



Connecticut River Joint Commissions

10 Water St., Lebanon, NH

Monday, December 19, 2016

Meeting Minutes

Commissioners Present: Jason Rasmussen, VT; Steven Lembke, VT; Kari Dolan, VT; Tara Bamford, VT; Jim Doig, VT; Chris Company, VT; Dick Sanders NH; Mike Storace, VT; Chris Yurek, NH; Jennifer Griffin, NH; Rick Walling, NH; Mary Sloat, NH; Jim McClammer, NH; Jim Kennedy, Upper Valley Local Advisory Committee.

Commissioners Absent: Ken Niemczyk, Alison Low, Barbara Robinson, Brendan Prusik, Elaine Levlocke, Marion Allen, David Deen.

Convene & Introductions at 2:00 p.m.

VT ANR Representative Kari Dolan introduced herself to the Commissioners and briefed them on the Clean Waters Initiative that she manages. She informed the Commissioners about an impending report that the State Treasurer was preparing for the Legislature on how to renew and fund the Vt. Clean Water Fund. She presented a preliminary list of potential revenue sources that will help inform the legislators as they work on this in the upcoming session.

She briefed the Commissioners on the “required agricultural practices” that include a standard to keep livestock out of surface waters, as it is both a nutrient loading problem and a public health problem. They are undertaking educational programs that target small farms which include half of the state’s livestock.

Their primary focus has been on siltation and nutrient impaired waters, but they are also looking at toxics such as lead and mercury. ANR is required to identify them and develop restoration plans. They conduct water quality testing to help narrow the source of the pollution down.

Comm. Company noted that the Municipal Roads Permit policies is in the draft stage and he will help keep Commissions informed as the work progresses towards July of 2017.

Comm. Company stated concerns about the future of the USDA funding for the University Extensions and funding for implementation of the technical assistance piece which has been

central to educating farmers on best practices to keep adjacent waterways free of pollutants.

FERC Relicensing Studies

Comm. McClammer stated that the Trans Canada Summary Report on the Preliminary Licensing Proposal (PLP) is very well written. Additional information will be assessed before the final application is filed on April 30. Staff will send a link to the document to Commissioners. Comm. Griffin explained that once all the studies are completed, there will be discussions on mitigation strategies.

Comm. McClammer requested that the individual commissioners review the PLP and have comments sent to staff by January 22nd. Comm. Company suggested that the comment at least include the comments in the context of the CRJC recreation and river management plans. A package of Comment letters, subcommittee notes, and the PLP will be provided to Commissioners. Comm. Walling asked Comm. Griffin to give her quick summary of the status to staff for distribution.

Member Recruitment – Comm. Lembke spoke about work that he will begin to try to recruit members to bring the Commission up to full membership. Comm. Company suggested that the State staff involved in Tourism or Forestry examples of ways that CRJC can convene to focus on issues outside of water-quality. Comm. Walling requested staff to investigate a Bluetooth (wireless) speaker so that people can call in to a conference number via a cell phone and the speaker will transmit the voices of all participants.

Business Meeting

Minutes – Minutes of the August meeting were reviewed as the lack of a quorum in October prevented approval at that time. Comm. Lembke moved to approve, Comm. Rasmussen seconded. Vote: Unanimous.

November Financials Comm. Doig moved, Comm. Sloat seconded a motion to accept the financials as presented.

Local River Subcommittees – Comm. Bamford provided a written report on activities and updated Commissioners on the work of the activities. She reached out to the subcommittees to see if the LACs volunteers will work with The Conte WOW mobile display. The Communications Committee is looking at update a handout/or tri-fold brochure for the Joint Commissions. Comm. Bamford moved, Comm. Lembke seconded a motion to write a concept paper to be sent to the Upper Connecticut River Valley Mitigation and Enhancement

Fund managed by the NH Charitable Foundation for display materials to submit an application. Comm. Bamford will share information about the Conte draft plan with staff to distribute to all. Posting the Subcommittees' Annual Reports on the website will be discussed.

Jim Kennedy Chair of the Upper Valley Subcommittee drafted a memo to outline the process for application review with NH DES. See draft outline of the memo attached. Comm. Bamford suggested that the letter to NH DES should be written by CRJC. Comm. Bamford will work with Jim Kennedy to revise the draft and receive input from the other local committee chairs.

Comm. Lembke suggested that the letter include a listing of the advantages of having the higher level of participation at the earlier stages of the permitting process.

LRS Nominations Comm. Campany moved, Comm. Rasmussen, seconded a motion to approve all as presented. Vote: Unanimous

Other Business

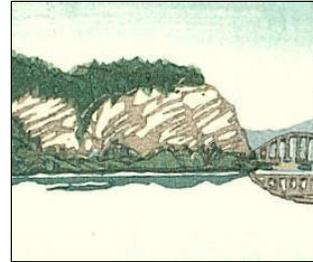
- Rick Walling reported on the thank you note from CRWC for donation to the Source to Sea Cleanup
- 15 Mile Falls M&E Fund will be meeting to review applications. Information will be available on the NH Charitable Foundation website.
- Comm. Campany urged CRJC to continue to strengthen their relationship with the Conte Refuge
- February Meeting Date – Discussion of the date of the next meetings followed. Comm. Lembke moved and Comm. Dolan seconded motion to have all meeting meetings that fall on a holiday automatically be moved to the Monday of the following week. Vote: Unanimous.

Adjourn – Comm. Campany moved and Comm. Lembke seconded a motion to adjourn at 4:20 p.m.

Adopted: CRJC Meeting February 27, 2017

Upper Valley River Subcommittee

New Hampshire – Piermont, Orford, Lyme, Hanover, Lebanon
Vermont – Bradford, Fairlee, Thetford, Norwich, Hartford



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Subject: **NHDES – LAC Permit Interaction**

As described in the River Management statute, RSA 483:8-a III, a Local River Management Advisory Committee (LAC) has a duty to “**consider and comment** on any federal, state, or local government plans to approve, license, fund or construct facilities that would **alter the resource values or characteristics** for which the river or segment is designated”. As required in the Wetlands statute, RSA 482-A:3, I (d) (2), “the local river management advisory committee shall, under RSA 483:8-a III (a)-(b), advise the commissioner and **consider and comment on the permit application**”.

The Upper Valley River Subcommittee (LAC) of the CRJC has considered and commented on many applications in the last few years, mostly riverbank stabilization projects on the main stem of the Connecticut. We have generally had a good relationship with NHDES, but several recent permit decisions have brought the permitting process into question. The following are our concerns:

Pre-application: applicants meet with NHDES and negotiate the construction details of a project. The applicant then proceeds to the application phase as if NHDES has approved the project, and represents this to the LAC. Sometimes, the materials and methods proposed may not be appropriate for the site, or may affect abutters. Less impacting alternatives are not always considered or subjected to detailed analysis. The LAC is the local “eyes and ears” for NHDES, and the department cannot visit every site.

Possible solution: Perhaps the LAC could be more involved in the pre-application process.

Application submittal: The method of delivery to the LAC and the local Conservation Commissions sometimes results in delays in reviewing the project. This, combined with the monthly or bi-monthly meeting schedules of the LAC, can result in delayed responses to NHDES.

Possible solution: Streamline the process to shorten response times.

Review of applications: Usually, a few members of the LAC (as a “review team”) visit the site with the applicant and prepare comments for the full quorum meeting of the LAC. If the LAC will not meet before the comment deadline, the review team sends the comments to NHDES with a description of the persons involved and the procedure used. This process may be contrary to the state meeting and right-to-know laws.

Possible solution: Develop a standardized review and comment procedure, allowing for action without a full LAC quorum. Develop a simplified procedure for “ de minimus” activities.

Coordination with other agencies: Reviews by NH Natural Heritage Bureau, NH Fish & Game, and U.S. Fish & Wildlife Service are not always seen by the LAC. The LAC members are stewards of the river, and may be able to contribute valuable information to these agencies.

Possible solution: make sure that reviewing agencies receive the LAC comments.

Requests for More Information (RFMI): The LAC usually receives the RFMI, which often cites the LAC concerns. However, the LAC does not usually see the applicant’s responses or plan modifications, and does not have a chance to review or comment on them. Since the statute requires that the LAC consider and comment on application, there may be an assumption that the LAC could comment on all parts of the application.

Possible solution: Require the applicant to submit responses and revised plans to the LAC.

Permit issuance: Permits usually contain detailed findings, conditions, and answers to the LAC comments, but sometimes they are brief and do not answer all of the LAC concerns.

Possible solution: Make sure that permit findings and conditions respond to all LAC concerns.

Construction and monitoring: In some instances, the contractor modifies the scope of work or the specifications. Also, the permit can be amended after issuance. Although the applicant is usually required by NHDES to inspect the work and monitor the construction, the project doesn’t always end up as permitted.

Possible solution: Provide for LAC comment on the results of the work, and for long-term monitoring.

If you need additional information, please contact us at the above address.

Respectfully submitted,
James S. Kennedy, chair
Upper Valley Subcommittee (LAC)
Connecticut River Joint Commissions