

Draft for discussion

Wayne Ives  
NH Department of Environmental Services  
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**Re: River Management Advisory Committee Comments on the draft Instream Flow Pilot Program Report**

Dear Wayne,

The Rivers Management Advisory Committee (RMAC) has reviewed the *draft Instream Flow Pilot Program Report* (DIFPPR) and has worked closely with the Department of Environmental Services for more than a decade on this legislatively mandated program. Overall, the RMAC believes that the draft report adequately lays out both the history as well as the logic tree used to make the recommendations included within the report. The RMAC appreciates the fact that work products as they evolved included appropriate field testing, external scientific peer, and technical committee review that included RMAC members, and considerable public input on the implementation components. The bringing together of lake level and river flow management in a coordinated manner reflects the recommendations made jointly by the Lakes Management Advisory Committee and RMAC. The application of the natural flow paradigm concept is appropriate and in line with the state of the science.

The RMAC understand and does not contradict DES's position that a site specific methodology is more scientifically defensible and appropriate relative to a standard setting approach. The RMAC respects that the site specific methodology which evolved was field tested as reasonably doable, and received considerable quality peer and public review. The RMAC generally supports the recommendations on fiscal and staff resources outlined in Chapter I 'Summary of Program recommendations' needed to achieve implementation of this Pilot program and Chapter V. *Proposed plan for implementing protected instream flow protection on other Designated Rivers* that prioritizes in a rationale way the designated rivers to be considered as next candidates as the program moves beyond the Lamprey and Souhegan Rivers.

The draft report correctly identifies the fact that the longer it takes to develop and implement an instream flow program for a designated river, the more complicated and difficult it becomes. Problematic and not well addressed in this draft report is that to implement the *draft Instream Flow Pilot Program Report's* proposed recommendations for all designated rivers could take multi-decades, understanding political and fiscal realities. This begs the question – do these designated rivers remain without any instream flow protection or guidance until the more appropriate site specific strategy can take place? Such wait times as recognized in the draft report can have negative consequences and increased costs. And it further compromises the original legislative intent for instream flow protection on designated rivers, understanding it has taken 25 years to reach this point for just two designated rivers.

The RMAC strongly urges an additional recommendation in the report that follows suit with what occurred with the two pilot rivers in this program. While the ongoing studies on the Lamprey and Souhegan were taking place, Chapter Env-Wq 1900 *Rules for the protection of instream flows on designated rivers* was also put into place for these rivers, using an interim standard setting approach. We believe that the final report should make specific recommendations on how Chapter Env-Wq 1900 *Rules for the protection of instream flows on designated rivers* should be modified for applying a similar standard setting approach on an interim basis for all designated rivers until the recommended site specific approach can occur. To our understanding this rule did not create major or negative unintended

consequences. Without recommending such an interim protection strategy, designated rivers will remain without instream flow protection possibly for decades to come and make future implementation more difficult and costly.

The RMAC express its willingness to work with NH DES on the recommended RSA 483 changes and funding needs as outlined in Chapter I. Thank you for your good work and consideration of these comments.

Sincerely,