



RIVERS MANAGEMENT ADVISORY COMMITTEE
NH Rivers Management and Protection Program

New Hampshire Department of Environmental Services
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DRAFT
RMAC MEETING MINUTES
April 23, 2013
DES Conference Rooms 110-111
1:00 pm – 3:00 pm

Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Gary Kerr
Anne Krantz
Frederick McNeill
Kathryn Nelson
Roger Noonan
Larry Spencer
Donald Ware
John Magee (by phone)
Susan Slack

Representing

Recreational Interests
Conservation Community
Granite State Hydropower
Historical & Archaeological Interests
Municipal Government
Local River Management Advisory Comm.
Agricultural Community
NH Association of Conservation Comm.
Public Water Suppliers
Executive Director, F&G
Director, Office of Energy and Planning

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
Oct. 12, 2013 V
Sept. 28, 2013 V
Indefinite NV
Indefinite NV

Members Absent

Allan Palmer
Jim Ryan
Gail McWilliam Jellie
Johanna Lyons
Kevin Nyhan
Bob Spoerl
Vacant

Business and Industry Association
NH Fish & Game
Commissioner, Dept of Ag., Markets & Food
Commissioner, DRED
Commissioner, DOT
Commissioner, DRED
Commissioner, DOS

Sept. 28, 2013 V
Sept. 28, 2015 V
Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV

DES Staff Present

Jacquie Colburn
Shane Csiki
Jim Gallagher
Carolyn Guerdet
Tracie Sales

Rivers and Lakes Program
NH Geological Survey
Dam Bureau
Water Division
Rivers and Lakes Program

The Meeting Was Called to Order

Chairman Ken Kimball called the meeting to order at 1:05 p.m. with introductions.

I. Introductions/Minutes/Committee Business

1) Acceptance of January RMAC Meeting Minutes

Michele L. Tremblay asked that all current and future minutes note her as representing the Conservation Community. She also asked that NH be spelled out in reference to the New Hampshire Rivers Council.

- ***Michele L. Tremblay made a motion to accept the January 2013 meeting minutes with changes noted, second by Larry Spencer. Motion passed unanimously.***

2) Acceptance of January JOINT RMAC/LMAC Meeting Minutes

- ***Donald Ware made a motion to accept the January 2013 Joint LMAC/RMAC meeting minutes with changes noted above, second by Kathryn Nelson. Motion passed unanimously.***

3) RMAC Membership Update

Letters regarding Anne Krantz's reappointment and Lance Harbour's replacement were recently sent by Commissioner Burack to the New Hampshire Historical Society and Dept. of Safety, respectively. Terms expiring in 2013: September 5th - Kath Nelson; September 28th - Donald Ware and Allen Palmer; October 12th - Larry Spencer. Don committed to renewing.

II. Update Regarding RMPP Activities

1) RMPP Updates – Jacquie Colburn

Focus of work since the January 23rd meeting has been mainly on the Rivers Program.

a. RMAC/LMAC ISF Letter and Report to Commissioner

The letter was submitted to Commissioner Burack on February 21st. There will be a meeting on Tuesday, May 7, to discuss the report's conclusions and how would he like to respond. It was agreed that if his response is positive he can send that response to the RMAC in writing. However, if the response is not positive the RMAC would like him to be at the joint meeting to respond to concerns.

b. Connecticut River Creosote – Tracie Sales

On 2/26/13 a representative from DES' Waste Management Division took photos of the bridge still dripping creosote into the river in North Strafford. On March 7th, DES sent a letter to the railroad company asking for a meeting. DES met on April 9th with representatives from the St. Lawrence & Atlantic railroad company and its holding company, along with an EPA representative and a representative from Vermont. The RR company agreed to replace the bridge ties this year. DES has also received a report of activity done last November, during which the RR company removed contaminated dirt and vegetation and then laid down mats under the bridge. The mats will stay until the bridge ties are replaced. There will be testing of the soil and other follow-up activities once the tie replacement is complete. The RR company will be required to report back on a continuing basis.

DOT is going to have to do the same at the Frankenstein Trestle Bridge as they are from the same batch of railroad ties, though this bridge does not cross a river or stream.

There was discussion as to fines and what could be done with monies received. Mentioned were grants to LACs and restoration to the cemetery/industrial park in Colebrook where the Mohawk River flows into the Connecticut. The group agreed that money should be directed to projects in the N. Strafford area.

c. Other items

- 4/27 LAC Workshop - Postponed to October 19th as there were not enough registrations to make it worth the time and effort. Planning has been done with the New Hampshire Rivers Council. Staff have invested a lot of time to update the LAC membership information in preparation.
- Instream Flow Program – Jacquie and Tracie continue to provide assistance to Wayne Ives. Jacquie is attending hearings and executive sessions regarding HB 588.
- 604(b) Grants – Rivers and Lakes Programs administration of the 604(b) Grants is nearly finished. Two more grants are due at the end of April. The most recent round of grants was transferred to Watershed Assistance Section a few months ago. Funding for these programs continues to decline. Kath Nelson asked if the change in structure would affect funding for LAC projects. Jacquie replied that Rivers and Lakes staff will remain on the review committee and will ensure that the LACs remain supported as funding allows.
- RMPP/LMPP Budget - Program budget is level funded with no increase or decrease.
- DES Budget - In early April the House voted to pass the DES FY 14/15 Operating Budget (HB1), the Operating Budget Trailer Bill (HB2) and the Capital Budget (HB25). The Operating Budget for DES, as passed by the House, is essentially the same budget as proposed by the Governor. The only change to the Operating Budget was a \$1.4 million increase in FY15 to start fully funding the waiting list of communities seeking state aid grants for wastewater treatment plant upgrades, drinking water system upgrades and landfill closures. The Capital Budget includes funding for our Clean & Drinking Water State Revolving Loan funds, Dams Repairs & Reconstruction, and Flood Gauging Upgrades for the 14/15 biennium, plus it allows older capital budget appropriations to be carried forward into the 14/15 biennium. Now all three bills will go to the Senate for review, debate, modification and approval.

Sequestration – don't know the affect yet to Watershed Management Bureau. Waiting to see what is happening to federal budget.

2) RMPP 25th Anniversary Observance Plans

Sonya Carlson and Jacquie, with help from Steve Couture, laid out the new poster reviewing the 25 years of the RMPP. It shows when the 18 designated rivers became part of program, as well as many other events significant to the Rivers Program including historical snippets from old brochures and news

articles. There will be additional posters made for others to use around the state at different venues. Tremblay offered the New Hampshire Rivers Council to host the map online.

The New Hampshire Rivers Council had a successful Wild & Scenic Film Festival on March 29th. Roger Noonan worked with Congresswoman Kuster's office to get a Congressional Proclamation of the 20th anniversary of the New Hampshire Rivers Council.

The Rivers Program will have a display in the DES lobby in July.

The subcommittee of Larry Spencer, Michele L. Tremblay, Roger Noonan, Tracie and Jacquie will be meeting this afternoon to make plans for June & July events, including a potential ceremony at the June 19th Governor and Council and a Rivers Celebration Day with awards ceremony. Chairman Kimball also noted we need to mention what needs to be done in the future.

3) 2013 Survey of the Rivers and Lake Program – Tracie Sales

Tracie said that 23 responses have been received so far, 10 of them from RMAC members. The survey is still open as the LACs have until the end of May to respond. She gave a brief overview of the responses:

- “Designating NH rivers” was the most important purpose of the RMPP, with half of RMAC members rating it as #1.
- “Protection of Instream Flows on Designated Rivers” ranked as the 2nd most important purpose of the RMPP.
- Overwhelmingly, the most important duty of the RMAC is felt to be “Review of nominated rivers for designation under RMPP.”

Tremblay commented that it takes a lot of administrative work to get LAC members nominated to their LACs. She suggested longer terms for the members to reduce the burden.

4) Statute Review: Comparison of RSA 483 & 483-A

This discussion was largely postponed, but Ken Kimball said that it would be the focus of the next meeting. Among the items he would like to discuss are the RMPP's overlap with the Shoreline rules, the LACs, and the LMAC. He also would like to discuss dam removals. Kimball asked the group to think about how RSA 483 can be made more powerful.

III. Surplus Land Disposals

1) Proposed SLR 13-008 Concord – Jacquie Colburn

Jacquie reviewed the 4 acres and structures on the property with a PowerPoint presentation of the site visit she and Tracie conducted last week. The checklist had been filled out and was available online. After much discussion, it was suggested that a buffer along the river be retained as part of the adjacent Russell Shea State Forest. The buffer would maintain connectivity between the Russell Shea State Forest and the state forest lands across Iron Works Road, would protect the river from future encroachment, and provide the opportunity for a future trail along the river. The committee would like to consult the wildlife action plan for a recommended actual buffer width. Tremblay will work with John Magee of F&G to come up with the actual buffer width. The retention of the buffer by the state will require a lot line adjustment.

- *Michele L. Tremblay moved that the RMAC recommend that this sale proceed but that connectivity between the two state parcels this side of the river are maintained in ownership by the state and the size of the connected area be determined by the Wildlife Action Plan connectivity guidelines, not to be less than 100 ft. from the brook, second by Gary Kerr. No Action.*
- *Michele L. Tremblay moved that the RMAC recommends that the sale proceed but that the State maintain ownership of the riparian area to provide connectivity, stream bank protection against erosion, and wildlife and recreational opportunities, number to be determined in consultation with Fish and Game to determine what will meet those values, second by Gary Kerr. Motion passed unanimously.*

2) SLR 13-001 Wentworth Summary

This SLR was within RMAC jurisdiction along the Magalloway River in Wentworth's Location and it prompted the change that is being proposed to the LMAC and RMAC Procedure for review of SLRs. The proposal was for a conservation easement grant of 284 ac. (two separate lots on either side of Rte. 16) to the US Fish & Wildlife Service for annexation to Umbagog National Wildlife Refuge. The state

retains ownership of the property, and receives a 220 ac. property in exchange. No change in public access to the Magalloway River would occur, and no development of the property has been proposed. Staff recommended a categorical exclusion due to the *de minimus* impact of the proposed conservation easement grant.

3) Proposed Revisions to the RMAC SLR Policy

Currently RMAC has given the responsibility of categorical exclusions to the chair/vice chair. In the case of the Wentworth SLR described above, Chairman Kimball had background information on the proposal that made the committee's recommendation very simple, but had that information been known by a member other than the Chair/Vice Chair, the committee would have missed out on that additional information.

Therefore, Tremblay suggested that we bring the full RMAC into the discussion when DES recommends a categorical exclusion to the chair/vice chair; so the recommendation is circulated to all RMAC members with instructions that if they disagree/want to comment to notify the Chair within 7 days. Too much power is currently vested in the chair/vice-chair to decide unilaterally and though all decisions to date have worked well, it only takes but a bad one to create a large problem.

- ***Michele L. Tremblay moved to amend the policy and procedure so that all SLRs proposed for categorical exclusion are sent to the full committee with 7 days to respond the chair and vice chair, second by Kathryn Nelson. Motion passed unanimously.***

Susan Slack noted that while the RMAC's review of SLRs was considered a low priority according to member feedback in the survey, the committee's feedback was important to CORD.

IV. Legislative Priorities

1) Impact of HB 428, Relative to Funds for Dam Maintenance – Jim Gallagher

Gallagher shared that HB 428 legislation has to do with the dam maintenance revolving loan fund. It has passed the House and Senate and is waiting for the Governor's signature. Three quarters of dams in our state are privately owned. This fund was established in 2008 to help fund repair of privately owned dams. The legislation gave the Dam Bureau more enforcement authority which they used to enforce fines for failure to pay dam registration fees. There has been \$50,000 collected so far. In 2009 it was amended to provide other revenue sources, grants, etc. This new bill will allow the funds to also be used for dam removal, and allows municipalities to apply for the funds as well. No rules have been developed yet for the fund. The Dam Bureau will look at what other states do. Capitalization will be important as dam removal is expensive, but funds will also be allowed for feasibility studies.

There is a Dam Rehab bill in Congress that could provide up to \$2.5 million to NH for the repair of publicly opened dams. Tremblay noted another federal bill.

2) Review of Proposed Rivers Related Legislation – Michele L. Tremblay

A number of bills were tracked but the RMAC focused on HB 588 (instream flow), HB 292 (milfoil) HB 513 (shoreland), SB 124 (integrated land permitting process) and SB 168 (municipal revolving fund).

- For the instream flow bill, there have been concerns regarding length of the study and its funding. One question that has been raised is whether or not the ISF process can continue if the extension is not passed.
- The shoreland bill is has gone through many changes, one of which is permission vs. notification to enter properties for enforcement actions. Other departments do not have these issues.
- The integrated land permitting program is moving forward. Tremblay is concerned about permit notification at the municipal level and for the LACs, she feels that the bill could overwrite that aspect of the LACs' responsibilities in RSA 483.

V. Other Business and Action Item Review

1) Action Item Review

- a. SLR 13-008 Response to CORD
- b. Update RMAC SLR policy
- c. Changes to the RMPP 25th Anniversary poster (add Meanderings, correct TS Irene)

2) Next Meeting – September/October

The next RMAC meeting will be Wednesday, October 2, 2013 at 9:00 a.m.

3) Proposed Agenda Items

The next RMAC meeting will focus on the results of the Statute Review survey and how to strengthen the RMPP. Time will be devoted to review and discussion of statute and program and the committee will look at programs within DES that are river related. How can we make river protection more powerful by incorporating more work/dialogue between the dam removal program, RMPP, and the Shoreland Act? Also legislative items and how they're structured. Chairman Kimball offered to work with a subcommittee of staff, Tremblay and others for a day prior to the October meeting to develop a straw man outline of the opportunities and cross sections. Gary Kerr and Fred McNeill also volunteered to be part of this planning sometime in late August. Staff will send out a Doodle Poll to set up the meeting.

Previously proposed agenda items such as the Suncook River Avulsion would be postponed.

The next Joint RMAC/LMAC meeting should focus on the Commissioner's response to Committees' Recommendation regarding the Instream Flow program and to changes to RSA 483 and 483-A.

VI. **Member Comments and Updates**

Jacque noted that Chairman Kimball was presented with the Andy Falendar Award at the recent annual meeting of the Appalachian Mountain Club (AMC). The award is for those who demonstrate "Outstanding and sustained leadership, innovation, contribution and commitment to the AMC's annual objections and long-term goals."

Larry Spencer noted that the Friends of the Pemi River are hosting a float down the river with a program following on Tuesday, April 30th and everyone is invited.

Michele L. Tremblay added that the Update to the Management plan for the Pemigewasset River Corridor was voted on and approved.

Roger Noonan noted that the federal Modernization Act includes a regulation that water being brought on to farms must meet clean water standards. It will cost farmers a lot of money for the testing and could potentially force some farmers out of business. There is currently a 120 day extension on the rule.

Jacque highlighted the New Hampshire Environmental Dashboard, a recent addition to the DES website - <http://www.des.state.nh.us/organization/commissioner/environmental-trends.htm>

Jacque pointed out that the Chinese Mitten Crab is an invasive crab that is moving north up the Atlantic Seaboard and that there needs to be more public education regarding it because the crab is found in fresh- and saltwater. Tremblay will contact a speaker for the joint meeting of the lakes and rivers.

- ***Larry Spencer moved to adjourn the meeting, second by Anne Krantz. Motion passed unanimously.***

The meeting adjourned at 3:22 p.m.