



RIVERS MANAGEMENT ADVISORY COMMITTEE

NH Rivers Management and Protection Program
and

LAKES MANAGEMENT ADVISORY COMMITTEE

NH Lakes Management and Protection Program

New Hampshire Department of Environmental Services
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JOINT RMAC/LMAC MEETING MINUTES

June 25, 2015 - 12:30 to 4:30 pm

Hosted by the New Hampshire Rivers Council
Conservation Center, 54 Portsmouth Street, Concord, NH

RMAC Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Frederick McNeill
Jim Ryan
Larry Spencer
Ruth Ward
Donald Ware
Mark Hemmerlein
Susan Slack

Representing

Recreational Interests
Conservation Community
Municipal Government
NH Fish & Game
NH Association of Conservation Comm.
Local River Management Advisory Comm.
Public Water Suppliers
Commissioner, DOT
Director, Office of Energy and Planning

Term

Dec. 28, 2017 V
Dec. 28, 2017 V
Nov. 16, 2014 V
Sept. 28, 2015 V
Oct. 12, 2016 V
Sept. 5, 2016 V
Sept. 28, 2016 V
Indefinite NV
Indefinite NV

RMAC Members Absent

Anne Krantz
Alan Larter
Roger Noonan
Allan Palmer
Patrick Hummel
John Magee
Gail McWilliam Jellie
Elizabeth Peck

Historical & Archaeological Interests
Granite State Hydropower
Agricultural Community
Business and Industry Association
Commissioner, DRED
Executive Director, F&G
Commissioner, Dept of Ag., Markets & Food
Commissioner, DOS

June 15, 2016 V
Jan. 5, 2015 V
Mar. 22, 2015 V
Sept. 28, 2016 V
Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV

LMAC Members Present

David Packard, Chair
Susan Slack, Vice Chair
Shane Bradt
Linda Brownson
Fred Clews
Robert Compton
Garret Graaskamp
Mark Hemmerlein
Frank Lemay
Dick Smith
Mary Truell

Representing

NH Lakes Association
Director, Office of Energy & Planning
Scientific Community, UNH
State Conservation Committee
Fish & Game Commission
Planning Boards
Exec. Director, F&G
Commissioner, DOT
NH Business and Industry Assn.
Fishing Interests
NH Association of Realtors

Term

Aug. 1, 2015 V
Indefinite NV
Aug. 22, 2016 V
Aug. 1, 2015 V
Aug. 22, 2015 V
Aug. 1, 2017 V
Indefinite NV
Indefinite NV
July 8, 2013 V
Nov. 17, 2016 V
June 27, 2017 V

LMAC Members Absent

John Cooley
Capt. Tim Dunleavy
Eric Feldbaum
Kimberly Hallquist

Conservation Community
Commissioner, DOS
Commissioner, DRED
Municipal Officials

Sept. 19, 2016 V
Indefinite NV
Indefinite NV
Aug. 1, 2018 V

Jim Morash	Tourism Industry	Aug. 1, 2016	V
Martha Twombly	NH Assn. of Conservation Commissions	Aug. 22, 2016	V
Bob Wolff	Commissioner, Dept. of Agr., Markets & Food	Indefinite	NV
Vacant	NH Marine Dealers Association	Aug. 22, 2014	V

DES Staff Present

Jacque Colburn	Rivers and Lakes Programs
Ted Diers	Watershed Management Bureau Administrator
David Rosengarten	Watershed Management Bureau
Tracie Sales	Rivers and Lakes Programs

Guests

Bud Berry	Former Chair and Member, LMAC
Tom O'Brien	President, NH Lakes
Richard Snow	Chair, Lamprey Rivers LAC

Meeting Was Called to Order

RMAC Chair Ken Kimball opened the meeting at 12:35 pm.

I. Introductions/Announcements/Minutes1) Introductions

RMAC Chair Kimball asked everyone to introduce themselves.

2) Announcements

Michele L. Tremblay announced that the July 30, 2015 Annual Meeting of the New Hampshire Rivers Council will include a presentation titled "Why Do Rivers Do That", by John Field, PhD.

Jacque Colburn thanked Michele and the New Hampshire Rivers Council for hosting the committees.

Jacque reviewed the day's agenda. Regarding individual committee business, there were no Surplus Land Reviews for the LMAC to review, but the RMAC might want to discuss the proposed sludge rules.

3) RMAC Acceptance of the April 13, 2015 RMAC Meeting Minutes

➤ ***Michele L. Tremblay made a motion to accept the April 2015 RMAC minutes, second by Ruth Ward. Motion passed unanimously.***

4) LMAC Acceptance of the April 13, 2015 LMAC Meeting Minutes

➤ ***Linda Brownson made a motion to accept the April 2015 LMAC minutes, second by Mary Truell. Motion passed unanimously.***

5) RMAC & LMAC Acceptance of the April 13, 2015 Joint RMAC/LMAC Meeting Minutes

➤ ***Larry Spencer made a motion to accept the April 2015 joint RMAC/LMAC minutes, second by Jim Ryan. Motion passed unanimously.***

➤ ***Bob Compton made a motion to accept the April 2015 joint RMAC/LMAC meeting minutes, second by Linda Brownson. Motion passed unanimously.***

II. Future of the Rivers and Lakes Programs

Jacque provided background regarding how the committees got to this point and what has contributed to staff thinking along the way. The program improvement process and any outcomes are not pre-ordained, but staff have tried to provide guidance, suggestions and ideas for the committees to work with based on meetings beginning with the one held in January with committee chairs, vice chairs and DES senior leadership. The committees are welcome to modify the approach/process, and we should have that

discussion and determine the next steps. If the committees decide to move ahead with changes to either or both statutes, those changes should be determined by early fall.

Vice Chair Tremblay asked what was the impetus for this effort? Ted Diers responded that there has been much positive collaborative work over the last few years, such as the relationship between rivers and lakes that was clarified through the Instream Flow (ISF) Program. Ted wants to move the Watershed Management Bureau toward a watershed approach, which has been discussed with the Commissioner, and the committees will be integral to this. Also, with the existing staff shortages, we have maximized resources, but the lakes agenda has been largely ignored and we are looking for ways to streamline approaches. Michele stated that internal staffing and department changes should not necessarily change the committees. Larry Spencer pointed out that there is a lot of overlap between rivers and lakes in to the Shoreland Program, which could be important for the committees relative to the sunset of the Shoreland Advisory Committee.

1) Similarities/Differences of the Rivers & Lakes Programs

Jacque provided a summary of the similarities and differences of the two programs:

Similarities:

- Advisory programs, to commissioner and other agencies.
- Develop guidance for management plans.
- Authority to adopt rules:
 - Rivers – river nominations and Instream Flow.
 - Lakes – awarding of grants for plans.
- Conduct Surplus Land Reviews.
- Comment on legislation.

Differences:

Rivers -

- Develop and implement protected instream flows.
- Develop long range river management plans.
- Review and recommend nominations for new designated rivers.
- Local river management advisory committees (LACs) established, which have 4 responsibilities:
 - Comment on applications, licenses and certificates.
 - Develop corridor management plans (adopted by towns).
 - Advise the DES commissioner and corridor towns on local river issues.
 - Report on compliance of laws, activities, plans relevant to the river.
- If a permit application is denied because it would violate a protection measure included in RSA 483, then commissioner, RMAC and LAC shall review the application.

Lakes -

- Review and make state level management recommendations every 10 years.

Larry Spencer asked how many lake and pond associations exist. Tom O'Brien replied that there are 130 individual associations that are members of NH Lakes but none have a comparable status to LACs when it comes to state permitting.

2) Update Regarding R&L Programs and Staff Status

Jacque reminded the group about the concerns raised at the January meeting with committee leadership and DES senior leadership:

- Budget – 2011-type cuts might happen again, affecting staffing and program effectiveness.
- Relationship with SWQPA and the sunset of SAC; hybrid of similar programs.
- Functionality of and lack of funding for the Lakes Program.
- Care and feeding of the LACs.
- Changing the river nomination process but retaining LACs.
- Moving toward a watershed approach (permitting should be done at this level).
- Using the Watershed Assistance Section approach to develop outcomes for L&R programs.

- Additional streamlining and efficiencies of the programs.
- General reduction in planning statewide.

To follow up, staff met in February to determine a process and move the effort forward. The questions staff believed were/are important to ask included:

- What do we (all of us) want to accomplish, what outcomes do we want to achieve?
- What are the strengths and weaknesses of the two programs?
- What are we achieving or doing vs. what would we (all of us) like the programs to achieve or provide, and how?
- How can we move the programs forward and not just “tread water”?

These two discussions led to the table outlining the 3 approaches. Other factors in this process are the RMAC’s proposed revisions to RSA 483, the RMAC’s proposed revisions to the RMPP administrative rules, and Jacquie’s upcoming departure which will likely leave the programs without a Rivers/Lakes Coordinator for at least 4-5 months due to the hiring freeze. Chair Packard asked if the qualifications for Jacquie’s position should be revised. Ted agreed and asked if anyone would like to assist with this effort. Chair Packard and Vice-Chair Tremblay volunteered.

Finally, the ISF program report documenting the results of the pilot program is due to the Legislature on December 1st. Ted and Tracie will have to dedicate time to report editing and public meetings.

Ted stated that the Water Division was collecting potential topics for legislation and would like this by the end of July. Michele stated that the SAC report is not due to the Legislature until December. Ted said that the ISF report is in a similar position; the Division is simply looking for placeholders at this time. Ted will put RSA 483 updates on the list. Tom O’Brien said that there may be a need for more legislation regarding exotic species.

3) LMAC and RMAC Role Regarding the Shoreland Advisory Committee (SAC)

Jacquie reviewed SACs statutory charges in RSA 483-B:21 VI and pointed out that the committees have done some of this work previously; for example, in 2002 the committees undertook a comprehensive review and commented on the content of the Comprehensive Shoreland Protection Act.

Jacquie explained that she, Ted and Tracie met with the Commissioner to let him know that the LMAC and RMAC are contemplating assuming some responsibilities presently charged to SAC and to be sure that he is comfortable with this possible change. The commissioner had no serious opposition and was open to the idea, but he did suggest that the committees look at SAC charges and determine which are most appropriate to assume, and when the committees would take up some of the responsibilities. Mary Truell commented that she understood that SAC was formed to help educate the public about SWQPA, and questioned whether it was necessary for the committees to take on SAC’s responsibilities. She feels that the public understands the Act now, certainly realtors are aware of it. Vice Chair Tremblay pointed out that the public still does not always understand SWQPA and that the Act needs a voice, either SAC or the committees. It would be better for SAC to sunset, with the committees ensuring follow-up on SAC’s recommendations. Chair Kimball concurred. Ted said that when the SAC report is issued in December, the committees can then better determine their desired level of effort regarding the SWQPA. Chair Kimball said the committees could be charged with working with the Legislature to move recommendations forward. Vice Chair Tremblay recommended that the rivers and lakes statutes be changed to mandate that the committees to work together on SWQPA, which will require work with legislative services to determine appropriate language.

Review and Discuss the “Future Approaches” Table and Questions

Jacquie explained that the table was populated with the comments from the February and April meetings. S, R or G indicate if the item would require a Statute change, a Rule(s) change, or could be addressed either

in Guidance documents or by the way the program conducts its business.

Vice Chair Tremblay said river groups work hard to get into the Rivers Program and automatic deputizing of lake groups without a nomination process would be resented. Chair Kimball stated that the watershed approach was attempted several years ago and it was politically difficult then. A hybrid approach is better politically, where the programs can work together on the elements they have in common. Don Ware agreed that the watershed approach works well scientifically, but not politically.

Chair Kimball and Vice Chair Tremblay both noted that river and lake water quality data collection, including VLAP and VRAP, should be better coordinated, as there is a lot of overlapping effect. Ted commented that this is beginning to occur.

Vice Chair Tremblay added that interests (and financial resources) differ between lake and river groups, which we saw in the ISF program with the lake level concerns, which complicates a watershed approach.

Ted asked the group how many live on lakes (4) versus how many live on streams (7).

Vice Chair Tremblay explained that the reason to incorporate EPA a-i plans is to help get more funding.

Chair Kimball noted that the segmented nature of designated rivers does not always work well; for instance the ISF program cannot be implemented without looking at stream flows upstream of the designated segments. However, the designation process imparts credibility that lakes do not get. Lakes should have extra benefits, with legal status and responsibilities, with nomination. Kimball added that EPA plans address problematic waters, but we want to protect existing good quality waters as well. Ted proposed that a-i plans could count as a nomination document or management plan. Linda Brownson stated that the Conservation Districts are moving toward a watershed approach. They have been making progress and creating new partnerships. Tom O'Brien said that some things lend themselves to watershed approach, start there and make separate things the exception. Mark Hemmerlein pointed out that from the practitioner's perspective, the rules and permitting would need to be integrated; right now they are confusing and hard to keep track of. The watershed approach might work well for practitioners. Vice Chair Tremblay agreed, stating that the watershed approach will only work if it is department-wide, including permitting.

Jacque asked Vice Chair Tremblay, would rivers groups feel differently about lakes being deputized if there was a lake management plan? Tremblay replied that it would be acceptable if there is community outreach. Garret Graaskamp said that the watershed approach is the correct scientific platform to assess and coordinate projects. For example, Vermont looks at the broader framework within the region. Mark Hemmerlein brought up the wetlands bureau, which uses a regional approach. Ted agreed that the DES Land Resources Management programs are using a regional approach for permitting and compliance, but it is not really a watershed approach.

Chair Kimball said that the committees need to decide on 1 of the 3 columns outlined in the table. Tom O'Brien stated that the "status quo" is not good. NH Lakes wants resources put back for lakes; he would recommend the "hybrid" approach. Bud Berry, former LMAC chair, recommends the hybrid approach. It would have provided credibility and financial resources for the ISF process at Pawtuckaway Lake. Dick Smith indicated that fishing interests pertain to both lakes and rivers; he likes the hybrid approach with subcommittees to focus on particular topics. Vice Chair Tremblay asked, what does hybrid mean for these committees? Chair Kimball responded that it is comparable to what we are doing now, sharing staff and establishing subcommittees to address issues regarding instream flow and shoreland. Committee members agreed that they like the hybrid approach, but that we should continue to utilize elements of the watershed concept for decision-making. Ted asked for input on watershed metrics for monitoring from the committees, to which the metrics developed as part of the Sustainability Initiative were suggested. Vice Chair Tremblay asked about the proposed Watershed Management Advisory Committee. Chair Kimball said there should be coordination between rivers and lakes, but the statutes should remain separate, though there may be

elements from each that could be added to the other. Vice Chair Tremblay suggested using the committees' joint work on SWQPA as a model, but codify the coordination.

Break - 2:30 pm

LMAC Chair Packard reconvened the meeting, noting that it was important for the groups go back to the science. Fred Clews said that the Fish and Game Commission is concerned about water quality, and that the hybrid approach is the way to go.

Vice Chair Tremblay asked if CORD surplus land reviews should be done by a combined sub-committee? Chair Kimball said that the existing SLR review process is reactive and that being proactive would be in the state's interest. The committees should determine, along with the LACs, what parcels the state should retain. Mark Hemmerlein said that this would be a huge undertaking that many deeds would need to be researched to find these parcels. Jacquie said that a similar effort on state-owned lands was undertaken in 2007. She will go back through her paperwork to find a listing of properties that may have been prioritized for lakes. Prioritization of state properties will be added as a joint committee effort.

Chair Packard and Ted Diers then spoke to the value of lake associations commenting on permits. There was a general consensus that this would be valuable. Vice Chair Slack asked if regional planning commissions (RPCs) could perform this task. Ted said that the RPCs do not have the funding to provide this service and Jacquie pointed out that neither do they have the local knowledge.

Chair Kimball suggested that future nominations of rivers, and lakes, should include prioritization of state-owned lands in the watershed for protection.

The question of public credibility of lake LACs was raised. Rivers LACs have balanced representation whereas lake LACs might not. Garret Graaskamp commented that permits go to municipal conservation commissions, are LACs necessary for local input? Vice Chair Tremblay feels yes, towns sometimes depend on LAC input on state permits. Tom O'Brien stated that people in lake associations know the lake best.

The list of commonalities included: ISF/lake level, SLRs, water quality & monitoring, SWQPA (buffers and setbacks), local public input important (get this for lakes).

Moving Forward/Next Steps

Chair Kimball recommended that a joint subcommittee begin working on these ideas in January. Meanwhile the committees should meet separately to determine who wants to join the subcommittee and also identify the committee's priority areas for working jointly.

III. Other Business and Action Item Review

- 1) Action Item Review – see next steps above.
- 2) Next Meetings

Joint meeting -Tracie will send out a Doodle Poll for a future joint meeting, possibly in January.

LMAC - Thursday, July 23rd on Ossipee Lake.

RMAC - Possibly the last week of August.

- 3) Other Business

The river nomination rules will be expiring in November 2016 and a subcommittee of the RMAC has met once to start working on an update to the rules. Follow-up tasks need to be completed by staff and subcommittee members before the subcommittee can meet again.

Jacquie asked Vice Chair Tremblay if she would like to schedule a meeting of the Policy and Legislation subcommittee to prepare comments regarding the sludge management rules. It was determined that there wasn't sufficient time to do this before the July 10th comment submission deadline.