



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

2018 Instream Flow Program’s Prioritization of Designated River Studies

This document describes the results of the comments received on NHDES’ prioritization of Designated River segments for next having protected instream flow developed. NHDES’s prioritization assessment resulted in three Designated River segments being recommended for the next studies: the Cold, Warner, and (upper) Ashuelot rivers in that order. Details of the prioritization process are at the ISF River Prioritization blog page at https://www4.des.state.nh.us/blogs/rmac/?page_id=3823.

Designated River segments priorities for the next round of PISF development

River segment (determined by TFC project)	LAC Active	Development pressure	Stream flow data quality	River length (miles)
Cold River	Med	Med	High	23
Warner River	High-new	High	Med High	20
Ashuelot River – Upper	Very High	Med	Med High	30

Overview

In the December 2015 Instream Flow Pilot Program report, NHDES recommended that a prioritization process be applied to evaluate the Designated Rivers and identify the next river or rivers where a protected instream flow study would be conducted. The report also recommended notification of watershed interests prior to conducting the protected instream flows. In 2016, the New Hampshire legislature passed new provisions under RSA 483 requiring a public hearing prior to conducting any protected instream flow study, ostensibly to both notify interested and affected parties and to hear public comments on NHDES’ recommended priorities. In 2018, NHDES conducted an assessment that divided the Designated Rivers into segments comprised of consistent features with similar fish communities. NHDES determined to develop separate protected instream flow criteria for each of these segments, following the practice established by the instream flow study pilot project on the Souhegan River. NHDES presented its river priority assessment to the Lakes Management Advisory Committee on October 3, 2018, and then again to the Rivers Management Advisory Committee on October 4, 2018. Both groups approved of NHDES’ assessment and voted to recommend that NHDES make its priority list from the top eight rivers as it determines is best.

Public hearing and comments

On November 26, 2018, a public hearing was held at NHDES in Rooms 111-114 at 5:30pm. Notification of the public hearing and the public comment period had begun November 1, 2018 by website postings and targeted emails to governing bodies and other interested parties. Letters were sent to the chairs of the Local Advisory Committees (LAC) of the three highest ranked river segments – Cold, Warner, and (upper) Ashuelot rivers— notifying them of NHDES’ intent to list them as priority rivers. Emails were sent to affected parties in these three watershed areas, including to the water users and dam owners who are affected under the Instream Flow Rules, and to the lake associations of dams affected under the rules.

Fourteen members of the public attended the public hearing. Two people, representing the LACs, spoke on the record at the hearing, both advocating for their rivers, the Ashuelot and the Warner Rivers. The public comment period closed Friday, December 7, 2018 at 4pm. Prior to the hearing and the comment period, the Frederick Ernst representing the Cold River LAC commented in response to a NHDES letter. After the hearing, written comments were received from three groups: Chris Connors, representing the Warner River LAC; Barbara Skuly, representing the Ashuelot River LAC; and Kathy Urffer, representing the Connecticut River Conservancy.

The Cold River LAC comments described unanimous support for the instream flow project, and offered to arrange meetings, and provide advice and local support.

The Warner River LAC comments support the prioritization process and look forward to supporting the instream flow study and water management plan developments. The comment letter referenced dozens of letters of support provided during the nomination process for designating the river to demonstrate the public support for the Instream Flow Program.

The Ashuelot River LAC comments support the selection of the upper Ashuelot as an instream flow priority river and see completion of the upper segment as a steppingstone to moving on to the lower Ashuelot River where endangered species have been identified and development pressure is strong. The LAC anticipates continued support from the towns and public in the watershed based on historical support.

The Connecticut River Conservancy comments support the theoretical basis of the prioritization, but pointed out that NHDES had largely excluded the Connecticut River from the process noting that no Target Fish Community was developed, and that the river was not ranked for development pressure or gage information by virtue of its downstream position relative to several other Designated River segments. The comments suggested that the Program's limited funding may be sufficient to complete a protected instream flow study on the Connecticut River because the river is so heavily regulated that an instream flow assessment would be easier. Comments also say that the current licensing process through the Federal Energy Regulatory Commission (FERC) is the ideal time to conduct instream flow studies and opined that NHDES may be violating RSA 483:9-c,1 by excluding the Connecticut River from the prioritization process. The comments described many features that would weigh in the positive such as the existence of several stream flow gages, a strong committee base, development pressure, migratory species, instream flow studies conducted by other groups, and an existing flow model (CRUISE). The comments recognized confounding factors such as interstate water use, FERC licensing that defines flow regulation, and the very large watershed size. The comments challenged NHDES to put the river through a different protected instream flow process, as identified as a possibility in the Report of the Instream Flow Pilot Program (NHDES, 2015), which suggested an interstate flow policy for rivers shared by more than one state.

Final assessment

NHDES determined during the evaluation stage that the Cold, Warner, and the upper Ashuelot river segments, in that order, were the first choices for conducting the next protected instream flow studies. As a result of comments NHDES has determined that the Cold and Warner will be the next rivers addressed for a protected instream flow study. NHDES makes its decision based on its assessment placing these two rivers first, and on the support received for both of these rivers during the public comment period. NHDES will make a determination on future priorities by following this procedure at a later date, and with the benefit of two additional studies.