

Nashua River Wild & Scenic Study Committee
Notes from the Study Committee Meeting
NRWA's River Resource Center, 592 Main Street, Groton, MA
July 21, 2016

INFORMAL NOTES

Members Present: Beth Suedmeyer (Ayer); Leah Basbanes (Dunstable); Nadia Madden (Groton); Lucy Wallace (Harvard); Paula Terrasi (Pepperell); Bill Wilkinson (Townsend)
NRWA Staff: Elizabeth Ainsley Campbell, Al Futterman, Martha Morgan
NPS: Jamie Fosburgh
Ex Officio: Tim Purington (DER); Anne Gagnon (DFW)
Guests: Drew Kellner (Brookline Conservation Commission/Beaver Brook Association); Mike Fleming (NRWA Board member)

The meeting was called to order at 7:05 PM by the chair, Lucy Wallace.

Administrative

The June 16, 2016 meeting notes were accepted as presented.

Wild & Scenic River Designation Legislation – Jamie Fosburgh

Jamie provided and reviewed two sample acts designating rivers as wild & scenic under the federal Wild and Scenic River Act: Lamprey Wild and Scenic River (1996) and Missisquoi and Trout Wild & Scenic Rivers, Vermont (2015).

Common Elements: Acts of designation have several common elements, which would also be included in our act, as follows:

1. Identification of river(s) segment(s)' location and length;
2. Reference management plan, including date of completion (not date of approval by towns);
3. Sets forth the process for amending the management plan;
4. Reference to NPS coordination of implementation of the management plan with the management committee established by the plan through cooperative agreements with the state and municipalities;
5. Acknowledgement that local zoning is consistent with and satisfies the standards and requirements of the Wild & Scenic Rivers Act; and
6. Prohibition against condemnation of land within designated segments by federal government, rather federal acquisition must be by donation or purchase with landowner's consent and in accordance with the management plan.

The 1996 designation of the Lamprey River had a provision that may well relate to our situation: Section 405 (c) allowed for the future designation of the river segment within the town of Epping and its future inclusion in the management plan, which occurred by amendment in 2000. If it appears highly likely that NH or MA communities may want segments of the rivers within their jurisdiction that are currently outside the study area added at a future time we could include such a provision in our legislation. One reason Epping joined a few years after the initial designation was the availability of federal funds through an EPA grant to upgrade its waste water treatment

facility which was upstream of the designated section and, therefore, had an impact on a wild & scenic river.

The 2015 designation of the Missisquoi and Trout Rivers likewise had a provision in Sec 3072 (b) (4) that could relate to our situation by allowing for future FERC permits or licenses for existing hydroelectric facilities, including their modernization or upgrades, subject to the “written determination by the Secretary of the Interior that the changes are consistent with the purpose of designation.” Similarly, resource protection, mitigation or other enhancement measures required by the FERC license would not be considered projects subject to the Wild & Scenic Rivers Act, again subject to written determination of the Secretary of the Interior that such activities were consistent with the designation purpose.

The Missisquoi and Trout Rivers legislation also had a provision that the designation of these rivers would not result in their being administered within the National Park System or subject to its regulations. Jamie felt this language would also be inserted in our legislation.

The W&S Committee asked for clarification by Jamie on several aspects of the legislation and designation:

1. How much power does the management committee have? The committee is essentially advisory. If federal dollars are involved in a project impacting a wild & scenic river, then the NPS would comment on it. Otherwise, the management committee has the ability to comment on projects that could impact the river.
2. Who drafts the legislation? The NPS, often in conjunction with the congressional staff of the Congressman supporting the designation.
3. When should the legislation be drafted – before or after the town meetings’ vote? It was agreed that having a draft available prior to the vote, or, at the very least, an outline of the provisions to be included.
4. What is submitted to Congress? The study report, proposed management plan, warrant article present to each town meeting for approval of the wild & scenic designation, and the individual town meetings’ vote.
5. If not all towns vote in support of designation, can the remaining towns go forward? Jamie noted it depends on what segments would be dropped and how that would impact justification for designating the remaining segments.
6. How frequently should the management plan be reviewed/revised/updated? Probably every 5 years. Unless the plan was amended, periodic review does not require Congressional approval.

Al asked the committee members what we would like Jamie’s next topic to cover. It was agreed the management plan and suggested that Jamie provide the committee with a sample one to review before our next meeting. He recommended the 2011 Lower Farmington River and believes he has enough hard copies for each committee member to receive one. He will coordinate with Al getting copies to the committee.

ORRV Subcommittee

The W&S Committee reviewed the July 18th notes of the ORRV Subcommittee meeting, noting items to be added in the various categories, as follows:

1. *Geologic* – no additional comments

2. *Water Quality* – Jamie felt this would be a strong chapter in the management plan given the work being done by Warren Kimball. Martha noted that currently the EPA has no TMDL for phosphorus in the Nashua; setting a nitrogen TMDL (based on level at outflow of the Merrimack River into the ocean) would be difficult to determine.
3. *Protected Lands* – It was noted that roughly 50% of the lands along the Nissitissit and Squannacook are protected; somewhat lower percentage along the Nashua. The level of protection along the Nashua, nevertheless, is significant and probably a result of the low cost of land acquisition before the river was cleaned up. Also, local Rod & Gun Clubs were among the first groups to purchase land and give to the state for protection.
4. *Recreation* – The list of recreational opportunities was considered fairly comprehensive, but a couple more uses were suggested: photography, canoe races, and river festivals. Elizabeth Ainsley Campbell asked if we were required to quantify the level of use. Jamie said only if we had the data.
5. *Biological/Ecological Diversity* – Paula Terrasi offered to contact Pat Swain to see if we could review the assemblages of natural communities she has developed. Paula noted that the assemblages pertained to the lands along the Nashua River but did not cover the Nissitissit or Squannacook rivers.
6. *Cultural/Historic Resources* – We need to gather more “stories” about human activities relating to the rivers. Beth Suedmeyer suggested that there may be cultural information in the Zinni Report done by the USFWS in the 1990’s as part of the expansion of the Oxbow NRW. Tom Poole, previous forester for the Army when Ft. Devens was an active base, could also provide information on the South Post lands.

We then discussed the proposed themes to be used in the study to justify designation. Jamie reminded the committee members that the study does not need to mention or address *all* of the ORRVs; rather they will be addressed in the management plan. Furthermore, to merit designation we might need only one outstanding remarkable resource of statewide (or greater) significance. He believes that as we write the study, the ORRVs or themes will become clearer.

There are 3 classifications by which the rivers could qualify: wild, scenic and/or recreational. Jamie noted that the rivers are not likely to be considered wild as they are not running through wilderness areas. They do have scenic value as the lands along the segments being considered are relatively undeveloped. This also enhances their recreational value, which also can apply to river segments in more developed or urban areas.

Elizabeth asked if the committee members agree with 3 proposed themes (Recreation, Biodiversity, and Cultural/Marion Story). Most concurred, although Beth noted that water quality and the Nashua’s turn around, given the documentation and data that has been collected by Warren, would make a compelling theme as well.

Outreach Subcommittee

The Subcommittee was to have met prior to this meeting but had postponed its meeting to next week. Al Futterman reported that Cindy Knox has found a potential website developer.

New Business

Shirley Member: The Shirley Board of Selectmen, which viewed the appointment to the W&S Committee as an annual one, did not reappoint Betsy Colburn as the town’s alternate representative. We have been advised that these appointments are not generally considered

annual but rather for the length of the study. Elizabeth suggested members check with their individual Boards of Selectmen if they wanted clarification.

August Meeting Date: We will not meet in August and, instead, use the intervening time to read the sample report and management plan Jamie will be providing us. At our September meeting Jamie will walk us through these documents to help us frame ours. However, if an issue arises before September that needs to be considered by the W&S Committee, a meeting can be called.

The meeting was adjourned at 9 PM. Next meeting: September 15th at 7 PM.