainable water use.
6. Base water management on the public trust and riparian rights doctrines.
7. Follow water resource emergencies by developing avoidance strategies.

Fred McNeill asked what the Pawtuckaway Lake test pulse releases consisted of. Wayne replied that staff measured water quality during the fall release, and that winter test pulse releases were also conducted. The draft management plan proposes changing the winter drawdown level, so DES also paused the drawdown in late November at the proposed level from which a winter release would occur. The first winter test pulse occurred in December. Flows at the USGS gage downstream showed the release starting at this level would

work. DES conducted a second winter test pulse release in January, starting from a lower water level, proved that starting at a lower lake level would not work because the target flow rate in the river was not met.

Fred also asked if there were any negative impacts from the pulses downstream. Wayne replied that there were not: DO, temperature, conductivity, turbidity, phosphorus and (limited) nitrogen measurements were fine. Wayne added that more phosphorus was noted as part of another evaluation in the samples collected after lake turn-over.

Dick Smith noted that with the fall drawdown, the Bay of Fundy boat access area was more stream-like than lake-like, but that there was not a lot of fall boat traffic. The difference between a 5' drawdown and a 7' drawdown in this area was minimal. Dick also asked about the change in aquatic vegetation exposure with the change in drawdown. Wayne showed a map of bathymetric data and noted that the mid-north area of the lake would see the greatest difference. He added that a quantitative vegetation assessment was planned for 2013 that would provide additional information. Plants are good for aquatic life, but excessive plants are not good for boating.

Gary Kerr asked if there were problems with adjusting the stop logs in winter. Wayne replied that no, they had not experienced any problems pulling stop logs in early January when there was ice on the lake. The Dam Bureau has said that there is no problem for them.

Ken Kimball reminded the committees that the Lamprey pilot program is a good case study for this comprehensive management document for rivers and lakes. Dave Packard asked where the pilot program stands now. Wayne replied that DES is close to the end for the Lamprey and is making revisions to the management plans. The Souhegan pilot will go through a similar process and will probably take a year.

Ken K. noted two elements relevant to the *Comprehensive Surface Water Resource Management* document: 1) the committees are allowed to make recommendations to DES; and 2) should the committees make a recommendation, or a recommendation for policy? Bud Berry noted that lakes issues will still need to be addressed, and will need to be addressed again after the pilot program is complete. DES will have more work to do on outreach.

Allan Palmer asked about the term 'natural water conditions' given the presence of dams. Wayne responded that this was defined as natural reference stream flows for rivers and that impoundments would be treated similarly, i.e. natural summer water level declines as opposed to a 7' fall drawdown. Unnatural lake level management results in, for one thing, unnatural spring flows. The definition for lakes still needs refining, particularly in reference to other types of water use, such as hydropower. We now look at systems from a comprehensive perspective rather than from the perspective of a single user. Ken noted that the term 'baseline' was described in paragraph 3 on page 4 of the document.

Allan also asked if lakes can be modeled as if they did not have dams or other human structures. Wayne said that it is possible, but not easily accomplished. Allan added that the existing artificial conditions create resources that want to be maintained. Wayne replied that all uses must be balanced with natural conditions and that there is a give and take on these issues. The goal is to head toward the natural condition, but to make management decisions based on site specific factors.

Jim Morash asked about the situation of a beaver dam that needs to be removed. Wayne replied that he has not had to deal with situations at that level of detail yet. Ken K. replied that the dam would have to hold back more than 10 ac. of water to apply to this situation. Wayne continued that the situation would require a site specific review and balance natural systems versus human preferences. Don Ware added that the subcommittee originally wrestled with this level of detail, but came back to providing guiding principles instead and leaving the specific situations to be evaluated at the individual sites. Wayne also noted that this document is not designed to cover dam removal situations.

Ken K. clarified that the comprehensive management document takes existing lakes and rivers statutes and suggests how they should be applied together. Bud Berry agreed.

The RMAC determined that they were satisfied with the text of the document.

- ***Michele L. Tremblay motioned for the RMAC to approve the Recommendation to DES for Comprehensive Surface Water Resource Management as a Recommendation for Policy. Anne Krantz seconded the motion.***

RMAC Discussion:

Fred M. asked if the document needed to be vetted further before becoming policy. Ken K. responded that DES does not have to accept the committees' recommendation. He added that Ted Diers had said at the last meeting that DES does not make policy. Michele T. thought DES does make policy. Wayne said the document initially was set up to be guidelines on how DES applies existing regulations. Michele noted that the Instream Flow Program only relates to rivers and has nothing to do with lakes, and that making this a recommendation for policy might help make the scales more even. Ken K. agreed with Michele regarding the extra regulations around rivers, except with regards to water quality standards where lakes and rivers are equivalent.

Anne K. asked if there was a legal definition of policy. Allan P. commented that he wanted a discussion of policy. Ken K. again noted that it is DES' prerogative to take the committees' recommendation or not, and that DES would decide whether to make it policy.

Michele T. called for the RMAC to vote on the motion.

- ***The RMAC motion passed with two opposed.***

Since Bud Berry was on the phone, he asked Dave Packard take over the discussion for the LMAC.

- ***Dave Packard motioned for the LMAC to approve the Recommendation to DES for Comprehensive Surface Water Resource Management as a Recommendation for Policy. Dick Smith seconded the motion.***

LMAC Discussion:

Jim Morash stated that he did not think the LMAC could recommend policy to DES. It is a great draft document and stands on its own. It should be left as is.

Dave P. asked Ted Diers about DES' perspective on policy. Ted responded that policy recommendations are more toward legislation, and that there are statements of policy. This is a gray area because we are not generating a new policy document. Ted is OK with recommending "for" policy, but not recommending "as" policy.

Fred M. asked if there would have to be regulations created if it were policy. Ted responded that it is a gray area and depends on the program. Dave P. asked if the committees have the authority to make policy. Ted responded that no, the committees make recommendations and advise the commissioner.

Ken K. asked that DES respond to the RMAC and LMAC with DES' decision. Dave P. commented that DES is not required to follow the recommendation for policy. Ted D. responded that DES will use the recommendations, and are already using them. Dave P. pointed out that they are all based in existing laws and policies already. Ken said that the recommendations were creating a structure or umbrella on how to use the existing regulations.

Dave P. called for the LMAC to vote on the motion.

- ***The LMAC motion passed with one opposed.***

Wayne noted that the document was now no longer a draft document, and that the title would reflect the recommendation for policy. He asked Ken K. and Bud B. as committee chairs to write a joint letter to the commissioner to be submitted with the document.

(Note: The meeting broke for lunch and for the signing of the DES and New Hampshire Rivers Council Partnership Agreement at 12:05 pm. The meeting reconvened at 12:20 pm.)

III. Water Sustainability Commission Findings and Recommendations – John Gilbert, Chair New Hampshire Water Sustainability Commission

Jacque introduced John Gilbert and thanked him for coming to speak to the committees.

Mr. Gilbert began by providing an overview of the Water Sustainability Commission (WSC). The purpose of the WSC is to collaborate on investments, management policies, practices and tools that ensure clean, plentiful and affordable water that meets both societal and ecological needs while protecting water for future generations. The Commission was established by Executive Order 2011-02 in April 2011 and consists of 14 members representing diverse interests. The Commission's charge was to identify strategies to ensure NH's water resources in 25 years are as good as or better than today.

Mr. Gilbert asked why water sustainability is important. It is based on the concept that environmental resources are the foundation for society and that society, in turn, creates the economy. If the environment, which is heavily influenced by the quantity and quality of water, is not healthy then our communities and economy cannot be strong. Four key elements to sustainability are resilience, equity, affordability and stewardship.

There are a few inescapable realities that we have to deal with in order to address our water challenges.

1. Human activity can harm water quality, but low-impact development can mitigate that harm.
2. Huge investments in water and wastewater are needed, as are new ways to raise the money needed to maintain and improve infrastructure. There should be no 100+ year old pipe.
3. Water is a public resource, but property owners have certain rights to use water as long as the public resource is not harmed.

Biggest challenge: We take our water for granted.

WSC Findings

1. More education is needed – public needs to know what is required to protect water, more outreach
2. Manage water as a single resource – connections between groundwater and surface water, rivers and lakes and their watersheds, land use and water impacts
3. Over 80% of water pollution is from stormwater and wastewater – manage impervious surface
4. \$2.9 billion needed for water infrastructure – investment of < \$20 per person per month
5. Increasing extreme weather events – design and prepare for floods and droughts, recharge groundwater

Michele T. asked about the ratio of pollution from stormwater versus wastewater in Finding #3. Mr. Gilbert replied that most is stormwater. Fred M. added that 75% of contaminants in the Merrimack River from Manchester to Haverhill are due to non-point source pollution. Ken K. commented that the ratio of point vs. non-point source pollution used to be closer to 50/50. He asked if this is due to less point source or more non-point source. Mr. Gilbert thought both were happening. Larry S. added that increasing extreme weather events is adding to pollution from stormwater and Mr. Gilbert concurred by adding that New Hampshire is among the highest in the U.S. for increases in large storms.

WSC Goals (and Recommendations)

1. Engaged public (multi-sector network to implement recommendations, incl. manufacturing, agriculture, tourism, etc.).
2. Support human and environmental needs (conservation, scientific impact indicators for withdrawals, expand monitoring, promote balanced planning, incorporate regional differences and adaptive mgmt.).
3. Integrated watershed management (encourage inter-municipal cooperative agreements, coordination between state and local governments, innovative and consistent regulations).
4. Sustainable infrastructure funding (integrated management of water systems, asset management planning, utilize new technologies, state funding and incentives).
5. Reduced water pollution (stormwater impacts, stormwater infrastructure, homeowner pollution).
6. Adaptability to extreme weather (design for extreme storms, community coordination).
7. Adequate funding to manage water (state funding and sharing across govt. sectors and scales).

Ensuring NH's Water Future

1. Fully engaged public
2. Strengthened partnerships, particularly around infrastructure investment
3. Flexible policies & programs that consider long-term implications
4. Good information – data and monitoring

Where Do We Go From Here?

- Create a Water Advisory Task Force (business, government, science, public, etc.)
- Public awareness & multi-sector engagement initiative
- Begin now (<http://www.nh.gov/water-sustainability/>)

Ken K. asked if there will be another Water Advisory Committee. Mr. Gilbert responded that the RMAC and LMAC should be folded into that effort. Fred M. asked if the committees should formally be involved, through a change in statute. Mr. Gilbert replied that they were in the early stages, but that engaging the public was important.

Gary K. asked if the findings of the Flood Abatement Committee from a few years ago were included in the WSC's findings. Mr. Gilbert replied that the WSC looked at many water-related committee reports to create the overarching framework.

Bud Berry brought up the issue of public trust and the relationship of the government to the state's waters. Mr. Gilbert said the WSC considered this issue, found it to be difficult with water use rights and flagged it as a key challenge. He added that people do not understand reasonable use limits well.

Ken K. closed the discussion with a commitment to consider the WSC's findings in the RMPP's and LMPP's proposed program revisions.

IV. Reduction in Services Spreadsheet – Jacquie Colburn

Jacquie discussed the changes made to the Spreadsheet to the Committees:

1. Moved and grouped like or similar Activities (and their Deliverables).
2. Highlighted in yellow the Deliverables that are statutory requirements and listed these first in each section.
3. Changed the 4th column header from "After July 2011 Program Effort" to "After July 2011 Staff Effort/Ability to Accomplish Deliverable".
4. Revised all of the descriptors used in Column 4 to be: "Same", "Decreased", "On Hold", "Eliminated" and in only two locations – "Increased".
5. Changed the 5th column header from "After July 2011 Program Need or Demand" to "RMAC/LMAC Deliverable Priority".
6. Revised all of the descriptors used in Column 5 to be: "High", "Moderate", "Low" or "Very Low".
7. Significantly modified the 2nd paragraph on page 1 to provide the reader with an understanding of the content of the spreadsheet and in particular the 4th and 5th columns.
8. To make it easier for the reader to see the more significant reductions at a glance I have highlighted in BOLD where column 4 indicated either "Decreased" or "On Hold" **and** column 5 indicated "High".

In talking with Ted Diers about this spreadsheet, we thought it would be more effective to briefly explain the relationship of the RMAC and LMAC to the programs (which is included in the 2nd paragraph of page 1) and to have the Deliverable Priorities (column 5) be those of the committees, not just the program staff.

Michele T. suggested completing the split between Rivers and Lakes Activities and removing the comment. This would more easily allow the spreadsheet to be used for discussions with legislators for increases in staffing.

Ken K. suggested converting the document to a form that would be more convincing to legislators. Michele T. thought the second column should be converted to indicate activities required by statute versus those done for public service. Michele offered to make these changes.

Ken. K. commented that the spreadsheet is an outline of tasks done. Michele agreed that it is a form of documentation.

V. Introduction to Possible RMPP & LMPP Program Revisions Questionnaire – Jacquie Colburn

Jacquie reminded the committees of Jenn Rowden's presentation to the committees in December 2012 and noted that 2013 would be the 25th anniversary of the RMPP and the 23rd anniversary of the LMPP. She

commented that the programs had existed long enough that it was time to examine them to determine if improvements are necessary and possible.

Jacquie noted that the survey had been revised slightly, and would soon be sent to all RMAC and LMAC members in a Survey Monkey format. The questions will take some time to answer.

For the LACs, it was suggested that the survey be reviewed at the LAC workshop. Kath Nelson recommended having only one response per LAC, with the responses compiled as a full LAC during a meeting. The group agreed to this format, and Jacquie suggested a June 1, 2013 deadline for the LACs.

Ken K suggested a 3 step process for the survey:

1. Send out the survey and collect the responses
2. Create another Rivers and Lakes Subcommittee to digest the information and draft a report
3. Discuss the results and draft report at the next Joint RMAC/LMAC meeting.

VI. Other Business & Updates/Action Item Review

1) Other Business

Roger Noonan pointed out that agricultural uses were not specified in section #7 regarding emergency uses of water in the draft *Comprehensive Surface Water Resource Management* document.

2) Next Joint RMAC/LMAC Meeting

The next joint meeting was tentatively proposed for November 2013.

The meeting was adjourned at 1:36 p.m. by Chairman Ken Kimball.