

## Herring River Stakeholder Group

### *July Meeting*

#### **Draft Meeting Summary**

July 25, 2018

#### **Meeting in Brief**

The Herring River Stakeholder Group (HRSRG) met for the second time in Truro on July, from 5:30 to 7:30 PM. The meeting included an introduction to adaptive management and modeling, review of the list of constituent issues, and approval of the meeting protocols for the group.

The next meeting will be held October 11<sup>th</sup>, 2018, from 5:30 – 7:30 PM.

#### **Action Items**

Who	What
Members	<ul style="list-style-type: none"><li>• Take poll to prioritize constituent issues</li><li>• Provide a short bio to CBI &amp; the Chair if you have not already</li><li>• Invite constituents to meetings on risk management and potential impact on abutters</li></ul>
CBI & Chair	<ul style="list-style-type: none"><li>• Revise Meeting Protocols</li><li>• Schedule next HRSRG Meeting</li><li>• Develop an agenda for the next meeting</li><li>• Request biographies for all members</li></ul>

#### **Meeting Opening**

Facilitator Patrick Field opened the meeting with introductions of the stakeholder group. All attending members announced their name and affiliation.

The facilitator then reviewed the agenda for the meeting, which covered two main topics: an introduction to adaptive management and modeling and review of the list of issues, topics and ideas that members' reported their constituencies would be concerned about during their onboarding interviews. The meeting also had scheduled time for public comment and questions.

Bill Biewenga, Chair of the Herring River Stakeholder Group (HRSRG), asked if the minutes of the previous meeting could be approved. The members approved the minutes. Any minor typos discovered in prior minutes should be submitted to [okumasaka@cbi.org](mailto:okumasaka@cbi.org).

#### **Finalize Meeting Protocols**

In the previous meeting, there were few final comments on the ground rules in the meeting protocols. The facilitator asked if any members had comments or suggestions before the document is finalized.

HRSG members had the following comments or clarifying questions:

**Does the Chair serve for the same two-year term as representatives?**

The Chair confirmed this point and asked that it be specified in the ground rules by adding “and the chair” to the term limit clause.

**How is consensus determined?**

The Chair will decide if a consensus has been reached: upon good deliberation and process, the Chair can test the issue and declare a consensus. However, if anyone wants to argue that point, they can bring the point up for debate. Any strenuous objections can be noted in the minutes.

Although the group discussed approximately a minimum 75-80% of the group in agreement constituting a consensus, Paragraph D of the Meeting Protocols will not contain a precise decision rule to prevent undue obstruction of the group’s discussion.

**How do members of the HRSG define the constituency they represent?**

Members’ constituencies will differ as they represent various organizations and groups of people. Generally, the profile a member reflects is their primary constituency, though they should serve as an information conduit to other residents of Truro and Wellfleet as well. The Chair suggested avoiding a formal definition. Abutters, for example, could be a narrowly defined group, but HRSG representatives should not limit their communication with local landowners who do not directly abut the project.

**Introduction to Adaptive Management**

Tim Smith, National Park Service Restoration Ecologist on the Herring River Restoration Council (HRRC), presented a slide presentation on structured decision-making and the adaptive management framework. Adaptive management and structured decision making are frequently used as part of public and natural resource projects. Tim outlined the HRRC’s understanding of why this is an appropriate approach to the Herring River Restoration project, defined the terms and tools the HRRC will use, and explained the steps taking place right now. Essentially, the adjustable tide gates installed for the new Chequessett dike will be opened incrementally and the ecosystem response will be monitored over time. The protocol for making adjustments to the gate configuration will be overseen by the Executive Council on recommendations from the HRRC. The HRRC

will based their recommendations on observed progress towards five hydrological and bio-social objectives tied to performance measures.

The presentation slides can be found at: <http://www.friendsofherringriver.org/HRSG-Meeting-Materials>

The Chair observed that this is a conservative implementation approach: for some potential impacts, HRRC has a good handle on what is going to happen with a high level of confidence. For others where less is known currently, the modeling tool accommodates the integration of new information into decision-making.

### **HRSG Questions on Presentation**

*Will the initial modeling be available for HRSG to look at, and how they should weigh in on it?*

Tim answered that, depending on the objective in question, some of the data input is very quantitative but some is very qualitative. Social objectives like aesthetics, views, and odors need to be measured and predicted in a methodical way. Currently, HRRC's data is lacking for those social objectives, so they are looking to flesh them out with input from this group.

Predictions are one of the major items that need to be refined and improved over the next two years of construction. HRRC will continue to refine the modeling tool as the tide gates are gradually opened and they start to receive data. HRSG members requested they be periodically updated while these adaptive management models get refined.

*Are the different management alternatives already set?*

Tim responded that HRRC is evaluating platform policies now for lifting the tide gates. Secondary management actions will complement the platform policies. HRRC will consider how secondary management can be used to improve progress toward objectives.

HRSG members asked if monitoring results might affect the tide gates' continued use. Tim responded that initially the Executive Council will choose a particular approach (to raise the gates at a certain rate for a certain period of time) based on weighing the trade-offs generated by the Adaptive Management model. However, the initial recommendation may be modified over time as restoration, monitoring and modeling proceed.

*Is USGS is telling HRRC what to look at, in terms of what objectives should be set and what should be measured over time?*

No, some items for continual monitoring are obvious, like tide levels. The model gives high tide estimates, and related ecological objectives are mostly straightforward, but others are collaboratively determined draft set. HRRC will definitely want to get input

from this group going forward, particularly while fleshing out the “human” effects like aesthetics or smell that should be tracked. This may lead to additional factors being determined that carry weight in the decision analysis and modeling different alternatives.

### **Constituent Topics, Issues, and Ideas**

The facilitator asked if there was anything missing or any nuance to add to the list of issues pulled from the previous meeting. CBI solicited comments from Herring River Stakeholder Group and Restoration Committee by email in the interim. The Restoration Committee sent items that largely matched with the existing list except for one related to public recreation.

Stakeholder Group members had the following questions, comments and responses:

- One member who couldn't be present has specific concerns brought from local businesses that they want to share, which they would like to state at a subsequent meeting.
- Regarding the topic of liability, one member asked whether a **compensation plan for abutters could be considered as an option**, if there is an actionable claim. Another member agreed that this is an important point to raise: HRSG has to look at the qualitative analysis of liability issues.
- **As abutters and oystermen** have clear and unambiguous legal standing, a member suggested this group could positively and constructively **provide a forum for them to bring grievances without pursuing lawsuits**. This is the only topic item they feel HRSG can do anything about right now, and that it is difficult to say anything about any of the others until they have progressed further.
- A member added that HRSG could **educate members and the public on what liability measures are in place already**. If we are talking about liability, you have to justify that risk with **public education on the project's benefits**. They do not think those two items should be separated.
- Another member supported that statement, as they feel all topics lend themselves to education outside of this committee. This is part of the give and take of talking to constituencies, being a two-way street for information. Since there is an interest around liability and abutters, may want to tie those two together. As HRSG looks at what the liability is, we need to **understand the potential impact on abutters**.
- The facilitator proposed tackling **liability and abutter impacts in the next meeting or meeting after as a topic, and inviting constituents to that forum**.

**Issue Survey and Draft Work Plan** - See Draft Work Plan for synthesized survey results

The chair proposed developing a poll of the priority issues for members and their constituencies in order to structure a draft work plan, asking which issues are most important to members and what order to take them up in. The goal of this exercise could be to take the hot-button issues first in meetings, then move down the list until all issues are covered. The work plan will help HRSG create agendas using the sequenced list of issues; will allow members to invite in specific relevant constituencies for certain meetings; and will let HRSG take up certain issues that seasonal residents and businesses may be concerned about when they are available on the Cape.

An HRSG member commented that prioritizing issues at this point in the project does not make sense given what is known about the sequence of events. The next steps for the next two years of the project largely involve permitting and financing and not construction, so certain construction-related issues are largely unknowns during this period. HRSG members will need to know the construction timeline to have effective discussions on certain issues. Members asked to be updated of the schedule of events and issues when the HRRC has more clarity on the project timeline. They asked if the Restoration Committee (e.g. Tim Smith) could present that timeline when it is more solidified, and continue to update them on the need for input on technical work timing.

### **Constituent Engagement**

A commenter suggested that the poll provide an upfront question about what people consider their constituency to be, to help understand who feels they are representing whom. The chair suggested an alternative of going around the table in a subsequent meeting so **HRSG members can state whom they believe they represent and how they plan to communicate with their constituency**. HRSG can include that info in their list of member profiles.

An HRSG member commented that they have been thinking about how to get in touch with people in their constituency. The following outreach options were suggested by HRSG members:

- Public announcements on local radio and TV stations
- Mailings for second homeowners (eventually)
- Publicize through The Banner, listing the main topic of the next HRSG meeting and the speaker line-up.
- Give time in meetings for oystermen and potentially affected property owners and businesses to speak up. Email confirmation with them ahead of time is important - different members of the public are interested in different parts of the project, so HRSG members need to give them some lead time.
- When HRSG has meetings is important – three quarters of project abutters are second home-owners, so meetings have to be on evenings close to weekends during the summer season to reach seasonal residents.
- Putting the word out about HRSG meetings at Herring River Executive Council meetings.

- Posting a simple project summary and timeline on the Friends of Herring River website that gets continually updated.

Massachusetts Open Meeting Law requires postings in both town halls and on town websites. HRSRG will post about one month out with the main topic of the next meeting, sending out an updated agenda and reminder at least one week beforehand, and post meeting minutes and materials online afterwards.

The chair and facilitator proposed **generally having quarterly meetings, but front-end-loading issues for spring and summer by having more regular meetings in those periods**. Planned winter meeting items should require less input from summer-only residents and businesses.

#### **Public Comment\***

**A comment that the group should not forget the liability if the Herring River Dike is not fixed and busts:** Certain environmental groups like the Conservation Law Foundation will take towns to court for not doing a good enough job to mitigate pollution coming into watersheds. The Conservation and Wastewater Committee draft plan lists the Herring River project as a significant contribution towards what the town is doing to address pollution into the watershed. The commenter also suggested that there are different parties who can provide listservs of groups with whom to conduct outreach. Someone from the Towns of Truro and Wellfleet could be invited to talk about what liability measures are or could be in place. For Wellfleet, contact the town administrator, who could provide a letter already written that spells that out.

**A question about procedure:** If constituents of members of the group feel a member is saying their own opinion and not what the majority of their constituency believes, what process should they follow?

*The chair suggested that the HRSRG wants to strike a balance between making sure everybody is heard legitimately, without rehashing the same issues over and over. If you feel that an HRSRG member is not representing you, please send that info to the Chair who will promulgate it. The facilitator added that this is a volunteer board so a "constituency" is loosely defined. This is not a representative group, but the HRSRG wants to make sure people are heard. The facilitator encouraged an offline conversation with the Chair for follow-up. Procedurally, they would encourage the following steps:*

1. *Speaking with the HRSRG member directly,*
2. *Raising the issue with the Chair in private correspondence,*
3. *Sending comments in writing.*

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\* *HRSRG or facilitator response indicated in italics.*

**A comment on the HRSG's scope:** After the last town meeting, they seemed to understand that the ultimate matter of liability should be taken on by the Wellfleet and Truro Board of Selectman. This group is supposed to be concerned about the Environmental Impact Statement (EIS). Liability sits outside that EIS – this group should determine the boundaries of discussion.

*An HRSG member commented that this body has no decision-making authority and also no liability, but can inform those with financial and legal liability. They would expect that Board of Selectman would want input from a Board such as this. The member stated that they feel scoping and providing input on concerns is not overstepping their authority, stating "We are an advisory board so we should be conscious of their authority, but our charge is to provide a forum to flesh out community concern and provide a way that is not a legal challenge for the Boards of Selectman to hear feedback."*

**A comment on use of the term "abutter":** Different terminology was used in the draft Memorandum of Understanding (MOU) and the letter that went out to "abutters": an abutter means someone who lives directly adjacent to the project. A potentially-affected property owner is somebody whose property may have impact from restoration. These are very different, as if water comes into property that means they are not an abutter - they are inside the project.

*An HRSG member commented that, although the word abutter may not be as appropriate as potentially affected property owners, terminology is not really a huge concern -- the real issue is legal standing for anyone with physical impact. The priority for liability is to have a plan in place for dealing with different eventualities. Planning is critical because one thing that drives people is anxiety. They will feel more comfortable if you have an emergency plan in place in case of conflicts. A large part of these concerns about liability will be mitigated by education on the plan in place. There is a more complicated analysis of some arcane legal questions around liability, which was undertaken in two legal memorandums. However, with a free exchange of ideas and hopefully consensus decision-making, these concerns can be provided to the Boards of Selectman of Wellfleet and Truro.*

### **Meeting Close**

The meeting adjourned at approximately 7:30 PM.