



RIVERS MANAGEMENT ADVISORY COMMITTEE
NH Rivers Management and Protection Program

New Hampshire Department of Environmental Services
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RMAC MEETING MINUTES
February 18, 2015
Fish and Game Dept., Concord, NH
9:00 am – 11:20 am

Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Anne Krantz
Roger Noonan
Allan Palmer
Jim Ryan
Larry Spencer
Mark Hemmerlein
Patrick Hummel
John Magee
Susan Slack

Representing

Recreational Interests
Conservation Community
Historical & Archaeological Interests
Agricultural Community
NH Business and Industry Association
NH Fish & Game Commission
NH Association of Conservation Comm.
Commissioner, DOT
Commissioner, DRED
Executive Director, F&G
Director, Office of Energy and Planning

Term

Dec. 28, 2017 V
Dec. 28, 2017 V
June 15, 2016 V
Mar. 22, 2015 V
Sept. 28, 2016 V
Sept. 28, 2015 V
Oct. 12, 2016 V
Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV

Members Absent

Alan Larter
Frederick McNeill
Donald Ware
Vacant
Gail McWilliam Jellie
Elizabeth Peck

Granite State Hydropower Assoc.
Municipal Government
Public Water Suppliers
Local River Management Advisory Comm.
Commissioner, Dept of Ag., Markets & Food
Commissioner, DOS

Jan. 5, 2015 V
Nov. 16, 2014 V
Sept. 28, 2016 V
Sept. 5, 2016 V
Indefinite NV
Indefinite NV

DES Staff Present

Jacquie Colburn
Ted Diers
Darlene Forst
Carolyn Guerdet
Tracie Sales

Rivers and Lakes Programs
Watershed Bureau Administrator
Wetlands Bureau
DES Water Division
Rivers and Lakes Programs

Guests

Nancy Martin Warner Conservation Commission
Mike Tardiff Central New Hampshire Regional Planning Commission

I. Introductions/Minutes/Committee Business

Chair Ken Kimball called the meeting to order at 9:05 a.m. with introductions.

1) Review of November 18, 2014 RMAC Meeting Minutes

- ***Michele L. Tremblay made a motion to accept the November 18, 2014 RMAC minutes, second by Jim Ryan. Motion passed unanimously with no discussion.***

[Note: later in the meeting, Michele L. Tremblay noted that Gene Porter had been erroneously identified as representing the Upper Merrimack River LAC, rather than the Lower. Staff will make the correction.]

2) RMAC Membership Update

Jacquie shared with the committee that Ken Kimball and Michele L. Tremblay were reappointed with terms expiring December 28, 2017. Fred McNeill will be contacted again as to the status of his reappointment from the Municipal Association. For the vacant LAC Representative position, a letter was sent to Governor & Council on January 21, 2015 with two nominees, Gene Porter and Ruth Ward. Alan

Larter's membership term expired in January, and he has been notified by email.

II. Presentation to Kath Nelson

Postponed as Kath was unable to attend the meeting.

III. River-related Legislation

1) Acceptance of RMAC Policy & Legislation Subcommittee Recommended RMAC Positions on State Legislation

Vice Chair Tremblay recommended voting on the P&L subcommittee's recommendations as consent agenda items as there was consensus within the subcommittee. She asked for any questions regarding the recommendations made.

The RMAC will track House Bills 111, 306, 434, 447, 544, 558, 565, 633 and 663, and will track and research House Bill 349. The RMAC expects that the LMAC will track House Bill 201. The RMAC supports (with or without conditions) House Bills 272, 281, 376 and 667, as well as CACR 2 and Senate Bills 38, 196 and 229. The RMAC opposes House Bill 452.

- ***Michele L. Tremblay made a motion to accept as a consent item the recommended RMAC positions on state legislation as made by the subcommittee, second by Larry Spencer. Discussion was held and questions answered pertaining to positions taken. Motion passed unanimously.***

Rivers staff will keep everyone informed about legislation of interest, and the P&L subcommittee will stay on top of the bills after legislative cross over. Letters of testimony will be submitted at the next public hearing for those bills on which the RMAC has taken a position. Tracie will conduct some additional research on HB 349, and, if necessary, will put together a summary of the bill with the assistance of Vice Chair Tremblay.

Senate Bill 13, relative to the disposition of dedicated funds, was added to the legislative tracking spreadsheet after the P&L subcommittee met.

- ***Michele L. Tremblay moved to add SB 13 as a 'track' to the list, second by Larry Spencer. Chair Kimball asked to add tracking of HB 2 as an amendment. Michele L. Tremblay and Larry Spencer agreed to the amendment. Discussion was held. Motion passed unanimously.***

2) Ham Branch River Nomination Update

Jacque shared that HB 272, relative to the Ham Branch River nomination, had been heard by the House Resources Recreation & Development (RR&D) Committee on January 28th. All of the testimony was in favor of the nomination, but the RMAC, the New Hampshire Rivers Council and the Shoreland Advisory Committee testified against the request for the exemption from the Shoreland Protections Act. HB 272 then went to subcommittee on February 2nd, where Representatives Spang and McGuire were charged with developing an amendment to HB 272 to address 1) the lack of clarity between the Rivers statute and Shoreland statute and 2) how to address the request for the exemption from the Shoreland Protection Act for the Ham Branch River. The next RR&D Subcommittee meeting will be March 3rd, with an Executive Session of the full RR&D committee following.

Ted Diers noted that while there seemed to be a lot of confusion at the hearing, the subcommittee session clarified much of the situation for RR&D members. Subsequent conversations made it clear that exemptions are not desirable, and that it was necessary either to make it clear that exemptions are not acceptable, or to outline a process for doing them. The Rep. McGuire amendment would likely add a statement to the Intent section of RSA 483 to make it clear that the Shoreland Act applies to designated rivers and also put a 2 year sunset provision on the exemption from the Shoreland Act for the Ham Branch nomination. Vice Chair Tremblay commented that later communication with Rep. Christensen indicated that the concept of a sunset provision might not be acceptable. The Rep. Spang amendment would remove the exemption, but similarly adds language to the Intent section of RSA 483 relative to the Shoreland Protection Act.

A discussion of the applicability of the Shoreland provisions to 1st, 2nd, and 3rd order streams followed, noting that the Ham Branch River has raised a good conversation about the applicability of the Shoreland Protection Act to 1st and 2nd order streams, which have been part of the discussions of the SAC/RMAC/LMAC/PREP Subcommittee. Vice Chair Tremblay commented that agriculture and forestry

supporters would oppose the nomination without the exemption even though both industries are exempt from the provisions of the Shoreland Act.

In response to questions about how stream order is determined, Jacquie suggested asking Scott Bailey of the Forest Service and/or Neil Olson of the NH Geological Survey to speak to the RMAC. Darlene Forst commented that the hydrography data that stream order is based on usually comes from aerial photos, and the data is improving all the time. However, Jacquie shared comments from Olsen that stream order determinations should really have field verification as any defined channel can be considered a 1st order stream.

3) Proposed Updates to RSA 483 and the 11/18/14 Vote

Chair Kimball reminded the committee of the proposed housekeeping changes to RSA 483 that had been approved by vote of the committee at the November 18, 2014 RMAC meeting. Because of the lack of clarity in the leadership of the House and advice from other parties, Chair Kimball and Vice Chair Tremblay made the decision to not move forward with the changes to RSA 483 at that time. He also noted that the question of what role the RMAC and LMAC should play with respect to the Shoreland Protection Act in the future should be considered in any additional changes to the Rivers Program.

- **Michele L. Tremblay made a motion that the RMAC hold off on submitting a bill to make changes to RSA 483, second by Roger Noonan. Discussion was held on the appropriate wording of the motion. There was a unanimous vote to not support this motion.**

Chair Kimball read the approved motion from the November 18th meeting: “Michele L. Tremblay moved that the RMAC accept the changes as discussed today, move forward with legislation to revise RSA 483, and begin securing sponsors from both sides of the aisle, preferably from both chambers to get through during this legislative session.”

- **Roger Noonan moved to change the wording of original motion from November 18, 2014 from “this legislative session” to “a future legislation.” Second by Larry Spencer. No Discussion. Motion passed unanimously.**

The RMAC Policy & Legislation Subcommittee will make a recommendation on this issue in the future.

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

1) Status Update of the 2015 Routine Roadway BMPs Manual

Jacquie reviewed DOT's request to revise the Wetlands Administrative Rules with respect to routine roadway maintenance work in designated river corridors, about which the RMAC and DOT have exchanged a few letters. The rules will reference the DOT Routine Roadway Maintenance BMP manual, which is in the process of being updated with DES Wetlands staff. As they move ahead they will be working with Jillian McCarthy, Stormwater Coordinator in the Watershed Management Bureau at DES. The BMP manual may prompt other Wetlands rule changes as it is developed. Rivers Program staff will post the draft manual's Table of Contents on the RMAC blog.

Vice Chair Tremblay asked what stakeholders, other than DES staff, will be engaged by DOT to review this manual. Mark Hemmerlein responded none, to which Vice Chair Tremblay asked why stakeholders were not being engaged. Hemmerlein responded that DOT is writing the manual for itself and local road agents. Darlene Forst noted that the Wetlands Rules can cite the manual rather than drafting conditions in the rules. Vice Chair Tremblay said that if modifications to rules or statute are being made, the stakeholders should be engaged on the manual now, rather than waiting until the rules themselves get to the Joint Legislative Committee on Administrative Rules (JLCAR). Forst clarified that the manual/BMPs review process does not have to go through public vetting and JLCAR, which is why state agencies cannot cite their own BMPs in their rules, but an agency can cite other agencies' manuals. Vice Chair Tremblay requested that Hemmerlein inform DOT of the RMAC's request that DOT reach out to stakeholders.

2) Proposed RMAC Response #2 to DES & DOT Request

The RMAC's second response letter to DOT, dated February 13, 2015 has been edited and sent in accordance to the vote taken at the RMAC meeting on November 18, 2014. No additional vote is required.

V. RMPP Updates1) Status of Other Possible River Nominations

A group, to which Jacquie had spoken a year and a half ago, is working on a nomination for the Warner River. Mike Tardiff, Executive Director of the Central NH Regional Planning Commission and Nancy Martin, Warner Conservation Commission, were in attendance to share their progress and plans. Tardiff said that the towns of Warner, Bradford, Hopkinton, Webster and Sutton would be included in the nomination. The nominating committee is looking for funding and support among the selectmen. They got the go-ahead from the selectmen, but did not receive either 604(b) or NH Charitable Foundation funding. Martin noted that Warner is very interested and concerned about the river as a resource. She also said that without the help of Regional Planning Commission, the nomination will likely not succeed. Sources of potential funding were suggested such as NE Grass Roots Environment Funds, local Rotary clubs, utility companies and banks. They estimated it would take \$10,000 - \$20,000 to develop a nomination.

Jacquie stated that a nomination for the Androscoggin River may be coming forward despite limited assistance available either financially or from staff. Chair Kimball thinks that the group will move forward if they can get the resources together.

One person has recently mentioned a nomination for the Nashua River, and Jacquie had spoken with Bob Ward a while ago about possibly nominating the Sugar River, but she has not heard anything recently. Mike Tardiff also mentioned going back to Suncook River communities in a couple years.

2) LAC Permit Review Process

Tracie and Jacquie continue to follow up on the 14 recommendations that came out of the LAC permit review process improvement effort. LACs have been pleased with the improvements so far. Staff hopes to have a spreadsheet listing all of the permit application types that LACs can comment on completed soon. They are also working on a guidance document for the permit review process.

3) LAC Annual Reports

Most LAC Chairs have submitted their 2014 annual reports as required.

4) RMPP Administrative Rules

Jacquie reported that the existing 1800 rules, which cover the nomination process, will expire November 2016. They need to be updated and readopted. Jacquie asked for a subcommittee start working on the rules updates. Vice Chair Tremblay proposed that the Policy & Legislation Subcommittee take the lead and anyone else can step in to help. She will set up a P&L Subcommittee meeting and then share the time with the full RMAC so anyone can be part of the meeting. Rivers Program staff will determine when a draft must be ready in time for the JLCAR process.

5) New WMB Administrative Assistant

Jacquie noted that, as of last week, David Rosengarten was hired part-time in the Watershed Management Bureau to provide assistance to Ted Diers. He will also help with the administration of the Rivers Program and with LAC membership.

VI. Member Comments and Updates1) Sub-committee Reports:

WQSAC – Allan Palmer said there have been no meetings recently.

2) Other Member Updates

Larry Spencer reported there has been progress at Livermore Falls on the Pemigewasset River, including plans for a parking area, though less progress has been made on the Campton side of the river.

VII. Other Business and Action Item Review1) Next Meeting: April 13, 2015 at 9:30 AM2) Action Item: Roger Noonan will ask that a state Agriculture, Markets & Food rep. attend the meetings.3) Agenda Items: Legislation, Mapping Stream Order Presentation, Rules, 1st - 3rd Order Streams & SPA. Summer Meeting Agenda Items: Instream Flow Report, New Nominations

➤ **Anne Krantz motioned to adjourn, second by Roger Noonan. Motion passed unanimously.**

Meeting adjourned at 11:07 a.m.