

The Habitat

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

Fall 2014

volume 26 number 4



CACIWC's 37th Annual Meeting & Environmental Conference - Preparing Connecticut for the Impact of Global Changes -



We are honored to host State of Connecticut Department of Energy & Environmental Protection (DEEP) Commissioner Rob Klee as the keynote speaker of CACIWC's 37th Annual Meeting and Environmental Conference.

In his keynote address Commissioner Klee will emphasize the joint role of DEEP and CACIWC member commissions in supporting our 2014 conference theme of *Preparing Connecticut for the Impact of Global Changes*. The challenges to our members from these global changes range from preparing our towns for the impact of climate change on our state's important habitats to balancing the regional and global needs for food and energy with local environmental conservation and protection.

Commissioner Klee joined DEEP in April 2011 as Chief of Staff. In that role he oversaw the work of the agency, supported the efforts of the Commissioner, and advised the Commissioner and senior staff on a wide range of environmental and energy policy issues. Klee was appointed DEEP Commissioner by Governor Dannel P. Malloy in January 2014.

Prior to joining state service, Commissioner Klee was an attorney with Wiggan and Dana LLP, in New Haven, where he specialized in appellate work and energy and environmental law. From 2004 to 2005 Commissioner Klee worked as a Law Clerk for the U.S. District Court in Connecticut and from 2005 to 2006 as a Law Clerk for the U.S. Second Circuit Court of Appeals. He served as a Research Affiliate in the Yale School of Forestry and Environmental Studies from 2006 to 2008.

Commissioner Klee holds a PhD from Yale's School of Forestry & Environmental Studies in industrial ecology, a law degree from Yale, and an undergraduate degree from Princeton in geology and environmental science. Commissioner Klee and his wife Anne have two sons.

annual meeting, continued on page 10

CACIWC's 37th Annual Meeting & Environmental Conference, scheduled for **Saturday, November 15, 2014**, will introduce a **new location** and highlight a **revised agenda**.

In response to your comments from the 2012 & 2013 meeting surveys, CACIWC has revised the format of

our 2014 annual meeting, developed an improved lunch menu, and scheduled the meeting at a new location with larger workshop rooms:

Villa Capri Banquet Facility
906 N. Colony Road, Wallingford, CT 06492
(203) 265-7174, www.villacapri.com

CACIWC has organized a great selection of administrative, legal, procedural, and scientific workshops for both new and experienced inland wetlands and conservation commissioners and their agents. Many of these workshops will support our 2014 conference theme.

Watch for additional details on our website at: www.caciwc.org. Please direct any questions on our annual meeting to us at: AnnualMtg@caciwc.org. 🌿

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www.caciwc.org

CACIWC News

CACIWC member commissions have long endeavored to preserve the many beautiful forests, meadows, and wetland systems that serve as critical habitats for important native plants and wildlife. While many of our members face increasing local challenges in their efforts to preserve these lands from the growing demands for development, others are concerned with new challenges to their work resulting from climate change along with regional and global energy, food, and economic pressures. With our new workshops and relevant keynote address, this year's conference will help our member commissions maintain their role as effective stewards of wetlands and open space lands within their communities.

1. To help support our member's efforts, CACIWC organized our **37th Annual Meeting and Environmental Conference** with the theme of *Preparing Connecticut for the Impact of Global Changes*. This conference, scheduled for Saturday, November 15, 2014, will be held at a spacious new location: the Villa Capri Banquet Facility in Wallingford, CT. The Board of Directors was also pleased to recruit Department of Energy & Environmental Protection (DEEP) Commissioner Rob Klee to serve as our keynote speaker.

The Annual Meeting Committee has organized a series of informative workshops on how best to preserve important local ecosystems from the impact of habitat changes and losses, invasive species, emerging diseases, and other external threats. Speakers will also discuss how CACIWC members can best plan to meet these global challenges. Please see the detailed workshop descriptions in this issue of *The Habitat* and watch for additional conference news on our www.caciwc.org website. You may direct any questions or comments on our annual meeting to us at: AnnualMtg@caciwc.org.

2. It is not too late to renew your **2014-15 membership dues** and take advantage of the \$15/per person annual meeting registration discount. Dues paying commissions can save an additional \$10/per person in annual meeting registration fees by registering by October 31, 2014. A copy of the membership dues notice form recently mailed to you can also be found on our website: www.caciwc.org. Our website also provides a description of additional individual and business membership categories you or your company can use to provide additional support to CACIWC. We continue to very much appreciate any additional contributions that you can provide to support various CACIWC programs including our Annual Meeting, educational materials, and *The Habitat*.

3. The CACIWC board of directors continued work on the development our new **strategic plan**. To help plan future education and training programs and complete our revised strategic plan, we have developed a brief **one-page membership questionnaire**.

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Journey to The Legal Horizon

by Attorney Janet Brooks

Discovery of Oases and Mirages in Town Regulations

Preview of Workshop at CACIWC 2014 Annual Meeting & Environmental Conference

Results of 2013 Statewide Survey of Municipal Wetlands Regulations, Part II

In this article I will continue to report on my town-by-town review in the fall of 2013. Between online posting of regulations by individual towns, and the helpful assistance of town staff, I was able to review 95% of all regulations, ably assisted by Wesleyan student Vanessa Castello. Originally, the questions I was investigating included: How many towns have adopted upland review areas? Are there towns regulating vegetated buffers? What about vernal pools? And, is it true that 100 feet is the most common size of an upland review area? That article, Part I, covering those results is found in Winter 2014, Volume 26, Number One. While developing color-coded spreadsheets of the regulations verbatim, I wanted to note other topics of interest. I was running out of colors for highlighting and ended up with the gray color-coded topics. Not an apt description it turns out. Most of the gray entries involved regulations that were clearly legal – or not. I’ve recast those topics in this Journey to the Legal Horizon as oases (positive discoveries), and mirages (regulations that, upon close examination for statutory support, just seem to disappear). At the annual meeting the actual wording of the regulations will be examined. For this article the concepts will suffice. At the workshop I will discuss ways to discuss proposed regulation changes to keep your agency’s actions from turning into a disappearing mirage. In this article I will pose one question to help you focus on the mirage’s problem.

Accentuating the positive: oases in municipal regulations

I designate portions of municipal regulations “oases” when they are helpful to applicants, the public or commission members in understanding the process or the reasoning behind a policy. What an upland review area is may be a topic covered in many legal update workshops, but may not be a familiar term to applicants, the public and new commission members. In East Haven,

Milford, Wallingford and Washington, agencies have employed a variety of helpful expressions to clarify and define the regulatory limits of the agency in an upland review area. In one example the regulation states it is not sufficient for the agency merely to assert that the activity “may” impact wetlands. In another the regulation boldly declares it is not intended as an exclusionary setback. One approach underscores upland areas are regulated only to protect wetlands and watercourses.

Regulating activities conducted outside a wetland, watercourse or established upland review area

This was the most pleasant surprise in my review. I discovered that four municipalities have created a process for determining when proposed activities outside an established upland review area will be deemed a regulated activity, requiring a wetlands permit. Let’s back up and review when this comes into play. In 2003 the Appellate Court issued its ruling in *Prestige Builders, LLC v. Inland Wetlands Commission*¹, that a wetlands

agency was not authorized to exert jurisdiction over activities unless the agency had adopted a regulation to regulate where the activity occurred. DEEP (then DEP) had already recommended, in its 1997 Upland Review Area Guidance Document, that agencies promulgate a regulation to regulate those activities outside of established upland review areas that are likely to impact wetlands or watercourses. Here is DEP’s suggested language: : “The Agency may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.” DEP wetlands training presenters and materials urged that towns adopt protective language, such as the sentence quoted above. Seventy per cent of Connecticut towns (118) did so.

Left unanswered by that sentence is exactly *how* the agency would make that determination. Agency conduct must be undertaken with due regard to fundamental fairness to those who come before it. Four towns flesh out how

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Case law issued in the 1980s has made it clear that wetlands agencies are not mini-EPAs.

The amendments to the wetlands statutes have honed in on the impact to wetlands and watercourses. Agencies should, too.

legal horizon, continued from page 3

fundamental fairness will occur in this context. Three of the towns (Avon, Bridgewater and Ridgefield) require that a hearing be provided with varying amounts of notice to the landowner that a proposed activity is likely to cause an impact to wetlands/watercourses. Another town (Simsbury) sets out the factors for the agency's consideration. By adopting a regularized method of making these determinations, agencies fulfill their duty to conduct themselves in a fundamentally fair manner and lessen the chance that their conduct can be successfully claimed on appeal to be arbitrary and capricious.

These examples of regulations should inspire other towns to adopt regulations which flesh out the process the agency will engage in.

Mirage #1: Who is the regulating authority?

Too many towns to list delegate the authority to their agent or town staff to determine whether activities outside established upland review areas require a permit. Agencies are, in the words of the courts, "creatures of statutes." Take a look at the statute or the DEP model regulation or the DEP Upland Review Area Guidance

Document. In none of those documents is there any articulation that the staff/agent is authorized to undertake such a determination. The agency makes the determination. The agent or staff can gather information and present it at a meeting, in a memo, etc. Who raises their hands and votes at a meeting? That is the regulating authority -- unless the statute specifically states otherwise.

Mirage #2: Is the resource within the agency's jurisdiction?

I was most shocked to find that towns claimed jurisdiction over a variety of resources nowhere mentioned in the Inland Wetlands and Watercourses Act, such as: "flood hazard area," "streamward of established local encroachment lines," areas listed on a FEMA map, flood plains, open space in the town, land with conservation easements recorded on the land records, "any geographical area where activity thereon may . . . impact the purity of groundwater supplies," "one hundred feet from all tidal wetlands." Case law issued in the 1980s has made it clear that wetlands agencies are not mini-EPAs. The amendments to the wetlands statutes have honed in on the impact to wetlands and watercourses. Agencies should, too.

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Meadows Large or Small for the Home and Community Landscape

By Kathy Connolly, MA Landscape Planning and Design, Principal, Speaking of Landscapes, LLC

Not too late: Sow seeds now for colorful meadows next year

If my experience is an indication, a number of communities are considering wildflower meadows for sections of their parks and open spaces. The benefits are several. They provide habitat for birds, bees, butterflies and more. They stabilize soil and, if left undisturbed, sequester carbon. Public meadows provide a demonstration of good practices, in many cases providing cover in areas hard to grow. They delight people with their colors and variety during the flowering season. And, not least, they give town maintenance crews one less weekly mowing job—and reduce carbon emissions at the same time.

But among the various types of landscapes, such as lawns or formal gardens, meadows are perhaps the least understood. Many people know that fall is considered the ideal time to plant grasses. But many don't know that grasses are the primary ingredient in a successful meadow.

"Most meadows in this part of the country are comprised of a mixture of cool and warm season grasses—as well as a collection of forbs," according to Mark Lavoie, whose Granby, CT, company, Colonial Seed, specializes in planting meadows and grassy habitats. 'Forbs' are flowering perennials, annuals and biennials.

He explains that there is an ideal, finite window of planting opportunity in the fall. "Many cool season grasses and forbs find September an ideal time for germination and establishment," he says, explaining that cool-season plants can germinate in the fall, establish roots and survive the winter. "But the warm season grasses are a different story," he says. "The window for warm season grasses closes somewhere in mid-to-late August. We have found through experience that dormant seeding of warm season grasses sometime around mid-November or later provides successful establishment the following year." Dormant seeding refers to the practice of sowing seeds—cool season or warm—after the first killing frosts in late fall and early winter.

"Warm season grasses are one of the mainstays of our regional meadows," adds Lavoie.

And though the actual sowing of seeds can take place from November 1 – December 15, now is the time to begin preparations.

"Success with fall meadow plantings comes down to timing, patience, soil preparation and careful seed selection," says Lavoie. One of the most important considerations, he says, is to create a 'clean canvas', meaning that the planting area is free of unwanted seed or vegetation. Approaches to obtaining a clean canvas may involve both chemical and mechanical methods.

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More importantly, the wildflower label does not automatically mean a plant is native to our area. In fact, many wildflower mixes contain a large number of non-native annuals and bi-annuals.

These flower in the first to second year and provide color, but some will not persist beyond the first year. Examples include poppies, cornflowers (aka bachelor buttons), and cosmos.



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meadows, continued from page 5

But whatever method you use, “Be prepared to clear the area as much as three or four times before planting,” he says, noting that it takes some patience. “However you choose to clear the canvas, start now.”

Most professionals working in this area advise “top-down” weed removal, such as raking, hand removal, or the use of weed killers. But many people ask about machine-tilling the area, which turns and mixes soil, particularly when they are working in large areas.

Another expert, Catherine Zimmermann, author of *Urban and Suburban Meadows* (www.TheMeadowProject.com), provides a cautionary tale on this topic. She worked with an outdoor music venue that prepared a large area for conversion to a flowering meadow using herbicide and tilling.

“On planting day, they had 80 volunteers on site and we planted literally thousands of plugs,” she says. “But when I went back three weeks later, weeds were clogging the field, competing with the newly planted flowers and grasses. And there were only three people on hand to battle the

weeds.” Zimmermann adds, “If you must till due to soil compaction, take the extra time to kill off the weeds that will follow. Then plant. Patience is its own reward!”

If you are working with compacted soil, there are alternatives such as core aeration—which can be done in spring or fall.

Zimmermann offers this rule of thumb: “Never till an area before planting a meadow. Tilling brings long-dormant seeds to the surface where exposure to sunlight helps them merrily sprout a bumper crop of unwanted weeds in no time.”

But what about the seed itself? It is unfortunate but true that some seed companies have found it expedient to emphasize the flowers and fail to discuss the role of grasses.

“A wildflower seed mix with no grass is likely to fail after the first season. Grasses stabilize the soil,” says Lavoie. A good meadow mix, he says, is often 40% to 70% grasses.

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If you purchase a flowers-only mix, Lavoie recommends adding several types of fescue, along with hairgrass and little blue stem. Other possibilities include side-oats grama, broom sedge, Canada wild rye or riverbank wild rye. There are other possibilities as well.

And what about the ‘wildflowers’ in the mix? The term itself refers simply to flowers that are likely to volunteer in nature without human intervention. Yet many of the plants in a wildflower mix are also mainstays of our cultivated gardens.

More importantly, the wildflower label does not automatically mean a plant is native to our area. In fact, many wildflower mixes contain a large number of non-native annuals and bi-annuals. These flower in the first to second year and provide color, but some will not persist beyond the first year. Examples include poppies, cornflowers (aka bachelor buttons), and cosmos.

“If one of the reasons you’re planting a meadow is to support birds, bees and butterflies, you really need to look at the number of native species in the wildflower mix,” says Catherine Zimmermann. “Native plants are best suited to supporting our native pollinators. That’s because 90% of our native insects are specialists and can only eat a particular native plant or family of native plants that they have evolved with over time, and I’m talking about a long, long time.

“For instance, when a butterfly lays her eggs, she lays on a plant that the youngsters can actually eat. That plant is, most often, a native plant.”

Here are some southern New England natives for a sunny open space meadow: Milkweed, butterfly weed, goldenrod, asters, black-eyed Susan, Culver’s root, New York ironweed, golden Alexander, bee balm, lavender hyssop, foxglove beardtongue, ox-eye sunflower, and partridge pea. There are many others.

Whether your community has a space as small as 10’ x 10’ or several acres, fall is a good time to begin the meadow journey. Aside from its benefits to local ecology, some have compared these landscapes to “a massage for the soul.”

Monique Hanson, a Chester, CT, homeowner, is now finishing her first season after planting a 10,000 square foot meadow on June 11, 2014. She chose a mix with

65% native flowering perennials and about 15% annuals. By August 8, the annuals were providing brilliant colors. Next year, many of them will not return but perennials and biennials will take their place.


“I love taking care of the meadow. It settles my mind,” she says. “And people tell me they haven’t seen any monarch butterflies this year. But I’ve seen quite a few.”

Both Mark Lavoie and Catherine Zimmermann emphasize that a meadow is an evolving landscape. It never looks alike two years in a row. Furthermore, many perennials take a year or two to blossom so it may not reach peak color until the third to fifth year. But with each passing year, maintenance is less and enjoyment is more.

“Meadows are both a journey and a destination,” says Lavoie.

Kathy Connolly is a landscape designer, writer and speaker from Old Saybrook, CT. Visit her web site: www.SpeakingofLandscapes.com for her speaking schedule or email her: Kathy@SpeakingofLandscapes.com. 🌿

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CACIWC's Environmental Conference Workshops

SESSION 1 (9:30 - 10:30 AM)

SESSION 2 (10:45 AM - 11:45 PM)

Open Space Management & Conservation Biology Track

A1. Long- & Short-term Impacts of Climate Change on Invasive Plants in Connecticut

Identification & Control of Bamboo
Jeff Ward, Connecticut Agricultural Experiment Station and

Climate Change & Invasive Plants
Charlotte Pyle, PhD, Landscape Ecologist, USDA - Natural Resources Conservation Service
For workshop descriptions, see page 9, right column

B1. What's in Municipal Wetlands Regulations?

Results of Statewide Survey of Municipal Wetlands Regulations, Part II
Janet Brooks, Attorney at Law, LLC

Attorney Brooks will present Part II of the results from her fall 2013 statewide survey. She will explore the "oases" (helpful additions to the standard Model Municipal Regulations). She will also explore "mirages" (those found lacking statutory support in actual agency regulations), such as artificial illumination, "intentional setting of fire," time limits to complete a regulated activity. Are these regulations mirages? Can they be saved? We'll try to transform the mirages into oases and pay our last respects to those regulations we cannot.

C1. Pond dredging: The Responsible Protocols and the Associated Risks

Mark June-Wells, PhD, Limnologist & Plant Ecologist New England Environmental, Inc.

Independent of what technique is chosen; pond dredging imparts a significant disturbance to lentic systems. However, dredging is a powerful tool in lake and pond management because it can improve the recreational availability, reduce internal nutrient loads, increase fish habitats, and reduce non-native plant species biomass. There are numerous dredging techniques available today. This workshop will examine dredging techniques, their risks, and what regulatory processes are required.

D1. Climate Change and Wetlands

Juliana Barrett, PhD, Assistant Educator in Residence, CT Sea Grant College Program, UConn Center for Land Use Education and Research, Nonpoint Education for Municipal Officials

Hurricanes Irene and Sandy impacted many communities. Environmental impacts of severe storms on coastal inland wetlands systems will be described. Recommendations for management options for wetland adaptation to climate change will be given. Roles of conservation and inland wetlands commissions in helping to prepare communities will also be discussed.

A2. Open Space Management: Creating & Managing Trails

Clare Cain, Trail Stewardship Director Connecticut Forest & Park Association (CFPA)

Connecticut conservation commissions and their staff work to identify and preserve important habitats within their municipality. In addition to documenting natural resource inventories and developing land management plans, these commissions frequently seek to establish trails and provide other opportunities for passive recreation. This workshop will provide information on design of sustainable trails, best practices for preventing erosion, and approaches to developing enjoyable trail systems that provide access and help protect local habitats.

B2. 2014 Wetlands Law Update with Question & Answer Session

*Janet Brooks, Attorney at Law, LLC
David Wrinn, CT Attorney General's Office;
Mark Branse, Branse & Willis, LLC*

This trio of wetlands attorneys has been brought back by popular demand to keep you current with the latest state Supreme Court and Appellate Court cases. This work shop will also include the 30-min question-and-answer session that you asked for!

C2. Management of Invasive Aquatic Plants

Gregory J. Bugbee, Associate Scientist, Connecticut Agricultural Experiment Station, Department of Environmental Sciences

Connecticut's lakes and ponds face an imminent threat from invasive plants. Their dense stands negatively impact native aquatic ecosystems, interfering with recreation, and lower property values. Management is accomplished by a variety of methods, including: watershed protection, education, boat inspections, early detection, and rapid response. Efforts to control established populations of invasive aquatic plants entail physical removal, antagonistic biological organisms, herbicides, benthic barriers, water level manipulation, and dredging.

D2. Coastal Adaptation as an Opportunity for Ecological Design

Alexander J Felson, PhD, RLA, Assistant Professor, Yale School of Forestry & Environmental Studies and Yale School of Architecture; Director, Urban Ecology and Design Laboratory

After Hurricane Sandy the federal government introduced an innovative design competition, Rebuild by Design, to integrate long-term resiliency into disaster recovery funding. In Connecticut this effort was focused on Bridgeport. A team of architects, engineers, ecologists, community engagement specialists and urban planners all collaborated to design a plan that improved the city's resilience to climate change. This workshop will review elements of the plan aimed at restoring hydrologic connectivity, improving stormwater management, and using natural buffers to slow erosion.

Land Use Law & Legal Updates Track

Wetlands Science & Engineering Track

Climate Change & Planning Track

Saturday, November 15, 2014

SESSION 3 (1:45 - 2:45 PM)

A3. Coexisting with Black Bears in Connecticut

Felicia A. E. Ortner, Connecticut Master Wildlife Conservationist & Founder, The Bear Reality

Many Conservation Commissions and their staff have been asked to respond to questions resulting from the increasing number of Black Bear sightings in their town. This workshop will provide information on Connecticut's dynamic bear population including their life cycle, winter dens, preferred food and habitats. The presentation will review findings of recent scientific research including remote tracking programs. Advice on habitat management and appropriate behavior while encountering bears will help commissions educate their residents on how to best coexist with these captivating species.

B3. Working with Local Commissions & Federal Agencies

Attorney Mark K. Branse, Branse & Willis, LLC

This workshop will continue discussions on how municipal Conservation Commissions and Inland Wetlands Commissions can work more effectively with each other, and with their local Planning & Zoning (P&Z) Commission to minimize the environmental impact made by new development. Cooperative strategies focusing on state and local POCDs and LID regulations will be examined. The workshop will also provide guidance to municipal commissions on what roles they can take when federal agencies, such as U.S. Army Corps of Engineers and the FEMA come to town.

C3. Stormwater Management & Control

William Lachenauer, Project Coordinator, Hudson Engineering & Consulting, P.C.

Designing outside the proverbial "box." An examination of innovative, environmentally sound and fiscally responsible approaches to stormwater management design through the use of "green" practices. This session will explore bio-retention, roof downspout disconnection, bio-swales and vegetative planting strips as methods of achieving stormwater quality and stormwater rate attenuation.

D3. The Value of Riparian Corridors and Plantings for Storm Defense

Juliana Barrett, PhD, Assistant Educator in Residence Connecticut Sea Grant College Program, UConn Extension Program, Center for Land Use Education and Research (CLEAR), Nonpoint Education for Municipal Officials (NEMO)

This workshop will explain the role that natural riparian corridors and buffer plantings play in both riverine and coastal environments to protect against streambank and shoreline erosion, biofiltration of excess nutrients and improvement of wildlife habitat. The value of these natural corridors and plantings in defending important Connecticut habitats from storm damage and threats related to climate change will be discussed. Recommendations for specific plant species in varied environments will be given as well as recommended buffer widths.

CONFERENCE SCHEDULE

Registration & Breakfast	8:30 – 9:00 am
Welcome & Business Mtg.	9:00 – 9:30 am
Session 1 Workshops	9:30 – 10:30 am
Break 1	10:30 – 10:45 am
Session 2 Workshops	10:45 – 11:45 am
Break 2	11:45 am – 12:00 pm
Luncheon, Keynote Speaker	12:00 – 1:30 pm
Break 3	1:30 – 1:45 pm
Session 3 Workshops	1:45 – 2:45 pm
Conference ends	3:00 pm

Displays will be on view
from 8:30 am – 2:45 pm.

A1. Workshop Description

Public Act 14-100 declared Running Bamboo a nuisance if it grows beyond the boundaries of a parcel of property. Public Act 13-82 puts the responsibility of enforcing the control of bamboo on a duly authorized wetland agent if wetlands are present. This workshop will help municipal agents identify the specific type of bamboo the law addresses and how to distinguish it from the other types as well as methods for control.

Scientists are increasingly recognizing both the long-term and short-term impacts that climate change will have on populations of invasive plants in Connecticut. This workshop will describe and characterize these expected changes and help municipal commissions and agents better prepare for and help mitigate these changes.



Membership
Dues Are
Due!

Klee, continued from page 1

The Connecticut Department of Energy & Environmental Protection (DEEP) is well known to CACIWC members, being the state agency charged with conserving, improving and protecting the state's natural resources and environment, along with providing first-rate outdoor recreation opportunities to residents and visitors of our state. The DEEP is also charged with bringing cheaper, cleaner, and more reliable energy to Connecticut's residents and businesses. In this role, DEEP is focused on integrating energy and environmental policies and helping Connecticut to build a sustainable and prosperous 21st-century economy.

Conservation and Inland Wetland Commissions have long labored to protect and preserve our forests, open meadows, and wetland systems. Many of these beautiful places serve an important conservation role by preserving critical habitats for native plants along with resident and migratory birds and other wildlife. Together, these lands provide countless opportunities for quiet walks and other enjoyable recreation activities for residents and visitors alike.

Our member commissions, along with land trusts and other organizations, are already facing increasing local challenges in their efforts to appropriately balance the growing demands for development with the long term goals of habitat preservation. Expected changes related to climate, along with regional and global economic pressures, will further challenge our members. With new workshops and Commissioner Klee's Keynote address, this year's conference will help our member commissions maintain their role as effective stewards of wetlands and open space lands within their towns. 🌿





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CACIWC news, continued from page 2

Please complete the survey as soon as possible, but no later than October 31, 2014. We thank you in advance for your participation and assistance in this important survey designed to further assess your educational needs and ensure that CACIWC is aware of any new challenges to your efforts in protecting Connecticut wetlands and other important habitats.

4. Inspired by our service as coordinating judges for the environmental science awards in the year's Connecticut Science & Engineering Fair, CACIWC Board Treasurer Charles Dimmick and I have developed a new **Student Poster Session** for Connecticut secondary education and college students at our 37th Annual Meeting and Environmental Conference. Watch our website for more information on registering for the student poster session, designed to increase interest among Connecticut students in careers and volunteer activities that support conservation and wetlands protection.

5. While CACIWC was pleased to welcome a few new members of our Board of Directors, the New London County director and several other **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 in one of the vacant alternate county representatives, or as one of the alternate at-large representative positions.

6. We continue to receive inquiries from members regarding our **CACIWC advisory committees** designed to help us with our education and outreach efforts, contribute to the development of new goals and objectives for our updated strategic plan, and participate in the ongoing review of legislative initiatives. Let us know of your areas of interest by contacting us at board@caciwc.org.

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 hope to see all of you at our 37th Annual Meeting and Environmental Conference!

Alan J. Siniscalchi, President 🍀

CTLCV's 2014 Legislator Environmental Score Card

You Care About the Environment!
Does Your Legislator?

Connecticut League of Conservation Voters' 2014 Legislator Environmental Scorecard shows how each legislator voted on critical conservation bills during Connecticut's 2014 Legislative Session. To view the Scorecard go to www.ctlcv.org. The document describes the most important environmental bills to come up in the Connecticut General Assembly, and explains wins and losses for the environment. CTLCV's Scorecards tally votes on major environmental issues and show a numerical score for each legislator. Did your legislator meet your expectations regarding voting for or against a bill? Yes or No—let them know.

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legal horizon, continued from page 4

This reason alone is sufficient to justify DEEP resuming its supervisory role and actively advising agencies when they are adopting regulations. The statute requires agencies to send their proposed changes to DEEP. It did not take me much time to site these erroneous resources in the regulations. It would not take much time for a DEEP staff person to send out a letter advising that the resource is not in the agency's jurisdiction.

Mirage #3: Is this activity exempted by statute?

A number of towns establish that certain specified activities are regulated activities requiring a permit. None of the regulations overtly states the agency is exerting jurisdiction over exempt activities, but commission members may be confused. They read their own regulation that states certain activities are exempt, but here is a specific regulation which seems to trump the exemption (such as, no pesticide use, no use of logging skidders, no establishment of a new lawn without a permit). These examples involve the farming exemption, forestry exemption (part of agriculture), and the "uses incidental to enjoyment and maintenance of residential property" exemption. If these regulations are fine-tuned (i.e., amended) they can be crafted to mesh with the statutory exemptions. Perhaps a simple fix would suffice, such as, "if the activity is not exempt as set out in Section ___ of these regulations or pursuant to Connecticut General Statutes § 22a-40." As these broader regulations now stand, commission members run the risk of acting outside their jurisdiction.

Glimpses of further mirages

It doesn't end there. There are beavers and superstorms, "assumption" of jurisdiction until otherwise determined, emergency authorizations, artificial illumination, "intentional setting of fire" (pyromaniacs beware), time limits to complete a regulated activity, occupancy of a structure for greater than 180 days. Can these regulations be saved? Come to my workshop on November 15th as we try to transform the mirages into oases and pay our last respects to those regulations we cannot.

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.

(Endnotes)

¹ *Prestige Builders, LLC v. Inland Wetlands Commission*, 79 Conn. App. 710 (2003), cert. denied, 269 Conn. 909 (2004). 🍀

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Revising Connecticut's Green Plan

Guiding Land Acquisition and Protection in Connecticut

Public Acts [12-152](#) and [14-169](#), required DEEP to update the 2007-2012 Green Plan and prioritize the Department's actions through 2019 to best achieve the State's changing open space acquisition goals and meet new plan component requirements.

In order to develop a planning document that will be the highest value for the State of Connecticut, municipalities, land conservation organizations and the public, the Department needs to hear from all stakeholders.

It is critical that Conservation Commissions participate in revising the Green Plan. The Plan will be used by DEEP's Natural Heritage, Open Space and Watershed Land Acquisition Review Board to critique municipal open space applications. Review the current Green Plan to provide DEEP with comments, suggestions, and recommendations.

DEEP has established a Green Plan Webpage (Google CT DEEP: Revising the Green Plan) with the following:

- Green Plan Revision Work Plan (PDF)
- Green Plan Revision Info Sheet (PDF)
- Draft Green Plan Outline (PDF)
- The Green Plan: Guiding Land Acquisition and Protection in Connecticut 2007-2012 (PDF)

DEEP encourages you to review the materials provided on this webpage and to submit your thoughtful comments on the Green Plan's draft outline via e-mail to:

Jamie Sydoriak, Land Acquisition Resource Assistant
Email: Jamie.Sydoriak@ct.gov
Phone: 860-424-3143



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Prohibiting Lawn-Care Pesticides: Protection for Children and Wetlands

Conservation and Inland Wetland Commissions Can Help

In 2005 Connecticut was the first state in the nation to prohibit the use of lawn-care pesticides on grounds of elementary schools. The pesticide ban was expanded in 2007 to include playing fields, play grounds and grounds for schools through grade eight, and again in 2009 to include day care centers.

Five years later the pesticide ban still does not include high schools, state parks or municipal parks, play grounds or playing fields even though scientific evidence clearly shows there is a significant health risk from exposure to the chemicals in pesticides to children of all ages.

In 2014 two bills were submitted to expand prohibition of lawn-care pesticides:

- SB 46, An Act Concerning Pesticides on School Grounds, would have expanded the ban on the use of lawn-care pesticides in schools to include schools with students in grades nine to twelve, inclusive.
- SB 443, An Act Concerning Pesticides on School Ground, Parks, Playgrounds, Athletic Fields and Municipal Greens and Banning the Sale and use of Genetically-Engineered Lawn or Turf Seeds, would protect children's health from exposure to toxic lawn pesticides by extending the ban on the use of lawn care pesticides in schools to include schools with students in grades nine to twelve in 2017, and applying current restrictions concerning the application of lawn pesticides at school grounds to the application of pesticides at parks, playgrounds, athletic fields and municipal greens. Genetically-engineered lawn or turf seeds were included in the ban because they are likely to require lawn-care pesticides to be effective.

The lawn-care pesticide industry lobby is very strong and effective; despite strong support from environmental stakeholders the lawn-care pesticide legislation did not

pass. You can help change this result by urging your legislator to support lawn-care pesticide prohibition legislation in 2015.

We can expect pesticide legislation similar to this years to be a high priority for environmental stakeholders in 2015, as well as attempts by the pesticide industry lobby to repeal the present lawn-care pesticide prohibitions, or make them ineffective by requiring use of Integrated Pest Management (IPM) which allows use of synthetic pesticides.

Using the Connecticut League of Conservation Voters' Scorecard (Page 11) find out how your legislator voted on SB 46 and SB 443, another lawn-care pesticide bill, and ask him/her to support bills that will reduce the risks of pesticides to children, drinking water and wetlands and watercourses.



Conservation and Inland Wetland Commissions can be proactive in helping to reduce the health risk of children from exposure to the

chemicals in pesticides by educating the community on the hazards of lawn-care pesticide chemicals and the importance of preventing them from reaching wetlands, watercourses and ground water.

To learn more go to www.ctlcvo.org or www.conservationeducation.org.

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wildlife conservation, continued from page 16

comments to the DEEP Wildlife Division via email (deep.wildlifeactionplan@ct.gov) or through the “Get Involved” section of the Wildlife Action Plan webpage. Please visit www.ct.gov/deep/wildlifeactionplan to view or download entire plan, to find about more about providing input on species of greatest conservation need, their habitats, or conservation actions and to review updated sections of the Wildlife Action Plan as they become available. Additional information Wildlife Action Plan revisions will be posted on the DEEP Fish and Wildlife Facebook Page and informational meetings will be held around the state this fall. You can also share your wildlife observations and follow the revision process on Twitter @CT_SWAP.

This is a great opportunity for all of us to help keep Connecticut’s common species common and maintain our great wildlife legacy for future generations to enjoy.

Participating Guide to Creating a Vision for the Future of Wildlife Conservation.

1. Read the 2005-2014 Connecticut Wildlife Action Plan (WAP). (www.ct.gov/deep/wildlifeactionplan)
2. Attend public Power Point Presentation on WAP: **Oct 29th, 7PM**, Glastonbury Audubon Center, Connecticut Audubon Society, 1361 Main Street, Glastonbury, CT: **Nov 13th, 6:30 PM** Milford Point Audubon Center, Connecticut Audubon Society, 1 Milford Point Road, Milford, CT

3. Attend facilitated workshops that will require public participation are scheduled for:
Nov 5 - Greenwich Audubon Center, Audubon Connecticut, 613 Riverside Road, Greenwich, CT at 1-3 and 6:30-8:30
Nov 6 - Connecticut Forest and Park Association, 16 Meriden Road, Rockfall, CT (near Middlefield) at 1-3 and 6:30-8:30
Nov 7 - Windsor Public Library, 323 Broad Street, Windsor, CT at 1:30-3:30: Sharon Audubon Center, Audubon Connecticut, 325 Cornwall Bridge Road, Sharon, CT at 6:30-8:30
Nov 8 - Stonington Free Library, 20 High Street, Stonington, CT at 10-12: Pomfret Audubon Center, Connecticut Audubon Society, 218 Day Road, Pomfret Center at 2-4
Nov 9 - DEEP Marine Headquarters, 333 Ferry Road, Old Lyme, CT at 10-12: DEEP Sessions Woods WMA, 341 Milford Street (RT 69), Burlington, CT at 2-4.

4. Submit comments to the DEEP Wildlife Division via email (deep.wildlifeactionplan@ct.gov) or through the “Get Involved” section of the Wildlife Action Plan webpage.

This is a great opportunity for all of us to help keep Connecticut’s common species common and maintain our great wildlife legacy for future generations to enjoy.

Thank You!

Information provided by Julie Victoria and Jenny Dickson, DEEP Wildlife Division. 🐿

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Editor's Note: In applying for open space grant funds earlier this year I found it was important to describe the merits of the proposed land acquisition relative to the wildlife Species of Greatest Conservation Need found in the Connecticut Wildlife Action Plan; Chapters 2 and 4 were particularly helpful. Please read the Plan and participate.

Creating a Vision for the Future of Wildlife Conservation

Your Participation is Key to Conserving Wildlife Resources for Future Generations

In 2005, Connecticut completed its Comprehensive Wildlife Conservation Strategy, now known as the Connecticut Wildlife Action Plan (WAP), creating a blueprint for the conservation of wildlife over a decade. Similar plans were developed at the same time by all fifty states and U.S. territories.

Connecticut, along with other states across the country, is currently working on revisions to the WAP that will establish both a state and national framework for proactively conserving our fish and wildlife, including their habitats, for the next 10 years. As part of this effort, the DEEP Wildlife Division will be revising Connecticut's list of Species of Greatest Conservation Need. This revision will take into account new information on climate change and its impacts to wildlife conservation, as well as involve updating resource

mapping, refining conservation threats, and incorporating information gained through the implementation of the first WAP. New or revised conservation actions also will be identified to help advance wildlife conservation over the next decade.

Participation by conservation partners, municipalities, academic institutions, and the public is key to making the revised WAP an effective tool for conserving Connecticut's diverse wildlife resources for future generations. Now is the time to provide input. Help the DEEP with ***"Creating a vision for the future of wildlife conservation."*** Take the opportunity to read through the original plan (called the Comprehensive Wildlife Conservation Strategy or CWCS) that was completed in October 2005 and approved by the U.S. Fish and Wildlife Service in January 2006. Then submit
wildlife conservation, continued on page 15