

The Habitat

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

Summer 2015 volume 27 number 3



Journey to The Legal Horizon

by Attorney Janet Brooks

Motions to Approve or Deny Wetlands Application: What to Include and Why

The editor of *The Habitat*, Tom ODell, has passed on a question from a reader for guidance on what wetlands and watercourses agencies should include in their motions to approve or deny applications. As members of wetlands agencies, you want to create strong decisions that will survive attack on appeal. Strong decisions result from proper procedure and robust deliberations. The motion is one step in the process.

I. State the reason(s) for your decision

You might think this is the obvious thing to do. The statute, in fact, directs you to do it: “In granting, denying or limiting any permit for a regulated activity the inland wetlands agency, or its agent¹, shall consider the factors set forth in section 22a-41, and such agency, or its agent¹, shall state upon the record the reason for its decision.” Conn. General Statutes § 22a-42a (d) (1).

There are some municipal attorneys who disagree. There is case law that on appeal a judge may search the record of the agency proceedings to find evidence which supports the agency’s action, denial, approval or imposition of conditions. The case law furthers limits the judge to

considering the reasons stated by the agency.² I have heard some of these attorneys claim that they would rather have no stated reasons, so the judge is free to search in every nook and cranny of the transcripts of the public hearing and the deliberations to scrounge up evidence to support the agency’s decision.

I don’t want to stand between you and your municipal attorney, who is, after all, your only representative in court defending your action, but when you fail to state your reasons, you ignore the plain meaning of the statute to “state upon the record the reason for [your] decision.” For example, if after a spirited evening of questions and answers about the effectiveness of the proposed sedimentation and erosion controls by the applicant and concerns raised by experts for the neighbors, the agency entertains a motion to approve the application as proposed (no reasons disclosed.) Let’s suppose there is no or very limited discussion. The agency votes to grant the application. The applicant leaves confident it was the strength of its application and supporting materials. The public is bewildered. Which was it – the strength of the applicant’s expert or the weakness of the neighbor’s

legal, continued on page 4

Save the Date: CACIWC Announces the Preliminary Agenda for Our 38th Annual Meeting & Environmental Conference — Saturday, November 14, 2015

CACIWC is pleased to recruit Dr. Michael Klemens as the keynote speaker of our 38th Annual Meeting & Environmental Conference. Educated in the United States and Europe, Dr. Klemens is a well-known conservation biologist and land-use planner who seeks to achieve a balance between ecosystem requirements and human needs. He plans to support our continued efforts to educate members on the impact of climate change on local environments

by reviewing new Connecticut-specific species population and habitat data. He will also promote better use of scientific data and discuss ways for commissions and their staff to increase collection of local information, while improving the resiliency of their communities to climate change.

conference, continued on page 13

Inside	CACIWC News	2
	2015 Environmental Legislative Review	3
	Conservation Districts and Soil Health	6
	24th Annual CT Envirothon Winner	9
	Excerpts from DEEP	15

CACIWC

Board of Directors

Officers

Alan Siniscalchi	President
Laura Magaraci	Vice President
Maureen FitzGerald	Secretary
Charles Dimmick	Treasurer

County Representatives

Alicia Mozian	Fairfield County
Ann Beaudin	Hartford County
Steve Wadelton	Litchfield County
Marianne Corona	Middlesex County
Peter Bassermann	New Haven County
Vacant	New London County
Rodney Parlee	Tolland County
Steve Sadlowski	Windham County

Alternate County Representatives

Barbara Wilson	Fairfield County
Vacant	Hartford County
Vacant	Litchfield County
Vacant	Middlesex County
Maria Kayne	New Haven County
Vacant	New London County
Vacant	Tolland County
Vacant	Windham County

Darcy Winther DEEP Liaison



The Habitat is the newsletter of the Connecticut Association of Conservation and Inland Wetlands Commissions (CACIWC). Materials from *The Habitat* may be reprinted with credit given. The content of *The Habitat* is solely the responsibility of CACIWC and is not influenced by sponsors or advertisers.

Editor: Tom ODell

Associate Editor: Ann Letendre

Correspondence to the editor, manuscripts, inquiries, etc. should be addressed to *The Habitat*, c/o Tom ODell, 9 Cherry St., Westbrook, CT 06498. Phone & fax 860.399.1807 or email todell@snet.net.

www.caciwc.org

CACIWC News

“With great power comes great responsibility,” variously attributed to Oevres de Voltaire, Thomas C. Hansard (and, of course, Spider-Man), may appropriately summarize the challenge that world leaders now face in steering an appropriate course to protect our environment from the adverse effects of global warming and climate change.

In 2014, CACIWC accepted the challenge of helping to develop a more climate-resistant New England, as highlighted in the U.S. Environmental Protection Agency New England Regional Office (EPA Region 1) published summary of their New England “Climate Leaders Summit” held November 2013 in Providence, Rhode Island. During our 2014 Annual Meeting and Environmental Summit, we introduced a new track with several workshops on climate change issues to educate our member commissions.

During his November 15, 2014 keynote address to those in attendance at our conference, Connecticut Department of Energy & Environmental Protection (DEEP) Commissioner Robert Klee reviewed the commitment of his agency to work with our members in support of local efforts. Commissioner Klee further emphasized his agency’s recognition of the urgency of these issues in his December 10, 2014 address to the Connecticut League of Conservation voters, “Make no mistake about it, climate change is already here. We see it in the warming waters and changing fish species of Long Island Sound. We see it in the new insects and invasive plant and animal species on our land and lakes. And we saw it in the destructive force of recent storms that we will all long remember. We have a moral imperative to act for the sake of our planet and future generations.”

Fortunately, Commissioner Klee is not alone in challenging us to act on behalf of our planet. Increasing numbers of leaders from presidents to the Pope have stepped forward to acknowledge the danger of climate change and the need to protect our environment. This moral imperative to act does not rest solely with international, national, and state leaders alone. As community leaders, Connecticut conservation and inland wetlands commissioners and their staff have the power to protect critical habitats along with educating local residents.

A few commissioners have confided in me that they have grown tired from lack of local progress and despair that their efforts to conserve town habitats and encourage local leadership may be in vain. All Connecticut conservationists, regardless of their faith background, may take inspiration from His Holiness, Pope Francis in his encyclical on the environment, “Yet all is not lost. Human beings, while capable of the worst, are also capable of rising above themselves, choosing again what is good, and making a new start.”

CACIWC news, continued on page 14

Editor's Note: It was a long, difficult budget session. My thanks go out to the day-to-day stalwarts who prowled the hallways delivering our conservation messages, provided me regular updates including final results, and provided much of the content for this review: CT Land Conservation Council, CT Forest & Park Association, Rivers Alliance, CT Audubon and CT Fund for the Environment — collectively THANK YOU!

2015 Environmental Legislation Review

You Answered the Call for Action — THANK YOU!

Your calls, emails, and personal contacts with your State Legislators was key to successfully protecting programs noted below from further budget cuts, restoration of those that had been eliminated completely, and helping to pass a number of pro-conservation and environment bills during a particularly difficult legislative session.

NOW PLEASE thank your State Legislators and Governor Malloy for their support of these programs and initiatives — all of which truly make a difference for the economic well-being and overall quality of life in our communities.

Funding Municipal Land Conservation

Incentivizing Land Conservation

Signed into law June 4, 2015, **Public Act No. 15-23** “An Act Concerning the Percentage of State And Federal Funds That May Be Used To Purchase Open Space” under the Open Space and Watershed Land Acquisition Program removed a huge burden on land trusts and municipalities to come up with 30% match for the purchase price (on top of all their incidental costs). Known as the “70% rule” — a rule that capped the total state and federal funding on a land conservation project at 70% of the fair market value based on the land appraisals submitted with the grant application. Public Act 15-23 raises the cap to 90% for total federal and state funds on a conservation project and also allows the Commissioner of DEEP to waive the cap entirely if any one of a number of conditions are met. Reducing the required “match” for DEEP’s Open Space and Watershed Land Grant Program (OSWA) to 10% of the fair market value should be a significant incentive for Conservation Commissions to pursue the open space goals of the town’s Plan of Conservation and Development, particularly for municipalities and land trusts in areas of the state where municipal and private funds are difficult to raise due to the lack of wealth within a community or ability of a town to include funding in its capital budget or through bonding.

Similar legislation, Senate Bill 346, signed by the Governor on June 4th makes improvements to the

Department’s Farmland Restoration Program, which provides matching grants to restore agricultural land back into production. This bill increases the cost-share to up to 90% of the project’s cost for the restoration of state and municipal agricultural lands, if there is a lease of 5 years or more. The bill also expands the items reimbursable to farmers under the program.

Since enacted in 2005 **Community Investment Act (CIA)** has provided reliable funding for state land use programs for open space conservation, farmland preservation/dairy production, historic properties preservation and affordable housing development. Funded by a surcharge on local recording fees, CIA is the only **consistent source** of funding for the state’s Open Space and Watershed Land Acquisition Grant Program (OSWA) — the state’s matching grant program for towns, land trusts, and water companies seeking to conserve open space. CIA Open Space account funds three staff positions and is responsible for the administration, function and viability of the OSWA program.

After the Governor’s initial budget swept all collected CIA funds beginning in January 2016 through June 30, 2017 into the general fund, a coalition of environmental groups, including CACIWC, went to work and with your help convinced the legislature to restore 50% of the CIA account, meaning that 50% of the CIA funds collected from January 1, 2016 through June 30, 2017 will be diverted to the general fund (instead of 100% as was originally proposed). Effectively, this means a 25% cut for the first fiscal year and a 50% cut for the second fiscal year, since the cut begins in the second half of FY16. Despite the significant cut to CIA in the 2 year budget, the overall structure of CIA is intact and will still provide Open Space funds for a 2016 and 2017 OSWA grant round. Call To Action: Start Your Engines; Use It or Lose It.

Open Space Bond Funds for DEEP’s Open Space and Watershed Land Grant Program received \$8 million in bond authorizations in both F16 and FY17. Bond authorization for open space acquisition requires the Governor-
legislative, continued on page 10

legal, continued from page 1

expert or both? An appeal is taken and the judge, having searched the record, manages to find enough to support the agency action. A D- grade is still a passing grade, but should you strive so low? With each application you have the opportunity to increase the confidence applicants and the public alike have in your efforts. You do this with transparency – by stating your reasons on the record. Consider the statement of your reasons a summary of your action.

II. Start with the relevant factors for consideration

A boilerplate list of the factors for consideration in your regulations or the state statute is not called for. Not every application will call into question the environmental impact on a watercourse *plus* alternatives *plus* irreversible loss of the watercourse *plus* mitigation *plus* interference with safety or health *plus* future activities made inevitable by the application. There is no need to repeat verbatim lengthy factors for consideration where your conclusion is: “That is not presented by this application.” Focus on the factors which agency members or members of the public questioned. In fact, if your agency relies on a factor which was not voiced by anyone during the proceeding, you may have deprived the applicant of fundamental fairness – the opportunity to know the basis of your decision and a timely opportunity to respond.

It’s my impression that agencies do not consider alternatives enough, that is, chew them over, articulate them and ask the applicants of the process they engaged in before settling on the design presented in the application. Often I hear from agency members that alternatives are not part of their analysis because a public hearing wasn’t held or the reason for holding a public hearing was that it was in the “public interest.” Let’s clarify the law on alternatives. Succinctly put, alternatives are to be considered in each application. Why? It is the second stated factor for consideration³, right after the environmental impact of the proposed activity on wetlands and/or watercourses. Consideration of impacts and alternatives should be among your most frequently undertaken considerations, common to all applications.

Members are correct that there are additional findings that must be made if a public hearing was held based on a finding that the proposed activity may have a significant impact on wetlands or watercourses.⁴ In that event, a permit may not be issued unless the agency finds that a feasible and prudent alternative does not exist.

III. State which expert(s) you found credible

On appeal a judge will defer to your decisions on who was credible. The law is a bit tricky on experts. When there are multiple experts, the agency is free to believe one and disbelieve another. On the other hand, if there is only *one* expert, a lay agency (with no expert members) acts without substantial evidence, i.e. illegally, in disregarding the sole expert evidence before it. Are you required to state which experts you found credible? No. It will be inferred from your action. But you can guide the quality of future experts by signaling the importance you placed on (fill in the blank): the expert’s years of experience designing similar systems, the expert’s lack of specific knowledge of on-site conditions, the expert’s evasiveness/thoroughness when answering questions, the expert’s reliance on generalized concerns and not specific ones etc.

IV. Specific findings in specific situations

Feasible and prudent alternative: As mentioned in Section II above, your agency is required to make a specific finding that there is no feasible or prudent alternative *if* you conducted a public hearing because you voted that the activities may have a significant impact. Conversely, if your agency is voting to deny an application because a feasible and prudent alternative *may* exist – which is a proper basis for denial – you “shall propose on the record in writing the types of alternatives which the applicant may investigate.”⁵

Environmental intervenor(s): if an environmental intervenor participated in the proceeding, whether a public hearing was held or not, the agency has one or two additional findings to make. Step 1: The initial finding is to determine whether the intervenor has established that the proposed activity is reasonably

legal, continued on page 5

The advertisement is a rectangular graphic with a white background. On the left side, there is a close-up photograph of a white flower with a bee on it. In the top left corner, there is a circular logo with a bee and the text 'POLLINATOR APPROVED'. To the right of the flower, the text 'Restoring the native habitat' is written in a serif font. Below this, the 'ERNST SEEDS' logo is displayed, which consists of the word 'ERNST' in an arch over a stylized plant, with 'SEEDS' below it. At the bottom left, the website 'ernstseed.com' is listed, along with the email 'sales@ernstseed.com' and the phone number '800-873-3321'. To the right of the contact information are social media icons for Facebook, LinkedIn, and Google+. The entire advertisement is enclosed in a thin black border.

legal, continued from page 4

likely to unreasonably pollute, impair or destroy wetlands or watercourses. If the answer is no, the agency's job under the Connecticut Environmental Protection Act (CEPA) is done. If the answer is yes, proceed to Step 2: If there is "a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare"⁶ the permit must be denied. It is not necessary to have a separate motion to make the CEPA findings, but there's nothing wrong with that procedure. However, the state Supreme Court has ruled that if an agency is denying a permit based on CEPA considerations and findings, those findings *must* be referred to in the general motion which denied the permit and not solely in a motion about CEPA findings.⁷

Denial of activity in upland review area based on impact to plants or animals: In response to the state Supreme Court's 2003 ruling holding wildlife not within the jurisdiction of wetlands agencies, the legislature amended the wetlands act to allow denial or conditions for impact to plants or animal for activities conducted in upland review areas. In § 22a-41 (d) an agency is not authorized to deny or condition a permit for such impact "unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses." Strictly speaking, this needn't be a formal "finding." However, putting it on your list of findings to be incorporated in a motion will encourage you to discuss this on the record and question all experts about this, which, in turn, increases the likelihood of a judge finding there is substantial evidence to support your decision.

Denial of permit based on actual adverse impact: There have been numerous permit denials that have been overturned by the Appellate Court and the Supreme Court. Is the problem that agencies are failing to make the finding in their motions to disapprove in an otherwise strong record which supports their decision? No. The record is inadequate to support the finding. The word "actual" is not my invention. It comes from a Supreme Court decision: The wetlands agency "made no specific finding of any actual adverse impact to any wetlands or watercourses."⁸ By putting this finding on your to-do list for denials, including the word "actual," it will prompt your agency to engage in the questioning of experts and applicants to support your deliberations and denials.

Having a list of topics for findings to be inserted in your motions will assist you in framing the questions, the

discussions and your deliberations. At the same time everyone, the applicant, the public and all agency members, will have a clear picture of how your agency acted.

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 "agent" refers to those activities approved by an agent when the activity does not occur in a wetland or watercourse and would result in no greater than a minimal impact on any wetland or watercourse as set out in C.G.S. § 22a-42a (c) (2).

² *Gibbons v. Historic District Commission*, 285 Conn. 755, 767 -72 (2008)

³ C.G.S. § 22a-41 (a) (2)

⁴ C.G.S. § 22a-41 (b)

⁵ C.G.S. § 22a-41 (b) (2)

⁶ C.G.S. § 22a-19 (b)

⁷ *River Bend Associates, Inc. v. Conservation & Inland Wetlands Commission*, 269 Conn. 57, 83-85 (2004)

⁸ *River Bend Associates, Inc. v. Conservation & Inland Wetlands Commission*, 269 Conn. 57, 77 (2004) ↴

REDNISS & MEAD	LAND SURVEYING CIVIL ENGINEERING PLANNING & ZONING CONSULTING PERMITTING
	22 FIRST STREET STAMFORD, CT 06905 203.327.0500 www.rednissmead.com

	Ferrucci & Walicki, LLC	
www.fwforesters.com		
6 Way Road, Middlefield, CT 06455 CT and MA Certified Foresters NRCS Technical Service Provider		
Forest management, timber harvest, recreation and wildlife habitat plans		
Boundary and GIS mapping services		
PA 490 and Chapter 61		
860-349-7007 – fw@fwforesters.com		

Connecticut's Conservation Districts:

From the Dust Bowl to a Celebration of Soil Health

by Jane Brawerman, Executive Director, CT River Coastal Conservation District and Tom ODell, Chairman, Board of Directors, CT River Coastal Conservation District

Soil is fundamental to sustaining life. It supports healthy ecosystems and a nutritious and abundant food supply. 2015 has been declared International Year of Soils by the United Nation's General Assembly, so it seems an appropriate time to not only celebrate soils, but take you back to the Conservation Districts' roots — the reason they were formed — and discuss why they are still relevant today.

Why the International Year of Soils? According to a recent press release from the CT Natural Resources Conservation Service, "With an increasing global population, a shrinking agricultural land base, climate change and extreme weather events, the nations of the world are focusing their collective attention to the primary resource essential to food production — the soil. The year of awareness aims to increase global understanding of the importance of soil for food security and essential ecosystem functions." Join Connecticut's Conservation Districts — and the rest of the world — in a celebration of life-giving soils!



Try to imagine the time of sky-blackening dust storms sweeping across the country, when our soil was being lost due to drought and unsustainable agricultural practices. Fortunately, we learned a valuable lesson from the Dust Bowl: it was national concerns over worsening agricultural erosion, floods and the Dust Bowl's storms that launched the movement to conserve our soils in the 1930s, and led to the formation of the soil and water conservation districts.

Initially, Congress enacted the Soil Conservation Act of 1935, establishing a national policy to control and prevent soil erosion, and directing the Secretary of Agriculture to establish the Soil Conservation Service (now the Natural Resources Conservation Service). Then, the locally-led Conservation District concept was developed to enlist the cooperation of landowners in carrying out the programs authorized by the act. In 1937, President Roosevelt recommended state-level legislation that would allow local landowners to form soil conservation districts. Given that about 75% of the continental United States was privately owned, Congress realized that only active, voluntary support from landowners would help ensure that local needs were being met and guarantee the success of conservation work on private land. Today, there are over 3,000 conservation districts nationwide, continually adapting to new conservation challenges.

Connecticut's Conservation Districts were formed by state statute in 1946, "...to assist the commissioner of environmental protection in identifying and remedying the problems of soil and water erosion...", initially one in each of the state's eight counties. In 2003 Districts were reorganized into five districts to work locally but within a watershed perspective. The focus of District work has also branched out from the early days to address a variety of natural resource conservation challenges, such as assessing and restoring water quality and aquatic habitat; protecting wetlands; promoting and implementing low impact development practices; preventing erosion and sedimentation; stormwater management; educating the public about "backyard" stewardship; habitat management planning for open space preserves; as well as working with the agricultural community to develop conservation plans and implement sustainable management practices — to protect natural resources and promote soil health.

To learn more about Connecticut's soil health and the 2015 International Celebration of Soils go to CT Natural Resource Conservation Service website; www.NRCS.USDA.gov/wps/portal/nrcs/main/ct/soils/ and The Soil Science Society of America, www.soils.org/IYS.

districts, continued on page 7

Connecticut Conservation Districts: *Providing Natural Resource Management Since 1946*

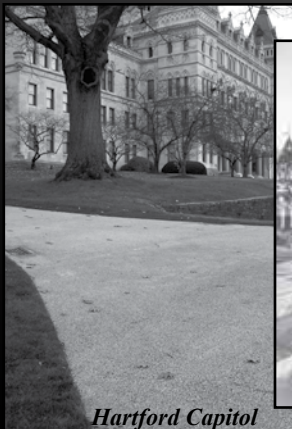
In 2014, Connecticut's five Conservation Districts were able to address the following Conservation priorities, as well as respond quickly to storm related issues:

- ✓ Flooding and erosion problems from storm events
- ✓ Agricultural management practices that enhance farm viability, conserve soil, and protect water quality
- ✓ Stormwater wetland retrofits and pretreatments
- ✓ Soil nutrient testing for the agricultural community
- ✓ Stream bank stabilization projects
- ✓ Soil erosion and sediment control inspections at problem construction sites
- ✓ Municipal Wetland Commission training and wetland delineation services
- ✓ Migratory fish passage projects
- ✓ Water quality assessment and watershed management

For assistance please call: North Central Conservation District: 860-875-3881 ext. 2; South Western Conservation District: 203-287-8038; North Western Conservation District: 860-626-7227; Eastern Connecticut Conservation District: 860-887-4163 ext. 402; CT River Coastal Conservation District: 860-346-3282.

Editor's Note: State budget cuts this year reduced funding for Conservation Districts by 8.9% over 2 years; each of the five Districts will receive \$44,375 in 2015-16 and \$45,000 in 2016-17. State funding for the Conservation Districts helps provide the operating capacity Districts need to carry out their statutory responsibilities, attract federal funding, leverage additional resources, and provide services to the agricultural community, municipalities, land trusts and private land owners. Grant funds cannot be used for operations, or managerial and administrative functions. ♣

Are you paving
the way
to protect the environment?
Pervious Is!



Hartford Capitol



Hartford Capitol



Goodspeed Opera House

Advantages of Pervious Concrete:

- Recognized by the EPA as BMP [Best Management Practices] for stormwater runoff
- Excellent LID applications for parking lots, driveways, walkways, trail pathways
- Installations at Subway World Headquarters, CT State Capitol, Goodspeed Opera House, schools throughout CT, and nature trails

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

Got a **Challenging Wetland Application** to Review?

Your Inland Wetlands & Watercourses Commission Needs

Connecticut Ecosystems LLC

Peer Review Services



I have more than 25 years of wetland science experience. I am a past president of the CT Association of Wetland Scientists, and started their vernal pool monitoring program in 2007. I participate as a member of Environmental Review Teams (ERTs).



I have expertise in wetland delineation/assessment, wildlife ecology, vernal pool identification & ecology, mitigation and erosion/sediment control.



Inland Wetland Commissions benefit from my career spent supporting wetland permit applications.



My extensive experience reviewing site plans allows me to identify deficiencies and propose creative solutions.



I promote Low Impact Development (LID) principles in all site plans.

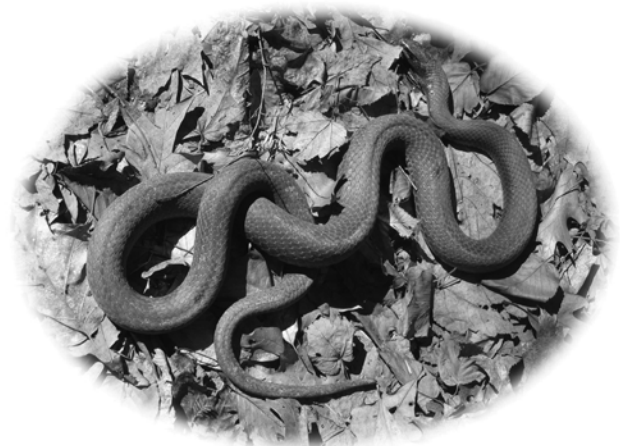


I provide expert testimony at public hearings.



I avoid conflicts of interest by representing only municipalities, not applicants.

Edward M. Pawlak, MS
Registered Soil Scientist
Certified Professional Wetland Scientist
38 Westland Avenue West Hartford 06107
860-561-8598 ecosys88@gmail.com



Editor's Note: Municipal land use commissions are missing out if they do not recruit Envirothon students to serve on the commission as "advisors".

Coginchaug Regional High School Wins 24th Annual CT Envirothon Competition!

On May 21, 2015, forty-two teams of high school students and their advisors from all over Connecticut convened at Connecticut College Arboretum for the all-day 24th Annual CT Envirothon field competition.

Envirothon (www.ctenvirothon.org/) is a North American high school natural resource education program involving teams of high school students competing in five subject areas, forestry, soils, aquatics, wildlife and a current natural resource issue. In 1992 Connecticut Conservation Districts organized the first Connecticut state-wide Envirothon competition.

During the school year, students learn from web-based resources and hands-on work with environmental specialists in a series of workshops covering the five subject areas; in 2015 the natural resource issue was Urban Forestry. The program culminates with a field competition in May when each five member team rotates through the five subject area sites to be tested on their knowledge of natural resources and their teamwork skills.

CT Envirothon is guided and coordinated by a Steering Committee made up of Conservation District staff and board members, and other environmental professionals from state/federal agencies, colleges/universities, and private companies and nonprofit organizations.



The Coginchaug Regional High School Envirothon Team (left to right): Lilian Zhou , Amelia Bianchi , Matthew Sawicki , advisor Susan Michael, Tyler McDonald , and Natalie Charette. Photo Credit: CT Envirothon

“Take the Natural Challenge!”

The mission of CT Envirothon is to promote environmental awareness, knowledge, and active personal stewardship among high school students through educational workshops and team competition. CT Envirothon challenges the students — our next generation of environmental stewards and professionals — to develop critical thinking, cooperative problem-solving and decision-making in a team environment.

CACIWC congratulates the Coginchaug Regional High School (Durham-Middlefield) team and their mentor, Science Department Chair, Susan Michael, for winning the 2015 CT Envirothon. This summer the team will study to compete in the National Envirothon at Missouri State University in late July-August against teams from across the US and Canada.

Congratulations also to the Housatonic Valley High School-Agriscience and Housatonic Valley High School teams and their advisors for their 2nd and 3rd place finish, respectively, in the 2015 CT Envirothon, and to all the students that competed in the event. 🍁

STEVEN DANZER, PHD & ASSOCIATES LLC Wetlands & Environmental Consulting



STEVEN DANZER, PHD
Professional Wetland Scientist (PWS)
Soil Scientist

203 451-8319

WWW.CTWETLANDSCONSULTING.COM

WETLAND BOUNDARIES ▶ POND & LAKE MANAGEMENT
CONSTRUCTION FEASIBILITY CONSULTATIONS ▶ ENVIRONMENTAL STUDIES

legislative, continued from page 3

nor to put the issue on the Bond Commission's agenda, which meets, generally once a month. It takes time and can be tedious.

Recreational Trails Bond Funds for DEEP's Grant Program received \$10 million over 2 years for construction, maintenance, and improvements to bikeways, pedestrian walkways, greenways, and multi-use trails (this was in addition to \$2 million authorized in SB 1062). This reduces the dependence of the State on federal funding through the Recreational Trails Program for trails which has not been consistent.

Funding State Land Conservation

The State Parks Budget was cut \$200,000/year. However, budget rescissions of \$400,000/year were made earlier in the year, so the overall impact to State Parks in 2016-2017 is equivalent to a cut of \$600,000/year.

DEEP's Recreation and Natural Heritage Trust Program received **Open Space Bond Funds of \$15 million over 2 years** which enables CT DEEP to acquire new State Parks, Forests, and Wildlife Management Areas; State Parks received **Bond Funds of \$25 million** over 2 years for infrastructure alterations and renovations.

Protecting State Conservation Lands



At the "last minute" actions during the Implementer Session Public Lands proposed to be given away or subjected to road development were removed from the Conveyance Act. Without this action 4.7 acres of Silver Sands State Park would have been given away to the City of Milford, and two sand and gravel extraction companies would have been allowed to construct private access roads across sensitive habitats in the Quinebaug Wildlife Management Area in eastern Connecticut.

Support for State and Municipal Agriculture

Senate Bill 346, passed unanimously in both chambers and signed by the Governor on June 4th, makes improvements to the **Department's Farmland Restoration Program**, which provides matching grants to restore agricultural land back into production. This bill increases the cost-share to up to 90% of the project's cost for the restoration of state and municipal agricultural lands, if there is a lease of 5 years or more. The bill also expands the items reimbursable to farmers under the program and makes other technical changes.

legislative, continued on page 11

GEI Consultants, Inc.
Consulting Scientists and Engineers




Serving Connecticut
GEI is a multi-disciplinary national firm with a strong local presence. Our Glastonbury, CT office has a staff of 50 professionals with expertise in Ecological, Soil, Wetland, and Environmental Sciences. We also provide Environmental Assessment, Remediation, and Geotechnical Design. We offer Connecticut municipalities a variety of services including:

- Natural Resource Inventories
- GIS Services
- Soil Science Services
- Wetland Permit Peer Reviews
- Mitigation & Restoration
- Shoreline Enhancement and Stabilization

For more information about GEI, please contact Martin Brogie at 860.368.5308 or mbrogie@geiconsultants.com

www.geiconsultants.com

**Engineers Specify
BMP SNOUT® Hoods
for Stormwater Quality**



**Built in New England,
and Made to Last**

Best Management Products, Inc.
bmpinc.com • 800-504-8008

US Patent 6126817, 7857966, 7951294 and Canada Patent 2285146

legislative, continued from page 10

The **Farm Reinvestment Program** received \$1 million in authorizations for FY17 and the Agricultural Experiment Station received \$11.7 million in authorizations for renovations to the Valley Lab in Windsor.

The Farmland Preservation Program did not receive any new bond authorizations; available bond funds will provide significant support for our state's farmland protection efforts over the two-year 16-17 budget.

Shellfish grounds were added as eligible for the Department of Agriculture's Farmland Restoration Program and an Aquaculture Advisory Council.

Support for Environmental Quality


In addition these actions were taken by the legislature.

- Thanks to statewide support, the **Council on Environmental Quality** survived threats to its existence, emerging from the budget battle as still the state's independent watch-dog agency that the public relies upon to monitor environmental progress, assess the efficacy of state environmental laws, policies and programs, and investigate alleged violations of environmental laws. Acting through its volunteer council and just two staff, with limited support from DEEP for administrative purposes only, CEQ provides the public with these services efficiently, effectively and at minimal cost (less than \$185,000/year) to the state. There is likely no other independent state agency that does so much for so little.
- State funding for the five **CT Conservation Districts and the Council on Soil and Water Conservation** was cut by 8.9% over 2 years which will require some adjustment in managing natural resources services; each of the five Districts and the Council will receive \$44,375 in FY15-16 and \$45,000 in FY16-17. State funding for the Conservation Districts helps provide the operating capacity Districts need to carry out their statutory responsibilities, attract federal funding, and leverage additional resources. Grant funds **cannot** be used for operations, or managerial and administrative functions.
- **The Blue Plan** creates a bi-state, multi-stakeholder mechanism for assessing Long Island Sound's natural resources and planning for their protection.
- There were several important **Lawn Care Pesticide** bills debated this session. None were passed in the legislature's regular session that ended on June 3rd. However, in the special session, June 29th, the

Implementer Bill included a ban on the use of pesticides on municipal playgrounds and included new notice requirements except in emergency situations.

- The Implementer Bill also **bans microbeads** in cosmetics and personal care products starting in 2018.
- Public Act 15-100 "An Act Concerning the Penalty for Violation of a **Municipal Ordinance Regulating the Operation or Use of a Dirt Bike or All-terrain Vehicle**": a written warning is no longer required for a first offense by an ATV or dirt bike that violated a municipal ordinance.
- The **Clean Water Fund** received \$140 million in grants and \$238 in low cost loans primarily for sewage treatment. In addition \$20 million was added for green infrastructure plus \$20 million for shoreline resiliency.
- Cities and towns received \$20 million to help reduce **pollution from storm water** by developing projects to help absorb and filter runoff before it gets in rivers and Long Island Sound.
- Funds remained in place at the Office of Policy and Management for work on a **Comprehensive State Water Plan**. 🌿

LAW OFFICES OF
Branse & Willis, LLC



Zoning & Inland Wetlands
Commercial & Residential Real Estate
Business Law • Municipal Law
Wills & Probate

MARK K. BRANSE • MATTHEW J. WILLIS
RONALD F. OCHSNER • CALEB F. HAMEL
ELIZABETH L. HEINS

148 Eastern Boulevard, Suite 301
Glastonbury, CT 06033
Tel: 860.659.3735 • Fax: 860.659.9368

Educational Wildlife Signs Available

DEEP's Wildlife Division has produced signs that municipalities, businesses, and other groups can use to inform the public about various wildlife species and issues:

- "Do Not Feed the Waterfowl" vinyl signs that measure 20" X 24" can be obtained free-of-charge by sending an email request to deep.ctwildlife@ct.gov. You will be contacted for further information. The printing of these signs was made possible through grants and support from cooperating organizations and agencies.
- A "Be Bear Aware" poster (which can be printed or downloaded) gives advice on preventing conflicts with bears and on what to do if you encounter a bear. Three different sizes are available: small-8 1/2"x 11", medium-8 1/2"x14", and large-11"x17". The posters can be displayed at town halls, visitor centers, parks, schools, and other public buildings/locations. Go to: www.ct.gov/deep/lib/deep/wildlife/pdf_files/outreach/BearAwarePosterSmall.pdf.
- "Stay Away from Bird Nesting Area" signs can be printed or downloaded to post near osprey nesting platforms. Use your printer menu to scale the sign to whatever size is needed. Signs should be laminated to prevent weather damage. Go to: www.ct.gov/deep/lib/deep/wildlife/pdf_files/nongame/OspreySign.pdf. 🐦



TRAFFIC STUDIES

THAT DON'T COST YOU

AN



AND A



KWH ENTERPRISE, LLC | KERMIT HUA | (203) 807-5482

*We're
always
growing!*



New England Wetland Plants, Inc.
Wholesale Native Plant Nursery

Your source for:

Trees, Shrubs, Ferns, Flowering Perennials, and Grasses

Coastal and Inland Wetland Plants

Specialty Seed Mixes

Coir logs, Straw Wattles, Blankets, and Mats

New England Wetland Plants, Inc.

820 West Street, Amherst, MA 01002

Phone: (413) 548-8000 Fax: (413) 549-4000

Email: info@newp.com Web: www.newp.com

ENVIRONMENTAL PLANNING SERVICES

Wetland, Biological and Soil Surveys,
Impact Assessment and Mitigation Planning

MICHAEL S. KLEIN, Principal
JAMES COWEN, ERIC DAVISON

Professional Wetland Scientists, Soil Scientists & Biologists

89 BELKNAP ROAD • WEST HARTFORD, CT 06117

PHONE/FAX: (860) 236-1578

Email: michael.klein@epsct.com • Web: www.epsct.com

conference, continued from page 1

In response to your comments from the 2014 meeting survey, CACIWC has worked with our conference facility to revise the layout of our 2015 workshop rooms to provide more space for displays, encourage networking, and increase learning through use of improved sound and audiovisual systems. We look forward to having you join us at:

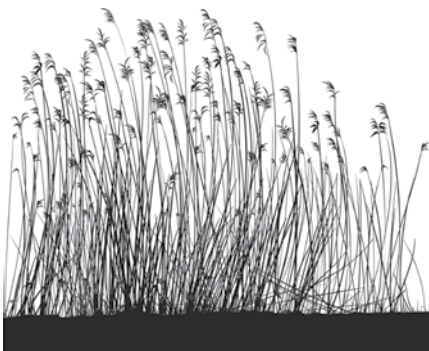
Villa Capri Banquet Facility

906 North Colony Road
Wallingford, CT 06492
(203) 265-7174
www.villacapri.com


CACIWC has also organized a great selection of scientific, legal, procedural, and administrative workshops for both new and experienced inland wetlands and conservation commissioners and their agents. These include:

- Developing local resilience to climate change
- News from the Connecticut Invasive Plant Watch List
- 2015 legal updates
- Sensible stormwater & ecological restoration solutions
- Back to basics: wetlands law & regulations
- Low-impact development (LID)
- Understanding new subsurface regulations
- Emerging threats from non-native insects
- Integrated approaches to minimize use of pesticides
- Pond management techniques
- Working with other commissions
- Use of Smartphone to delineate local habitats

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




Wetlands & Soils Scientists | Biologists | Ecologists | Archaeologists



BL Companies specializes in Natural & Cultural Resource studies related to:

- Land Development
- Energy
- Telecommunications
- Infrastructure
- Transportation
- Regulatory Compliance

Meriden
Hartford
Bridgeport
An Employee-Owned Company



Architecture
Engineering
Environmental
Land Surveying

www.blcompanies.com



NEE environmental consulting

Collaborating with Clients on Environmental Projects Since 1986:

Natural Resources & Environmental Permitting
Wetland Science, Rare Species Evaluations, Environmental Permitting & Review

Ecological Restoration
Riparian, Wetland & Coastal Restoration, Construction, Invasive Species Management

Landscape Architecture & Ecological Design
Sustainable Design, Permitting & Construction Plans, 3-D Modeling, Design Charettes

Site Assessment & Remediation
Environmental Site Assessment, Asbestos Services Hydrogeology

New England Environmental, Inc.
Environmental Consulting

15 Research Drive
Amherst MA 01002
(p) 413.256.0202



www.neeinc.com

CACIWC news, continued from page 2

Please be assured that the CACIWC Board of Directors is committed to continue our support of your efforts. You have the power to help protect the habitats in your own town as well as those in our shared global environment!

1. During our 2015 conference, CACIWC plans to continue our efforts to educate and support the efforts of our member commissions to protect local wetland habitats, gather local data, set community priorities, work with cooperative partner agencies, and help strengthen the resiliency of their municipalities to the impact of climate change. Our **38th Annual Meeting and Environmental Conference** is scheduled for **Saturday, November 14, 2015; please save the date!** We are pleased to provide an advanced description of the conference in this issue of *The Habitat*. Watch for additional conference news in upcoming issues and on our www.caciwc.org website.

2. The CACIWC board of directors expresses its thanks to the commissions who have already paid their **2015-16 membership dues** in response to the recently distributed reminder and renewal form. A copy of this form and additional information has also been placed 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 will very much appreciate any additional contributions that you can provide to support various CACIWC programs including our Annual Meeting, educational materials, and future issues of *The Habitat*.

3. The CACIWC board of directors has continued work on the development our new **strategic plan**. As part of the strategic planning process, we have been incorporating information obtained from the 2013 and 2014 **membership-wide surveys**. We will be requesting additional information 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. Although we have received several inquiries, some **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 as the New London County representative, one of the vacant alternate county representatives, or as one of the alternate at large representative positions.

5. We also heard from members interested in serving on one of 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.

6. Individuals are also working with us on ways to **expand our ability to communicate with member commissions and staff**. These include systems to quickly send you important messages on emerging topics of interest, including grants & funding, legislative issues, and educational opportunities. These improved communications will include an expanded listserv and website-based systems. Please respond to requests for updated email listings from both board members as well as our Membership Coordinator & Database Manager Janice Fournier.

As always, 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. All of us benefit from your ongoing efforts to protect wetlands and conserve important habitats within your municipality!

Alan J. Siniscalchi, President 

CT DEEP 2015 Wildlife Action Plan Available for Review

The public is encouraged to review and comment on the Draft 2015 Wildlife Action Plan available on the DEEP website at www.ct.gov/deep/WildlifeActionPlan. The Plan is a vision for the future of fish and wildlife conservation in CT; to keep common species common. Comment will be accepted through August 21.

Excerpts from CT DEEP — Your Environmental Connection

ALERT! Southern Pine Beetle Found in Four Connecticut Counties

The small, destructive Southern pine beetle (*Dendroctonus frontalis*) has been detected at four sites in New Haven, Litchfield and Hartford Counties by the Connecticut Agricultural Experiment Station (CAES) and DEEP and confirmed by the USDA Forest Service. This beetle is native to the Southeastern United States where it infests and kills large stands of pine. Connecticut's native white pine (a "soft" pine) is not at risk, but pitch pine and other "hard" pines are. The potential loss of pitch pine is of concern because it provides habitat for rare and endangered species dependent upon pine-oak sandy barrens. It is unclear how, or when, the beetle arrived in Connecticut. Trapping began in mid-April to determine beetle overwintering success. Visual surveys are underway to determine the extent of the infestation. Pines attempt to push out attacking beetles with a flow of resin. Attacked trees become covered with small popcorn-like blobs of dried resin (see photo above). If the attack is successful, beetles lay eggs under the bark and larvae then feed on the circulatory system of the tree, killing it in one to two years. If you see pines with the popcorn resin, please contact CAES at ctstateentomologist@ct.gov or call 203-974-8474.


Join the 18 Tree City USAs in Connecticut

Tree City USA is an honor earned by cities and towns that meet four standards set by the Arbor Day Foundation and have their application approved by the State Forester. The four standards are having:

- A tree board or department
- A tree care ordinance
- An urban forestry program with an annual budget of at least \$2 per capita
- An Arbor Day observance and proclamation

Connecticut currently has 18 Tree City USAs. The program was initiated by the Arbor Day Foundation in 1976. DEEP's Urban Forestry Program is willing to work with any community interested in exploring whether it qualifies as a Tree City USA and what is needed to earn that designation. Many communities might be surprised at how close they are. Applications for next year's honor are due in December.

For further information go to the following websites:

- www.arborday.org/programs/treeCityUSA/treecities.cfm?chosenstate=Connecticut
- www.ct.gov/deep/cwp/view.asp?a=2697&q=322872&deepNav_GID=1631 

AGRESOURCE, INC.

800-313-3320 OR 413-265-0181

WETLAND SOILS

BIORETENTION SOILS

RAIN GARDEN SOILS

LIGHTWEIGHT SOILS FOR GREEN ROOF

CUSTOM SOILS



WWW.AGRESOURCEINC.COM



Connwood Foresters, Inc.

Serving CT, MA, RI & NY Since 1945

Forest Stewardship Plans
Property Tax and Cost Savings
Baseline Documentation Reports
Wildlife Habitat Improvements
Permit Acquisition

Expert Witness Services
Timber Sales and Appraisals
Boundary Location/Maintenance
Invasive Species Control
GIS & GPS Mapping

USDA NRCS Technical Service Provider for
Gov. funded stewardship plans/activities
for land trusts & individuals

860-349-9910

CONNWOOD.COM



Connecticut Association of Conservation and
Inland Wetlands Commissions, Inc.
27 Washington Street
Middletown, CT 06457

Non Profit Org
US Postage
PAID
Hartford, CT
Permit # 158

Summer 2015

THE HABITAT

*Dedicated to constant vigilance, judicious management
and conservation of our precious natural resources.*

www.caciwc.org



*Printed on
recycled paper*

CT Department of Energy and Environmental Protection On-Line Municipal Inland Wetlands Agency Comprehensive Training Program



The Connecticut Department of Energy and Environmental Protection (DEEP) Municipal Inland Wetlands Agency Comprehensive Training Program is available for registration now through December 1, 2015. This training program, offered pursuant to the General Statutes of Connecticut section 22a-39, consists of an interactive, multi-media, self-paced online course offered through a Central Connecticut State University website platform (www.ccsu.edu/cppsr/deep). The online course is designed for new agency members and staff, and covers a range of legal, administrative and scientific subjects relevant to municipal inland wetlands agency regulation. A DEEP issued certificate of program completion is awarded to participants upon completion of the course. In addition, a voucher allowing one person to register for the comprehensive training program online course at no cost has been mailed to each municipal inland wetlands agency. Course fee for all other participants is \$75.00 per person. The Municipal Inland Wetlands Agency Comprehensive Training Program is available for registration through December 1, 2015. Course participants have until December 15, 2015 to complete the course. 🍁

