



RIVERS MANAGEMENT ADVISORY COMMITTEE
NH Rivers Management and Protection Program

New Hampshire Department of Environmental Services
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DRAFT
RMAC MEETING MINUTES
March 20, 2017

Dept. of Environmental Services, Concord, NH
1:00 – 3:30 pm

Members Present

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

Representing

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

Term

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

Members Absent

Heather Dunkerley
Patrick Hummel
Gail McWilliam Jellie
Mark Lombardi
Roger Noonan
Vacant

Commissioner, DOS
Commissioner, DRED
Comm., Dept of Ag., Markets & Food
Granite State Hydropower Assoc.
Agricultural Community
Historical & Archaeological Interests

Indefinite NV
Indefinite NV
Indefinite NV
Jan. 5, 2018 V
Mar. 22, 2018 V
June 15, 2016 V

DES Staff Present

Kathy Black
Ted Diers
Melissa Doperalski
Wayne Ives
Tracie Sales

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

Guests

Chris Connors
Sam Durfee
George Embley
Edna Feighner
Doug Giles
Scott MacLean
Nancy Martin
Michael Simon

Trout Unlimited
Warner River Nomination Committee
Warner River Nomination Committee
Historic/Archeological Rep. RMAC Nominee
Warner River Nomination Committee
Warner River Nomination Committee
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I. Welcome & Introductions

Chair Ken Kimball called the meeting to order at 1:02 pm. Members introduced themselves. Edna Feighner, who has presented herself for nomination as the representative of Historic/Archeological Interests on the RMAC, was introduced and welcomed to the group.

II. Acceptance of the Consent Agenda

- ***Michele L. Tremblay made a motion to accept the Consent Agenda, consisting of the RMAC and Joint RMAC/LMAC Meeting Minutes of January 13, 2017, second by Ruth Ward. Motion passed unanimously.***

III. Instream Flow Status

1) Rule Development Status

Wayne Ives explained that the fourth public information meeting for the Env-Wq 1900 rules revision was postponed to allow the legal team time to resolve issues related to applying the Env-Wq 2101 water conservation rules, which were updated in 2013 to the Instream Flow water conservation plan requirements. The challenge is to create one water conservation program rather than two. It is hoped that the fourth meeting will be held in late April or early May. A final meeting will be scheduled soon after to discuss all three sections of the rules.

2) Target Fish Communities

Assessments are planned for all of the designated rivers and the Warner River, with the exception of the Connecticut and Lower Merrimack Rivers, due to their large size, and the Souhegan and lower Lamprey Rivers, which were assessed during the pilot program. Gomez and Sullivan has been awarded the contract to scientifically derive target fish communities in designated rivers by using fish communities in similar, unimpaired rivers to predict what fish ought to be present.

3) Flow Data Development

Another ISF project, sourced to Dr. Neil Fennessey, will develop methods to estimate stream flow for rivers lacking existing gage data by using flows on nearby, gaged streams. The purpose of this study is to estimate stream flows for the development of protected Instream flows, with the primary focus on accurately predicting both quantity and duration of low flows.

4) Pawtuckaway Lake Drawdown

The calculated export of 168 pounds of phosphorus out of the lake in 2016 during the fall drawdown was about the same as the amount calculated for the 2015 drawdown (186 pounds). This past winter the lake was managed at a higher level, allowing water to leave the lake year round and resulting in an additional 82 days of export from the high-phosphorus end of the lake. This year the lake has never been clearer, though this may be due in part to less water entering the lake as a result of the drought. Phosphorus concentrations in the deepest part of the lake have been dropping for last two years since the implementation of the new lake level management. Wayne hopes this trend of lowering phosphorus concentrations in the lake will continue.

IV. Warner River Nomination Presentation

Six members of the Warner River Nomination Committee attended the meeting. Sam Durfee from the Central NH Regional Planning Commission presented the background, process, and challenges faced during the Warner River nomination. The nomination started as result of a NH Fish and Game study which documented that two thirds of the streams in the Warner River watershed were home to native brook trout. In 2013, Nancy Martin, chair of the Warner Conservation Committee, brought the idea to the planning commission of nominating the Warner River to the River Management Protection Program. In October 2015, they started the nomination process with their first public meeting. Since then they have held six public information sessions and are on track to submit the nomination by June 1, 2017. The RMAC recommended that nomination committee use physical boundaries such as dams or bridges to mark the end points of the different segments of the river. After the nomination is submitted, the nomination committee will co-host a public hearing with the RMAC in one of the towns along the river to solicit public comment. The RMAC will conduct a site

visit in conjunction with the public hearing in late June, July, or early August. Once that is complete, the RMAC will vote on the nomination.

V. RMPP Program Updates

1) RMAC Membership Status

Tracie noted that Edna Feighner is submitting documents to NH Historical Society so that she may be appointed as the Historic/Archeological representative to the RMAC. She also mentioned that three memberships expire late 2017 - Fred in November and Ken and Michele in December.

2) RMPP Rules (Env-Wq 1800)

The RMPP rules are ready to go to JLCAR and the Governor's hold on rules expires at the end of March. Tracie will make the nomination form consistent with the rules changes, which involves adding information about stream order and providing a map. The Governor's office wants to reduce the number of rules in the state and it was noted that the RMPP rules are outlined fairly well in statute, making the rules potentially unnecessary. The RMAC expressed concern about eliminating rules required in statute, where the issue is that the statute must be reopened to remove the rules requirement. Tracie noted that last year legal recommended that the RMAC insert text in the statute about the guidance document for river nomination. After discussion, the RMAC decided that rivers staff will continue with the process for the proposed rules.

3) Surplus Land Reviews (DOT Sale in Raymond)

Tracie presented the SLR for the sale of 3.9 acres formerly used for a highway patrol shed to the town of Raymond. The parcel is adjacent to a town maintenance facility and it does not provide public access to the river. The property is more than 250' but less than ¼ mile from the Lamprey River. LRAC had no concerns about this property and it was outside of the RMAC's jurisdiction, so there was no opposition to the sale.

4) 2017 LAC Workshop and LAC Annual Reports

The LAC Workshop is scheduled for Saturday, May 13th at 10:30 am, immediately following the annual VRAP training which starts at 9:00 am. Staff created a survey to help determine interest in potential topics for the workshop. Kathy presented the potential topics and asked for feedback. Nine LACs submitted Annual Reports and two LACs submitted 2015-2016 Biennial Reports.

5) Budget

Ted stated that we still do not yet have word on a new DES Commissioner. Ted talked about the federal budget and how much we do not know about what will happen. The continuing resolution ends in April and it is thought the resolution will be extended thru October. Ninety percent of Watershed Bureau positions are funded by federal dollars, so federal changes could dramatically impact WMB. On the state level, the Rivers and Lakes budget was approved with all of the program requests except the new hydrologist for the ISF program and some ISF contract funds.

VI. River-related Legislation

Michele and Tracie presented the status of legislation relevant to rivers.

HB591 related to gold suction dredging and the impacts to rivers.

- **Michele L. Tremblay made a motion to draft a letter of support for HB591 as amended, second by Larry Spencer. Motion passed unanimously.**

HB195 related to establishing a committee to study temporary seasonal docks.

- **Michele L. Tremblay made a motion to draft a letter of support for HB 195 with an amendment that all docks are included in the study, second by Jim Ryan. Motion passed unanimously.**

Ted discussed HB342 and SB121. Both bills are related to establishing a study committee to determine if DES should take over the MS4 permit system and NPDES program from EPA. These programs are very expensive to administer. The RMAC was opposed to the original language on HB342.

- **Larry Spencer made a motion to track HB342 and SB121, second by Fred McNeil. Motion passed 7-1.**

Ted described SB127, which proposes to remove the dissolved oxygen saturation criteria from statute and require NHDES to make rules for DO standards consistent with the EPA's. The bill also eliminates the use of 7Q10 flows for calculating effluent dilution for nutrient impacts in favor of another flow statistic such as the August median or a seasonal median. DES is supporting the current amended version of the bill. No RMAC action was taken on this bill.

The RMAC had previously supported HB173, which restricts the use of water for outdoor usage for commercial operations. A recent change to the bill allows exemptions to the ban and the RMAC discussed its concerns about the exemption language leaving a loop hole where one user can continue to excessively use water at the cost to others users in the area.

- **Ken Kimball made a motion to support the bill with concerns about the exemption language, second by Larry Spencer. Motion passed unanimously.**

RMAC originally opposed HB332, relative to dedicated funds with no activity. Currently this bill will close what are effectively empty, unused bank accounts. The RMAC expressed concern about potential add-ons to this bill.

- **Michele L. Tremblay made a motion to track HB332, second by Larry Spencer. Motion passed unanimously.**

VII. Subcommittee Updates

WQSAC - Allan Palmer and Ted reported that the committee is looking at different ways to measure dissolved oxygen. DO saturation is a not a good indicator of water quality, but it is a good indicator of productivity. DO concentration is a better water quality standard so the focus will be on researching DO concentration and creating a standard for freshwater and marine water.

Municipal Update - Fred McNeill was on Laura Knoy's program on NH Public Radio. Fred talked about the Legislative Breakfast they hosted which was attended by about 80 people (30 legislators and 50 water folks). His group also presented at the New Hampshire American Society of the Civil Engineers meeting, where the society released their infrastructure report card. New Hampshire received an overall grade of C-.

Other Member Updates –

- Larry talked about the Friends of the Pemi presentation on the archeology of Holderness site at Livermore Falls. There will be a camp again this year and the parking lot was increased from nine parking spaces to 15 on west side.
- Ruth Ward announced that a ½ mile of the North Branch River of the Contoocook is now protected with a conservation easement!
- Michele updated the group that NH Lives on Water is finalizing their selection for a consulting team to define "What's Our Water Worth" related to water quality and "What's Our Water Cost" related to infrastructure. Preliminary findings of water quality versus infrastructure costs are due in July.

- Fred worked with NH PBS on a documentary about the water cycle which will air Spring 2017. The documentary was filmed at the Manchester WWTF.

VIII. RMAC Leadership Elections

- **Allan Palmer nominated Michele L. Tremblay as Chair, second by Don Ware. Motion passed unanimously.**
- **Don Ware nominated Larry Spencer as Vice Chair, second by Allan Palmer. Motion passed unanimously.**

The group sent a warm THANK YOU to Ken for his leadership and years of service as Chair of the RMAC.

IX. Other Business and Action Item Review

1) Other Business

- Wild NH Day is April 29th.

2) Action Item Review

- Tracie/Kathy submit Letters of Testimony: HB 591, HB 195, and HB173.
The group discussed the language for the letter of testimony for HB173
 - **Don Ware made a motion that the Chair and Vice Chair manage submitting a letter of testimony reflecting the points raised during the discussion. Larry Spencer seconded the motion and the motion passed unanimously.**
- The RMAC will call an emergency meeting if needed to address other urgent legislation.
- Tracie will make the nomination form consistent with the rules changes, including adding information about stream order and providing a map.
- Tracie will put together a comparison of the nomination requirements in rule versus in the statute.
- Susan Slack will update the SLR list to include Michele as Chair and Larry as Vice Chair.
- Tracie/Kathy will send out a Doodle Poll for the next meeting.
- Ken and Michele will work on recreational interest representative for the RMAC.

3) Next Meeting and Agenda Items

Warner River site visit and public hearing: late June – early August.

- **Ken Kimball made a motion to adjourn the meeting, second by Fred McNeil. Motion passed unanimously.**

3:30 pm Meeting Adjourns