



RIVERS MANAGEMENT ADVISORY COMMITTEE
NH Rivers Management and Protection Program

New Hampshire Department of Environmental Services
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RMAC MEETING MINUTES
May 29, 2014
DES Conference Rooms
9:30 am – 12:00 pm

Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Frederick McNeill
Kathryn Nelson
Roger Noonan
Allan Palmer
Larry Spencer
Donald Ware
Patrick Hummel
John Magee
Mark Hemmerlein
Susan Slack

Representing

Recreational Interests
Conservation Community
Municipal Government
Local River Management Advisory Comm.
Agricultural Community
Business and Industry Association
NH Association of Conservation Comm.
Public Water Suppliers
Commissioner, DRED
Executive Director, F&G
Commissioner, DOT
Director, Office of Energy and Planning

Term

Dec. 28, 2014 V
Dec. 28, 2014 V
Nov. 16, 2014 V
Sept. 5, 2016 V
Mar. 22, 2015 V
Sept. 28, 2016 V
Oct. 12, 2016 V
Sept. 28, 2016 V
Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV

Members Absent

Anne Krantz
Alan Larter
Jim Ryan
Gail McWilliam Jellie
Elizabeth Peck

Historical & Archaeological Interests
Granite State Hydropower Assoc.
NH Fish & Game
Commissioner, Dept of Ag., Markets & Food
Commissioner, DOS

June 15, 2016 V
Jan. 5, 2015 V
Sept. 28, 2015 V
Indefinite NV
Indefinite NV

DES Staff Present

Jacquie Colburn
Shane Csiki
Craig Day
Carolyn Guerdet
Wayne Ives
Tracie Sales

Rivers and Lakes Programs
NH Geological Survey
Wetlands Bureau
Water Division
Instream Flow Program
Rivers and Lakes Programs

Guests

Caroline Higley
Richard Snow
Kellie Walsh

Meredith Planning Department
Lamprey Rivers Advisory Committee
Office of Energy and Planning

I. Introductions/Minutes/Committee Business

Chairman Ken Kimball called the meeting to order at 9:38 a.m. with introductions.

1) Acceptance of March 19, 2014 RMAC Meeting Minutes

- ***Michele L. Tremblay made a motion to accept the March minutes, second by Fred McNeill. Discussion was held.***

During discussion, Michele L. Tremblay requested that on page 3, under sub-topic number 2, "Work with DOT Regarding Additional Roadway BMPs," that the minutes more fully indicate that at least three members of the RMAC were taken aback by the proposal and the lack of prior notification to the RMAC and LACs about it. She asked that a paragraph be added to the minutes that includes the different perspectives and that describes the RMAC's concerns and discussion about the lack of information provided to the LACs about this effort and the need for additional information.

- ***Kath Nelson moved that the prior motion be amended such that the March minutes be accepted with the amendment of an additional paragraph in the section “Work with DOT Regarding Additional Roadway BMPs,” written by RMPP staff and approved by Michele L. Tremblay, that describes the concerns expressed during the discussion. Seconded by Larry Spencer. Minutes with amendment passed unanimously.***

2) RMAC Membership Update

Fred McNeill’s membership will be up for reappointment in November and Ken Kimball and Michele L. Tremblay are up for reappointment in December. Mark Hemmerlein was welcomed back to the RMAC representing the NH Department of Transportation, replacing Kevin Nyhan.

II. Proposed Changes to RSA 483

1) Review of the Proposed Statutory Changes

Chair Kimball explained that the RMAC’s Statute Review Subcommittee, consisting of himself, Michele L. Tremblay and Fred McNeill, had undertaken a review of RSA 483 in order to modernize the 25 year-old statute and ensure that it continued to reflect current priorities and practices. An outreach program to the LACs was also undertaken. A draft document of the proposed changes was distributed, and Chair Kimball suggested that all of the changes to the statute be approved together, rather than line-by-line, by the RMAC. Some changes were housekeeping and some changes were substantive. Once these changes are approved then a legislator will be sought to make the changes in statute.

- ***Larry Spencer made a motion to accept all of the changes to RSA 483 at once. Second by Kath Nelson. Motion passed unanimously.***

[Note: The complete revised text to RSA 483 as discussed in this meeting, titled [DRAFT RSA 483 Mark-Up 2014.06.23](#), is available on the RMAC blog with the meeting materials for the June 23, 2014 RMAC meeting.]

Section 483:4 Definitions

- “Aquatic connectivity” – reference to nutrients removed and “naturally” added to new definition.
- “Dam” – Wayne Ives noted that this definition of dams was inconsistent with the Dam Bureau’s definition. Decision was made to maintain existing definition.
- “Fluvial Geomorphology Assessment” – definition approved as proposed.
- “Free-flowing” – edits to definition approved as proposed.
- “Interbasin transfer” – Discussion was held regarding how this related to the proposed definition revision of “river drainage basin.” No change was made to definition of “interbasin transfer.”
- “Meander belt” – “Natural” was struck from the proposed new definition and approved as edited.
- “River drainage basin” – Discussion was held regarding how the proposed change from the six identified basins to basins defined on Hydrologic Unit Code (HUC) 8 level would be affected by the restriction on interbasin transfers, particularly in the Connecticut River watershed. Chair Kimball initiated an informal vote, which indicated that voting RMAC members preferred the HUC 8 definition of river drainage basins over the existing definition by a margin of 6 to 1 (with 1 abstention).

Section 483:7-a River Classification Criteria; Management

- Change in the minimum length of a natural river segment was approved at 3 miles.
- The change in the screening requirement of a road on a natural river segment was approved with the striking of “sufficiently” and further editing to remove the duplication of “screen” in 483:7-a I(3).
- Change in the minimum length of a community river segment was approved at one half mile.

Section 483:8 Rivers Management Advisory Committee; Establishment

- Proposed changes to 483:8 I were approved with the addition of:
 - The representative of public water suppliers will be nominated by the New Hampshire Water Works Association.
 - The representative of the hydropower industry will be nominated by the Granite State Hydropower Association *in consultation with the New Hampshire hydropower industry.*
 - The Audubon Society of New Hampshire will be the second of the 3 organizations nominating the representative of the conservation community.
 - The representative of the local river management advisory committees will be nominated by the commissioner *from a list of members submitted by the local river management advisory committees.* [This sub-section may need further editing and review by the RMAC.]

- Municipalities were added to the list of entities advised by the RMAC in 483:8 VI.
- Proposed addition VI-a or VII approved as: The advisory committee, at its discretion, may provide testimony and advice on legislation and rules relevant to the management and protection of New Hampshire's rivers.
- Proposed addition VII-a or IX: The general idea of the addition was approved with addition of "management" in line 3. A suggestion was made to strike "management plan" in line 1. A second suggestion was made to replace "advice" with "input" in line 3. With these changes the section would read: "No state-owned property included in a local river corridor ~~management plan~~ shall be disposed of by the state except upon the review and recommendation of the advisory committee and with the ~~advice~~ input of the local river management advisory committee. This section will be revisited as it relates to following sections of the statute.

Review of the rest of the DRAFT RSA 483 Mark-up was postponed due to time constraints.

- 2) Process and Timeframe Moving Forward
Postponed due to time constraints.

(Craig Day, DES Shoreland Program arrived.)

III. LAC Permit Review Process – Issues and Challenges

Jacque Colburn summarized the duties of the LACs to review construction and permitting of plans and projects which may affect designated rivers. Many of these permit programs are administered by DES, such as Wetlands, but a few are administered by other agencies including Dept. of Agriculture, Markets and Food for pesticide applications. The challenge is that DES has only 30 calendar days to review many permits, but LACs meet, at most, once per month and the time limits for review and comment vary based on the permit type and size of the project.

This issue recently came to the fore when the Ammonoosuc River LAC received a permit application, but was prevented from performing their planned site inspection by inclement weather. By the time the LAC members were able to view the site and submit a comment letter to DES, it was the evening of the day before the permit decision had to be made. Craig Day had already approved the permit earlier that day. For this particular permit application, the 30 day permit review period expired on a Sunday. Craig and Jacque explained that because Craig was in the field on the preceding Friday, which was day 28 in the review process, he had to approve the permit a day early, on Thursday, day 27 of the review process. Craig did contact the engineering firm for the project on receipt of the LAC letter and let them know that they could amend their plan to incorporate the LAC's recommendations, but DES can only withdraw the permit and require the plans to be revised if DES has missed an enforceable item.

Craig noted that because of their work load, DES staff may not look at a permit application until a day or two before the permit review period expires. For the record, Jacque shared a portion of the May 15th email from Connie McDade, Secretary of the Ammonoosuc LAC explaining her willingness to drive and personally deliver the LAC comment letter to DES.

Jacque asked for ideas on how this process can be improved. She noted that the Permit Notification process needs to be improved, and also that LACs should provide comments within 25 days, rather than the 30 allowed, avoiding this type of issue. Kath Nelson requested a flow chart of the application process for the LACs to clarify the process, as well as clear due dates on the notices. Chair Kimball agreed that a functional structure would help. Larry Spencer recommended using a checklist, as he has seen used for Shoreland permits, for each permit type to help LACs know what topics to review. Susan Slack suggested a rule that permits would not be approved in less than 20 days, or some similar number, especially for designated rivers. Wayne Ives suggested that LACs let DES know if they are planning to comment on an application.

The RMAC asked to hear from DES how to prevent this type of issue in the future. Kath Nelson and Craig Day will arrange a time to talk and try to work out a solution.

IV. DES Wetlands & DOT Request to Modify RMPP and LAC Roles for Routine Roadway Maintenance Activities

Postponed due to time constraints.

V. Member Comments and Updates

Postponed due to time constraints.

VI. Review of 2014 River-Related Legislation

Postponed due to time constraints.

VII. Ham Branch Nomination Update

Tracie Sales very briefly explained that the nomination of the Ham Branch River into the Rivers Program would include only one town, Easton, and would involve the nomination of not only the Ham Branch, but also all of its first order and higher tributaries within the town of Easton. RMAC members felt the nomination process should be continued despite the single town supporting it, and that the nomination would be discussed in full at the next meeting.

VIII. Other Business and Action Item Review1) Next Meeting

June 23, 2014 from 12:30 – 4:00 PM.

2) Action Item Review

- RMPP staff will add a paragraph to the March 19, 2014 meeting minutes regarding the RMAC's reaction to the changes proposed by DES Wetlands and DOT to RSA 483 for Vice Chair Tremblay's review.
- RMPP staff will review the "river drainage basin" definition and will research how the change may affect existing interbasin transfers.
- RMPP staff will get a legal interpretation regarding the minimum lengths of river segment designations, what they pertain to, and how they can be defined.
- RMPP staff will revise the DRAFT RSA 483 Mark-up for the June 23rd meeting, using color coding to indicate which items had been agreed on and which still require review by the RMAC.
- Kath Nelson and Craig Day will discuss how to improve the LAC permit review process within DES' existing workload.

3) Agenda Items for Next Meeting

Ham Branch River nomination

Finish review of RSA 483

Draft of Wetlands Rules Revisions and the DOT/DES Wetlands request

Status of recently reviewed SLRs: Warner River, Exeter River, and Cold River in Alstead

LAC Annual Reports

LAC Permit Review timeframe

- ***Larry Spencer made a motion to adjourn, second by Roger Noonan. Motion passed unanimously.***

Meeting adjourned at 12:05 p.m.