

The Habitat

A newsletter of the Connecticut Association of Conservation & Inland Wetlands Commissions, Inc.

Spring 2015

volume 27 number 2



CALL TO ACTION! For Land Conservation

Call to Action for four critical conservation issues that need your immediate attention.

1. **Community Investment Act (CIA):** Open Space Funds proposed to be eliminated.
2. **Substitute Bill 347:** Will reduce “match funds” needed for state open space grants.
3. **State Parks Services:** \$2 million budget cut; services reduced.
4. **Council on Environmental Quality (CEQ):** Funding eliminated.

THE COMMUNITY INVESTMENT ACT (CIA)

Enacted in 2005, the CIA has provided funding for state land use programs for open space conservation, farmland preservation/dairy production, historic properties preservation and affordable housing development, supporting over 1,100 projects, in 165 towns for a total of \$133 million invested in our communities. (Compiled by a statewide CIA coalition).

Governor’s Bill No. 6825, Section 5. Sweeps \$10 million into general fund from DEEP CIA 2014-2015 account for “municipal open space grants.” Possibly threatening funding for the current grant round.

S.B. 946 Section 29(b): An Act Concerning Revenue Items to Implement the Governor’s Budget. Proposes complete sweep of the Community Investment Act account from January 1, 2016 through June 30, 2017 into the General Fund. Will undermine the administration, function and viability of the OSPA program.

Funded by a surcharge on local recording fees, CIA is the only *consistent* source of funding for the state’s Open Space and Watershed Land Acquisition Grant Program (OSWA) – the state’s matching grant program for land trusts, towns and water companies seeking to conserve open space. Since its inception, the CIA has provided \$17,340,039 to support the acquisition of 4,447 acres and 16 community gardens. (DEEP 2013 Annual Report to the Environment Committee). The 2014 OSWA grants would permanently protect another 2,250 additional acres in 25 municipalities. CIA also funds three staff positions; the sweep of the CIA

account will undermine the administration, function and viability of the OSWA program.

The magnitude of these proposed cuts is unprecedented, not only putting a halt to investments slated for projects under all four of the programs for which the CIA was

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Call to Action: Four Critical Conservation Issues Need Your Immediate Attention

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3. **State Parks Services** \$2 million budget cut; services reduced.
4. **Council on Environmental Quality (CEQ)** Funding eliminated.

Please make contact with your legislators—NOW! Use own words to support or oppose the legislation described here. To contact your legislator Google, “[Find Your Legislator](#)” to link to [your legislator’s contact info.](#) Use Contact button to submit email. Thank You!

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www.caciwc.org

During the first few months of 2015, the CACIWC Board of Directors has been working to identify new educational topics, workshops, and training programs for all of you who serve as our member commissions and staff. We have been reviewing the results of your membership surveys in order to ensure that CACIWC is aware of any new or ongoing challenges to your efforts in protecting Connecticut wetlands and other important local habitats. The CACIWC board has also been closely following proposed legislation and state budget negotiations to monitor for any threats to the long-term protection of lands of high conservation value throughout our state.

38th Annual Meeting and Environmental Conference

The Board of Directors has reviewed the valuable comments and suggestions submitted on our 2014 annual meeting survey. If you did not have an opportunity to complete the 2014 meeting survey you can still contact us with your comments and at AnnualMtg@caciwc.org. We welcome any suggestions for workshop topics and speakers that you would like us to recruit for our upcoming 38th Annual Meeting and Environmental Conference, scheduled for Saturday, November 14, 2015; please save the date! Please send your ideas to us at AnnualMtg@caciwc.org, along with any other suggestions. Watch for additional conference news in upcoming issues of *The Habitat* and on our www.caciwc.org website.

Membership Surveys

As previously mentioned, the CACIWC Board of Directors has been reviewing comments on the conservation commission and inland wetlands membership surveys that we have received during 2014. Your responses to this survey will make valuable contributions to the development our new strategic plan and help us prepare new education and outreach programs. If your commission has still not done so, please complete and mail in your survey that can be located and downloaded from the home page of our website: www.caciwc.org.

Improved Membership Communication

One proposed new goal of our revised strategic plan is improved membership communication, including expanding ways to quickly send you important messages on emerging topics of interest, including grants and funding, legislative issues, and education and training opportunities. These improved communications will include an expanded listserv and website-based systems. You will be receiving requests for updated email listings from both board members as well as our Membership Coordinator & Database Manager Janice Fournier.

Next Generation of Conservationists

An important goal of our strategic plan is the development and promotion of our next generation of Connecticut

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Inland Wetland Case Law clarifying the “Nature” of Factual Allegations required under P.A. 13-186 for a “22a-19 Intervention” pursuant to Connecticut’s Environmental Protection Act of 1971.

by Attorney Elizabeth L. Heins, Branse & Willis, LLC

Connecticut’s 1971 Environmental Protection Act, codified as sections 22a-14 to 22a-20 of the Connecticut General Statutes [CGS], contains a provision that allows anyone to intervene in an administrative, licensing or other proceeding, or in the judicial review of such proceeding, that has a potential to harm the environment. This provision is in section 22a-19 of the CGS, and is often referred to as a “22a-19 intervention.” Inland Wetlands and Watercourses Commissions [Commissions] may be faced with a 22a-19 intervention.

A 22a-19 intervention can be thought of as having two phases: 1. becoming an intervenor [Phase One], and 2. proving that the proceeding or action involves *conduct which has, or is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the...water...of the state* [Phase Two]. Case law holds that one does not have to prove the allegations in order to become an intervenor; one may become an intervenor—Phase One—even if the allegations ultimately turn out to be unfounded—Phase Two.

This article will walk through some recent changes in 22a-19 that affect Phase One. First, the prior standard will be laid out, and then Public Act 13-186 will be introduced. Next, the case of *Sard Custom Homes v. West Hartford Planning & Zoning Comm’n/Inland Wetlands & Watercourses Agency* will be outlined, and the new standard of Public Act 13-186 will be analyzed in the context of this case. Finally, this article will offer

recommendations for Commissions faced with a 22a-19 petition for intervention in light of the new standards.

Phase One of the 22a-19 intervention process is when the would-be intervenor files a *verified pleading* with the agency or commission, sometimes called the *petition for intervention*. “Verified” means that the would-be intervenor swears to the truth of the allegations in the petition. Prior to Public Act 13-186, there was a question of how much evidence had to be presented in the petition to become an intervenor. If the statute requires the intervenor to claim that the application is reasonably likely to unreasonably pollute the water, is it enough to merely assert that the conduct is likely to unreasonably pollute, impair or destroy the public trust in the water, and nothing more? The answer, according to Public Act 13-186, is no.

Public Act 13-186 added a paragraph to section 22a-19 that reads as follows:

“(a)(2) The verified pleading [Phase One] shall **contain specific factual allegations** setting forth the nature of the alleged unreasonable pollution, impairment or destruction of the public trust in air, water or other natural resources of the state and should be sufficient to allow the reviewing authority to determine from the verified pleading whether the intervention implicates an issue within the reviewing authority’s jurisdiction. For purposes of this section, “reviewing authority” means the board,

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Intervention, continued from page 3

commission or other decision-making authority in any administrative, licensing or other proceeding or the court in any judicial review.”

The would-be intervenor now must allege *specific facts* related to the nature of the alleged unreasonable pollution, impairment, or destruction. Mere conclusory allegations, mere speculation, is insufficient. This begs the question, how specific must the facts be? That is the issue in *Sard Custom Homes v. West Hartford Planning & Zoning Comm’n/Inland Wetlands & Watercourses Agency*.

In *Sard Custom Homes*, Sard Custom Homes, LLC [Sard] applied to a joint Planning & Zoning [PZC] and Inland Wetlands Commission [IWWC] for an inland wetlands permit, and to subdivide property owned by the American School for the Deaf. The joint PZC/IWWC denied the application in both its zoning and wetlands capacities. Sard appealed this decision to Superior Court. Ms. Rosalind S. Katz then filed a verified notice of intervention, pursuant to 22a-19 with the trial court. The petition had the following language:

- “a) The application violates the town’s Plan of Conservation and Development;
- b) The detention basin lacks sufficient capacity and efficacy to both prevent downstream flooding and remove contaminants from being deposited in the wetlands and Trout Brook;
- c) The reengineering of the steep slopes and the inadequate protections to the wetlands and the Trout Brook will result in sedimentation of both resources;
- d) The clear cutting of almost 86% of the approximate 5.53 acres site will remove the site’s natural filters resulting in increased storm water runoff and increased erosion which in turn will result in increased sedimentation, including pollutants, being deposited in the adjacent wetlands and Trout Brook.”

Sard argued that, under Public Act 13-186, this was not specific enough. Sard cited case law which allows the reviewing authority—Commission or Court—to deny an intervention if the “concern . . . does not rise above speculation.” Sard argued that the intervenor should have presented actual evidence.

The Superior Court disagreed with Sard, stating:

“While it is correct that a commission or agency considering an inland wetlands application must **ultimately** determine during its deliberations whether there is any actual adverse impact to any wetlands or

Public Act No. 13-186: An Act Concerning Intervention in Permit Proceedings Pursuant to the Environmental Protection Act

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 22a-19 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) (1) In any administrative, licensing or other proceeding, and in any judicial review thereof made available by law, the Attorney General, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity may intervene as a party on the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.

(2) The verified pleading shall contain specific factual allegations setting forth the nature of the alleged unreasonable pollution, impairment or destruction of the public trust in air, water or other natural resources of the state and should be sufficient to allow the reviewing authority to determine from the verified pleading whether the intervention implicates an issue within the reviewing authority’s jurisdiction. For purposes of this section, “reviewing authority” means the board, commission or other decision-making authority in any administrative, licensing or other proceeding or the court in any judicial review. Approved June 24, 2013.

watercourses, this determination does not need to be made **at this stage.**”

The Court was explaining that Phase One did not require the Court to determine “actual adverse impact.” The factual evidence is necessary, but it should be presented in the second phase, after the petition for intervention is granted. In fact, once the intervention is granted, the burden is on the intervenor to prove actual or likely unreasonable pollution, impairment, or destruction; the intervenor does not have to present that evidence *in order to become an intervenor*.

The Court in *Sard Custom Homes* emphasized that Public Act 13-186 “requires the petition to ‘contain

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specific allegations setting forth the *nature* of the alleged unreasonable pollution’...the legislature required allegations of the *nature* of the impact—not allegations of the ‘actual adverse impact.’”

The reviewing authority—the Court in *Sard Custom Homes*, often the Commission—in Phase One must determine whether the verified pleading, the petition for intervention, adequately sets out the nature of the alleged unreasonable pollution, impairment, or destruction. If the answer is no, then the intervention is not allowed; there is no Phase Two in that case. If the answer is yes, then the would-be intervenor becomes an actual intervenor, and now has a burden of proving the allegations in the petition for intervention.

Notably, Public Act 13-186 codifies previous case law. *Nizzardo* addresses the second clause of 22a-19 (a)(2): “...and should be sufficient to allow the reviewing authority to determine from the verified pleading whether the intervention implicates an issue within the reviewing authority’s jurisdiction.” The would-be intervenor must provide the specific factual allegations setting for the nature of the

alleged unreasonable pollution so that Commission may make the determination of whether the petition addresses a matter over which they have jurisdiction. Specificity is required, because if a 22a-19 verified pleading regarding air pollution is presented to an Inland Wetlands and Watercourse Commission, the Commission could not grant the intervention because the Commission only has jurisdiction over the wetlands and watercourses.

Between Public Act 13-186 and the *Sard* case, Commissions now have two end points on a spectrum. The mere conclusion that the application is likely to unreasonably pollute, impair or destroy the wetlands or watercourses is not enough. Specific facts that prove the actual adverse impact are not required at this point. The petition must set forth the nature of the alleged unreasonable pollution, impairment or destruction. The Commission must determine whether it has jurisdiction, and whether the petition has met this requirement. The stage is then set for Phase Two.

Footnotes

¹*Red Hill Coalition, Inc. v Town Planning & Zoning Comm’n*, 212 Conn. 727, 734 (1989).

²258 Conn. L. Rptr. 697 (Conn. Super. 2014).

³emphasis added

⁴Note 2, *supra*.

⁵Although Ms. Katz intervened at the trial court level, not directly to the IWWC, the analysis is the same.

⁶Id.

⁷Emphasis added

⁸See note 3, *supra*.

⁹*Nizzardo v. State Traffic Commission*, 259 Conn. 131 (2002).

¹⁰See figure 1.

¹¹Again, this evidence is required in Phase Two after intervention is granted in order to prove the 22a-19 violation. 🍀



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Project Green Lawn: A Sustained Public Awareness Campaign for Chemical Free Lawns

by Jane Brawerman, Executive Director, Connecticut River Coastal Conservation District

In 2005 the Connecticut River Coastal Conservation District collaborated with the City of Middletown and other community partners to initiate Project Green Lawn, a public awareness campaign to encourage residents and businesses to maintain safe, healthy lawns free of synthetic pesticides and fertilizers. Members of our working committee include children's advocates, environmental groups, members of the City's Recycling Commission and Conservation Commission and public health professionals.


Since the program's beginnings, we have hosted a variety of public events and presentations to educate residents, businesses and institutions about the health and environmental risks of traditional lawn care chemicals and the benefits of organic lawn care, including how-to workshops focused on making the switch to organic methods; sponsored a half-day course for professionals on natural turf management; written articles for local newspapers and other groups; sent educational alerts

through the public schools about the health risks associated with exposure to lawn care chemicals, in particular to children; worked with the City of Middletown on several levels to improve organic lawn care efforts on municipal grounds, making some inroads; and submitted testimony to the legislature on pesticide issues and encouraged others to take action on legislative issues as well. One of our most successful outreach tools in support of our efforts has been the documentary film, *A Chemical Reaction*. We have held two screenings of the film in Middletown, both of which drew good crowds and generated quite a bit of discussion.

Following is a summarized version of the educational brochure that was published for the campaign, and updated in 2009. The brochure is available on the District website: www.conservect.org/ctrivercoastal. Please contact us at 860.346.3282 if you have questions or would like additional information, or if you are interested in initiating a similar campaign in your town.

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Everybody wants a lush green lawn—but at what cost?

Many people don't realize that lawns maintained with synthetic fertilizers and pesticides pose a serious health threat to people, pets and the environment. Lawns also decrease natural habitat vital to wildlife. Reducing the use of lawn care chemicals to foster healthier communities can be done individually, in our yards; in our parks, playing fields and other public places; and in our schools, where use of lawn care chemicals is currently banned by state law at day care centers and grades K-8.

Why Chem-Free?

Lawn care chemicals—applied by homeowners or lawn care companies—contain potent toxins that kill organisms considered pests, such as dandelions and grubs. Scientific evidence shows that these chemicals also affect people, especially children, and pets. Exposure to certain lawn care pesticides has been associated with increased risks of a variety of health problems, including asthma, several types of child and adult cancers, and cancers in dogs.

The effects of harmful lawn care chemicals reach far beyond your family and yard. These chemicals can make their way into the environment through rain runoff, polluting streams and groundwater, and move through the food chain, becoming more concentrated.

Using herbicides and pesticides to tackle weeds and insects can actually be counter-productive to your lawn's health. These poisons also kill good organisms in the soil that help produce nutrients plants need to grow. This weakens the grass, fosters thatch and encourages disease.

How to Have a Healthy Lawn and Yard

Fortunately, you can have an attractive and healthy lawn without using harmful synthetic chemicals. You can make simple changes, like mowing higher (3"), leaving your grass clippings on the lawn, using organic fertilizers, aerating to reduce soil compaction, and de-thatching, to make your lawn healthier and more vigorous naturally.

You can also reduce the size of your lawn by growing a variety of other plants to promote a healthy, diverse ecosystem in your yard. Grass, which requires lots of sun, water and good soil, is one of the highest maintenance plants we can grow. Instead, plant groupings of trees, shrubs, grasses and flowers that are compatible with existing environmental conditions; use ground covers that require less maintenance than grass; and, choose native plants adapted to our climate and conditions.

Finally, use safe alternatives to get rid of common pests. You can pull out dandelions at their weakest—when blooming; eliminate crabgrass by mowing high and using organic fertilizers; treat weeds in driveway or sidewalk cracks with white vinegar; and control grubs with alternatives like beneficial nematodes or Neem.

What More Can You Do?

Are you concerned about others who use lawn care chemicals in your neighborhood or community? You can register with the state for advance warning of nearby spraying. For information, go to www.ct.gov/deep, and search on "pesticide management." You can also talk to neighbors and friends about the harmful effects of using pesticides—both on private property and in public areas like playing fields. Together, by simply changing our behavior, we can make our yards, streams, and local environment better.

Project Green Lawn is a project of the City of Middletown Public Works Department, Resource Recycling Advisory Council and Conservation Commission, with support and assistance from the Connecticut River Coastal Conservation District and The Jonah Center for Earth and Art. Project Green Lawn has been supported by a generous grants from The Rockfall Foundation, Middletown, CT, and New England Grassroots Environment Fund. 🌿



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2015 Legislative Bills Concerning
Pesticide Application for Lawn Care
(as of March 25, 2015)

For more information about these bills go to cga.state.ct.us/, click on Bill Info, Search on Basic Bill and Document Search, Use Quick Search at top of page.

S.B. 366 An Act Extending the Ban on the Use of Lawn Care Pesticides to Schools that House Grades Nine Through Twelve and to State Facilities.

To extend the ban on the use of lawn care pesticides to schools that house grades nine to twelve, inclusive, and to apply a similar prohibition to the application of lawn care pesticides on property that is under the custody, control or care of any state agency.

S.B. 1063 An Act Concerning the Application of Pesticides on School Grounds and Certain Public Spaces, Authorizing the Use of Certain Microbials and Reestablishing the Pesticide Advisory Council.

To authorize the use of certain microbials for the control of grubs, expand the current prohibition on the application of lawn care pesticides at schools to include grades nine through twelve, prohibit the application of lawn care pesticides on athletic fields and municipal greens and re-establish the Pesticide Advisory Council.

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CEQ'S ANNUAL REPORT ON CONNECTICUT'S ENVIRONMENT: *Improvements in Air Quality and Long Island Sound; Major Worries for Land and Wildlife*

The following is from the Council's letter to Governor Dannel P. Malloy:

"The data show that restoring Connecticut's air and water quality and conserving its land and wildlife are multi-generational jobs that require unwavering financial and regulatory commitments.

Connecticut continued in 2014 to reap the benefits of past commitments and current practices in five notable areas:

- It was the best year in decades for air quality.
- More than 90 percent of Long Island Sound had adequate oxygen levels all year round, equaling 2013's record as the best in decades.
- Residents continued their trend of driving less and taking the bus more often.
- By using less gasoline, Connecticut residents continued their positive trend of reducing emissions of carbon dioxide, the pollutant that contributes to most of the observable climate change.
- Another path toward fewer emissions: Connecticut residents installed an unprecedented number of solar panels and purchased slightly more electricity from other renewable sources.

A lack of sustained commitment was evident in other indicators:

- Connecticut is so far off the track toward meeting its land conservation goals that success is in serious jeopardy. To get to the mandated goal for state parks, forests and wildlife management areas by 2023, the state will need to preserve more acres every year than it preserved in the last ten years combined. Water quality indicators show the dramatic effect of not preserving fields and forests.
- Some wildlife species, including turtles, are good indicators of ecological conditions. Unfortunately, many show discouraging trends.
- More than 1,200 violations of air, water and other pollution laws were detected by DEEP in 2014. While the Council no longer can assess overall rates of compliance, it is evident that full compliance remains a distant goal.

Connecticut residents set ambitious goals -- most of them decades ago -- for their air, water and wildlife. In some cases, progress slowed just as the goal line seemed within reach. In others (to continue the football analogy) the

field turned out to be a lot longer than it seemed initially. In all cases, the Council concludes, progress depends on consistent commitment."

Council Chair Susan Merrow, a resident of East Haddam, noted that this year's report adds some new measures, or "environmental indicators," that help the public to chart the fate of the state's water and wildlife.

"We added a new indicator that shows the level of dissolved nitrogen in the Sound," Merrow explained. "This is important because state residents have invested hundreds of millions of dollars to remove nitrogen from sewage treatment discharges, and we had read that in some areas of the country this effort has not always lead to less nitrogen in the waterbody itself. So we plotted the level of dissolved nitrogen in the Sound over ten years and -- good news! -- the nitrogen has been going down."

Merrow continued, "We added new data on the status of turtles and cave-dwelling bats, and there the news is not good. In fact, it is terrible, with two more turtle species and four bat species being proposed for listing as endangered, threatened or of special concern."

The Council on Environmental Quality submits Connecticut's annual report on the status of the environment to the Governor pursuant to state statutes. Additional responsibilities of the Council include review of construction projects of other state agencies, publication of the twice-monthly *Environmental Monitor*, and investigation of citizens' complaints and allegations of violations of environmental laws. The Council is a nine-member board that is independent of the Department of Energy and Environmental Protection (except for administrative functions). The chairman and four other members are appointed by the Governor, two members by the President Pro Tempore of the Senate and two by the Speaker of the House.

Environmental Quality in Connecticut -- the annual report on the state's environmental condition -- is a paperless publication available on the Council's website, www.ct.gov/ceq/AnnualReport. You can read it online or download a PDF version that can be printed.

Publication Date: March 17, 2015 🌿

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created – land use programs with few, if any, other sources of funding -- but also setting a very dangerous and perhaps irreversible precedent for future sweeps of the fund.

SUBSTITUTE BILL 347: AN ACT CONCERNING THE PERCENTAGE OF STATE AND FEDERAL FUNDS THAT MAY BE USED TO PURCHASE OPEN SPACE UNDER THE OPEN SPACE AND WATERSHED LAND ACQUISITION PROGRAM

“Be it enacted by the Senate and House of Representatives in General Assembly convened: Section 1. Subsection (c) of section 7-131g of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

(c) For purposes of this subsection, the fair market value of land or interest in land shall be determined by one or more appraisals satisfactory to the commissioner and shall not include incidental costs, including, but not limited to, surveying, development or closing costs. The commissioner may consider a portion of the fair market value of a donation of land by an entity receiving a grant as a portion of the matching funds required


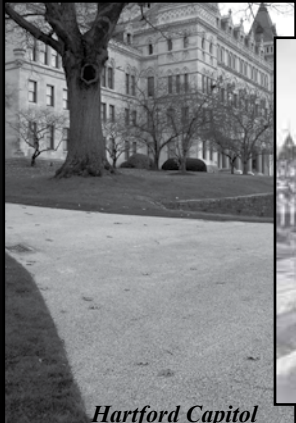


under this subsection. A potential grantee may use funds made available by the state and federal government to fund not more than [seventy] ninety per cent of the total cost of any project funded under this program.”

The 70% cap (Connecticut General Statutes Section 7-131g) on combining federal and state funds for projects funded through the state’s Open Space and Watershed Land Acquisition Grant Program (OSWA) is arbitrary, and creates an increasing additional hardship on local conservation partners already faced with the difficult task of raising sufficient funds to complete conservation projects. **Substitute Bill 347 proposes changing the cap to 90%.**

Reducing the required “match” for OSWA to 10% of the fair market value should be a significant incentive for land conservation particularly for municipalities and land trusts in areas of the state where municipal and private funds are difficult to raise due to the lack of wealth within a community or ability of a town to include funding in its budget or bonding.

Action, continued on page 11

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- Installations at Subway World Headquarters, CT State Capitol, Goodspeed Opera House, schools throughout CT, and nature trails

Contact Executive Director Jim Langlois of the Connecticut Concrete Promotion Council
 912 Silas Deane Hwy., Wethersfield, CT 06109 • tel.: 860.529.6855 • fax: 860.563.0616 • jlanglois@ctconstruction.org • CTConcretePromotion.org

Action, continued from page 10

STATE PARKS BUDGET CUTS: \$4 MILLION CUT, \$2 MILLION IN 2015-16 AND \$2 MILLION IN 2016-17

The \$2 million cut to State Parks in each of the next two seasons starting July 1, 2015, would further devastate the department's already burdened ability to manage public lands and would likely lead to the closure of several state parks around the state. Two years of reduced or no management will likely increase future management costs. In addition to their conservation and recreational values, Connecticut State Parks are investments worth protecting -- attracting 8 million annual visitors and generating over \$1 billion and 9,000 jobs for the state each year. For every \$1 spent on the State Parks, over \$38 is returned to Connecticut.

**COUNCIL ON ENVIRONMENTAL QUALITY (CEQ):
ELIMINATION OF FUNDING AND POSSIBLY INDEPENDENCE**

The budget proposes eliminating staffing for CEQ -- the state's independent, environmental watch-dog agency -- and transferring it into the Office for Legislative Affairs (without any commitment from OLA that the agency will be funded in its current form). Created in 1971, CEQ is the state's independent watch-dog agency that the public relies upon to monitor environmental progress, assess the efficacy of state environmental laws, policies and programs, and investigate alleged violations of environmental laws. CEQ's annual report to the Governor on Connecticut's Environment includes an annual critique on how the state, municipalities and private non-profits are doing in preserving valuable natural resource and agricultural lands, challenging us to increase the pace, quality, scale and permanency of land conservation in Connecticut. Acting through its volunteer council and just two staff, with limited support from DEEP for administrative purposes only, CEQ provides the public with these services efficiently, effectively and at minimal cost (less than \$185,000/year) to the state. There is likely no other state agency that does so much for so little. *Also see page 9, announcement of CEQ's 2015 Report.*

We thank the Connecticut Land Conservation Council (ctconservation.org) and the Connecticut Forest & Park Association (ctwoodlands.org) for the legislative information used in this **Call to Action**. This **Call to Action** was first issued to over 400 enthusiastic conservation leaders at the Connecticut Land Conservation Conference, March 21, 2015 at Wesleyan, Middletown, CT. 🌿

Resources

National Pollinator Week June 15-21, 2015

Watch for Connecticut's Proclamation. Start growing plants that are pollinator friendly this spring. Look here for ideas: *Pollinator-Friendly Plants for the Northeast United States*, includes 58 species, in color, in bloom, growth requirements and value to beneficial insects. www.nrcs.usda.gov/Internet/FSE_PLANTMATERIALS/publications/nypmctn11164.pdf. 🌿



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Membership 2014-2015 - We Appreciate Your Support!

As of March 1, 2015 the following Town Commissions have supported CACIWC through membership for the 2014-2015 fiscal year (July 1, 2014 to June 30, 2015). THANK YOU! If you do not see your Commission's name on the list, please encourage your Commission to join. If we are in error we apologize and would appreciate knowing by emailing Tom ODell at; todell@snet.net Member Commissions receive a copy of The Habitat for each commissioner and staff if dues have been paid.

CC =Conservation Commission
CC/IW = Combined Commissions

IW = Inland Wetlands Commission
Z/IW = Combined Zoning/Inland Wetlands

(SUS) = Sustaining level of Support

Andover	IW		Farmington	CC+IW		Orange	IW	
Andover	CC		Franklin	IW		Oxford	CC+IW	(SUS)
Ansonia	CC	(SUS)	Glastonbury	CC+IW	(SUS)	Plainfield	IW	
Ansonia	IW	(SUS)	Goshen	IW		Plainfield	CC	
Ashford	IW		Goshen	CC		Plainville	CC	
Ashford	CC		Granby	IW		Plainville	IW	
Avon	IW		Granby	CC		Plymouth	CC+IW	
Barkhamsted	IW		Greenwich	IW	(SUS)	Pomfret	IW	
Barkhamsted	CC		Greenwich	CC	(SUS)	Pomfret	CC	
Beacon Falls	IW	(SUS)	Griswold	CC+IW	(SUS)	Preston	CC	
Beacon Falls	CC	(SUS)	Groton	CC		Preston	IW	
Bethany	IW	(SUS)	Groton	IW		Prospect	CC	(SUS)
Bethany	CC	(SUS)	Groton City	CC+IW		Redding	CC+IW	(SUS)
Bethel	IW		Guilford	IW		Ridgefield	Z+IW	
Bethlehem	IW	(SUS)	Guilford	CC		Ridgefield	CC	
Bethlehem	CC		Haddam	CC		Roxbury	IW	
Bolton	IW		Hampton	CC		Roxbury	CC	
Bolton	CC		Hampton	IW		Salem	CC+IW	
Bozrah	CC+IW		Hartland	IW	(SUS)	Shelton	CC	
Branford	IW		Harwinton	IW		Sherman	IW	
Branford	CC		Hebron	CC		Sherman	CC	
Brookfield	CC		Kent	IW		South Windsor	CC+IW	
Brookfield	IW		Kent	CC		Southbury	IW	
Brooklyn	CC		Killingworth	IW		Southington	CC+IW	(SUS)
Brooklyn	IW		Killingworth	CC		Sprague	IW	(SUS)
Canaan	CC+IW		Lebanon	CC		Stonington	IW	
Canterbury	IW		Lebanon	IW		Stonington	CC	(SUS)
Canton	IW		Ledyard	IW		Thomaston	IW	
Canton	CC		Lisbon	CC		Thompson	CC	
Chaplin	IW		Lyme	CC+IW		Thompson	IW	
Chaplin	CC		Madison	IW		Vernon	IW	
Cheshire	IW		Madison	CC		Vernon	CC	
Cheshire	CC		Manchester	CC		Wallingford	CC	
Clinton	IW		Manchester	Z+IW		Wallingford	IW	
Clinton	CC		Mansfield	Z+IW		Warren	CC+IW	
Colchester	CC		Marlborough	CC		Washington	IW	(SUS)
Coventry	IW		Milford	IW		Waterford	CC	(SUS)
Coventry	CC		Milford	CC		Watertown	IW	
Cromwell	CC		Monroe	CC+IW		Westbrook	IW	
Cromwell	IW		Montville	IW		Weston	CC+IW	
Darien	CC+IW	(SUS)	Naugatuck	IW		Westport	CC+IW	(SUS)
Deep River	CC+IW		New Canaan	CC		Wethersfield	IW	
Durham	CC		New Canaan	Z+IW		Willington	CC	
Durham	IW		New Fairfield	CC+IW	(SUS)	Willington	IW	
East Haddam	IW		New Hartford	IW		Wilton	CC	
East Hartford	CC+IW		New Hartford	CC		Wilton	IW	
East Lyme	IW		New London	CC+IW		Windsor	CC	
East Lyme	CC		Newington	CC+IW		Windsor	IW	
East Windsor	IW		Norfolk	CC		Windsor Locks	CC	
Easton	CC+IW		North Branford	CC+IW		Windsor Locks	IW	
Ellington	IW		North Stonington	IW		Woodbridge	IW	
Ellington	CC		North Stonington	CC		Woodbridge	CC	
Enfield	IW		Norwalk	IW	(SUS)	Woodbury	CC	
Enfield	CC		Old Lyme	IW		Woodbury	IW	
Essex	IW		Old Saybrook	CC		Woodstock	IW	
Essex	CC		Old Saybrook	IW		Woodstock	CC	
Fairfield	CC+IW		Orange	CC				

Permanent Protection of State Conservation Lands

WHY ARE STATE CONSERVATION LANDS AT RISK?

Although Connecticut has over 255,000 acres of state parks, forests and open space classified as state conservation land, there are big loopholes that put these conservation lands at risk of being developed or used for unintended or inappropriate purposes.

Currently, the state's Conveyance Act allows the state legislature to convey or swap, sell or give away parcels of conservation land. In most instances, there is no legal protection to ensure the purposes for which the land was acquired are honored. There is typically nothing recorded in the deeds or town land records that either requires permanent protection, or clearly references the intended use or purpose of the land.

These legislative decisions for land swaps, made possible through the Conveyance Act, are often done behind closed doors with little public notice or comment. Past controversial land swaps, such as the proposed 2011 Haddam land swap, have spotlighted the flaws in the current process and created public distrust of the state's commitment to keep our conservation lands protected forever.

WHY IS THIS IMPORTANT FOR CONNECTICUT?

State conservation lands have many proven economic benefits. For instance, a 2013 UConn study showed that Connecticut's State Parks net over \$1.2 billion in annual revenue for our economy. Besides the revenue produced through recreational activities and jobs, state conservation land was also found to increase local property values since people are willing to pay more to live near conservation land. Additionally, thousands of volunteers invest their own time and money to help maintain these lands.

Preservation of our state conservation lands is critical to a healthy and vital ecosystem in Connecticut. Our natural resources — our water, air, forests, and wildlife — are at risk without changes to close the loopholes to ensure real protection of these lands in perpetuity. A transparent process will help ensure public lands are protected for their agricultural, conservation, and recreational purposes instead of swapped for development.

WHAT NEEDS TO BE DONE?

Pass a constitutional amendment — Connecticut should pass a constitutional amendment that mandates a new, transparent process for considering conveyances of public conservation, recreation and agricultural lands. A change to our State Constitution is the only way to ensure a conveyance process receives public input on every proposal and every parcel.

Use existing authority — While a constitutional protection is the best solution, the process for amending Connecticut's Constitution takes several years. Last year, the legislature gave specific authority to both Department of Agriculture (DoAG) and the Department of Energy & Environmental Protection (DEEP) to place conservation restrictions on public recreation and agricultural lands with high conservation value. Both agencies should actively use this authority to protect lands through conservation easements and deed restrictions as enabled in PA 14-169.

Require a public hearing — Legislation or a change to the Joint Rules is needed to require the final version of the land conveyance bill and any sale, transfer or conversion of state-owned lands held for agricultural, conservation or

Editor's Note: Are your municipal conservation lands permanently protected? Can the Town Council or Board of Selectman convey or swap, sell or give away parcels of conservation land? Can they use conservation lands for development of town facilities? Can municipal conservation lands be converted to active (not passive) recreation lands?

Answering these questions requires research and documentation. Start by reading this 2015 Connecticut Environmental Briefing Paper by the Connecticut League of Conservation Voter's Education Fund (www.conservationeducation.org). Then ask the town planner or town clerk to help you locate the deeds to municipal conservation lands in the town records. Do the deeds include descriptions of a conservation easement or restriction for the entire property? Does it specify how land is to be used and specify activities that are prohibited?

The CT Land Conservation Council, ctconservation.org, has developed a model conservation easement and may be able to guide you in making sure your municipal conservation lands are permanently protected.

Protection, continued on page 14

Protection, continued from page 14

recreational purposes to have a proper public hearing before the Environment Committee. Though the Environment Committee has jurisdiction over most matters that affect the DoAG or the DEEP, the Committee currently has no right to hold a public hearing on the conveyance of lands under the custody and control of these departments — this has to change.

Connecticut is fortunate to have beautiful open spaces with natural resources that allow us to live, play and

work. It is only right to involve the public when the state legislature looks to convey or swap, sell or give away, publicly-owned conservation lands.

In 2015, the General Assembly is considering legislation that will require notice, an appraisal and the opportunity for a public hearing in the town where the parcel is located prior to the exchange of state land controlled by DEEP or DoAG. 🌿

Connecticut Land Conservation Council Legislative Agenda 2015

1. Ensure consistent and maximum funding for state land conservation programs (Open Space & Watershed Land Acquisition Program, Recreation and Natural Heritage Trust Program and Farmland Preservation Program).
2. Ensure that the level and integrity of the Community Investment Act fund are protected.
3. Pursue amendment to Connecticut General Statutes (C.G.S) Section 7-131g(c) to eliminate the 70% cap on federal/state matching grants for open space and agricultural land preservation.
4. Pursue policy and legislative reforms to ensure that there is a process to fully inform the public and provide an opportunity for public input before state conservation, recreation and agricultural lands (referred to herein as “public lands”) are exchanged, sold or otherwise conveyed, including:
 - (a) Require a public hearing before the Environment Committee when public lands are the subject of exchange or other conveyance;
 - (b) Expand the authority of the State Properties Review Board to include review of the land records and deed restrictions when evaluating a legislative conveyance;
 - (c) Encourage DEEP and the DoAg to place conservation restrictions on public lands in accordance with authority provided by P.A. 14-169; and,
 - (d) Support efforts to promote a Constitutional Amendment that mandates a transparent process for considering conveyances of public lands.
5. Pursue legislation requiring landowners transferring property subject to a conservation easement to provide notice to the holder of the easement no later than 30 days prior to closing.
6. Pursue amendment to C.G.S. Section 47-27(b) to clarify that it bars adverse possession and prescriptive easement claims when the land is subject to a conservation easement held by non-profit land holding organizations.
7. Support DEEP implementation of policies and initiatives required pursuant to P.A. 12-152 and P.A. 14-169, including revisions to the state Green Plan and the establishment of a statewide Public Use and Benefit Registry and associated database to inventory/track land protected by land trusts and municipalities.
8. Support funding and staff for DEEP for acquisition, management and inventorying of state lands.
9. Explore conservation tax incentives in the state income tax.
10. Explore new funding mechanisms for both land acquisition and stewardship, and land trust organizational capacity and effectiveness.

We thank Connecticut Land Conservation Council for the use of their 2015 Conservation Agenda on their website ctconservation.org. 🌿

CACIWC news, continued from page 2

conservationists. To help CACIWC achieve this goal, the CACIWC Board of Directors has returned for a third year to assess environmental and conservation projects entered in the Connecticut Science & Engineering Fair (CSEF) by middle and high school students throughout Connecticut. As I write this column, CACIWC Board Treasurer Charles Dimmick and I have just completed a week-long service as coordinating judges for the environmental science awards in this year's CSEF. The CACIWC Board will be continue to pursue efforts to increase interest in careers and volunteer activities that support conservation and wetlands protection among Connecticut students. Watch this column and our website for more information on these activities.

Funding CACIWC Programs

Membership Dues are an essential part of our operating budget. They support various CACIWC programs including our annual meeting, educational materials, and The Habitat. During the next few months you will be receiving a reminder and renewal form for the 2015-16 membership year, which begins on July 1, 2015. A copy of this form and additional information will be placed on our website: www.caciwc.org. Would you or your company like to provide additional support to CACIWC? The website also provides a description of additional individual and business membership categories. Our annual meeting and newsletter have become increasingly expensive activities to operate, so we will very much appreciate any additional contributions that you or your business can make to support CACIWC education and outreach efforts!

Board of Directors Opportunity

The officers and members the Board of Directors are now in the second year of their two-year term following the elections that took place at our November 16, 2013 annual meeting. Although we were able to fill a number of mid-year vacancies, several CACIWC board vacancies remain unfilled (please see the list in this issue of The Habitat and on www.caciwc.org). If you are interested in serving as a county or alternate county representatives, or as one of the alternate at large representatives please contact us at board@caciwc.org.

Working on CACIWC Programs

While you would enjoy working on CACIWC issues, you may find yourself too busy to join the board of directors. We are forming several additional CACIWC advisory committees to help us with our education and outreach efforts, contribute to the development of new goals and objectives for our updated strategic plan, or participate in the ongoing review of legislative initiatives. Please let us know of your interest by contacting us at board@caciwc.org.

We always welcome comments and suggestions on ways to improve our education and outreach efforts. Please do not hesitate to contact us via email at board@caciwc.org if you have questions or comments on any of the above items or if you have other questions of your board of directors. We thank you for your ongoing efforts to protect wetlands and other important natural resources within your town!

~ Alan J. Siniscalchi, President 🌿

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Connecticut's Wildlife Action Plan

DEEP is in the process of revising Connecticut's Wildlife Action Plan. Learn about revisions and contribute to the Plan by providing input for the future of fish and wildlife conservation in our state for the next 10 years.

Read the DRAFT Revisions and contribute your thoughts and recommendations. You are key to making the revised Wildlife Action Plan an effective tool for conserving Connecticut's diversity of wildlife resources for future generations. Go to www.ct.gov/deep/cwp/view.asp?a=2723&q=325886&deepNav_GID=1719.

SAVE THE DATE!

**CACIWC's 38th Annual Meeting and
Environmental Conference**

will be held this year on

Saturday, November 14, 2015

Watch for additional conference news in upcoming issues of *The Habitat* and on our website, www.caciwc.org.