



# THE HABITAT

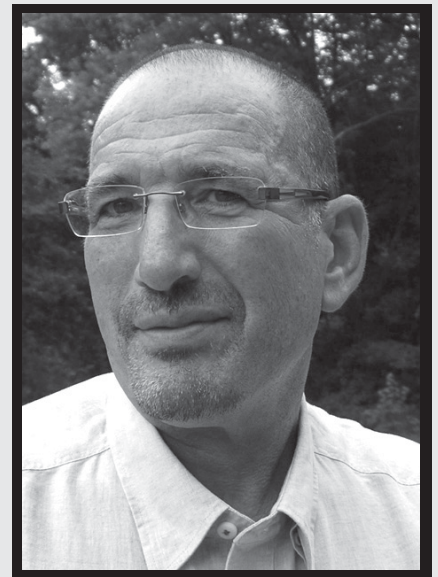
## DR. MICHAEL KLEMENS TO SPEAK AT CACIWC'S ENVIRONMENTAL CONFERENCE

**D**r. Michael Klemens will be keynote speaker at CACIWC's 30th Annual Meeting and Environmental Conference on Saturday, November 10 at MountainRidge in Wallingford. Dr. Klemens' work has encompassed almost three decades of herpetological research in the United States and Africa. This body of science has led him to the conclusion that, in order to bring about tangible conservation results, scientific research cannot be conducted outside of its social, political, and economic context. In order to bridge the gap between conservation science and land use planning processes, Dr. Klemens has translated biological data and conservation concepts into planning tools that achieve better conservation at local and regional scales.

Dr. Klemens has authored numerous publications pertaining to amphibian and reptile conservation. His most recent book, *Nature in Fragments: The Legacy of Sprawl*, is the definitive book on this subject to date. He strongly advocates that scientists have a responsibility to actively engage in conservation efforts.



Please see page 8 for more information on the Conference.



## PUBLIC ACT 07-102: WHAT DOES IT SAY? WHAT DOES IT MEAN? *by Mark Branse, Esq.*

**C**onnecticut General Statutes §8-3(g) governs the approval of "site plans" by a planning commission, zoning commission, or combined planning and zoning commission. This Section has said for many years that when a site plan application "involves an activity" requiring a wetlands and watercourses permit, the application with the wetlands agency must be submitted "not later than the day" the site plan application is filed with the planning/zoning commission. It also says that, when acting on the site plan application, the planning/zoning commission "shall give due consideration to the report of the inland wetlands agency." Similar provisions are in the Statutes for subdivisions (Conn. Gen. Stats. §8-26) that contain land with wetlands or watercourses, and for special permits (Conn. Gen. Stats. §8-3c).

Public Act 07-102 amended §8-3(g) in two ways: First, it added a new sentence saying that when acting on a site plan, "the Commission shall, within the period of time established by section 8-7d, accept the filing of and shall process, pursuant to section 8-7d, any site plan application involving land regulated as an inland wetland or watercourse under Chapter 440." This language seems unnecessary because a commission *always* has to receive and process an application under the Section 8-7d time limits—not just applications involving regulated wetland activity. The original

PA 07-102, continued on page 2

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*PA 07-102, continued from page 1*

proposal, House Bill 7040, was submitted by the Home Builders Association of Connecticut, and the stated purpose was, "Some municipalities have begun the practice of not even allowing a P&Z application to be filed until the proposal has gone through the entire inland wetlands process. This can add a year or more to the approval process (because the two processes are prevented from going forward together) and violates these provisions of the statutes."

It is true that many zoning regulations require a final wetlands permit as one component of a final site plan application. As both an attorney for municipalities and for developers, I strongly support such provisions because they avoid the "ping pong" between the two agencies when the reviews are occurring simultaneously. They also avoid plans that are constantly changing before the commission in response to the wetlands review process. But the question now is: Did PA 07-102 achieve what the Homebuilders wanted? I don't think that it did.

If the local zoning regulations require a wetlands permit as a prerequisite to a complete site plan application, then when the local commission 'accepts the filing of' that application and 'processes it' within the Statutory time frames, prior to receiving a wetlands permit, the result will be a denial of the application as incomplete. Such an action would comply with the language of the Act. Until I see some judicial decision to the contrary, I will continue to advise my client land use agencies to require wetlands permits for site plan applications.

The second component of the Act was to add a sentence that, as with the prior text, requires the commission to "consider the report of the inland wetlands agency," but adds the provision that "if the commission establishes terms and conditions for approval that are not consistent with the final decision of the [wetlands agency] the commission shall state on the record the reason for such terms and conditions." I have heard a concern that this new language creates some kind of "over ride" of the wetlands agency decision, but I do not think that is correct. The wetlands agency and the land use commission each have their own separate Statutory jurisdiction, and it would be an extreme reading of the Act to imply that somehow this new language elevated the zoning authority over the wetlands authority. Quite the contrary, I think the purpose of this new text was to compel the commission to reconcile its actions with those of the wetlands agency in order to *avoid inconsistent requirements*. Unfortunately, I have seen cases where, for example, a wetlands agency required shared driveways for a subdivision in order to reduce the impact of wetlands crossings, and then the planning commission prohibited shared driveways out of concern for long-term maintenance. Such "Catch 22" situations justifiably drive developers crazy and undermine the credibility of the local land use regulatory process. If a land use commission is going to impose a requirement that they know is inconsistent with one imposed by the wetlands permit, they should at least have to explain *why* they are doing it so that the developer can seek a solution that satisfies both agencies. This actually *strengthens* the authority of the wetlands agency and makes it less likely that its permits will be contravened by the decisions of other land use commissions. Of course it is incumbent on the wetlands agency to always be specific, on the record, regarding the regulatory sections being applied, the evidence in the record that bears on those sections, and the terms and conditions imposed to meet wetland regulations.

As always, you should consult with your own legal counsel concerning the impact of new legislation and judicial decisions, including this new Act. 

*Mark Branse is a partner in the law firm of Branse, Willis and Knapp, LLC*

# LOOKING BEYOND THE PAVEMENT (PART 1)

by Chet Arnold, Center for Land Use Education and Research,  
University of Connecticut

*Editors Note: Part II, Fall 2007, will go over some of the ways a community can tackle impervious surface issues. Also please note the references author provides at end of article.*

Fifteen years ago, the word “impervious” was used mostly in the context of teenagers and their reaction to advice from their parents. And, while it’s not exactly a sure-fire way to collect a crowd at a cocktail party, it’s probably safe to say that the concept of impervious surfaces may have cropped up in your discussions as a Conservation or Inland Wetlands commissioner.

In the Spring Issue of *The Habitat*, Eric Hammerling described impervious surfaces and their relationship to watershed health. In short: these impenetrable elements of our “built landscape” prevent infiltration of water into the soil, increasing runoff to our rivers and streams and generating undesirable effects on water quantity and water quality. This relationship is often described as the “Impervious

But just how strong is the evidence for this relationship? Pretty darn strong. The Center for Watershed Protection, a leading nonprofit which first promulgated the ICM back in the early 1990’s, issued an updated literature review and summary in 2003. The summary includes the results of about 225 multidisciplinary studies from around the country, covering a wide range of research focused on the hydrological, physical, water quality, and biological impacts of urbanization and its accompanying impervious cover. And, despite the disclaimers, exceptions, and gray areas that are part and parcel of any area of scientific inquiry, the bottom line to date is that the ICM holds true in a remarkably large number of situations and cases.

And in Connecticut? Until quite recently, our local research base was a tad sparse. But now we can point to two compelling and thorough studies which support the ICM.

Most of you have heard of the “Jordan Cove” study, a ten-year research project conducted in Waterford by UConn, in partnership with CT DEP, EPA, the Town of Waterford and others. The study looked at the quality and quantity of water coming off two adjacent newly-built subdivisions, one conventional in design and one using a variety of “low impact development” (LID) techniques. LID elements such as grassed swales, rain gardens, and pervious pavement help promote infiltration of rainwater into the ground, with the goal of mitigating the effects of impervious cover in developed areas. The bottom line of the study: after continual monitoring over a ten year pre-construction, construction, and post-construction period, the LID subdivision essentially accomplished the LID goal of mimicking the pre-development hydrology, while the conventional subdivision generated about 100 times the volume of pre-development runoff. The data also show that as both subdivisions were built, the conventional subdivision showed very strong correlations between increasing imperviousness and increasing pollutant loads, while the pollutant loads coming from LID subdivision – even as it grew in impervious cover from 0% to 20% — stayed essentially the same.

Our second in-state study was conducted by CT DEP in 2005, in partnership with the UConn Center for Land Use Education and Research (CLEAR). For 125 streams across the state, DEP compared their data on streambed macro-

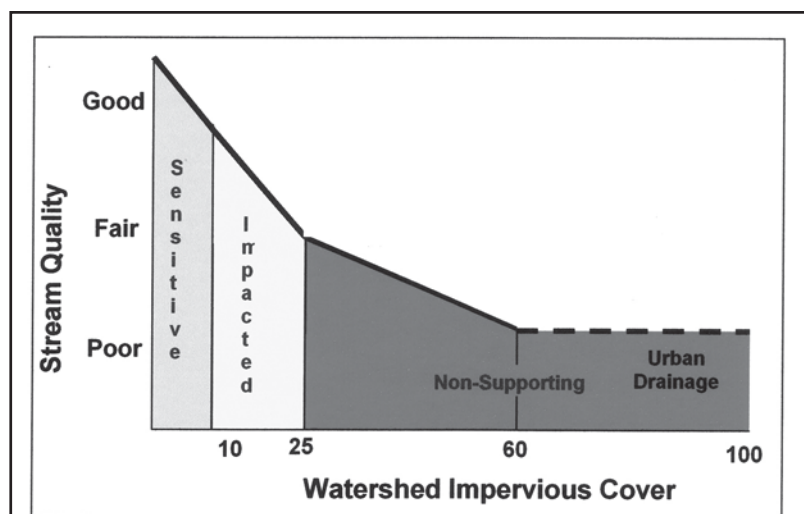


Figure 1. The Impervious Cover Model. Many studies support the fact that somewhere around 10% impervious cover, a watershed’s streams begin to experience negative impacts. From the Center for Watershed Protection.

Cover Model” (ICM), which suggests that once a watershed has about 10% impervious cover, impacts to the receiving stream start to show up, while at some higher, fuzzier number – perhaps around 25% — the impacts become severe enough that water quantity control becomes the chief concern, and water quality improvements become very difficult (Figure 1 above).



# JOURNEY TO THE LEGAL HORIZON

by Janet Brooks

CACIWC's editor, Tom ODell, has supplied me with a series of questions for my column. If you'd like to see your question in the next issue, e-mail your queries to Tom at [todell@snet.net](mailto:todell@snet.net).

**Question:** *What recourse does the Commission have to do its best to protect wetlands and watercourses within an upland review area? If a property owner wants to place a manicured, fertilized lawn abutting the edge of a wetlands, can a commission stop that action? Is placing a non-disturbance buffer a legal option? Is there another legal method we should be using? (In our town P&Z rules, a deeded conservation easement removes that part of the property from the area used to calculate buildable square feet, hence our use of a buffer.)*

Signed, What-to-do

Dear To-Do,

If the property use is residential and you have already issued the permit, there's probably not a lot you can do. "Uses incidental to the enjoyment and maintenance of residential property" are exempt from your jurisdiction. The statute, § 22a-40 (a) (4) specifically states: "Such incidental uses shall include . . . landscaping but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse or diversion or alteration of a watercourse." If your commission lined up a number of experts, who could (1) state what amount of fertilizer is a significant amount and (2) could prove that the amounts pose an adverse effect on the specific wetland involved, your commission may be on firm ground. But those are mighty big "ifs." More court decisions from 2000 forward are holding commissions accountable for "connecting the dots," proving harm to wetlands on a specific site, by use of experts.

I know that a number of commissions routinely impose conservation easements on residential subdivisions prohibiting or restricting the use of fertilizers. As I expressed in a previous issue of *The Habitat*, I have my doubts about the legality of a commission imposing a conservation easement. I also wonder whether any of those commissions who do impose conservation easements have justified their actions with expert opinions in each and every record in which they do so. *If they haven't, those conditions won't likely withstand legal scrutiny on appeal.*

For non-residential property there is no exemption entitling the property owner to undertaking landscaping. But again, you have to be prepared with experts to justify your conditions or denial.

**Question:** *A question has arisen about when it is appropriate to use declaratory rulings. I was always told that a declaratory ruling should only be used by an applicant when there is a "permitted use as of right" or a "non-regulated use". Our Commission now has residential applicants citing Section 4.1.d (Permitted Uses as of Right & Nonregulated Uses) and asserting that, because they are not removing or depositing significant amounts of material from the upland review area, they do not need a permit. It should be noted that Section 2 (Definitions) of our Town's regulations includes the following wording in its definition of a "regulated activity": any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing or material and discharging of storm water on the land within one hundred (100) feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity.*

*Further, Section 4.3 of our regulations reads as follows: All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a*

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permit from the Commission in accordance with Section 6 of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with Section 12 of these regulations.

*It should be noted that our Commission has not delegated the authority to its agent to approve licenses for regulated activities as described in Section 12 (Action by Duly Authorized Agent).*

*So, Attorney Brooks, when we are dealing with activities in the upland review area which appear to meet the regulated activity definition, and our agent has not been authorized to issue licenses, does that mean that permit applications should be used instead of declaratory ruling applications? And, further, what is the legal significance of a declaratory ruling versus a permit, please?*

*Thanks very much for your assistance.*

*Signed, Declare or not declare,  
that is the question*

Dear Declare,

Let's begin with your last question: permit vs. declaratory ruling. A permit is the authorization needed before undertaking a regulated act under the wetlands law. A declaratory ruling "declares" that certain facts presented (a farm pond of 4 acres, for instance) give rise to your commission's jurisdiction, meaning your commission regulates the activity and the interested party needs to obtain a permit. Or the ruling "declares" that certain facts qualify as exempt (grazing, farming, nurseries, gardening, and the like). In the latter case, it appears that the commission is authorizing the conduct, but it is not. The legislature in the past set forth a category of activities as outside the authority of the commis-

sion; the commission determines in the present if the proposed activities fall into those categories.

A declaratory ruling needn't be restricted to jurisdictional rulings regarding exempt activities, although that is the most common use of the ruling for wetlands agencies. State agencies are often asked for declaratory rulings. Here's how broad the declaratory ruling authority for state agencies is: "Any person may petition an agency, or an agency may on its own motion initiate a proceeding, for a declaratory ruling *as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the jurisdiction of the agency.*" General Statutes § 4-176 (a).

Now turning to your initial question, you wonder whether residential applicants can use the declaratory ruling process if their activities don't involve "significant" amounts of fill. My response is: yes, they can, but what would they gain? Your regulations set forth an upland review area that includes a myriad of activities and does not exclude "insignificant" amounts of those activities. "Any" amount of those activities triggers the need for a permit. So, yes, those activities require a permit. Yes, your commission can issue a declaratory ruling that declares, basically, that every activity in the upland review area requires a permit – which by the language you provided – it does. What has anyone gained? A delay in handling insignificant matters. Your commission has to issue permits for activities that you have defined are regulated in the upland.

The question I have for you: *isn't it in your commission's interest and the public's interest to have an agent authorized to handle these small potato applications expeditiously?* How can your commission hope to focus on meaningful enforcement if you are tied up considering every small activity in the upland which by definition needs a permit but is not going to impact wetlands or watercourses? The reality is that those minor activities should receive a permit with probably nothing more than your standard permit conditions. An authorized agent is capable of making such determinations. I don't see any good use of the commission's time in holding on to all permit-making authority. Even one of your commission members can become the authorized agent. Make it a priority. You will get to focus on the bigger issues and satisfy your residential applicants, which will encourage more compliance with the law.

*Attorney Janet P. Brooks, a member of D'Aquila & Brooks, LLC, practices law in Middletown.*



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# ENVIRONMENTAL LEGISLATION REVIEW

## 2007 LEGISLATIVE SESSION: A FEW VICTORIES, A FEW LOSSES, A FEW “WAIT ‘TIL NEXT YEAR”

*Note: To review the language and history of bills log on to <http://www.cga.ct.gov/>; put in the bill number in the “quick search” section at the top of the page.*

*Please take the time to thank your legislators and Governor Rell for their continued support of the environmental issues and the legislation passed this year. Legislators and the Governor need to know their constituents appreciate their efforts and are watching how they respond to their interests. Below is a summary of key environmental legislation.*

### **INLAND WETLANDS AND RELATED “WATER” LEGISLATION**

Three land use bills (SB 1086, HB 1084 and HB 7040) were supported by CT Home Builders Association. CACIWC and other environmental groups aggressively opposed all three bills primarily because all three had the potential to weaken local regulation and protection of wetlands and watercourses. We expect legislation to weaken local regulation, enforcement and protection of wetlands will continue in the 2008 legislative session.

#### **Senate Bill 1086, An Act Concerning the Timely Determination of Local Land Use Decisions**

*Status: Failed in Planning & Development Committee*  
SB 1086 had several time related changes that would effectively reduce time for municipal wetland agencies, and other land use agencies to obtain technical review of wetland applications, reduce public comment time and require a municipality to “rebate” application fees if decisions are not rendered within a certain time period. *CACIWC testified in opposition before the Planning & Development Committee.*

#### **House Bill 1084, An Act Reorganizing Local land Use Commissions, Boards and Agencies**

*Status: Failed to reach House floor*  
HB 1084 would create one land use board for municipal decisions in zoning, planning, and wetlands and create a board of appeals that would not be required to consider environmental impacts. *CACIWC testified against HB 1084 before Planning & Development Committee and led grass root efforts to defeat the bill in the Senate and the House.*

#### **Public Act 07-102 (HB 7040), An Act Concerning Resubdivisions and Clarifying Considerations of**

### **Inland Wetlands Decisions by Planning and Zoning Commissions**

*Status: Passed and signed by the Governor*

The original bill language weakened wetland regulation in favor of zoning decision. When it was revised the language still appeared to provide zoning commissions with ability to use zoning regulation to over ride considerations given by wetland decisions, as long as zoning commissions stated on the record reasons for doing so. (However, see article on page 1 by Attorney Branse.) *CACIWC testified against HB 7040 before Planning & Development Committee and led grass root efforts to defeat the bill in the Senate and the House. We were not successful.*

### **House Bill 7343, An Act Concerning Riparian Corridors**

*Status: Failed in the Planning & Development Committee*  
HB 7343 would have incorporated language in the IW Act that regulated 100 ft. of riparian corridor along a river or stream. While CACIWC supported the broad objective of protecting riparian corridors, we did not testify before the Planning and Development Committee. We felt that the proposed language was not within the intent of the Act and would result in confused interpretations and added burden to commissioners. Legislation to protect riparian corridors

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is presently being discussed and will be re-introduced in the 2008 legislative session.

**Public Act 07-244 (SB 1341), An Act Concerning Application for a Certificate of Public Convenience and Necessity, Protecting Public and private Water Supplies and Authorizing the Lease of Certain Water Company Owned Class I and Class II Lands**

*Status: Passed and signed by Governor but likely to be rescinded in special session*

A last minute addition to SB 1341 (see underline in bill title) allowed mining of Class I and II water company land without public notice or debate prior to legislative passage. Allowing mining on protected land PA 07-244 sets a very bad precedent for the State's drinking water supplies. Outcry from environmental groups, including CACIWC, has galvanized legislators to consider repeal of this "legislative rat" in a special fall session.

**Additional Funding for Water Programs:** \$200,000 to implement Stream Flow programs, \$200,000 for programs of the Water Planning Council, \$500,000 for a pilot program of storm drain filters to address runoff pollution.

**OPEN SPACE AND AGRICULTURAL LAND PRESERVATION AND PROTECTION**

**Funding for the Open Space and Watershed Land Acquisition Program and the Recreation and Natural Heritage Trust Program**

As we go to press the Governor and legislature leaders are still negotiating a new bond package for the biennial budget. CACIWC has requested legislators and the Governor to support Connecticut's open space programs with a total of \$20 million, \$10 each for the Recreation and Natural Heritage Program and the Open Space and Watershed Land Acquisition Program—for each of the next two years.

The legislature passed and the Governor signed PA 07-131, The Face of Connecticut legislation, which increases the potential open space grants available to municipalities, water companies and non-profits from 50% to 65%. Communities across the state desperately need that additional 15% state to continue to be a partner in preserving open space. In the last several grant rounds the matching grants program was not able to provide full (50%) grant support. Now, with full funding support at 65%, it is imperative that a consistent level of \$10 million be available in each of the next two years to fully fund grants that protect our rivers, watersheds and natural landscapes.

CACIWC also supports \$10 million in bonding in each of the next two fiscal years for the Department of Agriculture's Purchase of Development Rights (PDR) program. Bonding for farm land preservation is presently being discussed by the Governor and legislature leaders.

**Public Act 07-131, The Face of Connecticut**

*Status: Passed and signed by the Governor*

Backed by numerous organizations throughout the state, this bill called for responsible growth planning, funding for state-wide GIS mapping, and increased, consistent funding for the next 10 years to protect, preserve, restore and revitalize key natural, historic and urban landscapes and resources. The bill was stripped of appropriations funding but did contain increases in percentage of matching grants available for towns, water companies and non-profits (see above). The bill also increased the percentage that can be used for administrative purposes from 2% to 5% and created a loan program for the purchase of agriculture land by municipalities at no interest for five years. Final funding (bonding) for open space and farmland preservation is still being negotiated. The original bill, HB 7275, included funds for regional planning and GIS statewide mapping. While not part of PA 07-131, similar funding of \$1.4 million was appropriated for a statewide Geographic Information System (GIS) to help with land use planning. *CACIWC was part of the core group that met with legislators throughout the 5 month legislative session and testified for the bill. The group will be re-introducing Face of CT in the 2008 legislative session.*

**Public Act 07-213, Environmental Review of Certain Land Transfers**

*Status: Passed and signed by the Governor*

Requires a public comment period before state-owned lands are sold or transferred, and requires the DEP to



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# 30TH ANNUAL MEETING & ENVIRONMENTAL CONFERENCE

SATURDAY, NOVEMBER 10, 2007



## WORKSHOPS

### SESSION 1

9:30 A.M.-10:30 A.M.

#### **A1. Using GIS Data with the Online Community Resource Inventory (CRI)**

*Emily Wilson and Sandy Prisloe, Center for Land Use Education and Research (CLEAR), UConn*

CRI is an online tutorial and interactive mapping tool to aid land use decision-making. Data can be accessed from desktop computers using a free GIS software, making it possible to add your own GIS data such as zoning, parcels, trails, etc. This talk is a “how to” connect to CRI data and create custom maps.

#### **B1. Legal Issues: Special Topics for Inland Wetlands Commissioners**

*Attorney Janet Brooks, D’Aquila & Brooks, LLC*

If an intervenor becomes a party to a permit proceeding, are you providing procedural and substantive rights to the intervenor *and* the applicant? Learn how to apply CEPA to wetlands proceedings. Is your commission up to date on the new DEP policy on pesticide regulation in water bodies? Current information on these topics will be provided.

#### **C1. On-line Images of E&S Control Measures: A New Tool for Commissions**

*Marla Butts, CT DEP and Roman Mrozinski, Executive Director SW Conservation District*

Pictures of on-site E&S control practices taken in CT have been linked electronically to E&S control measures in the 2002 CT E&S Guidelines. Workshop will describe how to use this on-line tool for making decisions and recommendations on an applicant’s E&S control measures.

#### **D1. Low Impact Development (LID): Are We Ready Yet?**

*Erik Mas, Fuss & O’Neill and John Rozum, CLEAR, University of Connecticut*

The 2004 Connecticut Stormwater Quality Manual emphasizes many of the LID technologies, but there are concerns about maintenance, winter performance, and the ability of these systems to retain pollutants. The workshop will review technologies of LID, and will discuss common barriers to LID implementation.

## WORKSHOPS

### SESSION 2

10:45 A.M.-11:45 A.M..

#### **A2. Identifying Local Conservation Priorities for Protecting Open Space**

*Tim Abbott, Litchfield Hills Greenprint Program Director, Trust for Public Land*

“Greenprint” projects engage conservation professionals, municipal leaders, and members of the public in mapping, formulating strategic partnerships, and on-the-ground land conservation for identifying and prioritizing important lands for open space protection. Learn to use “Greenprint” techniques in your town and how to meet state open space grant requirements.

#### **B2. Case Law Update and Q&A Session**

*Attorneys Janet Brooks, D’Aquila & Brooks, LLC; David Wrinn, Office of the Attorney General; and Mark Branse, Branse & Willis, LLC*

The annual review of new of wetland case law, legislative and regulatory changes will be discussed. An extensive question & answer session will be provided based on popular demand from previous conference attendees!

#### **C2. Are We Still Afraid of Impervious Surfaces? Taking Another Look at an Indicator of Water Quality**

*Chester Arnold and John Rozum, Center for Land Use Education and Research (CLEAR), University of Connecticut*

Increased levels of impervious cover have been shown to negatively impact water quality. Workshop focus is on new research on impervious cover. Also, new regulatory approaches being used to address the effects of imperviousness and what local government can do to protect water quality.

#### **D2. What Smart Growth Looks Like and Some Ways to Get There**

*John Calandrelli & John Blake, CT Chapter, Sierra Club*

“Smart Growth” is a buzz word that describes the various characteristics of development. This workshop covers visual depictions of the many aspects of development under the Smart Growth umbrella; also, sample land use regulations that apply to CT. Using material from this workshop, commissioners can create and customize presentations to organizations in their own town, with assistance from Sierra Club.



For a Brochure Containing  
Workshops and Registration Form,  
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## WORKSHOPS

### SESSION 3

2:15 P.M.-3:30 P.M.

#### **A3. Stewardship of Open Space and Forested Land**

*John LeShane, Middlesex Land Trust; Patrick Comins, Audubon Connecticut; Matt Largess, Largess Forestry, Inc.*

Many Connecticut towns have open space parcels that have been acquired for habitat preservation and passive recreation. Others are managed for protection of water quality, forested lands and grassland habitats. This panel will discuss the best practices for optimal management of your town's open space parcels.

#### **B3. Vernal Pool Monitoring, Before and After Development**

*Ed Pawlak, CT Association of Wetland Scientists (CAWS)*

This workshop will briefly review the ecology of vernal pools, the animals that breed there, and a new CAWS program to monitor pools pre- and post-development. The importance of determining what level of development can occur without threatening the long term persistence of pool-breeding amphibians will be discussed, followed by a Q&A period.

#### **C3. Stormwater Management Technologies**

*John R. Mullaney, Hydrologist USGS; Lisa Krall, Soil Scientist, NRCS; Nels Barrett, PhD, Ecologist, NRCS*

Workshop will guide commissioners in what to look for when reviewing stormwater management plans for impacts on inland wetlands and watercourses - what works, what doesn't and what questions you as commissioners should ask. Discussion of hydrology (peak vs base flow), and the importance of soil type and wetland ecology is included.

#### **D3. Effective Communication by Conservation Commissions with P&Z and IW Commissions**

*Attorney Mark Branse, Branse & Willis, LLC*

Attorney Branse was a Town Planner in Glastonbury and now works as a land use attorney for municipalities and their land use agencies. He is a proponent for "heeding" land use recommendations of conservation commissions. Workshop will provide the basics for composing and delivering effective communications to other land-use commissions.

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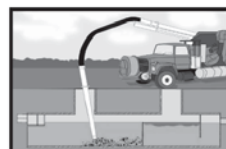
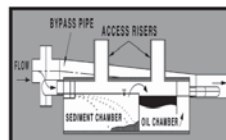
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### Richard W. Canavan, Ph.D.

Richard W. Canavan, Ph.D. recently joined CME as Senior Environmental Scientist. He obtained a bachelors degree in botany from Connecticut College, M.S. in soil science from Cornell University, and Ph.D. in geochemistry from Utrecht University (Netherlands).



Dr. Canavan has conducted extensive research and published numerous scientific research papers on the effects of nutrients and other pollutants in soils, wetlands and lakes. Dr. Canavan also co-authored the Connecticut Arboretum publication "Connecticut Lakes: a study of the chemical and physical properties of fifty-six Connecticut lakes" which examined the effect of land use changes on water quality.

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### *Legislation, continued from page 7*

develop a policy for reviewing and making recommendations concerning all such sales or transfers. Members of the informal "CEPA Working Group", including The Connecticut Fund for the Environment, the League of Conservation Voters, Rivers Alliance, Audubon Connecticut, the Council on Environmental Quality and CACIWC worked with and negotiated with state agencies to pass this legislation. **CACIWC also testified in support of P.A. 07-162.**

### **Public Act 07-162, Creation of a Farmland Preservation Advisory Board and Allocation of PDR Funds by Lump Sum**

*Status: Passed and signed by the Governor*

For the first time since the inception of the State's Farmland Preservation Program in 1978, bond funds for acquisition of development rights will be allocated by lump sum instead of farm-by-farm. The twice per year lump sum allocation will ensure the CT Dept. of Agriculture has consistent financial resources necessary to protect Connecticut's working lands. The bill also establishes an Advisory Board within DOA to specifically work on farmland preservation. **CACIWC testified in favor of this legislation.**

### **OPEN SPACE MANAGEMENT**

#### **House Bill No. 7277, An Act Concerning All-Terrain Vehicles (ATV)**

*Status: Failed*

Required all ATVs to be registered. **CACIWC testified in support of HB 7277** before the Environment Committee, which passed the bill. But once again the ATV lobby opposed the bill and it was killed in the Transportation Committee.

#### **Senate Bill 282, An Act Concerning an Appropriation to Control Invasive Plants**

*Status: Passed and signed by the Governor*

Appropriates a sum of \$500,000 for invasive plant remediation and control and to implement the recommendations of the Invasive Plant Council. **CACIWC testified in support of SB 282.**

### **SUPPORT FOR STATE PROGRAMS**

#### **Department of Environmental Protection**

Recent budgets have cut support for the DEP in spite of continually expanding their responsibilities. In 2006 the Appropriations Committee had recommended restoring \$1.7 million that the Parks Division had lost two years ago, and directing an additional \$700,000 to the Division to address chronic staff shortages. The final budget, however, only included \$500,000, leaving our State Parks \$1.2 million less in operational funding than they had three years ago. This

*Legislation, continued on page 11*

*Legislation, continued from page 10*

year the \$1.7 million was restored but legislators kept the overall funding level and eliminated seven Conservation Officers positions that were in earlier versions of the budget. The Face of CT bill originally contained funds for six DEP staff to manage state parks and forests but those funds were also not appropriated.

The budget (appropriations) does contain additional funds for two new programs, pesticides and invasive plants, which will require additional DEP staff.

### **House Bill 5010, An Act Appropriating Funds to the Clean Water Fund**

*Status: In negotiation*

The funds would be used to aid cities and towns to address urgent sewer problems. While HB 5010 did not survive, the \$100 million is expected to be in the bond package presently (August 07) being negotiated. **CACIWC has supported funding for the Clean Water Fund in each of the last three years.** It is crucial that these funds be appropriated this year.

### **OTHER IMPORTANT ENVIRONMENTAL LEGISLATION**

### **Senate Bill 1289, An Act Concerning the Expansion of the Beverage Container Redemption Provisions**

*Status: Failed to be voted on in the House*

SB 1289 would have expanded the bottle recycling deposit provisions to include plastic water bottles, juice containers, flavored tea and sports drink containers and to recapture some of the unclaimed bottle and can deposits. Passage would preserve resources and energy by recycling containers into new products and provide incentives for reducing litter. **For the third consecutive year CACIWC and many other organizations testified for the bill but ultimately could not compete with opposition lobbyists.**

### **Public Act 07-239, An Act Concerning Responsible Growth**

*Status: Passed, signed by the Governor*

PA 239 creates a Responsible Growth Task Force under the leadership of the Governor and the Office of Policy and Management. The Task Force will be responsible for developing policy and initiatives for the Governor's Responsible Growth Program. **Time constraints prevented CACIWC from discussing and endorsing this legislation.**

### **Public Act 07-189, An Act Concerning the Collection and Recycling of Covered Electronic Devices**

*Status: Passed and signed by the Governor*

One of the major successes of the 2007 session, passage promotes a "producer financed, producer run system" to recycle computers and televisions. It will reduce toxic

materials such as lead and mercury that can enter the environment when electronics are not disposed of properly.

**Time constraints prevented CACIWC from discussing and endorsing this legislation.**

### **Public Act 07-242, An Act Concerning Electricity and Energy Efficiency**

*Status: Passed and signed by the Governor*

PA 242 was designed to reduce high energy costs and encourage conservation. It requires that new or renovated schools meet green building standards and provides initiatives for consumers to switch to renewable energy sources.

**Time constraints prevented CACIWC from discussing and endorsing this legislation.**

### **Public Act 07-168, An Act Banning Pesticide Use on School Grounds**

*Status: Passed and signed by Governor*

PA 168 expands the ban on lawn care pesticide use beginning on July 1, 2009 to include playing fields, play grounds, and school grounds through grade eight. **Time constraints prevented CACIWC from discussing and endorsing this legislation.**



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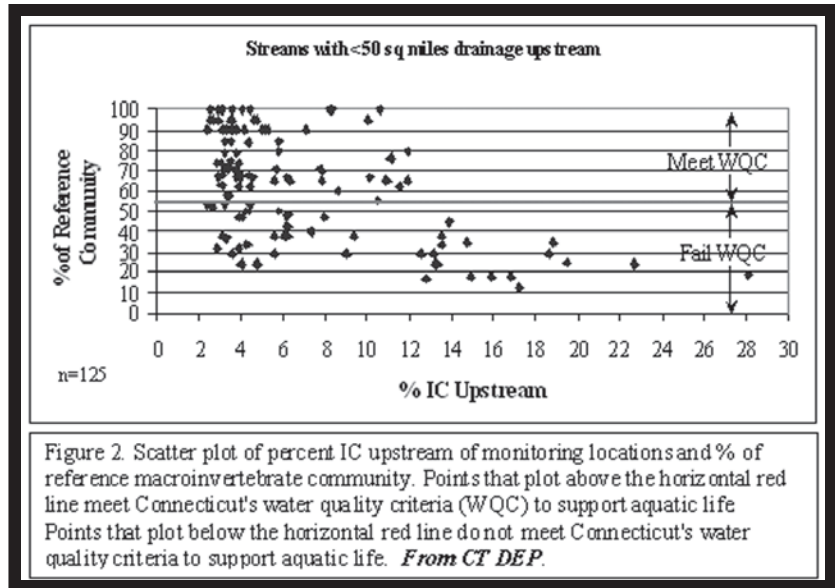
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*Impervious, continued from page 3*

invertebrate assemblages (a.k.a., aquatic bugs), a known indicator of long-term stream health, to estimates of impervious cover in the upstream drainages as estimated by a CLEAR model. The study discovered a “threshold” effect at approximately 12% impervious cover: above this threshold, no streams met Connecticut’s aquatic life criteria for healthy streams (Figure 2). Based on this analysis, in May 2007 Connecticut became the first state in the country to issue a federally-approved Total Maximum Daily Load regulation based on impervious cover, rather than a specific pollutant.

So, the research base is there – but that’s the easy part. The hard part is for communities to formulate fair and defensible land use policies, regulations and practices that take this information into account. The best use of the ICM is not as a hard and fast rule, but as a framework to promote regulations and polices that: (a) reduce the overall amount of impervious cover; (b) mitigate the impacts of existing impervious cover, and; (c) minimize the impacts of new development. In the next *Habitat*, we’ll go over some of the ways that a community can tackle these issues.



**Some key references for commissioners use:**


For general information on impervious cover: UConn NEMO: [http://nemo.uconn.edu/tools/impervious\\_surfaces/index.htm](http://nemo.uconn.edu/tools/impervious_surfaces/index.htm)

To view information on impervious surface in Connecticut and the Long Island Sound area: <http://clear.uconn.edu/projects/imperviouslis/project.htm>

For a free download of the Center for Watershed Protection’s “Impacts of Impervious Cover on Aquatic Systems”: <http://www.cwp.org/PublicationStore/TechResearch.htm>

To download CTDEP’s Eagleville Brook impervious cover-based TMDL: [http://www.ct.gov/dep/lib/dep/water/tmdl/tmdl\\_final/eaglevillefinal.pdf](http://www.ct.gov/dep/lib/dep/water/tmdl/tmdl_final/eaglevillefinal.pdf)

The new Jordan Cove website: <http://www.canr.uconn.edu/jordancove> 



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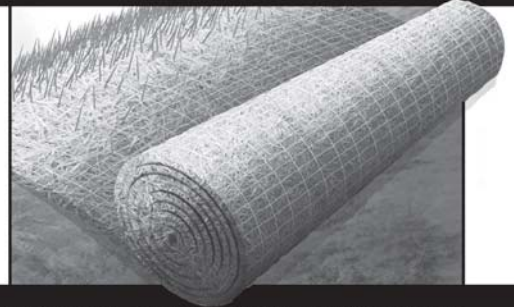


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## CONGRATULATIONS HOUSATONIC!

**C**ongratulations to the five-member team from Housatonic Valley High School in Falls Village, Connecticut for winning the 2007 Canon sponsored Envirothon.

Envirothon is a competition between high school teams on each of five subject areas; Soils/Land Use; Aquatic Ecology; Forestry; Wildlife and the current environmental issue which in 2007 was alternative/renewable energy.

In May 2007 the Housatonic Valley Regional High School team out competed 30 other CT teams to qualify for the Canon Envirothon to be held July 30<sup>th</sup> to August 3<sup>rd</sup>.

After studying all summer the students traveled to Hobart & William Smith College in Geneva, New York to compete with high school teams from forty-four states and nine Canadian Provinces in the Canon Envirothon.

Students participating in Envirothon are our future environmental leaders. Congratulations to the members of the winning team and to all the teams for their commitment and dedication to preserving natural resources for future generations.

Does your Town have an Envirothon Team? For more information contact you're Conservation District ([conservect.org](http://conservect.org)).

The Connecticut Envirothon is sponsored by the five CT Conservation Districts, the CT Council on Soil & Water Conservation and many other supporters including state and federal agencies and private businesses.



*The winning team members from Housatonic Valley Regional High School in Falls Village: Palmer Paton, Sunny Kellner, Andrew Alquesta, and Arlen Kleinsasser. (Photo: Business Wire)*

## RESOURCES FOR COMMISSIONERS

### *DEP Segment III Training*

Segment III of the 2007 Municipal Inland Wetland Commissioners Training Program will be held in October. A program brochure, and a voucher allowing one person from each town to attend for free, will be mailed to all municipalities by early September. Information will also be available online in early September at: <http://continuingstudies.uconn.edu/professional/dep/wetlands.html>

This year the training program will be offering two different Segment III workshops, allowing participants to choose the subject of their interest. The workshops will be: Vernal Pool Ecology and Monitoring to be held in Middletown, CT; and Mashantucket Pequot Tribal Nation's Environmental Management and Wetland Mitigation to be held at the Mashantucket Pequot Museum and Research Center. For further information contact Darcy Winther, DEP Wetlands Management Section, at (860) 424-3019.

### *Connecticut Forest & Park Association*

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*Stephen Most*

Throughout history there have been moments of elevated vision and accomplishment when the convergence of great men, bold ideas and high purpose has resulted in action of historic dimensions. Such was the case during the first decade of the 20<sup>th</sup> Century when John Muir, Theodore Roosevelt and Connecticut's own Gifford Pinchot grappled, to effect, with the disposition of the vast American wilderness, setting in motion an impassioned debate that continues unabated today.

On November 9, 2007, at the Bushnell Center for the Performing Arts, Pinchot, Muir and Roosevelt will play out this story of conflict and high drama in a staged dramatic reading of a play by Stephen Most commissioned by the Connecticut Forest & Park Association (CFPA).

We invite you to be a witness as these visionary men square off on how to best manage America's forests. Find out what happened at the White House in the dark of a night that changed the face of the American landscape.

*Resources continued on page 15*

## RESOURCES FOR COMMISSIONERS

*Resources, continued from page 14*

The performance and a gala reception prior to the performance, with food and drink provided by Max Restaurants, will benefit the Association's Education Program. Honorary Chair Governor M. Jodi Rell will be declaring November 9<sup>th</sup> 'Gifford Pinchot Day'.

For information about tickets and invitations, call or email CFPA at (860) 346-2372 or info@ctwoodlands.org.

This project has been made possible in part by the generous support of the Connecticut Humanities Council and by Astrid and Fred Hanzalek.

### ***CT Forest Conservation & Forest Science Forum***

***Connecticut Forests: How to Blend Science and Policy as We Move Forward  
November 20, 2007***


The Connecticut Forest Conservation and Forest Science Forum will take place at the Rome Ballroom, the University of Connecticut, Storrs CT. A Program Brochure and Registration form can be down loaded from [caciwc.org](http://caciwc.org).

### ***"Between Land & Water"***

*Between Land & Water: Life Stories of Connecticut's Amphibians* follows CT's native amphibians over an annual season. The video documentary describes roles the animals play in local wetland and forest ecosystems as well as conservation needs that must be addressed to preserve amphibian biodiversity.

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