



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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DRAFT

JOINT RMAC/LMAC MEETING MINUTES

October 4, 2016 - 11:15 AM to 1:30 PM
NHDES Conference Rooms 110-112
29 Hazen Drive, Concord, NH

RMAC Members Present

Ken Kimball, Chair
Michele L. Tremblay, Vice Chair
Mark Lombardi
John Magee
Frederick McNeill
Jim Ryan
Susan Slack
Larry Spencer
Ruth Ward

Representing

Recreational Interests
Conservation Community
Granite State Hydropower
Executive Director, F&G
Municipal Government
NH Fish & Game
Director, Office of Energy and Planning
NH Association of Conservation Comm.
Local River Management Advisory Comm.

Term

Dec. 28, 2017 V
Dec. 28, 2017 V
Jan. 5, 2018 V
Indefinite NV
Nov. 16, 2017 V
Sept. 28, 2018 V
Indefinite NV
Oct. 12, 2016 V
Sept. 5, 2019 V

RMAC Members Absent

Heather Dunkerley
Mark Hemmerlein
Patrick Hummel
Gail McWilliam Jellie
Roger Noonan
Allan Palmer
Donald Ware
Vacant

Commissioner, DOS
Commissioner, DOT
Commissioner, DRED
Commissioner, Dept. of Ag., Mkts & Food
Agricultural Community
Business and Industry Association
Public Water Suppliers
Historical & Archaeological Interests

Indefinite NV
Indefinite NV
Indefinite NV
Indefinite NV
Mar. 22, 2018 V
Sept. 28, 2016 V
Sept. 28, 2016 V
June 15, 2016 V

LMAC Members Present

David Packard, Chair
Susan Slack, Vice Chair
Bruce Allen
Shane Bradt
Fred Clews
Robert Compton
John Cooley
Garret Graaskamp
Kimberly Hallquist
Frank Lemay
Dick Smith
Mary Truell
Bob Wolff

Representing

NH Lakes Association
Director, Office of Energy & Planning
NH Assn. of Conservation Commissions
Scientific Community, UNH
Fish & Game Commission
Planning Boards
Conservation Community
Exec. Director, F&G
Municipal Officials
NH Business and Industry Assn.
Fishing Interests
NH Association of Realtors
Commissioner, Dept. of Agr., Mkts & Food

Term

Aug. 1, 2018 V
Indefinite NV
Aug. 22, 2019 V
Aug. 22, 2019 V
Aug. 22, 2018 V
Aug. 1, 2017 V
Sept. 19, 2016 V
Indefinite NV
Aug. 1, 2018 V
July 8, 2019 V
Nov. 17, 2016 V
June 27, 2017 V
Indefinite NV

LMAC Members Absent

Linda Brownson
Ed Crawford
Capt. Tim Dunleavy
Eric Feldbaum

State Conservation Committee
NH Marine Dealers Association
Commissioner, DOS
Commissioner, DRED

Aug. 1, 2018 V
Aug. 22, 2017 V
Indefinite NV
Indefinite NV

Mark Hemmerlein
Jim Morash

Commissioner, DOT
Tourism Industry

Indefinite
Aug. 1, 2016

NV
V

DES Staff Present

Melissa Doperalski
Carolyn Guerdet
Wayne Ives
Tracie Sales

Watershed Management Bureau
NHDES Administration
Instream Flow Program
Rivers and Lakes Programs

Guests

Allen Brooks

Attorney General's Office

Meeting Was Called to Order

RMAC Chair Ken Kimball opened the meeting at 11:15 AM.

I. Introductions/Announcements

1) Introductions

RMAC Chair Kimball asked everyone to introduce themselves.

2) Budgets and Staffing Update

Budgets for the Rivers and Lakes programs have been submitted for FY2018-2019. In most areas we will be maintaining our prior year's budget, but we have requested three increases:

- New Hydrologist (E-IV) to help Wayne with the Instream Flow (ISF) program, starting July 2017
- New full-time Rivers and Lakes staff (E-III) to help Tracie starting July 2018
- ISF Program contract services increase from \$50,000 FY17 to \$75,000 FY18 to \$125,000 FY19. This will be used for fish studies, estimating historical flows where there are no gages, and similar types of contract services.

NHDES was unable to hire a new part time Watershed Planner, and are now reclassifying that position to one that is more science and water quality focused. The new position should be posted in 2-3 weeks. Going forward, assuming the budget is approved for the new ISF hydrologist next summer, we will request to add an ISF biologist in the following budget cycle.

II. Right-to-Know Law

Allen Brooks invited members to ask questions, citing the Dept. of Justice's Right-To-Know memo [included with meeting documents] as a good source of information about RSA 91-A. The committees went into non-public session (no members of the public were present) to discuss options on how to meet the requirements of RSA 91-A, particularly when responding to time-sensitive items such as proposed Surplus Land Disposal requests. The result of this session concluded that a publically noticed meeting with a quorum physically present is required to conduct committee business. Email cannot be used for discussion or decision-making, and decisions of these committees would likely not qualify for an emergency meeting. In order to address the challenge of the geographically dispersed committee members making decisions within limited timeframes and still meeting the requirements of RSA 91-A, Allen suggested that the committees could define a quorum as a number that is less than half of the members, define alternate members, or form a subcommittee to make a decision on certain types of topics; however, all of these would require a change in the relevant statutes. It is possible that the Chair and Vice Chair may be able to speak on behalf of the committees in some circumstances, but that authority may require definition in rule.

III. NHDES Rules Update

1) Shoreland Program Rules

NHDES Legal staff have drafted the change for the Env-Wq 1400 Final Proposal that will reinstate the requirement that applicants send the permit application to LAC members, and not

just a notification. No other significant changes were proposed via comments. Shoreland Program staff and the legal dept. are still waiting on feedback from the Water Council on the Initial Proposal. However, the Final Proposal needs to be submitted to the Joint Legislative Committee on Administrative Rules (JLCAR) by October 17, 2016.

2) Water Quality Rules

The Env-Wq 1700 Initial Proposal has been published, the public hearing has been held, and staff presented the proposed rules to the Water Council. Staff is reviewing comments, but no major changes are anticipated for the Final Proposal. They are currently waiting on Legal for the final review, and hope to submit the Final Proposal to JLCAR in late October or early November, 2016.

(10 minute break)

IV. Instream Flow

1) Pilot Program Status on the Lamprey and Souhegan Rivers

Wayne Ives summarized the status of the Pilot ISF Program. The state is in a rare extreme draught condition, resulting in extended low flow conditions. Water use restrictions, such as lawn irrigation restrictions, have been applied. NHDES has also conducted intermittent relief pulses in the Lamprey River this summer and fall in response, though pulses have been smaller than desired due to the repairs on the Mendum's Pond dam. However, we have learned from this drought that the water management plans will need to be adjusted to account for these extreme conditions. For example, the relief pulse volumes were calculated for more common low flows, and need to be revised to account for these extreme low flow conditions. Wayne also explained the effects of pulses on lake level, the limits put on changes in lake level to protect recreational uses and wildlife such as loons, and the changes made to winter drawdowns to support winter pulse releases. On the Souhegan River, the primary need currently is funding for the dam retrofits that will allow for controlled releases from the flood control dams.

2) Instream Flow Rules

Wayne explained that the ISF rules (Env-Wq 1900) are being revised to incorporate all of the designated rivers, the lessons learned from the Pilot Program, and the recent changes made to RSA 483, but that they will resemble the prior rules for the Pilot Program. NHDES is currently in the initial stages of writing draft rules, and is hosting four public information sessions. Sessions consist of one preliminary overview meeting and three meetings on each of the three sections of the proposed draft rules, with the intention of soliciting public comment and input. Two of these meetings have already been held, one in June and one in August. The third meeting will be on October 19, 2016, and the final one in January 2017. NHDES may hold an additional information meeting once the complete draft rules have been assembled. Once the draft rules have been written, there will be another four to six months for the formal rulemaking process, including a public comment period, before the rules are adopted.

With the rules now covering all of the designated rivers, they will include a process for prioritizing next rivers on which to apply ISF. Also, the ISF water conservation plans will now use the rules developed by the Drinking Water and Groundwater Program for conservation plans. The new rules will specify a five year implementation schedule, with added reporting requirements for those water users requiring the full five years to achieve implementation. Details surrounding waivers from the ISF rules, as well as their enforcement, will also be included.

3) Choosing the Next Rivers

The process for choosing the next designated rivers on which to apply the ISF Program will be outlined in the new rules, with the goal of making the process transparent to the public. Once a river is chosen for application of the ISF Program, NHDES will reach out to locals and host a public hearing to receive comment on the choice of that specific river.

The criteria used in the decision-making process include location within the watershed (starting at the top of the watershed and working downstream), the availability of stream flow gages, growth and development pressure in the watershed, the level of local support, and other local factors. Water users and dam owners will be notified of the public meetings and hearings.

4) Role of the RMAC/LMAC ISF Subcommittee

Wayne outlined a few areas where he felt that input from the RMAC/LMAC Instream Flow Subcommittee would be very helpful: Application of the prioritization process for the next designated rivers, review of petitions for changes to the Protected Instream Flows or Water Management Plans, review of waiver requests, and review of enforcement concerns.

V. Joint Policy and Legislative Priorities

The two committees discussed the possibility of formally supporting the budget to bring an additional staff person within the Rivers and Lakes Programs, but the committees will act separately on this question. However, the committees may work together on any Right-to-Know changes, which will be discussed at the next Joint meeting.

VI. Shoreland Program

RMAC Vice Chair Michele L. Tremblay reported that the RMAC/LMAC Shoreland Subcommittee has not yet been convened. Going forward, the subcommittee may want to address the idea of varying protections for different types or sizes of waterbodies. In addition, the idea of using a metric other than stream order, such as watershed size, to determine on which rivers the Shoreland Program should be applied could be explored further.

The RMAC/LMAC Shoreland Subcommittee currently has six members: 3 rivers, 2 lakes and one from both. Bruce Allen (representing lakes) and Fred McNeill (representing rivers) volunteered to join the Shoreland Subcommittee.

VII. Other Business and Action Item Review

1) Action Item Review & Next Steps

- Tracie will forward the Surplus Land Review Procedures documents to Allen Brooks, with the intention that the committees will be able to discuss any proposed changes at the next meeting.
- Each committee will discuss and vote independently on support of any budget-related items during the upcoming legislative session.

2) Next Meeting

Mid-January 2017 was proposed for the next Joint RMAC/LMAC meeting to work with the legislative schedule. Tracie will send out a Doodle Poll.

Meeting adjourned 1:25 PM