



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



November 6, 2007

Joyce Lacerda, Cooperative Programs Specialist
National Marine Fisheries
National Oceanic & Atmospheric Administration
One Blackburn Drive
Gloucester, MA 01930

Dear Ms. Lacerda:

Enclosed please find the sixth semi-annual status report for the NH Instream Flow Pilot Program for the Lamprey and Souhegan Rivers, Assistance Agreement No. NA04NMF4540382 for the project period 4/1/07 through 9/30/07. In accordance with NOAA Administrative Standard Award Conditions Attachment B, Section B, as a condition of the acceptance of Department of Commerce funds, Performance/ Progress Reports are to be submitted.

Sincerely,

C. Wayne Ives, P.G., Hydrogeologist
Watershed Management Bureau

Attachment

SEMIANNUAL PROGRESS REPORT 4/1/07 through 9/30/07

- A. Grant Number:** NA04NMF4540382
B. Amount of Grant: Federal - \$545,000; Match - \$0; Total - \$545,000
C. Project Title: New Hampshire Instream Flow Pilot Program for the Lamprey and Souhegan Rivers
D. Grantee: New Hampshire Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095
FEIN – 02-6000-618W
E. Award Period: From 10/1/2004 to 9/30/2008

F. Summary of Progress and Expenditures to Date

1. Work Accomplishments

The work tasks were defined in DES's grant application dated June 8, 2004. The grant application defined the schedule for conducting the work elements as being carried out roughly over the period September 1, 2004 through December 1, 2008. The schedule identified some tasks out 48 months from the beginning of the work effort. During the last reporting period, DES was granted an extension of the grant period to September 30, 2008. DES's deadline for the Lamprey and Souhegan Pilot programs is written in statute, which requires both pilots' studies and water management plans to be completed by October 1, 2007. This date has been passed and legislation has been introduced to extend this date to October 1, 2009.

The 2004 grant application summarized the work to be completed under the grant as follows: The primary goal is to complete the Instream Flow Pilot Program as described under the Instream Flow Rules (Env-Ws 1900) and the state statutes governing Instream Flow. The Instream Flow Pilot Program includes the Souhegan and Lamprey Designated Rivers. To complete this goal several work elements must be completed. DES will contract out some of the required work elements described under the Instream Flow Rules and retain the remaining elements. Contractual Scope of Work tasks are being conducted on the Souhegan by the University of New Hampshire (UNH); and on the Lamprey, by Normandeau Associates, Inc. (NAI). The Pilot Program includes the following elements:

1. Convene and administer a Lamprey River Technical Review Committee
2. Convene and administer a Lamprey River Water Management Advisory Committee
3. Prepare a detailed work scope for a contractor to prepare a Protected Instream Flow Study and a Water Management Plan for the Lamprey River Designated Reach
4. Procure a contractor, administer the contract, and review technical work products
5. Conduct committee hearings for feedback on technical and stakeholder decisions
6. Conduct public hearings at project milestones and other stakeholder outreach
7. Adopt protected instream flows, incorporating public comment
8. Identify and include all affected water users and dam owners in the water management plan development
9. Adopt a Lamprey River Water Management Plan, incorporating public comment

10. Administer initial implementation of the Water Management Plan
11. Report annual water use versus stream flow for all Designated Rivers
12. Annual and periodic reports to the NH state legislature

Instream Flow activities during 4/01/07 through 9/30/07

Annual Water Use versus Stream Flow Report

The Annual Water Use versus Stream Flow Report for 2005 required by the Instream Flow Rules (Env-Ws 1903.02) is still under development. Additional staff have been assigned to this project. There are now 15 Designated rivers in NH. The Ammonoosuc River (~45 miles) was Designated by the New Hampshire legislature August 10, 2007.

DES staff

In July 2006, NOAA approved the addition of Ellen D'Amico, GIS Specialist, to be covered by this grant. Ellen left DES January 25, 2007. Ellen was replaced by Steve Gaughn, who started June 6, 2007. He will now support the Instream Flow program's GIS needs in Ellen's place.

Marie Loskamp, Executive Secretary, was partially supported by this grant. She left DES in late November 2006. Her position remains open.

On June 7-8, 2007, Wayne Ives, Instream Flow Specialist, attended MesoHABSIM field methods training in Hadley MA. The training course completed was MesoHABSIM Field Techniques.

Support for the Instream Flow Advisory Committees

Department personnel provided administrative support for the two advisory committees overseeing the work conducted on each of the pilot rivers.

Membership changes

DES requested replacements for legislative members of the Instream Flow Committees during the last reporting period when Rep. Cooney was not returned to office. There has been no replacement to date for Rep. Cooney.

Alden Greenwood representing Affected Dam Owners died Saturday June 16, 2007. His son Robert Greenwood has agreed to represent dam owners on the committee.

Victoria Del Greco, one of four representatives of affected business water users, resigned from the Lamprey WMPAAC August 23, 2007 after leaving her position.

Ray Konisky, Ph.D., was appointed to the Lamprey WMPAAC committee by Governor and Council May 16, 2007. Ray replaced Jay O'Dell represent conservation interests in the watershed. Ray is a Marine Conservation Ecologist with The Nature Conservancy.

Committee Reports

The Technical Review Committee (TRC) and Water Management Planning Area Advisory Committee (WMPAAC) reports due annually by November 1 were completed and were incorporated into the 2007 pilot program report to the Senate Bill 330 committee. SB 330 is the legislative oversight committee for the Instream Flow Program.

Instream Flow Committee meetings

The Lamprey WMPAAC did not meet between April 1, 2007 and October 1, 2007. However, their meeting October 20, 2006 resulted in the contract amendment to conduct an additional low flow survey.

Lamprey TRC had met during the last reporting period on March 7, 2007 at NH DES offices to hear presentations on the draft Lamprey Target Fish Community (TFC) and on the

MesoHABSIM model for flow needs assessment. The discussion on the TFC took most of the meeting, so another meeting was held April 26. The second meeting also discussed the TFC at length resulting in a decision to make certain final changes and send the results by email. The final version was dated June 21, 2007 – Final version of Lamprey Target Fish Community. These findings are posted on the web at www.des.nh.gov/rivers/instream/lamprey/study.html under Task 5. (Contractor tasks are under the Scope of Work at www.des.nh.gov/Rivers/instream/lamprey/documents/20050209LampreyRFP.pdf. The meeting also heard the presentation about the MesoHABSIM (Meso-scale Habitat Simulation Model) method for assessing protected flows. MesoHABSIM is a habitat simulation model that identifies the availability of habitat relative to stream flow changes for representative fish species. Also, described at this meeting was the transect assessment method for assessing wetlands and riparian vegetation. The transect method compares water levels at a range of stream flows to elevations of riparian vegetation zones on the banks and in the flood plains of the river. Flow needs to sustain the seeding and growth of the native riparian vegetation in these zones will be determined using this method.

Souhegan TRC has completed the Committee's primary duty described by Laws of 2002, Chapter 278 which was to direct the Department in the conduct of the Protected Instream Flow Study. The Committee will continue to exist to oversee implementation of the provisions of the Pilot Program. The Souhegan TRC did not meet during this reporting period.

Souhegan WMPAAC is scheduled to meet October 16, 2007 to begin working on their part in coordinating the Water Management Plan.

Instream Flow Presentations

DES staff gave presentation to various organization to promote Instream Flow issues and the methods be used by DES to protect water quantity. These are the presentations that were given during this reporting period.

Wayne Ives, Instream Flow Specialist, gave a presentation to the 63rd Annual New England Fish and Wildlife Conference on April 24, 2007 in Groton, CT.

The Rivers Management Advisory Committee was given updates of the status of the Instream Flow Program at their meetings on April 17 and September 25, 2007.

Instream Flow contract extensions and revisions

On March 15, several members (Dr. Piotr Parasiewicz, Jeffrey Legros and Joe Rodgers) left the University of Massachusetts (UMass) to join the independent organization, the Rushing Rivers Institute. UMass was a subcontractor under Normandeau Associates, Inc., who is the project lead. The change in affiliation of these project team members has not resulted in any technical changes to the proposed study. Tasks responsibilities previously assigned to UMass will now be completed by the Rushing Rivers Institute.

On July 23, 2007 NOAA approved a one-year extension of the grant to September 30, 2008. The contract with Normandeau Associates, Inc. to conduct the Lamprey Instream Flow Pilot under this grant was extended to September 30, 2008 by approval of Governor and Council on (8/22/07-Item #142). The Lamprey contract with Normandeau Associates, Inc. was amended to add an additional low flow stream survey. Four surveys had been conducted as specified in the contract. However, the lowest stream flows during these surveys did not get sufficiently low. When flows were anticipated to go to lower levels, an additional survey was added to cover this portion of the hydrograph. The additional task increased the contract by \$18,500 from \$289,000 to 307,500.

The contract with UNH to conduct the Souhegan Instream Flow Pilot was extended by approval of Governor and Council on September 5, 2007 (Item #33) from October 1, 2007 to March 31, 2009.

A request was submitted to Governor and Council to transfer funds from the contractual class to fringe benefits and indirect classes. These classes were under funded because actual rates were higher than budgeted. DES requested \$11,669.81 be transferred from contractual to these two classes. This request was approved by Governor and Council on October 17, 2007. This request represents 2.14% of the grant budget.

Souhegan Pilot Program

The February 5, 2007 version of the Souhegan PISF went to the Public Hearing (Task 6) for public review and comment March 21, 2007. The public comment period closed April 20, 2007. Reviewing and responding to the comments, followed by revisions to the report will be completed soon and submitted to Commissioner of DES for his approval. Approval by the Commissioner will establish the protected flows identified as water quality standards for the Souhegan Designated River.

The Souhegan Water Management Plan is under development. The Water Management Plan describes the management activities to be conducted by dam owners and water user affected under the rules in order to maintain the protected flows identified in the Souhegan River Protected Instream Flow Report. These management activities will be implemented when stream flows fall below the protected flow magnitudes for longer than the allowable and catastrophic durations. The management alternatives will be developed with the Affected Dam Owners and the Affected Water Users over the next year. The cost of alternatives will be part of the decision make process used by the Affected Dam Owners, Affected Water Users and DES to choose the most effective management alternatives. The Water Management Plan that describes the selected alternatives will go before the public at a public hearing in 2008. The current schedule expects adoption of the Water Management Plan in January 2009.

The Department is developing a webpage that will present the protected instream flow conditions relative to stream flow in real time. The web page will make use of USGS stream gage data to compare current conditions to the protected flow magnitudes and durations during all periods of the year. This is proposed as the means for all water users and dam owners to determine the level of management required under their individual water management plans.

Lamprey Pilot Program

The Lamprey field mapping and data collections under SOW Task 5 were substantially completed fall 2006. However, in August 2007, an additional river survey was collected at a lower flow than had occurred during the past two years under a new task (Task 5C). Data processing and analysis of the survey data from the five flow surveys is ongoing and will be completed during the winter.

2. Expenditures

Expenditures under the grant are for two cost areas: 1) \$307,500 for the Lamprey River Instream Flow consultant contract, and 2) \$237,500 for Department technical and administrative staff, overhead, equipment, travel, supplies, and direct or other costs to support the NH Instream Flow program. This is after budget revisions made to date and includes additional unencumbered funding under the contractual class.

Expenditures during this period summed to \$6,359.88 representing Department staff time, direct and indirect costs, meeting expenses, postage, registration and out-of-state travel for training, and fleet vehicle costs. Costs are not scheduled—consultant fees are for completed Scope of Work tasks only and Department staff charges time and expenses for activities supporting the NH Instream Flow Program. No contractor invoices were submitted during this reporting period.

The Department requested, and was approved by Governor and Executive Council, to be allowed to revise the budgeting of funds from the Contractual Class to two Fringe Benefits Classes in the amount of \$11,669.81. This was necessary to offset higher than budgeted fringe benefits costs. This revision represented less than 10% of the budget in cumulative changes (2.14% with total changes of 5.34%). Wayne Ives has been funded under state budget since July 1, 2007. Some of the remaining funds from various classes will be requested to fund a part-time temporary position to support the Instream Flow Program. This is anticipated to be a cumulative revision in the budget of over 10% requiring NOAA approval.



November 6, 2007

Signature

Date

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