

The Habitat

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Using Nature to Adapt to a Changing Climate: Green Infrastructure and Living Shorelines

by Rebecca A. French, Ph.D., Director of Community Engagement,
Connecticut Institute for Resilience and Climate Adaptation at the University of Connecticut

According to the Federal Emergency Management Agency (FEMA), green infrastructure and living shorelines are terms they collectively call “nature-based approaches,” which are “designed to mimic natural processes and provide specific services such as reducing flood risk and/or improving water quality.” Green infrastructure typically refers to projects that focus on storm water or riverine floodplain management. In Connecticut you may be more familiar with the term low impact development (LID) rather than green infrastructure for this design process, but they are essentially talking about the same thing. Using rain gardens to capture and filter storm water or using permeable pavers to reduce runoff are a few green infrastructure or LID examples. Living shorelines, as you might expect from the name, create or restore coastal features such as dunes, beaches, and wetlands to reduce erosion from waves and mitigate flood risk, while also conserving or enhancing habitats.

Both living shorelines and green infrastructure can help Connecticut’s communities adapt to the impacts of climate change and extreme weather. While we experience coastal erosion and rainstorms today, rising sea levels and trends of heavier rainfall make these adaptations all the more necessary going forward. The mission of the Connecticut Institute for Resilience and Climate Adap-

tation (CIRCA) at the University of Connecticut is to increase the resilience and sustainability of vulnerable communities along our coast and inland waterways to the growing impacts of climate change on the natural, built and human environment. To fulfill this mission CIRCA is using the best available science to create tools to help design nature-based approaches while also providing grants to implement green infrastructure and living shorelines projects.

“While we experience coastal erosion and rainstorms today, rising sea levels and trends of heavier rainfall make these adaptations all the more necessary going forward.”

When designing a living shoreline project, it’s important to know the **wave energy** at that location. If you are in an area with large waves, and you want to create a marsh to slow waves and reduce erosion, you might also need to consider a living breakwater to reduce the wave height before it reaches the marsh. If the waves are less intense, one could place a biodegradable

bag of shell at the water’s edge to stabilize the marsh, while newly planted vegetation is growing. Deciding between these design options depends on knowing exactly what the wave heights will be. CIRCA faculty developed a model, which predicts wave heights and their frequency for the entire Connecticut coastline. General wave height information can now be accessed for free on our website or you can request wave heights for a specific site by sending coordinates to the CIRCA office (circa@uconn.edu).

CIRCA is also the lead for the state of Connecticut on a NOAA Regional Community Resilience Grant to the Northeast Regional Ocean Council (NROC). For this grant, all coastal New England states are working together to enhance the capacity of communities to use living shorelines through workshops and educational materials. Materials from our workshops and living shorelines profiles developed by NROC are available on our website (*see Resources, page 9*). The workshop *green, continued on page 8*

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CACIWC News

Members of the CACIWC Board of Directors continue to recognize the adverse impact that the state budgetary issues have on you, our member municipal commissions and staff. We will continue to serve as your advocate in Hartford, while working to bring you the latest information on statewide programs along with training and educational opportunities.

1. As this issue goes to press, registration numbers continue to grow for our **40th Annual Meeting and Environmental Conference** scheduled for **Saturday, November 18, 2017** at the **Radisson Hotel Cromwell**. Our next issue of *The Habitat* will detail conference highlights.

2. The CACIWC Board of Directors expresses its sincere thanks to the commissions who have already paid our **2017-18 membership dues**. A copy of the membership renewal form and a description of additional individual and business membership categories that you or your company can use to provide additional support to CACIWC is available on our website: www.caciwc.org. We very much appreciate any additional contributions that you can provide to support various CACIWC programs including our Annual Meeting, educational materials, and future issues of *The Habitat*.

3. Our Treasurer Charles Dimmick and Vice President Peter Bassermann have been working throughout to **modernize our financial tracking and accounting system**. We will provide you with additional information on this process in the coming months.

4. **Improved membership communication** is an important goal of our strategic plan. Our Membership Coordinator & Database Manager Janice Fournier extends her thanks to all of you who provided us with their email address during our 2016 annual meeting. We continue to seek new topics for articles to be published in *The Habitat* along with additional feedback from our members, which you can email to TheHabitat@caciwc.org.

5. Although we have added new board members, several **CACIWC board vacancies** remain unfilled (please see the updated list in this issue of *The Habitat* and on www.caciwc.org). Please submit your name to us at board@caciwc.org if you are interested in serving on our board.

As we move further into the historically challenging 2017-18 budget period, the CACIWC board of directors pledges to bring you the very latest information and education opportunities. Please do not hesitate to contact the board via email at board@caciwc.org if you have questions or comments on any of the above items or other issue impacting your ongoing efforts to protect important habitats within your town.

Thank you, Alan J. Siniscalchi, President 🍁



Journey to the Legal Horizon

by Attorney Janet Brooks

Survey of Municipal Wetlands Agency Regulations: The Right (or not) to Inspect Private Property

In conjunction with my article this past spring on wetlands enforcement at the local level, I decided to undertake a review of municipal regulations about inspecting property. By good fortune Bianca Beland came my way at the right time to assist in this survey. She is a 2017 graduate of the University of Maine, with a B.S. in Forestry and a B.S. in wildlife ecology. Add to that her practical knowledge as a member of her town's wetlands commission. We presented the results of our survey at the first legal workshop at the CACIWC Annual Meeting on Saturday, November 18, 2017.

The most recent revisions of the DEEP Model Regulations (4th Ed., May 1, 2006) provide clear guidance to all whether inspecting property subject to a permit, or property where the permit has expired or where no permit has been issued. That advice: enter onto property with the consent of the property owner. You can find this in the Model Regulations as § 14.2 (land subject to a permit) and § 14.3 (land where permit has expired or no permit was issued). As a "creature of statute," as the courts describe administrative agencies, you are limited to the activities set forth in the enabling statute, i.e., the state wetlands act. No authority is given to agencies to inspect property. This is in contrast to the Commissioner of DEEP who is authorized to conduct inspections: "The commissioner may: ... (5) in accordance with constitutional limitations, enter at all reasonable times, without liability, upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of any statute, regulation, order or permit administered, adopted or issued by him and the owner... shall permit such entry, and no action for trespass shall lie against the commissioner for such entry, or he may apply to any court having criminal jurisdiction for a warrant to inspect such premises... Connecticut General Statutes § 22a-6 (a) (5).

Unlike the Commissioner of DEEP: (1) you are not authorized to enter private or public property to inspect for possible violations of the wetlands law or permits; (2) you are not protected from a claim by the landowner of trespass; (3) you cannot require a landowner to grant access to his/her property; (4) you are not authorized to seek a search warrant based on probable cause from the courts.

And yet, some of the wetlands commissions have regulations that purport to grant to themselves such rights.

To be fair, the 3rd edition of the DEP Model Regulations contained language that suggested erroneously that wetlands commission are authorized to enter private property to conduct inspections. This was corrected in the 4th edition. Our preliminary results show (1) commissions which have adopted the corrected 4th edition of the model regulations, (2) commissions which have the legally incorrect 3rd edition version of the regulations, (3) commissions which have kept elements of the illegal 3rd edition and blended them with the 4th version, (4) commissions which have granted to themselves authority to inspect without regard to the United States Constitution (4th Amendment) and the wetlands law. We'll discuss these various permutations and suggest homework for those commissions with vulnerable regulations.

Speaking of homework, I was a bit dismayed when conducting the survey this fall to see how many commissions hadn't done last year's homework. While gathering the research for this year's topic, we noted the effective date of the most recent revisions of every set of regulations. Last year's topic was the statutory exemption to the wetlands act. Since the law was amended in 2011 to add two categories of exemption ("permitted" and "nonregulated" in the lingo of the statute) it is quite easy to know with certainty which commissions have regulations which are out-of-date: all regulations last revised prior to 2011. In addition there were a number of agencies since that time which amended their regulations, for one reason or another, but not for the exemption changes. As disclosed at last year's annual meeting, in 2016, 40% of all municipal commission were delinquent in amending their regulations for the exemption changes. Alas, many of you continue to have overdue homework. Our rough estimate at this point is that in 2017, 30% of all municipal commission have out-of-date regulations.

What would entice commissioners to update their regulations and come into compliance with the statutes? Your thoughts are welcome, via the email address on my website www.attorneyjanetbrooks.com. Highlights of this topic, as well as others from the annual conference legal workshop, will be discussed in future issues of *The Habitat*.

Janet P. Brooks practices law in East Berlin. You can read her blog at: www.ctwetlandslaw.com and access prior training materials and articles at: www.attorneyjanetbrooks.com. 🐦

2017 LEGISLATIVE SESSION:

New Dynamic at the Legislature Stalls Progress on the Environment

By Lori Brown, Executive Director of the CT League of Conservation Voters

The regular (scheduled) legislative session this year (January 4th to June 7th) can best be described as confusing, frustrating, and unpredictable. There was no celebration of environmental successes when the session ended. Accomplishments were few and did not include a state budget. That all-important task was punted to a special session, which continues as we write.

Wins were modest. Pro-environment bills that passed include a relaxation of the water-secrecy rules in effect since 2002; the addition of a consumer advocate at the Metropolitan District Commission (the large Hartford-based water utility); and a prohibition on use of coal-tar sealant on state and local highways. But the session ended with an almost inexplicably long list of missed opportunities to protect the environment, even with bills that were strongly bipartisan. The failure of the Senate to take up the Constitutional Amendment legislation to protect public lands was a stunning disappointment.

Given the national climate of hostility to environmental causes, it was not surprising that environmental advocates had to spend much of their time and energy on fighting against bad bills that would roll back environmental standards and against devastating cuts to funding for energy and environmental programs. Every major, positive environmental initiative on our legislative watchlist became a battleground. New, unanticipated legislative language, often relating to industry goals, would pop out of nowhere, leaving advocates and even lawmakers puzzled as to the sources and full effects of the bills. Environmental “rollbacks” supported by the Connecticut Business and Industry Association and other opponents of environmental regulations in general found solid support in the Environment, Judiciary, and Commerce Committees. As many as ten bills aimed at weakening enforcement of environmental protections had public hearings.

Committee structures and voting dynamics were different this year as a result of the loss of Democratic seats. In the Senate, there was an equal number of Republicans and Democrats; in the House, Democrats held only a slim majority. Instead of the customary arrangement of two co-chairs for each committee, leadership decided on three co-chairs: two Senate

co-chairs (one Democratic and one Republican), plus one Democratic co-chair from the House.

The new balance of power in committees and both chambers resulted in less attention to solving issues of bipartisan interest and more attention to testing political strengths and weaknesses, with each side seeking leverage and control. With a budget crisis looming, protection of our air, land, water, and climate seemed to be put on hold.

Many problems started with the Environment Committee, which no longer had a strong pro-environment majority. Members blocked important bills on water and wildlife. Furthermore, several anti-environment bills originated or passed through that committee with the full backing of the new Republican co-chair, Senator Craig Miner. Democratic Co-chair Senator Ted Kennedy Jr. often accommodated Senator
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Miner's agenda. House Co-chair Mike Demicco did as much as he could to keep important bills alive in the House and even worked on important environmental bills that did not start in his committee.

Major battles escalated around every important piece of environmental legislation in 2017. Most were left unresolved when the clock ran out on June 7th, and many of these fights will resume in 2018, including: Constitutional Amendment to protect public lands - to place a resolution on the 2018 ballot that amends the state constitution to require a public hearing and a two-thirds vote by the legislature before public land can be sold, swapped or given away.

Bottle Bill deposit program – to prevent the effort by industry distributors to dismantle our state's landmark recycling law, and instead update the program to include more types of bottles and adjust the fees to keep the program viable.

Comprehensive Energy Strategy (CES) - to guide Connecticut's long-term strategy towards a clean energy economy. Many legislative initiatives this session to increase the purchase of renewable energy, encourage solar power, and phase out reliance on carbon-based fuels were overshadowed by the ongoing battle over the Millstone nuclear plant. Once adopted, the CES plan will be the basis for new legislative efforts next session. Statewide Water Plan – to improve how Connecticut manages its water resources, including conservation efforts, drought management, and updating our policies on grandfathered water diversions and new permits.

Many other bills on CTLCV's watchlist this session addressed a variety of concerns such as spraying of pesticides along railways and highways, banning toxic tire rubber mulch on playgrounds, reducing the use of plastic bags, providing a municipal option to help towns protect open space, and banning fracking waste statewide.

As budget negotiations continued through the summer, at stake was funding for environmental entities and programs, such as the Council on Environmental Quality, Conservation Districts, the Clean Water Fund, the Community Investment Act, open space protection, state parks maintenance, the Regional Green House Gas Initiative, and the Green Bank. And, once again, a new round of funding cuts was proposed for the state agency charged with protecting our natural resources, the Department of Energy and Environmental Protection.

One glimmer of hope for new environmental funding in recent negotiations is a new "Passport to the Parks" program, which would derive money from a new fee on license plates to support state parks in return for free park entrance for all registered vehicles. These budget priorities have not been resolved as of this writing.

CTLCV's Environmental Scorecard, released on October 15, contains all lawmakers' votes on 22 bills, including committee votes, amendments and final votes in the House and Senate. The Scorecard grades each legislator on their votes during the recent legislative session, as well as their lifetime voting average. The reasoning for selecting specific bills and votes to score is fully explained in the report.

With so much at stake for our land, air, water, wildlife, and climate, we urge YOU to stay engaged and help us double down on efforts to protect the Connecticut we care so deeply about. Sign up for CTLCV action alerts at our website, ctlcv.org, and together we can keep the environment front and center with state lawmakers at the Connecticut General Assembly. 🌿

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Turtles and You

What the CEQ's Annual Report Can Tell You About Turtles and What Turtles Can Tell You About Connecticut

by Karl J. Wagener, Executive Director, Council on Environmental Quality

If you are fortunate enough to know Wood Turtles, you know they spend a lot of time in clean streams and are fond of a slow ramble. They thrive in, as one study puts it, a “proper balance of water, wood and meadow,” a diversity of habitats that might contribute to their notable (by reptilian standards) intelligence.¹ No amount of smarts, however, will keep one from getting crushed by the wheel of a car or tractor. They need unbroken patches that contain all of their required habitat types, a need that has helped to land the Wood Turtle in the “special concern” category of species in Connecticut.

Quite a few animals share the Wood Turtle's preference for a mix of habitats. The most recent edition of Environmental Quality in Connecticut, the annual report on the state's environment published by the Council on Environmental Quality, adds a new section to take into account those animals that are not strictly woodland, meadow, grassland or aquatic species. The section is called “Mosaic Habitats” and includes population data for turtles, bats and grouse. All of the trends are discouraging.

The bats are a special case, as most cave-dwelling species have been nearly wiped out by a disease (white-nose syndrome) caused by a fungus introduced inadvertently to Connecticut caves about a decade ago. Sometimes the attention paid to the cave-dwellers obscures the fact that tree-dwelling species cannot be said to be thriving either, though their problem is not disease. The silver-haired bat, for example, needs mature forests and clearings together, and that ideal arrangement can be hard to find. One of the CEQ's indicators tracks the legal status of bat species over time, and it makes for a depressing chart: only one of Connecticut's eight bat species (big brown bat) currently is not listed as endangered or of special concern.

A similar indicator depicts the status of Connecticut's eight turtle species. Only three of those are not listed as endangered or of special concern. Twenty-five years ago, seven of the eight were not on the list (the long-endangered Bog Turtle being the exception).

Ruffed Grouse (remember them?) are seen only rarely in most areas of the state. Grouse, like turtles, tend not to stay in the woods; they need a good mosaic of habitats. The new CEQ Grouse Index makes use of data collected over many years by birders during the annual

Christmas Bird Count and less-known Summer Bird Count. The trend? Yikes.

Wildlife as Connecticut's Ecological Indicators

The CEQ's approach to developing ecological indicators is to carefully select species that are representative of specific habitats (or mosaics) and to include those species as indicators of the extent and general health of those habitats. The ideal indicator tells us much more than how well or poorly an individual species is faring. In 2015, with the help of ornithologists and other biologists, the CEQ selected eight bird species to represent Connecticut's mature forests and five species for young forests and shrublands. A species has to meet several criteria to be selected; among other factors, it must breed throughout the state and cannot be a recent colonizer or a bird on the edge of its range. The trend data, taken from the annual Breeding Bird Survey, have been as discouraging as the trends for turtles and grouse. For several of the woodland species, 2016 was a particularly bad year.

Scientists have written much about the decline of woodland birds and possible reasons for it. Some birds do best in woods dominated by specific tree species: Hermit Thrushes and Black-throated Green Warblers ceased to nest in the study plots of one Connecticut research project, a harsh consequence of hemlock woolly adelgid.² But the more general problem is the ongoing loss of unbroken patches of relatively undisturbed, diverse woodland habitat. When roads are built to serve even a modest amount of development, they are followed almost invariably by opportunistic predators, pets and invasive species. We can observe many of these consequences, even if we can-

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not quantify them, and the numerical wildlife indicators confirm our observations of what is happening.

The CEQ began adding ecological indicators to its annual report in 2014 after a Council subcommittee (led by herpetologist Dr. Michael Klemens of Salisbury) worked to rectify the historical shortage of such indicators in the report. Since then, the Council has identified additional potentially excellent indicator species, but those will not be appearing in the report any time soon. The perennial hurdle is finding good indicator species for which someone is collecting population data on a regular basis. Aside from songbirds, data are scarce. If you know of any, please let the Council know. (Thank you!)

“If the land mechanism as a whole is good then every part is good...” (Aldo Leopold)³

Conservationists have known, seemingly forever, that we conserve wildlife by conserving habitat. Many people work hard at this. Land trusts, other conservation organizations and numerous towns complete acquisitions every year, and the State of Connecticut assists many of their projects with matching grants. However, the majority of the projects are small. One recent exception is an 800-acre acquisition announced by the Connecticut Audubon Society in June of this year. Those 800 acres exceed the combined area of the state’s acquisitions for all of 2016 (590 acres). The Department of Energy and Environmental Protection (DEEP) published an updated land conservation strategy (the “Green Plan”) in February that defines the challenges very well, but it follows a ten-year period where the average number of acres acquired by the state annually was 720. (This even takes into account the nearly 1,000-acre “Preserve” project in Old Saybrook, Essex and Westbrook completed in 2015.) The CEQ tracks this progress (or lack of it) in a section of its annual report called “To Get Back on Track.” According to the CEQ’s calculations, the 720 acres per year is less than one-tenth the rate needed to meet the state’s own conservation goal of holding ten percent of Connecticut’s land area for conservation purposes by 2023. (The broader 21-percent goal for all land-conserving organizations is another story; nobody knows how close we are to that goal).

In order to turn around the trends for birds, turtles and other inland wildlife, Connecticut will need to conserve many large areas of land and pay attention to management. Forty-five acres of middle-aged red maples might look good but could very well contribute far less to wildlife conservation than 45 acres of a different composition – or more ideally, 445 acres. Forty-five acres

is the size of the average parcel of forest land classified under PA 490. Not only does this relatively small parcel size present management challenges, it illuminates the mountainous hurdle that DEEP would confront were it to actually launch an effort to reach its conservation goals: DEEP would find it almost impossible to complete the necessary number of transactions if the average acquisition were that small.

Discouragement and Hope

One weakness of the CEQ’s wildlife indicators is the way they lag actual changes to the habitat by a few years. Birds and other animals can continue to live in an area affected by nearby development and will only fade out completely after years of breeding attempts that yield few or no offspring. On the potentially positive side, the recent state-federal-private effort to restore habitat for the New England Cottontail is expected to benefit quite a few bird species, several of which are among the CEQ indicators. The Breeding Bird Survey is not showing any positive results yet, but the rabbit-related management of habitat could nudge the young forest/shrubland indicator upward in a few years as those bird species multiply and spread. Any activities that cause such a positive shift in the population trends would provide needed hope and encouragement.

The CEQ did not develop ecological indicators for the purpose of chronicling a long and futile saga. Like the charts of air and water quality, the CEQ’s land and wildlife indicators are intended to show the effects of past and present policies and to highlight what is working and (especially) what is not. The CEQ’s indicators reveal the biggest deficiencies in Connecticut’s quest to achieve its residents’ ambitious goals for their environment. When presented clearly, the lack of progress on land conservation and the discouraging population trends of so many of the state’s non-human residents should stimulate attention and action – or so the Council hopes. Then, instead of rambling on a summer morning through little shreds of compromised and depopulated landscapes, a future walker would encounter more birds, more bats (probably asleep, though) and more turtles because of effective land conservation. What turtle wouldn’t enjoy that?

Endnotes

1. Harding, J. H. and T. J. Bloomer. 1979. The Wood Turtle, *Clemmys insculpta*...a natural history. Bulletin of the New York Herpetological Society 15: 9-26.
2. Buchanan, Mary; Askins, Robert A.; and Jones, Chad C., “Response of Bird Populations to Long-term Changes in Local Vegetation and Regional Forest Cover” (2016). Biology Faculty Publications. 27.
3. Leopold, Aldo. 1953. Round River: From the Journals of Aldo Leopold. 🐢

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materials and living shorelines profiles provide example design schematics, site suitability, design characteristics, and case studies from New England, including Connecticut, for dunes, beaches, coastal banks, marshes and living breakwaters.

CIRCA's external grants programs have funded eight projects to date to implement green infrastructure and living shorelines in the state. The following descriptions highlight each project. More detailed project descriptions and final reports, as they become available, can be found at the Resource links on page 9.

Milford – Developing and Implementing a Restoration and Management Plan to Combat Threats and Challenges to Coastal Dune Resiliency in Urban Landscapes will restore a dune in the Walnut Beach area by removing invasive species and replanting with native species. The restored dune will act as a living shoreline by buffering waves and serving as a barrier to storm surge while also providing a healthy shoreline habitat.

Northwest Hills Council of Governments – Building Municipal Resilience and Climate Adaptation through Low Impact Development was awarded funds to develop

a Low Impact Development Design Manual with information for engineers and designers and a focus on small towns, but when completed the manual can be used by any town in Connecticut.



Oxford and Seymour - Planning for Flood Resilient and Fish-Friendly Road-Stream Crossings in the Southern Naugatuck Valley program identified road-stream crossings with undersized culverts that make them highly vulnerable to flooding and failure under current and future conditions. The culverts will be prioritized for replacement based on flooding vulnerability and restoring a healthy fish habitat using a natural gravel bottom approach.

Darien – Low Impact Development for Resilience Against Flooding, Storm Water, and Climate Change project addresses frequent flooding near Heights Road. Through increased infiltration and flood storage capacity the Town hopes to make the area more resilient to today's storms and future climate change. Darien will also make a Design Guidance Checklist to assist all municipalities who face similar challenges.

Hartford – Green Infrastructure Specialist for a More Resilient and Sustainable Future. Hartford used its grant to hire a Green Infrastructure Specialist charged with advancing green infrastructure strategies to reduce the load on the City's existing storm water systems. The specialist is part of the newly launched Office of Sustainability that recently released Hartford's first climate action plan.

Connecticut Metropolitan Council of Governments – Designing Resilience: Living Shorelines for Bridgeport will advance engineering and design for a living shoreline along the West Johnson Creek. Preliminary conceptual design included creating a gradual vegetated slope that would also allow for marsh migration under sea level rise.
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Stratford (through Sacred Heart University) – Stratford Point Living Shoreline: Restoring Coastal Habitats to Maintain Resiliency and Function is a living shoreline installation made up of reef balls (cement structures that mimic reef habitat) placed in the water to break up waves with a marsh restoration and dune behind the reef. The living shoreline borders a bird sanctuary and protects this area from erosion.

Norwalk (through Norwalk Land Trust) - The Village Creek Saltmarsh Restoration Demonstration will use dredged sediments from a neighboring marina to restore the Village Creek saltmarsh owned by the Norwalk Land Trust, which has degraded over time. The restored marsh will provide a natural buffer to erosion.

CIRCA is proud to be moving the ball forward on adaptation and resilience in the state of Connecticut, but we also know that eight nature-based projects is just a drop in the bucket to meet our state's future needs. With that in mind, the Institute will be leveraging the solutions and lessons learned from each of these projects to help all communities understand their options. I started

this process at the 40th CACIWC Annual Meeting & Environmental Conference on November 18, 2017 with my workshop entitled, "Tools and Guidance for Nature-based Community Climate Resilience in Connecticut." I urge you to join me as we learn together about what nature can do to help make a resilient Connecticut.

Resources:

Sign up for CIRCA announcements and our biweekly news clips: <http://circa.uconn.edu> (button on bottom right of home page)

CIRCA Wave Information for Living Shorelines: <http://circa.uconn.edu/projects/noaa-crest/>

Living Shorelines Workshop and NROC Profiles Materials: <http://circa.uconn.edu/projects/coastal-forecasting/> (under Products section)

CIRCA Municipal Resilience Grant Program Recipients: <http://circa.uconn.edu/funds-muni/recipients-muni/>

CIRCA Matching Funds Program Recipients: <http://circa.uconn.edu/funds/recipients/>

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Every year, there is a public hearing on the Conveyance Act before the Government Administration and Elections Committee. At the public hearing, it is especially important for CFPA and others to provide testimony on proposals that are harmful, incomplete, or poorly conceived. Often, the worst proposals are withdrawn or improved by the Committee based upon the testimony provided at the public hearing. However, additional proposals can be added as an amendment offered at the end of the Legislative session where there is no opportunity for public input. This, too, seems to happen every year. In 2016, there were seven new sections added to the Conveyance Act in special session with no public hearing; and in 2017, there were 5 new sections added and four sections modified through an amendment to the Conveyance Act adopted on the second-to-last day of the legislative session.

If you are learning about this issue for the first time, you may wonder, “Is a constitutional amendment really necessary to break this steady/bad habit? Can’t the General Assembly just pass a law that is more protective of public lands?” Seems reasonable, but here’s why a new law wouldn’t work. Each section of the annual Conveyance Act, which proposes different parcels of public land to be sold, swapped, or given away, begins with the words “Notwithstanding any provision of the general statutes ...” It’s the legislative way of saying, “despite whatever laws might constrain us, we’re going to sell, swap, or give away those public lands anyway.”

After studying many other mechanisms such as General Assembly rules changes, committee process changes, or other ideas as part of a State Lands Working Group with many partners over several years, it has become even clearer to us that a constitutional amendment is the only way to ensure that a public process safeguarding public input on your public lands will be honored by the General Assembly.

It’s not just the Connecticut Forest & Park Association (CFPA) advocating for this necessary change. In the 2017 Legislative session (which ended on June 7th), CFPA, over 130 organizations and businesses, and 46 bi-partisan Legislators all advocated for passage of a resolution that would place a proposed constitutional amendment to better protect public lands on the statewide ballot. Although this year’s bill was identical to the resolution which passed the Legislature in 2016 and had strong bi-partisan support all session, the State

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Senate failed to vote on the bill, Senate Joint Resolution 39 (SJ 39), before the session ended.


Despite the frustrating setback this year, the General Assembly will have one more opportunity in 2018 to pass this resolution and put a referendum question to amend the state constitution on the November, 2018 ballot. If this effort to amend the constitution is successful, the General Assembly would be required to hold a public hearing and achieve a 2/3rds majority vote in both chambers before your public lands could be sold, swapped, or given away. Here's the actual language that passed in 2016 and must pass a second time in 2018 to make it on the statewide ballot:

The general assembly shall not enact any legislation requiring a state agency to sell, transfer or otherwise dispose of any real property or interest in real property that is in the custody or control of such agency to any person or entity other than another state agency unless 1) the general assembly has held a public hearing regarding such property or interest, and 2) the sale, transfer or disposition is required by an act of the general assembly that is limited in subject matter to provisions concerning such sale, transfer or disposition and passed by a yea vote of at least two-thirds of the membership of each house.

The ongoing motivation to promote this issue comes from imagining our favorite places on public lands, and then imagining them being given away, closed to public access, or having their use changed without any opportunity to provide input. Try imagining your favorite place on public land being taken away, and you'll likely agree that it is worth fighting for.

Ensuring your voice is heard when the future of your public lands is at stake is hopefully the kind of change in Connecticut's bad/steady habits that we could all support. If you're already supporting the effort, thank you (!), and if you want to get involved, please contact me anytime via email at hammerling@ctwoodlands.org.

Eric Hammerling has been the Executive Director of the Connecticut Forest & Park Association (CFPA) since May, 2008. CFPA is the oldest nonprofit conservation organization in Connecticut (established in 1895) and has long advocated for protected and well-managed parks, forests, open spaces, and trails for current and future generations to enjoy. 🌿



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Keeping the Public in Your Public Lands

by Eric Hammerling, Executive Director

What do Maine, Massachusetts, and New York have that Connecticut doesn't? These states all have state constitutions that include protections for publicly owned state lands. If we value Connecticut's state parks, forests, and other public lands, it's time to catch up to our neighbors. Maine's state constitution (Article IX, Section 23) was amended in 1993 to add the following simple but powerful words:

State park land, public lots or other real estate held by the State for conservation or recreation purposes and designated by legislation implementing this section may not be reduced or its uses substantially altered except on the vote of 2/3 of all the members elected to each House. The proceeds from the sale of such land must be used to purchase additional real estate in the same county for the same purposes.

The state constitutions of Massachusetts (Article XCVII) and New York (Article XIV) were also

amended, in 1972 and 1969 respectively, to incorporate strong protections for public lands.

So, why has Connecticut been unable to include similar constitutional protections for its state parks, forests, wildlife management areas, and other state-owned public lands? After all, don't we love our public lands in Connecticut? We may love our public lands, but we're also the "land of steady habits," and as you know, habits that are both steady and bad are the toughest to break.

One steady/bad habit for Connecticut that we would like to change is the Conveyance Act which is the legislative vehicle used by the General Assembly every year to sell, swap, or give away your public lands with either minimal or, at times, **no substantive input from the public**. We believe it is time for Connecticut to break this steady/bad habit, or at least make it more transparent by ensuring a more public process for determining the future of public lands.

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