

The Habitat

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

Spring 2014

volume 26 number 2



Increasing Salamander Conservation

2014 Proclaimed the Year of the Salamander

2014 has been proclaimed the Year of the Salamander by Partners in Amphibian and Reptile Conservation (PARC) to raise awareness for salamander conservation. The Connecticut Department of Energy and Environmental Protection (DEEP) Wildlife Division is participating in this effort by shining a spotlight on **Connecticut's 12 native salamander species** throughout the year. Other state and federal wildlife agencies, along with several conservation organizations, are also partnering with PARC to foster appreciation and understanding of salamanders.



One of the surest signs of spring is the mass migration of spotted salamanders. These underground dwellers emerge from winter dormancy with the season's first warm rains, and then travel to their breeding pools. Photo credit: Paul J. Fusco, DEEP Wildlife Division.

"We are committed to sharing the wonderful story of the state's native salamander species as we celebrate the Year of the Salamander," said Rick Jacobson, Director of the DEEP Wildlife Division.

Lizard or Salamander?

Maybe you have found a salamander while raking leaves, or when turning over rocks and logs, or while exploring

the woods as a child. Many who come upon a salamander think they have found a lizard. At first glance, salamanders and lizards look alike – small animals with four legs, a tail, and a similar body shape. However, up close, salamanders and lizards are very different. First of all, these two animals live in different habitats. Salamanders prefer cool, moist places, while lizards prefer dry, warmer places. A lizard's body is covered with tough scales, while a salamander's body is smooth and slippery. Most salamanders do not have claws on their feet, while lizards do. Although lizards and salamanders look alike, they are not closely related. Lizards

are reptiles and are more closely related to snakes and turtles.

Salamanders are amphibians, the same as frogs and toads.

- Blue-spotted Salamander - *(endangered)*
- Common Mudpuppy
- Four-toed Salamander
- Jefferson Salamander - *(special concern)*
- Marbled Salamander
- Northern Dusky Salamander
- Northern Redback Salamander
- Northern Slimy Salamander - *(threatened)*
- Northern Spring Salamander - *(threatened)*
- Northern Two-lined Salamander
- Red-spotted Newt
- Spotted Salamander

Why Are Salamanders Special?

All salamanders are carnivores. They eat insects, worms, small animals, and even other salamanders.

- As opposed to the often noisy frogs and toads, salamanders are completely silent.
- Salamanders have glands under their skin that produce mucus to keep the skin moist. Other glands make poisons that can be distasteful or harmful to predators.
- Most salamanders lay eggs in water or in moist places. The eggs are laid in a mass, string, or individually. The larvae that hatch from the eggs look similar to tadpoles. However, tadpoles have large round heads and the gills are not obvious, while larval salamanders have long, narrow heads and visible gills.

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The CACIWC Board of Directors has been working on your behalf during the first few months of 2014 in various ways including tracking legislative activity, evaluating our 2013 annual meeting, and continuing efforts to develop our new strategic plan. We have been reviewing the results of membership surveys received to date in order to ensure that CACIWC is aware of any new or ongoing challenges to your efforts in protecting Connecticut wetlands and other important habitats. The CACIWC board has been closely following the efforts of several committees of the Connecticut General Assembly who have been proposing legislation designed to protect lands of high conservation value throughout the state.

1. The Board of Directors has reviewed the many comments and suggestions submitted on our 2013 annual meeting survey. If you did not have an opportunity to complete the 2013 meeting survey you can still contact us with your comments and suggestions at AnnualMtg@caciwc.org. We welcome any suggestions for workshop topics and speakers that you would like us to recruit for our upcoming **37th Annual Meeting and Environmental Conference**, scheduled for **Saturday, November 15, 2014; please save the date!** Please send your ideas to us at AnnualMtg@caciwc.org, along with any other suggestions. Watch for additional conference news in upcoming issues of *The Habitat* and on our website.

2. As mentioned above, the CACIWC Board of Directors has been reviewing comments on the **conservation commission** and **inland wetlands membership surveys** that we have received to date. While we have recently received several newly completed surveys, many commissions have still not yet completed and submitted their survey form. Your responses to this survey will make valuable contributions to the development of our new **strategic plan** and help us develop new education and outreach programs. If your commission has still not done so, *please complete and mail in your survey* that can be located and downloaded from the home page of our website: www.caciwc.org.

3. An important goal of our strategic plan is the development and promotion of our next generation of Connecticut conservationists. To help CACIWC and the state achieve this goal, the CACIWC Board of Directors has returned for a second year to assess environmental and conservation projects entered in the **Connecticut Science & Engineering Fair (CSEF)** by middle and high school students throughout Connecticut. As I write this column, CACIWC Board Treasurer Charles Dimmick and I have just completed service as

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Journey to The Legal Horizon

by Attorney Janet Brooks

The Wetlands Law Trifecta: Agency Denial & Expert Evidence, Incomplete Application and Authority to Regulate

*Three Levels Corporation v. Conservation Commission,
148 Conn. App. 91 (2014)
Attorney Janet P. Brooks*

If you're a new wetlands agency member, this is a great case to give you an overview of the most troublesome legal issues facing wetlands agencies and applicants. For "old-timers" you can sharpen your ken and add some fact patterns that will work (incompleteness, authority to regulate) and won't work (denial not based on substantial evidence). Because this is a case from the Appellate Court¹ its legal holdings are bindings on all agencies. Thus, the case is worthy of careful examination.

In February the state Appellate Court issued a decision which includes the trifecta of wetlands law wrapped into one case: (1) permit denial based on expert opinion and another example of what is *not* substantial evidence, (2) the authority of an agency to deny an application based on incompleteness, and (3) the authority of an agency to regulate storm water discharges without regulations that incorporate specific standards for compliance. For lawyers or folks who like to remember concepts by case names, I would call this: (1) *River Bend*² lives on, (2) *Unistar*³ lives on, (3) *Prestige Builders*⁴ isn't what you think it is. For those who want the play-by-play analysis: (1) agency loses again unable to prove "actual adverse impact", (2) agency wins again when applicant fails to supplement application as reasonably requested, and (3) agency not required to adopt specific regulations for a specific activity before regulating that activity. For those who just want the score at the end of the game: agency wins this round, 2:1.

What the Wetlands Agency Did

The Redding wetlands agency considered an application for a ten-unit housing development on 14 acres with 1.75 acres of wetlands on property and adjacent

to floodplain wetlands and a river. The agency denied the application for four reasons. The agency found that there would be (1) insufficient pretreatment facilities for storm water prior to infiltration and discharge into the wetlands and the river which is likely to have a significant adverse environmental impact on the wetlands and river, (2) insufficient renovation of storm water and septic effluent which is likely to have a significant adverse environmental impact, and that (3) the applicant's failure to supply requested data (impact of

activities on the river, impact of pathogens from septic effluent on the wetlands, the relationship between various flood lines of the river and elevations of the septic systems) leaves the agency unable to determine whether those activities present a significant adverse impact to the wetlands or river and (4) no finding can be made that there are no feasible and prudent alternatives.

"The Appellate Court did not agree with the agency's conclusion, but based on the incompleteness of the record, upheld the agency denial."

On Appeal

The Superior Court (trial court) sided entirely with the applicant, sustaining the appeal and remanding (sending back) the matter to the agency for impositions of reasonable conditions. At the Appellate Court, each side won and lost on some of the arguments. They break down into three arguments.

Expert Evidence

This issue is not going away. There is no retreat from the 2004 decision of the Connecticut Supreme Court in *River Bend*.⁵ Expert opinion constituting substantial evidence continues to elude some wetlands agencies. This case is another variation on the theme that an agency's denial must be based on expert opinion that identifies a specific adverse environmental impact that would result. When there are multiple experts testify-

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ing before an agency, this case affirms that the agency determines which expert is more credible. That said, the agency must look for statements of specific or actual adverse impact. Here’s what the Appellate Court said was not substantial evidence, from the expert’s statements: “It certainly, in my opinion, is not sufficient to avoid having *some type* of adverse impact on the wetlands due to sediment and erosion materials getting into the wetland, the pond and the riverine system.”⁶ The town’s expert noted that the “likelihood of that adverse impact ‘is very strong.’” That left the Appellate Court wondering: the likelihood of *what* is very strong? As to the storm water basins, the town’s expert stated that the basins will be hard and expensive to maintain. “If it’s not maintained, and this is a hypothetical, then you would have adverse impact on the wetland system both from excessive runoff and from the lack of removal of the impurities . . .”⁷ The Appellate Court reviewed the evidence and found no evidence in the record supporting any likelihood of the failure of the basins. Additionally, the court concluded: “There also was no evidence *specifically indicating what effect, if any, a failure of the detention basin would have on the downslope wetlands.*”⁸ Please note: the Appellate used those italics in the quote. The purpose is to get your attention. The court referred to the expert’s “numerous concerns and critiques,” but concluded that the expert “did not identify any specific, actual harm that was likely to occur to the wetlands or Saugatuck River.”⁹

If you weren’t paying attention to the italicized portions of the decision, the Appellate sums it up for you: “The substantial evidence test is not met by a general statement by an expert that ‘some type’ of adverse impact is likely to result from the proposed regulated activities. . . Absent evidence that identifies and specifies the actual harm resulting therefrom, a commission cannot find that the proposed activities will, or are likely to, adversely impact wetlands or watercourses.”¹⁰

Conclusion: reasons #1 and #2 are not supported by substantial evidence. But that doesn’t conclude this case.

Incomplete Application

The Court upheld the agency’s authority to seek additional information from the applicant during the review process. The Court pointed to the municipal

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regulations which put the applicant on notice that the agency may request more information. The applicant claimed it was not provided with a description of what information was sought. The Appellate Court spent a good portion of the decision summarizing the evidence. It noted that the town's expert told the applicant that there was missing information on the impact of household cleaners, solvents, ammonia and medicine that enter a septic system. The town's expert described how the concentration of the various chemicals should be examined for renovation in the soil mantle. He compared the process to the one engaged in by the applicant for pathogens. The agency relied on the town's expert who summarized in a letter: "We do not know what the chemical impact of concentrating so many wastewater systems in a small area will be. On this proposed project, no definitive proof of its impact, or non-impact, has been provided."¹¹ From that comment, the agency concluded that there would be a significant adverse impact on the wetlands and river. The Appellate Court did not agree with the agency's conclusion, but based on the incompleteness of the record, upheld the agency denial. The Court concluded: "The record discloses evidence that the [applicant] failed to present information on the chemical impact of the proposed regulated activities sufficient for the commission to determine whether it would adversely impact the wetlands and Saugatuck River."¹² The lack of information does not establish an adverse impact, it provides a reasonable basis to determine that the application is incomplete. Based on earlier cases and the municipal regulations, the agency was authorized to deny an application due to incompleteness.

Conclusion: Reason #3 is a sufficient reason to deny the application.

Need for Regulations Addressing Storm Water

The applicant argued that the agency was not authorized to regulate pretreatment facilities for storm water impacts on wetlands and watercourses because it did not have "storm water regulations." The applicant made this argument relying on the *Prestige Builders*¹³ case. The court reaffirms that "a commission may not exercise authority over a particular activity unless and until it promulgates a regulation that encompasses the activity."¹⁴ The Court found numerous references in the municipal wetlands regulations that refer to "any activity" which causes a variety of impact. The Ap-

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pellate Court found no basis to conclude that specific regulations setting compliance standards were mandated. Moreover, the Court noted that the municipal regulations were based on the state DEEP model regulations, which do not set out standards for categories of activities. The municipal regulations allow the agency to regulate the activities to the extent they impact wetlands or watercourses. The regulations identify that storm water is likely to have a significant impact on those resources. The case law establishes that “applicable standards are established through expert testimony before a commission.”¹⁵

Conclusion: the agency is empowered through its regulations and the case law to regulate the effects of storm water without adopting specific standards for the activity.

Proving an actual adverse impact continues to be the major reason that agency denials are overturned. It is not sufficient to have an expert that agency members rely on. The expert’s statements have to “connect the dots.” There has to be an expert link between the reasonable likelihood of the existence of a condition and the conclusion that it is adverse. Here, there was not substantive evidence for either of those. The agency’s denial was upheld by the Appellate Court, but not for its decision on the merits – that the activities will cause adverse impacts on the resources, but because the application is incomplete. Finally, agencies can regulate storm water or other activities, based on broad regulations and develop the specific conditions through use of experts during the meeting/hearing process and the imposition of conditions in a permit.

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 The three-tier court system from lowest to highest levels: Superior Court, Appellate Court, Supreme Court

² *River Bend Associates, Inc. v. Conservation & Inland Wetlands Commission*, 269 Conn. 57 (2004)

³ *Unistar Properties, LLC v. Conservation & Inland Wetlands Commission*, 293 Conn. 93 (2005)

⁴ *Prestige Builders, LLC v. Inland Wetlands Commission*, 79 Conn. App. 710 (2003), cert. denied, 269 Conn. 909 (2004)

⁵ *River Bend Associates, Inc. v. Conservation & Inland Wetlands Commission*, 269 Conn. 57 (2004)

⁶ (Emphasis in original.) *Three Levels Corporation v. Conservation Commission*, 148 Conn. App. 91, 103-04 (2014)

⁷ *Three Levels Corporation v. Conservation Commission*, 148 Conn. App. 91, 104 (2014)

⁸ *Three Levels Corporation v. Conservation*

Commission, 148 Conn. App. 91, 111 (2014)

⁹ *Three Levels Corporation v. Conservation Commission*, 148 Conn. App. 91, 111-12 (2014)

¹⁰ *Three Levels Corporation v. Conservation Commission*, 148 Conn. App. 91, 112 (2014)

¹¹ *Three Levels Corporation v. Conservation Commission*, 148 Conn. App. 91, 124 (2014)

¹² *Three Levels Corporation v. Conservation Commission*, 148 Conn. App. 91, 128 (2014)

¹³ *Prestige Builders, LLC v. Inland Wetlands Commission*, 79 Conn. App. 710 (2003), cert. denied, 269 Conn. 909 (2004)


¹⁴ *Three Levels Corporation v. Conservation Commission*, 148 Conn. App. 91, 135 (2014)

¹⁵ *Three Levels Corporation v. Conservation Commission*, 148 Conn. App. 91, 136 (2014) ❁

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Where Do Salamanders Live?


People rarely see most salamanders because, as adults, salamanders spend most of their time in forested areas, living under rocks and fallen logs or in underground burrows. The best time of year to see these creatures is in spring when they move to wet areas to lay their eggs. These wet areas include ponds, ditches, marshes, meadows and a special, but little known habitat, called a vernal pool. Generally a vernal pool is a low spot in a forest or meadow that fills with water during winter and spring and then dries out by late summer. It can be big or small. Because these pools are temporary, fish cannot survive in the pools, thus the eggs and hatching larvae are safe from fish predation.

Threats to Salamanders: The greatest threat faced by Connecticut's salamanders is the loss of habitat through development, fragmentation, degradation by pollution (i.e., overuse of fertilizers and pesticides), and the invasion of non-native plants. Several species of native salamanders are currently experiencing a long-term population decline, and four are on Connecticut's list of Endangered, Threatened and Special Concern Species. Many populations are localized and restricted to specific habitat types. Unfortunately, when these habitats are destroyed, the salamanders found there disappear too. Other than a few exceptions, salamanders do not relocate long distances to new habitats. Even if suitable habitat is located nearby, migration is very difficult due to the numerous roads that dissect across Connecticut. When these small, slow-moving creatures cross roads (particularly during spring migration to breeding pools), hundreds are killed by cars.

What You Can Do: Learn more about salamanders and take actions to conserve these special creatures. Following are some suggestions:

- Observe, but do not collect salamanders. Learn more about them and help others understand and appreciate these fascinating creatures. Good resources are the DEEP's *Connecticut Wildlife* magazine (www.ct.gov/deep/wildlifemagazine) and PARC's website at www.yearofthesalamander.org
- Discover vernal pools wetlands, and other important salamander habitats in your area. Promote stewardship, the preservation of open space, and wise land-use planning in your community. Limit or discontinue use of pesticides and herbicides around your home.
- Participate in a Year of the Salamander event or activity. Find out about events throughout the year

on the Wildlife Division's special webpage at www.ct.gov/deep/salamanders or by visiting our Facebook page at www.facebook.com/CTFishandWildlife.

The DEEP Wildlife Division and other conservation organizations will be holding salamander events throughout the year, including a Salamander Art Contest for Kids. Stay up-to-date on Year of the Salamander events and activities by regularly visiting the DEEP website at www.ct.gov/deep/salamanders or the Connecticut Fish and Wildlife Facebook page at www.facebook.com/CTFishandWildlife. 

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How to Support Native Pollinators in 2014

by Kathleen Groll Connolly

This three-part series began with a discussion of why native plants are important not only in wild spaces, but in the built environment as well. In part 2, we looked at storm-worthy native trees for planting in parks, on streetscapes and in developments. This installment offers a wide array of perennial plants that will help support pollinators in the summer of 2014 and beyond.

T rue story: As I cleared the day's newspaper from my desk to work on this third and final installment of *The Habitat's* native plant series, an ironic headline caught my eye: "Migration of monarch butterflies continues to shrink."

According to an article by Michael Wines of the New York Times News Service, monarch butterflies were largely no-shows this year at their ancient overwintering destination in Mexico's Sierra Madre Mountains. He quotes a scientist who attributes the monarch's absence and plight partly to weather but primarily to *ongoing loss of habitat*.

The monarch butterfly may soon be gone altogether.

Monarchs are feeding "specialists." They require plants of the *Asclepias* genus, better known as milkweed or butterfly weed, to lay eggs and provide food for larvae. When open fields and forest edges are converted to lawns or parking lots, milkweed varieties often lose their toe hold.

Other native insects may be a little more eclectic in their tastes than the monarch, but finding their favorites can be challenging in an environment where commercial interests and public tastes emphasize plants that please people rather than pollinators.

As a result, our choices in flowering plants and shrubs are important. The three resources below are intended to help conservation commissions guide those choices:

- List 1 shows over 50 native perennials, ferns and grasses for southern New England that are found in the nursery trade at this time. Since deer are a major problem throughout our area, plants that have been mentioned as deer resistant by one or more sources have the symbol (DR). Plants noted by the Xerxes Society for their special value to

pollinators are marked with the symbol (P). For a list of trees, see the winter edition of *The Habitat*.

- List 2 offers wholesale and retail sources of regional native plants.
- List 3 offers books and web sites that assist with pollinator-friendly plant selection and bed design.

The key point of this series is that the time to choose native plants is now. To summarize: This choice continues the presence of native species, supports native pollinators which in turn support our own food production, and returns growing space to plants which once volunteered here but may have been crowded out by exotic invasives.

To borrow from the title of a popular book, "Why plant that when you can plant this?"

List 1: Perennials with native distribution in Connecticut, also present in nursery trade

Source: GoBotany.newenglandwild.org

(DR) = Deer resistance noted by one or more sources
(P) = High value to pollinators as noted in "Attracting Native Pollinators," Xerxes Society, 2011

Baptisia, yellow, *Baptisia tinctoria* (DR)
Beardtongue, *Penstemon digitalis* (P)
Bergamot, *Monarda fistulosa* (DR)(P)
Black cohosh, Bugbane, Fairy Candles, *Actaea racemosa* (DR)
Black-eyed Susan, *Rudbeckia hirta* (annual or biennial)
Blazing star or Gayfeather, *Liatris scariosa* var. *novae-angliae*(P)
Blue cohosh, *Caulophyllum thalictroides*
Blue flag iris, *Iris versicolor*
Blue-eye Grass, *Sisyrinchium angustifolium* (DR)
Boneset, common, *Eupatorium perfoliatum*
Butterfly weed, *Asclepias tuberosa* (DR)(P)
Cardinal-flower, red lobelia, *Lobelia cardinalis* (DR)
Columbine, *Aquilegia canadensis* (DR)
Common coral bells, *Heuchera americana*(DR)
Crane's bill, *Geranium maculatum* (DR)
Culver's root, *Veronicastrum virginicum* (P)
Downy Phlox, *Phlox pilosa*
Dutchman's breeches, Bleeding heart, *Dicentra cucullaria* (DR)

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False Solomon's seal, *Maianthemum racemosum* (DR)
Foam flower, *Tiarella cordifolia*
Hyssop, *Agastache* spp., particularly *A. scrophulariifolia* (DR) (P)
Golden Alexander, *Zizia aurea*
Goldenrod, *Solidago* spp., particularly *S. Canadensis*; also: *S. caesia*, *S. sempervirens* (DR) (P)
Scullcap, *Scutellaria incana*
Jack-in-the-pulpit, *Arisaema triphyllum* (DR)
Joe-pye weed, *Eutrochium* spp., *E. purpureum*, *E. fistulosum*, *E. dubium*, *E. maculatum* (P)
King Solomon's-seal, *Polygonatum biflorum* (DR)
Lupine, sundial, *Lupine perennis* (DR)(P)
Marsh-marigold, *Caltha palustris*
Meadow-rue, *Thalictrum dioicum* (DR)
Milkweed, *Asclepias* spp., *A. syriaca*, *A. tuberosa*, *A. incarnata*, *A. viridiflora*, *A. verticillata*, *A. variegata*, *A. quadrifolia*, *A. purpurascens*, *A. incarnata*, *A. exaltata*, *A. amplexicaulis* (DR)(P)
Mountain-mint, *Pycnanthemum tenuifolium*(DR)
Asters, *Symphotrichum* spp. including *S. novae-angliae*, *S. novi-belgii*, *S. cordifolium* (P)
Partridge pea, *Chamaecrista fasciculata* (annual, planted from seed or self-seeding)
Pink corydalis, *Capnoides sempervirens*
Squirrel corn, Bleeding heart, *Dicentra canadensis* (DR)
Trout lily, *Erythronium americanum* (bulb)

White snakeroot, *Ageratina altissima*

White turtlehead, *Chelone glabra*

Wild ginger, *Asarum canadense* (DR)

Yarrow, *Achillea millefolium* (DR)(P)

Native Grasses (all considered deer-resistant)

Big bluestem, *Andropogon gerardii*

Canada reed grass, *Calamagrostis canadensis*

Little bluestem, *Schizachyrium scoparium*

Pink muhly grass, *Muhlenbergia capillaris*

Prarie dropseed, *Sporobolus heterolepsis*

Purple lovegrass, *Eragrostis spectabilis*

Sideoats Grama, *Bouteloua curtipendula*

Switchgrass, *Panicum virgatum*

Ferns (all considered deer-resistant)

Maidenhair fern, *Adiantum pedatum* (DR)

Marginal woodfern, *Dryopteris marginalis*(DR)

Christmas fern, *Polystichum acrostichoides* (DR)

Cinnamon fern, *Osmunda cinnamomea* (DR)

See also: Connecticut Botanical Society,
www.ct-botanical-society.org/ferns/

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Sidebar: An Unexpected Benefit

When we recommend or specify native plants, some known benefits occur. But there may be a less-visible positive side-effect.

“When commissions promote the use of natives through incentives or specifications, it may help increase commercial production of natives,” says Dr. Jessica Lubell, assistant professor of horticulture at University of Connecticut. She specializes in researching the commercial adaptability of native shrubs.

This is important because it can be difficult to find natives in commerce. The horticulture and landscaping industries have a long history of importing plants from all over the world that are people-pleasers, independent of the plants' ecological credentials.

Research underway by Dr. Lubell and others at UConn is directed at giving native plants the place they deserve in commerce. “I promote natives for their beauty and utility in the landscape, to attract wildlife and to create landscapes that integrate with surrounding flora,” she says.

Indeed, some natives—endangered, threatened or of special concern—are almost found *only* in nurseries and garden centers. The pussy willow (*Salix discolor*) recently made headlines for its near disappearance in some parts of New England's forests and fields.

Other examples of common nursery plants that are now rare as native populations in Connecticut include balsam fir (*Abies balsamea*), eastern redbud (*Cercis canadensis*), inkberry (*Ilex glabra*), fragrant sumac (*Rhus aromatica*), sweet gum tree, (*Liquidambar styraciflua*), the ground cover *Waldsteinia* (aka *Geum fragarioides*, according to the Connecticut DEEP's list of Endangered, Threatened & Special Concern Plants.

One important note is that many, if not most, natives in the nursery trade are “nativars,” or cultivars bred for characteristics that will improve their success as potted plants destined for ornamental landscapes. These plants may not be suitable for ecological restorations, which are usually grow from seed with genetic origins at the site or within a limited geographic radius.

“But it is important for decision makers to understand that these cultivars of native species are not a bad thing for ornamental landscapes and gardening.” She points out there is no definitive research showing that nativars are any more or less effective than the parent species at supporting wildlife.

pollinators, continued from page 9

List 2 - Sources of native plants:

- Blackledge River Nursery, Marlborough, CT
- Earthtones, Woodbury, CT
- Nasami Farm/New England Wildflower Society, Whately, MA
- New England Wetland Plants, Amherst, MA
- North Creek Nursery, Landenberg, PA
- Planter's Choice, Newtown, CT
- Pride's Nursery, Lebanon, CT
- Project Native, Housatonic, MA
- Summer Hill Nursery, Madison, CT
- Woodland Trails Nursery, Eastford, CT

Note: Please contact me if you have or know of a commercial native plant program that belongs on this list. Email: Kathy@SpeakingofLandscapes.com.

List 3 - Information:

Books to assist with design:

- Attracting Native Pollinators*, Xerxes Society, 2011
- Urban and Suburban Meadows*, Catherine Zimmerman, Matrix Media Press, 2010

Web sites that assist with selection and identification:

Connecticut Botanical Society:

www.ct-botanical-society.org/garden/index.html

Go Botany: GoBotany.NewEnglandWild.org

Lady Bird Johnson Wildflower Center:

<http://wildflower.org/>

USDA Plants Database: <http://plants.usda.gov/java/>

Tree and Shrub Lists:

Connecticut Native Trees for Beautiful Landscapes:

www.cipwg.uconn.edu/pdfs/CTNativeTree_List.pdf

Connecticut Native Shrubs for Beautiful Landscapes:

www.cipwg.uconn.edu/pdfs/CTNativeShrubList_Lubell.pdf

Native Shrubs: Guide to Landscape Uses:

www.cipwg.uconn.edu/pdfs/NativeLandUseGuide.pdf

Kathy Connolly is a landscape designer from Old Saybrook, as well as a writer and speaker on a variety of topics related to ecological design. See www.SpeakingofLandscapes.com or email Kathy@SpeakingofLandscapes.com.



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As of March 1, 2014 the following Town Commissions have supported CACIWC through membership for the 2013-2014 fiscal year (July 1, 2013 to June 30, 2014). THANK YOU! If you do not see your Commission's name on the list, please encourage your Commission to join. If we are in error we apologize and would appreciate knowing by emailing Tom Odell at; todell@snet.net Member Commissions receive a copy of The Habitat for each commissioner and staff if dues have been paid.

CC =Conservation Commission
CC/IW = Combined Commissions

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

(SUS) = Sustaining level of Support

Andover	CC	Goshen	CC	Plainville	IW
Andover	IW	Goshen	IW	Plymouth	CC+IW
Ashford	CC	Granby	CC	Pomfret	CC
Ashford	IW	Granby	IW	Pomfret	IW
Avon	IW	Greenwich	CC (SUS)	Portland	CC
Avon	CC	Greenwich	IW (SUS)	Portland	IW
Barkhamsted	CC	Griswold	CC+IW (SUS)	Preston	CC
Barkhamsted	IW	Groton	CC	Preston	IW
Beacon Falls	CC	Groton	IW	Putnam	CC+IW
Beacon Falls	IW	Groton City	CC+IW	Redding	CC+IW (SUS)
Berlin	CC	Guilford	CC	Ridgefield	Z+IW
Bethany	CC (SUS)	Guilford	IW	Ridgefield	CC
Bethany	IW (SUS)	Haddam	CC	Salisbury	IW (SUS)
Bethel	IW	Haddam	IW	Scotland	IW
Bolton	CC	Hamden	IW	Sharon	IW (SUS)
Bolton	IW	Hamden	CC	Shelton	CC
Branford	CC	Hampton	IW	Sherman	CC
Branford	IW	Hartland	IW	Sherman	IW
Bristol	CC+IW	Harwinton	IW	Simsbury	CC+IW
Brookfield	CC	Hebron	CC	South Windsor	IW
Brookfield	IW	Kent	CC	Southbury	IW
Burlington	IW	Kent	IW	Southington	CC+IW (SUS)
Canaan	CC+IW	Killingworth	CC	Sprague	IW (SUS)
Canterbury	IW	Killingworth	IW	Sterling	IW
Chaplin	IW	Lebanon	CC	Thomaston	IW
Chaplin	CC	Lebanon	IW	Thompson	CC
Cheshire	IW	Ledyard	CC	Thompson	IW
Cheshire	CC	Lisbon	CC	Tolland	CC (SUS)
Chester	CC	Lyme	CC+IW	Tolland	IW (SUS)
Chester	IW	Madison	CC	Trumbull	CC
Clinton	IW	Manchester	CC	Trumbull	IW
Colchester	CC	Manchester	Z+IW	Vernon	CC
Columbia	CC	Mansfield	Z+IW (SUS)	Vernon	IW
Columbia	IW	Meriden	IW	Wallingford	CC
Cornwall	CC	Middlebury	CC	Wallingford	IW
Cromwell	CC	Middlefield	IW	Warren	CC+IW
Cromwell	IW	Milford	CC	Washington	CC (SUS)
Darien	CC+IW (SUS)	Milford	IW	Washington	IW (SUS)
Deep River	CC+IW	Monroe	CC+IW	Waterford	CC (SUS)
Durham	CC	Naugatuck	IW	Watertown	IW
Durham	IW	New Canaan	Z+IW	West Hartford	CC
East Granby	CC+IW	New Canaan	CC	West Hartford	Z+IW
East Haddam	CC	New Fairfield	CC+IW (SUS)	Westbrook	CC (SUS)
East Haddam	IW	New Hartford	CC	Westbrook	IW
East Hampton	CC	New Hartford	IW (SUS)	Weston	CC+IW
East Hampton	IW	New Milford	CC	Westport	CC+IW (SUS)
East Lyme	CC	New Milford	IW	Wethersfield	IW
East Lyme	IW	Newington	CC+IW	Willington	CC
East Windsor	IW	Norfolk	CC	Willington	IW
Easton	CC+IW	Norfolk	IW	Wilton	CC
Ellington	CC	North Branford	CC+IW	Wilton	IW
Ellington	IW	North Stonington	CC	Windsor	CC
Enfield	CC	North Stonington	IW	Windsor	IW
Enfield	IW	Norwalk	IW (SUS)	Windsor Locks	CC
Essex	CC	Old Lyme	IW	Windsor Locks	IW
Essex	IW	Old Saybrook	CC	Woodbridge	CC
Fairfield	CC	Old Saybrook	IW	Woodbridge	IW
Fairfield	IW	Oxford	CC (SUS)	Woodbury	CC
Farmington	CC+IW	Oxford	IW (SUS)	Woodbury	IW
Franklin	IW	Plainfield	CC	Woodstock	CC
Glastonbury	CC+IW (SUS)	Plainfield	IW	Woodstock	IW


coordinating judges for the environmental science awards in this year's CSEF. The CACIWC Board will be conducting other activities to increase interest among Connecticut students in careers and volunteer activities that support conservation and wetlands protection. Watch this column and our website for more information on these activities!

4. **Membership dues** are an essential part of our operating budget. They support various CACIWC programs including our annual meeting, educational materials, and *The Habitat*. During the next few months you will be receiving a reminder and renewal form for the 2014-15 membership year, which begins on July 1, 2014. A copy of this form and additional information will be placed on our website: www.caciwc.org. Would you or your company like to provide additional support to CACIWC? The website also provides a description of additional individual and business membership categories. Our annual meeting and newsletter have become increasingly expensive activities to operate, so we will very much appreciate any additional contributions that you or your business can make to support CACIWC education and outreach efforts!

5. The officers and members of the Board of Directors are now several months into the first year of their two-year term following the elections that took place at our November 16, 2013 annual meeting. Although we were able to fill a number of vacancies, the New London County director and several other **CACIWC board vacancies** remain unfilled (please see the 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 as the New London County representative, one of the vacant alternate county representatives, or as one of the alternate-at-large representative positions.

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

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

~ Alan J. Siniscalchi, President 

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could result in the sudden “preservation” and subsequent development of those lands. Such dramatic occurrences can and should be avoided in order to secure the sustainability of Connecticut’s impressive and valuable network of conservation lands.

Recent History

Public Act 12-152, An Act Concerning the State’s Open Space Plan, includes provisions that could, if implemented, help prevent the imprudent transfer of state lands that have significant conservation value, especially those under the care of agencies other than DEEP. Under the Act, DEEP is to develop strategies “for protecting in perpetuity lands of high conservation value” and establish a process by which all state agencies may identify such lands. When implemented, that law also should lead to more permanent protection of state forest and park land. Again, however, few if any of the cases discussed above would have been affected by those provisions even if they had been implemented.

Recommendations

These recommendations are aimed at getting information to the front end of the decision-making process for land transfers and at preserving “preserved” lands in perpetuity.

1. **A clear and unified process:** The General Assembly and all state agencies should follow a unified procedure prior to proposing the transfer or re-purposing of state conservation lands. This procedure should include the completion of a form by DEEP that includes brief information about a property’s history, conservation purposes, natural resources and general management plans. Such information should be made public at the earliest possible stage of the process. The intent of such a procedure would be to document at the earliest stages whether a parcel is just “unused property” or is in fact important to a conservation purpose.

The unified procedure should have specific minimum requirements, including the information described above as well as information about the parcel’s ecological relationship to surrounding lands and the landscape of the community. Another factor for evaluation should be the property’s potential contribution to climate change resiliency – that is, the ability to absorb and accommodate the landward movement of coastal ecosystems as temperature and sea level rise.

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In the event that the DEEP has insufficient resources to complete the requested forms, the law should allow the landowner to pay a DEEP-approved contractor to complete the form for approval and submission by DEEP.

2. Plans and data: DEEP should have a conceptual management plan for each property, or at the least a public “data sheet” describing the property’s purposes, natural resources and general purposes. DEEP does in fact have management plans for many parks, forests and wildlife areas, but in the interim, for those which do not there should be data available for quick consultation by all parties.

By having management plans (or at least public data sheets) ready, the Council suggests, DEEP should be able to save significant amounts of staff time when swap proposals are made. In fact, the ready availability of management plans probably would dissuade many landowners from proposing exchanges in the first place, as they could see that the conservation lands in question are valuable to the state and are not just vacant or underutilized land.

3. Preserve for perpetuity: All future acquisitions of land for conservation purposes should be implemented in a way that ensures their permanent protection. There are several options, some of which would require legislation.

Note: When DEEP awards a grant to a municipality or nonprofit organization to acquire land, it requires the land to be subject to a permanent conservation easement, but no parallel requirement applies to state acquisitions.

4. Lands of high conservation value: DEEP should implement the provisions of Public Act 12-152 that require DEEP to develop a method for evaluating state lands (under the custody of any agency) to determine those of high conservation value. Lands already designated as state park, state forest, state wildlife management area or similar designations should be classified as lands of high conservation value by default (that is, without the necessity of additional analysis).

5. Legislation: The General Assembly should adopt legislation, as needed, to implement Numbers 1 and 3, above and to permanently protect lands of high conservation value as determined pursuant to Number 4, above.

6. State Constitution: The General Assembly should start the process for amending the Constitution of the State of Connecticut to state that (to borrow from, as a starting point, the Constitution of the State of New York), “the legislature shall provide for the acquisition of lands and waters... and the dedication of properties so acquired or now owned, which because of their natural beauty, wilderness character, or geological, ecological or historical significance, shall be preserved and administered for the use and enjoyment of the people. Properties so dedicated shall constitute the state nature and historical preserve and they shall not be taken or otherwise disposed of except by law enacted by two successive regular sessions of the legislature.”

7. Public notice and conservation easements: The General Assembly should adopt legislation to guide the release or modification of any conservation easement that has been granted to a municipality. At a minimum, there should be a requirement for public notice and opportunity for public comment.

8. State Forests and P.A. 490: The General Assembly should adopt legislation that requires State Forest land to be classified automatically as forest
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land under P.A. 490, thereby removing the need for DEEP to spend limited resources completing the P.A. 490 classification process.

9. **Municipalities will help:** DEEP should enlist willing municipal conservation commissions to help document the extent and legal status of “protected open space” within their boundaries, perhaps using the data of the Protected Open Space Mapping project as the starting point. DEEP should consider offering incentives, such as bonus points on grant applications, to participating municipalities. 🍀

Support Senate Bill 70!

An Act Concerning the grant of property interests in property held by the Departments of Agriculture and Energy and Environmental Protection and the establishment of a public use and benefit land registry.

CACIWC supports Senate Bill 70 as it addresses many of the changes needed to permanently protect state lands and urges you to contact your legislators and ask them to support Senate Bill 70. 🍀

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Preserved, But Maybe Not

The Impermanence of State Conservation Lands

A Special Report of the Council on Environmental Quality January 2014

Summary

The General Assembly and the Department of Energy and Environmental Protection have been asked to consider proposals during the past three years to transfer, exchange or re-purpose hundreds of acres of state parks, forests and wildlife management areas. Most of those proposals were not completed, but analysis of the cases reveals procedural deficiencies that routinely put state conservation lands in jeopardy of being “un-preserved.” The two biggest deficiencies are the lack of accurate information at the beginning stages of the decision-making process and the lack of truly permanent protections for most lands that Connecticut residents typically think are preserved.

The Council offers nine recommendations to improve the long-term protection of state conservation lands and the process for evaluating transfer proposals. Adoption of these recommendations will: 1. get information to the front end of the decision-making process, and 2. preserve state parks, forests and other “preserved” lands in perpetuity.

When Connecticut residents visit a beautiful state park or wildlife area they often are contented by the knowledge that the land is set aside for forests, wildlife and all people for all time. Except usually it isn't.

Recent proposals to exchange or convey state parks, forests and wildlife areas totaling hundreds of acres have highlighted weaknesses in the protections granted to Connecticut's conservation lands. These weaknesses

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