

**LAKES MANAGEMENT ADVISORY COMMITTEE**  
NH Lakes Management and Protection Program



New Hampshire Department of Environmental Services  
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**MEETING MINUTES**  
**January 26, 2007 Meeting**  
**DES Conference Room**  
**9:30 a.m. - 1:00 p.m.**

**Members present:**

Jim Haney, Ph.D., Chair  
Wendell Berry  
Jennifer Czysz  
Mark Hemmerlein  
Mitchell E. Kalter  
Johanna Lyons  
Phil O'Brien  
Larry Sunderland  
Rich Tichko  
Michele Tremblay

**Representing:**

Scientific Community, UNH  
NH Business and Industry Assn  
Office of Energy & Planning  
Commissioner, DOT  
NH Fish & Game Commission  
Commissioner, DRED  
NH Lakes Association  
Conservation Community  
Exec. Dir., Fish & Game Dept.  
State Conservation Committee

**Term:**

August 22, 2007  
July 8, 2007  
Indefinite  
Indefinite  
August 1, 2009  
Indefinite  
August 1, 2009  
September 19, 2007  
Indefinite  
August 1, 2009

**Members not present:**

James S. Morash, Vice Chair  
Mark Gallagher  
Marsha LaVallee Huntoon  
Fred Murphy  
Ken Jordan  
Kenneth P. Wilson  
Vacant  
Vacant

Tourism Industry  
Commissioner, DOS  
Conservation Commissions  
Planning Board  
NH Association of Realtors  
NH Marine Dealers Association  
Elected Municipal Official  
Commissioner, Dept. of Agr., Markets & Food

August 1, 2007  
Indefinite  
August 22, 2007  
August 1, 2008  
June 27, 2008  
August 22, 2008  
Expired  
Indefinite

**Staff Present**

Jacquie Colburn  
Laura Weit  
Jody Connor  
Steve Couture  
Carolyn Guerdet  
Lakes Coordinator, Watershed Management Bureau  
Asst. Planner, Watershed Management Bureau  
Director, Limnology Center  
Rivers Coordinator, Watershed Management Bureau  
Admin. Asst., Water Division

**Guests**

Derek Durbin  
Carolyn Russell  
Dan Sundquist  
NH Lakes Association  
DES  
Society for the Protection of NH Forests

**The Meeting Was Called to Order**

- Jim Haney, Chair, called the meeting to order at 9:35 a.m.

**I. Introductions/Minutes/Committee Business**

1) Meeting Minutes: December 15, 2006

- Phil O'Brien made a motion to accept the minutes with these corrections: Mark Hemmerlein noted it was Haverhill St. in Hampton Beach; Michele Tremblay's term is set to expire in 2009, not 2008; Mitch Kalter's term is also set to expire in 2009, not 2008. Mitch Kalter seconded the motion with corrections. Motion died for lack of a quorum.

2) Committee Business:

- a. Travel vouchers were completed by those who qualify for reimbursement.

3) LMAC Meetings: 6/year with 2 lake visits

The next meeting is scheduled for February 23<sup>rd</sup>; this meeting will be held at DES. Jacquie will see if the LMAC can tag along on an upcoming National Lakes Assessment. Jim H. suggested that committee members may get more out of the experience if they could perform the work. Michele Tremblay suggested Walker Pond as they are trying to get a volunteer monitor program started there.

4) State Agency/Member Updates:Mitch Kalter/Fish & Game Commission:

There were 2 presentations at the last Fish & Game Commission meeting. The first presentation was given by ex-senator Jim Rueben and Boyd Rock with UNH on global warming. The second presentation was given by Ed Meister about work on the Suncook River and the science behind applying 2-4-D.

Larry Sunderland

On Monday, January 29<sup>th</sup> at 1 PM in Representatives Hall there will be a lecture, open to the public, sponsored by the Union of Concerned Scientists concerning climate change and the various effects in NH. Jim H. pointed out that one concern scientists have about climate change is that it will reduce the amount of mixing in the lakes, therefore reducing their productivity.

Phil O'Brien

A Legislative Breakfast was held yesterday sponsored by Granite State Conservation Voters which was a success for the environmental community in the state. There were a number of good presentations on lakes, legislation, and global warming. Michele noted that there were new people in attendance which was good. A press conference was held later with support of the environmental themes of the morning.

Michele Tremblay

On February 8<sup>th</sup> the State Conservation Committee is launching its website. [www.scc.nh.gov](http://www.scc.nh.gov). On February 12<sup>th</sup> the State Conservation Committee will be announcing the projects that it is funding through the conservation license plate (moose plate) program. A total of thirty one (31) proposals were received.

5) Future Agenda Items

Public Trust - Jacquie promised to call the AG's office to line up either Jen Patterson or Allen Brooks to give a presentation and lead a discussion on public trust.

Sustainability Initiative - This could easily be the entire topic for the March meeting.

Water Quality Standards Advisory Committee Update – Paul Currier agreed to provide the LMAC with an update at its February 23<sup>rd</sup> meeting.

National Lakes Assessment – Jacquie will determine if the LMAC can attend a lake visit this summer with EPA and DES, while they are conducting an assessment.

**II. Continuing Education of Current and Critical Topics**

Dan Sundquist and Carolyn Russell gave talks about the changing landscape and the effect it has on our state.

Dan is the Research Director with the Society for the Protection of NH Forests (SPNHF). He presented SPNHF's most recent research on the changing landscape and strategic water quality planning and conservation planning. The 2005 report looks at the relationships between population growth, housing construction, and land use change and the effect it has on our natural resource base. SPNHF has given presentations on this topic throughout the state and distributed the report to communities, regional land trusts, state agencies, and others so it can be used in the planning process. New Hampshire has been the fastest growing New England state for the past 40 years.

With the delineation of the small stream catchments and the base of information in the report, it is now possible that water quality of each lake and its watershed can be determined, although it is generalized.

In 2001 SPNH launched its strategic vision for the next 25 years, New Hampshire Everlasting, with forest and water goals. Their number one research agenda item is exploring the linkage between forests, forested landscapes and water quality and quantity.

Carolyn Russell, Environmental Quality Impact Planner at DES in the Pollution Prevention and Assistance Program, presented her program on 'sprawl'. She works on land use issues, land use change and minimizing the impact of development for the Department. Her major research effort, working with regional planning commissions, is to identify a way to objectively measure the pattern of land use on the ground and then evaluate how the pattern of land use influences environmental quality, social characteristics of communities and economics within communities. The object of this effort is to determine "What is the impact of sprawl on New Hampshire?"

To accomplish this objective, she has developed a GIS coverage layer of "destinations". These "destinations" vary from community to community, but it typically includes historic downtown areas, and other places where folks tend to congregate. Using the 2000 US Census data, she has overlaid population centers on top of this data. Then, she has also mapped the existing road network on top of this and estimated approximate drive times of 3 minutes and 5 minutes. With this information, she can determine the amount of sprawl that is taking place in each town, based on where the population is housed and the approximate distance to identified "destinations".

Once the analysis has been completed she will look at environmental impact, degree of fragmentation that occurs, water quality measures, and impact of development within water supply protection areas. She will then see if there is a correlation between sprawl and impacts to natural resources.

Water issues related to sprawl deal with impervious surface and its effect on water quality. Storm water management and the role of managing the pattern of outlets is also a concern. Conventional storm water treatment approaches are generally not effective. The total volume of storm water needs better management. We need to look at new approaches to storm water management for retaining and infiltrating the storm water. The total amount of water that is being allowed to runoff needs to be controlled. To maintain the natural water cycle we need to minimize disturbance, use better site design practices, and a more naturalized process. The UNH Storm Water Center has some great data on their storm water technology.

Michele and Mark noted town's resistance to change. Carolyn stated that education is needed to describe why we are promoting these concepts so that better proposals are developed. Jim H. noted that towns need to have a vision of what they want their town to look like. Carolyn noted that most communities have good vision statements, but there seems to be a huge disconnect between town Master Plans and their zoning. The general public needs to be better informed about these issues, understand them, and be effective in their role for change.

### **III. Brief Discussion of Cumulative Impacts**

Laura gave a brief presentation on cumulative impacts, which takes into consideration the past, the present, and the perceivable future. She also provided the Committee with a summary of a recent NH Supreme Court decision. The state Supreme Court upheld a decision by a lower court indicating that according to RSA 483-A:3, I. the DES Wetlands Bureau only has jurisdiction relative to wetlands. The Court ruled that "RSA 482-A does not authorize DES to assess the impacts of upland construction". This does not exempt upland construction activities from DES review; it just means that it falls under separate statutes. The Court also indicated that the Wetlands Council shall provide findings and rulings when it remands or affirms. The Court made it very clear that the proper place to address cumulative impacts is through the legislature.

Jacquie and Laura met with Commissioner Burack on January 3<sup>rd</sup> to discuss the Lakes Management and Protection Program and the LMAC. He is fully supportive of the LMAC's desire to develop a strategic plan/sustainability initiative. They also reviewed the Lakes Forum spreadsheet and the Lakes Management Criteria spreadsheet and asked for his input. Upon reviewing the recommendation relative to cumulative impacts from the Lakes Management Criteria, he emphasized that DES is not a land use regulatory program, with some exceptions with the Comprehensive Shoreland Protection Act, Site Specific, and Wetlands. He agreed that the proper place for this issue to be addressed is through the legislature.

Jim H. suggested that the LMAC should propose legislation to address cumulative impacts.

Rich T. asked which agencies have jurisdiction, if that jurisdiction is enforced, and if so what can be done to make it better. Laura explained that the first step identified in the spreadsheet is to review existing legislation to determine if cumulative impacts are addressed, and if so if they are currently being enforced. To her knowledge, no state agency has an overall purview to address cumulative impacts.

Jacquie offered to develop a set of options for the Committee to review at its next meeting to determine how they should proceed with this issue.

#### **IV. Strategic Plan or “Sustainability Initiative” Subcommittee Update**

Jacquie noted that the NHLA stated that the LMAC be charged with developing a strategic plan. The LMAC voted that this should be a top priority. A subcommittee was formed consisting of Phil O., Mitch K., Fred M., Laura, and Jacquie. They met on January 16<sup>th</sup> to discuss the purpose of a strategic plan/sustainability initiative and develop a survey that would be distributed. The Commissioner is anxious to have DES embark on a strategic planning effort and was in favor of the LMAC and the RMAC doing something similar. Jacquie distributed a draft proposal which included the content and process of the strategic plan/sustainability initiative.

Jim H. suggested that the LMAC should define what they want accomplished with this initiative. Johanna inquired who the audience would be. Jacquie suggested that the subcommittee should meet again.

Phil offered to consult with NHLA to determine what the original intent of developing a strategic plan was.

Michele stated that she views the plan as a vision, the specific recommendations and their measurable objectives should be used as guidance through the rest of the process.

Phil suggested defining Phase I and moving on from there. He suggested prioritizing what needs to happen first and making sure it gets done in a reasonable amount of time.

Jacquie also announced that Plymouth State College will be holding the 1<sup>st</sup> Annual New Hampshire Water Resources Conference on Monday, April 9<sup>th</sup> in Concord. The title of the conference is Sustainability of New Hampshire's Water Resources in a Developing Landscape.

**At 12:07 pm the Committee broke for lunch.**

**The meeting reconvened at 12:20 pm.**

**V. Surplus Land Review Process Update**

Jacque has not yet met with or talked with Alice Chamberlin of the Governor's Office regarding the draft Executive Order and Scope of Work that the SLR subcommittee submitted to the Governor for his consideration.

One Surplus Land Review was received from CORD but it is not in the LMAC's jurisdiction. The RMAC will be looking at it as it is in the town of Windham.

At its January 3<sup>rd</sup> meeting the RMAC voted to send a letter to the Attorney General's office seeking clarification of their jurisdiction relative to the disposal of state-owned lands. The RMAC felt that the letter Allen Brooks sent to the LMAC in October did not fully address the RMAC's concerns. The RMAC received a quick response indicating that they were advisory only. Steve indicated that this letter did point out that the RMAC had to be involved in the review process, which the original letter did not state.

Jennifer C. stated that a revised application and tracking sheet for Surplus Land Reviews was reviewed by CORD at its last meeting. It was agreed that additional information from various agencies should be included on the form. A motion should be made at the next CORD meeting to accept this new form.

Jacque referred to the new articles in the Laconia Daily Sun regarding the recent Governor and Council decision not to renew an existing lease. This is the first time this has happened. It raises the question – do renewals not come back before this committee? Should they?

Steve C. asked Mark H. what DOT's interpretation of a renewal lease is. Steve felt that a renewal should be considered as a new disposal, since it is a new lease agreement and therefore would fall under the RMAC and DOT MOA. Mark agreed that he would find out and get him an answer.

Jacque C. noted there are few changes to the membership of the Long Range Capital Planning and Utilization Committee, one change from the House and one from the Senate. The organizational meeting will be Tuesday, the 30<sup>th</sup>.

Jacque provided an update on the status of the inventories of state-owned properties as requested by the Governor's Office. Fish and Game's analysis is completed. DES, DRED and DOT are all still in the process. Johanna L. explained that DRED has 'state reservations' which are forest lands and park lands. There are 183,000 acres of DRED reservations, of which only 9,000 acres are zoned as recreation. DRED holds equal amounts of land in easements and those owned in fee; most of this land is in Pittsburg. Mark H. noted that DOT owns approximately 3,000 acres of conservation land, and surplus property is being processed.

**VI. Lakes Forum Update**

Due to time constraints, this was postponed until the next meeting.

**VII. Legislation**

Derek Durbin reviewed the list of water-related legislation that NHLA is tracking, although many bills have not been produced yet and are still listed as LSRs. The NHLA drafted legislation regarding the surplus land review process; however it has not been published yet. During the legislative session, NHLA produces a lakes legislative weekly which includes notices for upcoming legislative hearings and other information.

Jim H. asked about LSR 209 – regarding public access for Big Island Pond. Rich T. explained if there is not adequate public access, Fish and Game will not manage the water body. This takes that policy and makes it a state law. It also has a caveat that there will be a public access to Big Island Pond.

Jacque C. asked about LSR 523 – regarding water quality monitoring for lakes and beaches. This bill proposes that another person be hired to handle fresh-water beaches because at present only one intern is responsible for the 170 public, fresh-water beaches.

Rich T. asked if LSR- 211 (now SB 71) – was drafted in response to the Canterbury situation. Steve noted that it was not, but if the Canterbury proposal moved forward it would not be allowed under the new provisions. The bill would increase the setback requirements for new landfills located near designated river, making the rural river protection similar to the current natural river protection language. It would prohibit new landfills within a quarter mile of a designated rural river or less than 100 feet from the 500 year floodplain whichever is greater.

Laura stated that LSR 912 – was relative to the Rivers Management and Protection Program. First, it updates which Bureau the Rivers Coordinator works in. Second, it adds two members to the RMAC – one voting member from a Local Advisory Committee's (LACs) and one non-voting member from DOT. Third, it gives LACs the option of using a watershed approach when developing their plans, rather than focusing on just the river corridor. Fourth, it would expand the area included when developing the required Long Range River Management Plans. This is the only portion of RSA 483 that has not been implemented Under RSA 483:10-a, DES is charged with preparing and adopting a long-range comprehensive plan for each designed river that addressed instream values and state lands within the corridor. The amendment seeks to use a watershed approach, similar to what was used for instream flow, when developing the required long range river management plans, rather than just the river corridor. Jim H. asked if state owned land around lakes could be included in this plan. Laura said that they would be.

Derek stated that the hot bills will be: the speed limit bill; the establishing of a committee to study the feasibility of merging Marine Patrol and Fish and Game; LSR#282 - Environmental Policy Act, DES has submitted a letter of testimony in support of the concept, but not the scope; LSR #119 which phases mercury out of the product cycle, the establishment of a committee to study the surplus land disposal process; LRS #536-520 related to the Comprehensive Shoreland Protection Act(CSPA). Derek stated that the recommendations of the SPA Commission were not considered as clear as they could have been and the idea of a permit and its implementation has been questioned by some. Laura stated that the RMAC had voted to support all of the bills relative to the Comprehensive Shoreland Protection Act.

Jacque said that it is procedure to take a formal vote to determine if the Committee supports a bill and is willing to submit a letter of testimony. Since, there was not a quorum, it was suggested that once language is available, it should be distributed via email and a vote should be taken.

#### **VIII. Other Items and/or Issues**

Jacque suggested a list of things “to do” be compiled:

- 1) Jacque will develop a set of options for the LMAC to consider at its next meeting relative to cumulative impacts.
  - 2) Jacque will meet again with the sub-committee to work on the strategic plan/sustainability initiative.
  - 3) Jacque will try to email the presentations.
- **The meeting ended at 1 P.M. with no motion for lack of quorum.**