



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
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RMAC MEETING MINUTES
June 23, 2014
DES Conference Rooms
12:30 pm – 4:00 pm

Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Anne Krantz
Alan Larter
Kathryn Nelson
Allan Palmer
Jim Ryan
Larry Spencer
Donald Ware
Mark Hemmerlein
John Magee (via phone)
Susan Slack

Representing

Recreational Interests
Conservation Community
Historical & Archaeological Interests
Granite State Hydropower Assoc.
Local River Management Advisory Comm.
NH Business and Industry Association
NH Fish & Game Commission
NH Association of Conservation Comm.
Public Water Suppliers
Commissioner, DOT
Executive Director, F&G
Director, Office of Energy and Planning

Term

Dec. 28, 2014 V
Dec. 28, 2014 V
June 15, 2016 V
Jan. 5, 2015 V
Sept. 5, 2016 V
Sept. 28, 2016 V
Sept. 28, 2015 V
Oct. 12, 2016 V
Sept. 28, 2016 V
Indefinite NV
Indefinite NV
Indefinite NV

Members Absent

Frederick McNeill
Roger Noonan
Patrick Hummel
Gail McWilliam Jellie
Elizabeth Peck

Municipal Government
Agricultural Community
Commissioner, DRED
Commissioner, Dept of Ag., Markets & Food
Commissioner, DOS

Nov. 16, 2014 V
Mar. 22, 2015 V
Indefinite NV
Indefinite NV
Indefinite NV

DES Staff Present

Jacquie Colburn Rivers and Lakes Programs
Steve Couture Coastal Program, formerly Rivers Program
Gene Forbes Water Division
Carolyn Guerdet Water Division
Wayne Ives Instream Flow Program
Tracie Sales Rivers and Lakes Programs

Guests

Kris Pastoriza Ham Branch River Nominating Committee
Rep. Judith Spang NH General Court
Roy Stever Ham Branch River Nominating Committee
Kellie Walsh Office of Energy and Planning

I. Introductions/Minutes/Committee Business

Chair Ken Kimball called the meeting to order at 12:37 p.m. with introductions.

1) Review of March 2014 RMAC Meeting Minutes

Jacquie Colburn confirmed that the requested addition had been made to page 3 of the March 19, 2014 minutes, and noted that the minutes had already been approved at the May 2014 meeting contingent on the addition noted.

2) Acceptance of the May 2014 RMAC Meeting Minutes

➤ ***Michele L. Tremblay made a motion to accept the May 29, 2014 RMAC minutes, second by Kathryn Nelson. Motion passed unanimously.***

3) 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. Michele noted that her membership renewal was already in progress.

II. Ham Branch Nomination

Chair Kimball welcomed Roy Stever and Kris Pastoriza from the Ham Branch River Nominating Committee, and summarized the steps of the nomination process relevant to the RMAC. These steps include submitting the nomination form to the Rivers Program, a presentation to the RMAC on why the river should be designated, and then a site visit to the river by the RMAC.

Mr. Stever gave a presentation on the nomination of the Ham Branch River in Easton. Kris Pastoriza brought the idea of the nomination to the Easton Conservation Commission a year ago, and the Commission has been very supportive.

The Ham Branch River is in very good condition, with only scattered housing in the 21.5 sq.mi. watershed, little commercial activity and approximately 1,300 acres in conservation already, including the new Cooley-Jericho Community Forest. However, development pressure is increasing, as is the potential for agricultural use of the river valley. This is especially true in Franconia and Sugar Hill, both of which have also expressed interest in the nomination. Seventy percent of Easton is part of the White Mountain National Forest (WMNF), and 46% of the Ham Branch watershed is in the WMNF, with 50% of the area considered Highest Ranked Habitat. Several threatened and endangered species of special concern reside in the river corridor or have been seen near it, including Lindley's aster, mountain firmoss, Canada lynx and brook trout. The river and streams also have a rich history of use for mills, and some records indicate the watershed was home to an early Mormon settlement.

The broadly supported nomination to the Rivers Program compliments other research and conservation efforts going on in the watershed. Franconia and Sugar Hill may also nominate their portions of the watershed, but Franconia needed additional time to gain buy-in from landowners and Sugar Hill is barely in the watershed. The key issues facing the community are: residential development, landowner practices, climate change, resource extraction, and energy transmission, particularly the Northern Pass.

RMAC members expressed concern about getting enough LAC members from a single town, and recommended that the LAC not be made up entirely of Conservation Commission members, and that some members should represent other interests. Mr. Stever responded that interest in joining the LAC was high; though finding younger people to join it might be more challenging. Allan Palmer asked if there was any opposition to the nomination, and also about possible agriculture. Mr. Stever responded that the town residents voted unanimously in favor of the nomination, and that current agriculture consisted of 1 pasture and many homes with large gardens and chickens.

The next step will be set up a public meeting in August or September. The nominating committee's presentation is available on the RMAC blog.

III. Proposed Changes to RSA 483

1) Review of the Proposed Statutory Changes

Chair Kimball explained the work that the RMAC's Statute Review Subcommittee has conducted to date. 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. Changes highlighted in yellow on the *6/23/2014 version of the RSA 483 Mark-up* were agreed upon by the RMAC at the May meeting and were generally not discussed at this meeting. Once all of the changes are approved, then a legislator will be sought to sponsor a bill to make the changes in statute.

Referring to the *6/23/2014 version of the RSA 483 Mark-up*, recommended changes were made to the following sections with little discussion unless noted:

RSA 483:4

- Definition of "interbasin transfer" remains as is.
- Definition of "protected instream flow" revised as recommended with additional minor edits.
- "River drainage basin" definition to be researched further regarding appropriate HUC level.

RSA 483:7-a – minor word change to I(a)(3).

RSA 483:8

- LAC rep. to RMAC nominated from list of candidates submitted to DES by the LACs.
- New VII-a approved regarding disposal of state owned property in a river corridor.

RSA 483:8-a

- Reduced minimum LAC membership from 7 members to 3, with no minimum from each town.
- Allow staggered terms.
- Allow LACs to have a role in commenting on disposals of state-owned lands.
- Additions regarding the state comprehensive plan, LAC reporting, and LAC mergers approved.

RSA 483:9, 9-a, 9-aa, and 9-b

- Follow Best Management Practices for sludge, septage, or solid waste land applications.
- Provision for adequate fish passage if determined necessary by Fish and Game Dept. discussed. John Magee referenced RSA 211:8-a thru 8-c. Discussion was held regarding who would pay for fish passage if deemed necessary, and if these conditions could be applied to flood control or FERC licensed dams. Jim Ryan also felt that the Fish and Game Commission should be making this determination, but the group decided, with Magee's concurrence, that the F&G Department was appropriate given other legislation. Decision on this revision was postponed until Ryan could consult with the F&G Commission in conjunction with Magee and the F&G department.

RSA 483:10

- Discussion was held regarding the topics included in a corridor plan with respect to the new watershed approach to designating rivers. It was determined that detailed changes would be covered in the guidance document for developing corridor plans.
- Discussion also ensued regarding inclusion of state-owned land management recommendations within the plan. The last sentence of section (j) was modified to: "The plan shall include recommendations on the administration and management of state-owned lands within the corridor."
- Proposed changes in this section, with the modification noted above, were approved.

RSA 483:10-a – Section regarding long range management plans removed.

RSA 483:10-b – "Rural-community" added.

RSA 483:11 – "but not limited to" added.

RSA 483:12-a

- Names of state permitting programs added to the list of statutes. Also added "included but not limited to" before the list of statutes.
- Revised primary responsibility for development of state agency cooperation procedures with the Rivers Program to be on the state agencies.

RSA 483:14 – Reference to long-range river management plans deleted with respect to state-owned properties.

RSA 483:15

- References to the Shoreland Act should be updated if they are maintained.
- The RMAC liked the idea of removing the Lamprey and Oyster exemptions from the Shoreland Act, but decided that the RMAC should first get the input of the Lamprey and Oyster LACs.

Final approval of these changes will be made at the next RMAC meeting, which is expected to be held in Easton in conjunction with the Public Hearing for the Ham Branch Nomination in August or September. Input from Fish and Game Commission and Department will be important for the next meeting. Following final approval, the Policy and Legislation subcommittee will meet to choose legislators/sponsors to approach.

VI. RMPP Updates (inserted out of scheduled order)

The new Water Division Director, Gene Forbes, was introduced to the RMAC. Director Forbes provided a brief overview of his background. Chairman Kimball thanked Director Forbes for meeting the RMAC.

III. Proposed Changes to RSA 483 (continued)

2) Process and Timeframe Moving Forward

Jacque presented a timeline that assumed the changes to RSA 483 would be voted on at this meeting. As the vote did not occur, Chair Kimball suggested sending out the revised draft, with a note regarding the 3 items to yet be decided (river drainage basin definition, fish passage and Shoreland Act exemptions) to LACs and Lakes Management Advisory Committee for their review. The LACs and DES would have a month to comment, and the RMAC would review comments, approve the last few items and secure legislative sponsors in September. The RMAC would submit legislation in the fall of 2014 for the

2015 Session; the House LSRs filing dates are November 12 to December 5 but the Senate LSR schedule is not yet known.

Representative Spang suggested bringing interested parties to the table to iron out any difficulties before the bill is introduced. She would be happy to meet with those people to go over any problems.

It was agreed that the Ham Branch nomination and the RSA changes should be two separate bills.

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

Jacque displayed a proposed table of contents for the revised DOT Roadway/Railway BMP Manual that is currently being written. She noted that it will include a planning section and a review of project types that qualify for Culvert Maintainers and those that qualify for routine roadway applications. There is also a section on BMPs for erosion and sediment control.

The wetlands rulemaking rewrite is moving along. It is assumed that updating the BMP manual is part of the rulemaking process.

Chair Kimball called for a vote on the *2014.06.17 DRAFT Response to DOT and DES to amend the RMPP*.

- ***Michele L. Tremblay moved to accept the draft response as the RMAC's recommendation for rules changes to the Wetland rules relative to LAC permit application review under Env-Wt 303.05, second by Jim Ryan. Discussion was held. Motion passed unanimously.***

John Magee leaves the meeting.

V. LAC Permit Review Process Update

Using a Powerpoint presentation, Jacque reviewed the events that led to the effort to review and improve the LAC Permit Review Process. The improvement effort was triggered by a letter sent to DES Commissioner Tom Burack from Charlie Ryan, Chair of Ammonoosuc River LAC asking why a permit application had been approved the day before the review deadline, and only hours before the LAC had submitted on-time comments on the proposed project. The permit application had the usual challenges for the LAC of a 30 day review deadline combined with the monthly LAC meeting schedule. This permit was further complicated by a deadline that fell on a Sunday, which shortens the review period, an inaccurate deadline date in the LAC Weekly Notice, weather that postponed the LAC's scheduled site visit, and the DES inspector's commitment to conduct a site visit for another project on the day the permit needed to be approved, resulting in approval a day early.

Jacque explained that the Rivers Program is committed to improving this application review process. In the long-term, she noted that the Governor has issued an executive order that all business related application forms must be available online by September 2015. At this time only subsurface applications are submitted online within DES. When applications are available online, timely notice of the existence of an application should improve.

In the meantime, several improvements have been or will be made within the Rivers Program:

1. Connecticut River LAC chairs are now included on the LAC Contact List to provide better immediate point of contact when an application is received. Formerly applications were sent to CRJC.
2. DES staff have reviewed the permit review process and developed several suggestions:
 - a. Develop a flow chart of the permit process for the LACs.
 - b. Create a list of the types of permits and their review periods (currently 30 - 120 days, not including PBNs).
 - c. Develop a checklist of key elements to look for on each type of permit for the LACs
 - d. Improve the RMPP notification process, can it be more timely through use of electronic media?
 - e. Can the Land Resources Management Program GIS person help with notification to the LACs?
3. Recommendations for LACs are to submit comments a few days prior to the deadline, and to notify the DES inspector ahead of time when the LAC plans to submit a comment.

Vice Chair Tremblay recommended changing the review period to 45 working days, rather than 30 calendar days, when the Wetlands Rules are being revised.

Kath Nelson noted the need for buy-in to this process improvement from DES senior leadership. Chair Kimball added that part of the reason for the proposed changes to RSA 483 is to make the program more proactive.

Commissioner Burack will be meeting with Jacquie, Shoreland Inspector Craig Day, and Assistant Commissioner Vicki Quiram to develop a response to Chair Ryan. Jacquie will share any responses to Mr. Ryan with the RMAC and other LAC chairs.

VI. RMPP Updates

Warner River (Warner) SLR – no action so far. The property boundaries remain the issue, along with who owns the old road so that public access is still available. Mark Hemmerlein noted that the SLR proposal did not include the road, so DOT has not done anything to resolve the question.

Cold River (Alstead) SLR – Susan Slack reported that DOT would like to dispose of 19 parcels to the town, retaining some easements for drainage on some lots. The properties were ones that flooded, and therefore have conservation easements on them. In addition, there are provisions that if the town no longer wants the properties, they would revert back to the state. The town decided it does not want the parcels at this time because of the restrictions, though they may take one parcel to use as a memorial park. The SLR is now pending with CORD until there is movement. There will be an informal meeting with affected state agencies to discuss possible solutions.

Exeter River (Exeter/Stratham) – CORD and the Long Range Planning Committee recommended for disposal. The project is to replace a gas pipeline lying on the bed of the river with a new one that would be bored under the river, requiring an easement. This SLR will be on Governor & Council agenda in July or August.

3:52 Chairman Kimball leaves the meeting.

VII. Member Comments and Updates

Larry Spencer shared that on June 24th that the Friends of the Pemi are holding a BBQ at Livermore Falls. All are invited.

VIII. Other Business and Action Item Review

Next Meeting and Agenda Items:

The next meeting of RMAC will be held in Easton in conjunction with the Ham Branch River nomination site visit, public meeting and public hearing. The schedule will be a site visit, approximately 2:00 – 3:00 PM, an RMAC business meeting, and then the public hearing. The RMAC business meeting will focus on finishing discussion of proposed statute changes

- ***Kathryn Nelson made a motion to adjourn, second by Donald Ware. Motion passed with one nay.***

Meeting adjourned at 3:58 p.m.