



THE HABITAT

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Editor: Tom Odell

NEW LEGAL

Q&A COLUMN

In this issue we introduce a new legal Q&A column for conservation and inland wetlands commissioners and staff. CACIWC welcomes and thanks Attorney Janet K. Brooks who has agreed to author this column. Attorney Brooks has extensive legal experience in protecting natural resources. Questions must be general in nature. Questions regarding specific sites or actions will not be answered. Please submit questions to: *The Habitat Q&A*: email—todell@snet.net

JOURNEY TO THE LEGAL HORIZON



Greetings! The editor of *The Habitat* has invited me to resume the former tradition of providing an answer for a “Q & A” column. Most of you begin your focus with the protection of a natural resource in mind. I approach the same subject looking at the legal structure which supports protection of the resource. So, through this column, we will journey together, through a question-and-answer format. While you may know me from my background with the state wetlands law, coordinating the Attorney General’s Office wetlands practice group for sixteen years, I will also draw on my years of experience litigating cases under the Connecticut Environmental Protection Act and other environmental laws to include topics of interest to members of Conservation Commissions as well as to citizen activists. I invite you to submit questions to: *The Habitat Q&A*: email—todell@snet.net

I open the column with a **question** from a new member of a wetlands commission: **“To what extent may we condition approval on a commitment by the applicant to impose a conservation restriction or easement on some of the property?”** The question follows logically upon reading the lead article in the last issue of *The Habitat*, “Some Legal Considerations Regarding the Use of Conservation Easements” by Richard P. Roberts and Kenneth R. Slater, Jr. The authors note that conservation easements are generally voluntarily placed on the land and are used to meet open space requirements in zoning or subdivision regulations and have been found as conditions for the issuance of wetlands permits. But what about the legal authority of a wetlands agency to extract an “offer” of a conservation easement in order to get a permit approval? And, if no easement is offered during the application give-and-take, what about a wetlands agency imposing a permit condition that requires the applicant to grant a conservation easement, in order to undertake regulated activities?

My **answer** takes the form of a warning. **This practice of extracting a conservation easement as a condition of a wetlands permit, while not yet tested by court decisions, may very well not be supported by the wetlands law.** I am in full agreement with the statement by Attorneys Roberts and Slater in their article: “Furthermore, municipal land use agencies do not necessarily have any express authority to accept conservation easements and *have limited or no rights to condition approvals upon the grant of a conservation easement.*” *The Habitat*, Summer 2006, page 3 (emphasis added).

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You may think there is something satisfying about requiring or receiving a conservation easement when someone applies for a wetlands permit. A “quid pro quo” because you don’t get something for nothing. But that is not what the state wetlands law directs you to do. Your focus should be on the factors for consideration, set out in the Connecticut General Statutes § 22a-41 (a) and incorporated into your town regulations. Your duty is to determine whether the proposed regulated activity has an adverse impact on wetlands or watercourses. If the activity does not, you would have no authority to encourage or require a conservation easement. The permit should be issued. If the activity does have an adverse environmental impact, you need to look at alternatives and conditions to mitigate that adverse impact. Often the conservation easement addresses wetlands or uplands that were not even part of the proposed activities. Does a conservation easement on an untouched part of the property, which isn’t involved in the proposed activities, actually mitigate, that is, diminish impact that occurs elsewhere? No. It is not a mitigation plan. It allows the conservation easement to be used as a “coupon” for the right to adversely affect some other wetlands or watercourse.

Our state Supreme Court has already found that \$25,000 in cash plus a matching amount of in-kind services for an unspecified mitigation project, *even where voluntarily offered by the applicant*, is not a valid consideration by a wetlands agency. In Branhaven Plaza, LLC v. Inland Wetlands Commission, 251 Conn. 269 (1999), the court looked to the broad purposes of the state wetlands law and the broad discretion of town commissions, but focused its analysis on whether cash and in-kind services of an unspecified nature constitute mitigation. It concluded: NO. “The notion that money and its in-kind equivalent could present the sole obstacle to obtaining a permit would severely undermine the rationale for enacting the legislation and the ultimate purpose of protecting wetlands and watercourses.” *Id.*, 284.

So, substitute your conservation easement for “money and its in-kind equivalent” in the *Branhaven* case. Is there a nexus between your conservation easement and mitigating the effects on wetlands or watercourses? Does the imposition of the easement truly diminish the adverse impact? Do you have substantial evidence in the record, i.e., expert evidence that supports that conclusion? Should a wetlands agency never impose a conservation easement? “Never” is a long time. Your agency may come across an application where a conservation easement can in fact provide protection from the adverse impact to wetlands or watercourses; in which case your condition can be authorized as a matter of law. I won’t speculate whether I’ve ever seen a valid conservation easement. I do think there are many conservation easements offered or required which are vulnerable to attack on legal grounds. If you use a conservation easement as a “sweetener” to approving an application, you are not doing your job under the law.

If you keep your focus on mitigation, you may consider a panoply of measures as valid permit conditions. And if the evidence establishes that the imposition of a conservation easement is necessary, then your journey to the legal horizon may be protected. 

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

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A CONSERVATION COMMISSION RENAISSANCE?

Connecticut's Conservation Commission enabling legislation was passed in 1961. By 1975 there were 152 separate Conservation Commissions. By 2001 there were only 74 separate conservation commissions. Now, in 2006, there are 97 separate conservation commissions. What factors were responsible for the decline and, now, an apparent renaissance of conservation commissions?

Answer: The Inland Wetlands and Watercourses Act passed in 1972 gave towns the option of establishing a new wetlands commission or combining wetlands with another commission. Many towns combined wetland responsibilities with conservation commission duties. In some cases conservation commissions were disbanded after members moved to the separate wetlands commission. Within a few years 90% of the combined commission's time was consumed by administration and enforcement of municipal wetlands regulations.

Despite the decline in active conservation commissions, from 1993 to 1999 the legislature continued to support the conservation commission concept by passing enabling legislation that gave conservation commissions, the responsibility to develop watershed management plans, acquire open space and develop plans for greenways. Then, in 1997, the legislature passed the State's Open Space and Watershed Land Acquisition Program, a matching grant program for municipalities.

In 1999, with encouragement and assistance from CACIWC (published Conservation Commission Handbook) and other organizations, town residents and municipal officials began to recognize the value of a separate conservation commission. Towns with combined commissions separated them; other towns established conservation commissions for the first time. By November 2006, there were 23 new or re-established separate commissions. There are now 97 separate conservation commissions, an increase of 31% in five years.

Five of the 23 new conservation commissions were established between June 2005 and June 2006. They were Thompson, Torrington, Madison, Newtown, and Ashford (also see Burlington's first CC in the article on page 6). To encourage other towns to establish a separate conservation commission, we asked representatives from those five towns to answer nine questions. Their answers are instructive and encouraging. CACIWC greatly appreciates their willingness to assist in this continuing effort to establish conservation commissions in every town.

Questions We Asked the New Commissions:

When was the commission was officially established?

All five commissions were established between June, 2005 and October, 2006.

Was this the first separate CC in your town? If not, was the commission previously combined with the Inland Wetlands Commission or was a previous CC disbanded?

Thompson, Madison, Newtown and Ashford had established CCs that became combined with inland wetlands with the passage of the IW Act. Torrington had a previous CC that was disbanded.

What were the significant factors that led to the vote to establish a CC?

In general, the factors cited were insufficient time for the combined commission to address CC responsibilities; the need for science-based natural resource information, and open space planning.

Thompson -Thompson's Open Space Study Committee (OSSC) became active in 2003, and completed a Natural

Resources Inventory and Conservation and Open Space Plan. The OSSC recommended to the Board of Selectmen that the combined CC and IWC be separated in order to give conservation issues the appropriate attention. The Board immediately acted upon that recommendation.

Torrington – The Conservation, Zoning and IW Enforcement Officer initiated re-establishment and gained support from Mayor Owen Quinn. The town needed to address saving open space, provide for greenways and non-structured outdoor recreation, and help improve and protect the town's resources.

Madison -The P&Z Commission wanted the Conservation Commission to provide a broader, science-based analysis of natural resources in town. They indicated that need in the 2002 Plan of Conservation and Development and then put together an action committee to develop a proposal and build support in the community for the new commission.

Newtown – The Conservation Officer initiated the separation based on the expanded workload for the Conservation

FILLING A CRITICAL DATA GAP: THE CAWS VERNAL POOL MONITORING PROGRAM

by Edward Pawlak

Vernal pools support a broad faunal and invertebrate biodiversity. It is well established that mole salamander (genus *Ambystoma*) and wood frog populations that breed in vernal pools require an adequate amount of adjacent upland habitat to persist on the landscape, and that some land use changes in these uplands can negatively impact them. Extensive field work is often conducted to document the biodiversity supported by these vernal pools as part of the wetland permit process. However, there has been no large scale effort in Connecticut to monitor these pools post-development to determine what impact, if any, these land use changes have had upon the herpetofauna that breed there.

In order to fill this critical data gap, the Connecticut Association of Wetland Scientists (CAWS) is attempting to initiate a program of long-term vernal pool monitoring. Vernal pools will be monitored on selected properties where applicants have received permits for development activities. Starting with a baseline investigation to document pre-development conditions, the monitoring will continue annually post-development.

The primary goal of the monitoring program is to elucidate how herpetofauna respond to varying degrees of land use changes around vernal pools. This database of case studies may eventually allow CAWS to make informed recommendations on vernal pool Best Management Practices.

It is envisioned that cooperating Inland Wetland Commissions will request permit applicants with properties containing vernal pools to allow baseline and long-term annual monitoring of the pools. Legal agreements providing access to the vernal pools

pre- and post-development will need to be developed. This will likely require that vernal pools be located within areas designated as Open Space or covered by a Conservation Easement, details which can be worked out during the permit process.


For the program to be successful it will require the cooperation of landowners and applicants. To facilitate this, legal agreements will need to be developed that will hold landowners harmless for injuries or accidents that may occur during monitoring inspections, and for any changes that may occur in the vernal pool herpetofauna community post-development. Importantly, the program will be implemented at no cost to applicants, land owners or municipalities. All monitoring work will be done by volunteer monitors on a pro bono basis.

Below are some elements that will need to be included in the program:

- In order for a vernal pool to be a candidate for the program, it must be feasible to obtain baseline data, prior to any land use changes allowed by a wetland permit, so that pre- and post-development data can be compared. Potentially, the baseline data could be generated by the wetland scientist involved in the application.
- The monitoring methodology will need to be standardized, with data collected on a uniform data sheet. In recent years, standard amphibian monitoring methods capable of being reliably implemented by trained volunteers have been developed and show promise for such a state-wide initiative.
- A training program to adequately prepare volunteers and standardize procedures will be required.
- To simplify and expedite the field work, monitoring will consist of egg mass counts of wood frogs and mole

salamanders (excluding marbled, which occur as larvae in the spring), the most common vernal pool herpetofauna. Additional data (presence of fairy shrimp, water depth, photographs, etc.) may be considered.

- Recognizing that amphibian reproductive effort can vary significantly annually, and that mole salamanders are long-lived, it will likely be necessary to monitor the pools for a minimum of 10-15 years in order to identify population patterns and trends.
- In order to account for large-scale variables that may influence amphibian populations (e.g., climatic variability, disease, etc.) it will be necessary to also monitor “control” vernal pools on protected lands.
- Initially, CAWS members will conduct the monitoring. If the program is successful, it may become necessary to recruit other professionals (e.g., wetland commission staff, credible citizen volunteers) for monitoring assignments.
- Data sheets, site plans, etc. will need to be filed at a central location. Data will be entered into a central database.
- CAWS will periodically publish results of the monitoring program.
- CAWS may need to be selective about the vernal pools that are included in the monitoring program, considering factors such as type and proximity of development, and pool biodiversity and productivity.

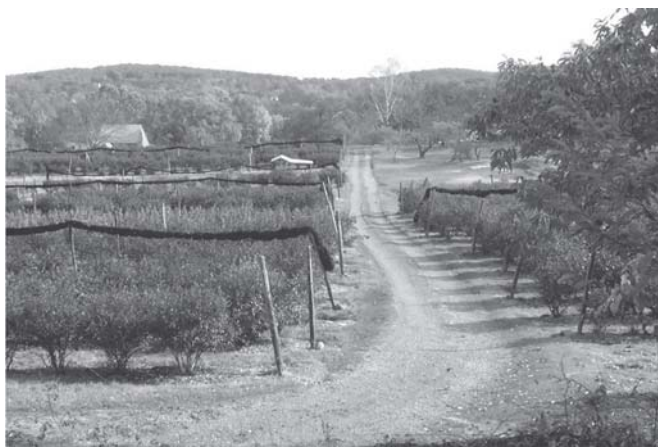
This program, if enacted, will fill an enormous data gap, and will allow CAWS scientists to be at the forefront of conservation research. Inland Wetland Commissioners can email Edward Pawlak at cosys@comcast.net. Our goal is to work out details of the program over the coming winter, conduct a training session early next spring, and then begin monitoring vernal pools later in spring 2007. 

CONNECTICUT FARMLAND TRUST HELPS FULFILL GOAL OF PROTECTING LOCAL FARMS

by Andrea Reese

Connecticut loses 22 acres of working farmland each day. The rural character of the state and its \$2.4 billion agricultural economic base are threatened by one of the nation's most rapid rates of farmland loss.

Many Connecticut farmers want to stay in business and expand their operations, yet they face barriers of dwindling supplies of affordable, high-quality farmland. There are 360,000 acres of land in farms left in Connecticut – less than one-eighth of the state's land base – and only about 10% of those acres are permanently protected from development. Approximately 140,000 acres of the state's farmland are prime cropland, the very land most vulnerable to development pressure. Preserving these remaining working lands for existing farmers and future generations is the Connecticut Farmland Trust's priority.



Connecticut Farmland Trust is the only private, statewide non-profit conservation organization dedicated to permanently protecting Connecticut's farmland. The Trust's experienced staff provides technical assistance and outreach to agricultural landowners interested in farmland preservation. The Trust negotiates, purchases, and holds agricultural conservation easements and offers innovative, flexible, and timely solutions to farm owners across the state.

Through its partnerships with towns, local land trusts, conservation organizations, individual donors, and state and federal agencies, the Trust is able to leverage public and private funds to provide landowners with conservation options that might not otherwise exist.


Since its inception in 2002, the Connecticut Farmland Trust has preserved nine farms across the state totaling more than 750 acres with an estimated easement value of more than \$6,000,000 at the time of preservation. These include a 212-acre dairy farm in Ashford, a 16.5-acre "pick-your-own" orchard in Glastonbury, and a 41-acre vegetable and bedding plant farm in Berlin. We are currently working with private and public partners to protect an additional 1,000 acres, including dairies in Colchester and Cornwall and one

of the last family farms in Seymour. **In just four years, the Connecticut Farmland Trust has become a leading resource for landowners, towns, land trusts, and public agencies interested in conserving Connecticut's farmland.**

Connecticut's Conservation Commissions share with the Connecticut Farmland Trust the goals of protecting open space, balancing development with conservation, and

improving public awareness of the importance of our natural resources. **Like the Conservation Commission, the Trust works with towns to identify and prioritize land for conservation.** Most of our collaborations to date have involved conservation commissions lending support to the Trust's grant applications for state and federal funding to protect local farms. We look

forward to an expanded role of working more closely with members of CACIWC on local land conservation projects.

For more information, please contact Henry Talmage, Executive Director, or Elisabeth Moore, Director of Projects, at (860) 247-0202, or by email at htalmage@ctfarmland.org or emoore@ctfarmland.org. The Connecticut Farmland Trust is online at www.ctfarmland.org. 

Andrea Reese is Farmland Conservation and Stewardship Assistant with Connecticut Farmland Trust.

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AT LONG LAST ~A CONSERVATION COMMISSION IN BURLINGTON

by Sarah Hincks

It has taken nearly 10 years, but finally, on Monday October 23rd, a town meeting was held that established a Conservation Commission in Burlington. From the enthusiastic “aye” of the 60+ people in the room, it sounded as though they wanted to make certain the board of selectmen heard the vote. It was something these people had wanted for a long time.

A little background - Burlington is a beautiful central Connecticut town of around 9,000 people lush in natural resources. It's Vermont-like terrain has mature forests, steep terrain, important natural resources, unique biodiversity, some of the most pristine streams within the Farmington River Watershed, a DEP wildlife management area, fish hatchery, reservoirs and water company land, a section of the Connecticut Blue Trail System and so much more.

But, Burlington has not had a plan to protect these resources or open space. Nine years ago, in 1997 - the town's Plan of Conservation and Development recommended that the town establish a committee that could do Open Space Planning. Burlington had been one of Connecticut's fastest growing towns for several years in the late 1980's and early 1990's. An Open Space Study Committee was established. From 1997 to 1999 the appointed volunteers on the Open Space Study Committee devoted hundreds of volunteer hours creating a basic plan that ultimately made *another* recommendation to the town leaders – to form an Open Space or Conservation Commission to create plans for permanently protecting the natural resources in town. The recommendations of this town appointed study committee were never acted upon.

The path to a final vote - Several people in town had expressed a strong desire to address this lack of planning

in order to protect the rural character of the community and the environment. In October of 2005, six years after the recommendations of the Open Space Study Committee, I wrote and submitted a Letter to the Editor of a local paper called, “Neglecting/Protecting Natural Resources,” which pointed to the lack of response by the town leaders to the recommendations of the town's Plan of Conservation and Development. There was no response from the town leaders. In December, I attended a Selectmen's meeting to read the letter and recommend some action.

Interested citizens, over the course of several months, ensured that the issue of the formation of a Conservation Commission stayed on the selectmen's agenda. During this time, we were encouraged by CACIWC; Tom ODell helped by attending one of the meetings to answer questions of the select board. Also requested by the selectmen, Tom put me in contact with members of Conservation Commissions in towns near Burlington for their advice.

Finally, on April 11, the selectmen agreed to go forward with an ad hoc committee to focus on the establishment of a Conservation Commission. By mid-May, this committee started meeting regularly to review the Connecticut State Statutes regarding Conservation Commissions. To move forward as quickly as possible, the committee convened regularly over the next few months.

On October 23rd, a town meeting was finally held to vote on the commission.

A crowd filled the auditorium and when given the opportunity to speak or ask questions, all comments were very positive. When the vote was taken, there was a loud, affirmative group “AYE” and no opposition.

There were many lessons learned from this process. Our main desire was and is to ensure protection of our community's natural resources and the local environment and presumably, elected leaders would have similar desires. It seems that in Burlington there were other governing priorities. For 10 years, town leaders failed to respond to the recommendations of their own Plan of Conservation and Development or to citizen requests for open space planning to address protection of natural resources. Through persistence and leadership education, the Town of Burlington citizens have finally made a significant step toward protection of its natural resources.

Since the environment can't speak for itself, Conservation Commissions, concerned citizens and local non-profits such as watershed groups and land trusts, are critical voices for its protection. 

Sarah Hincks was a member of the Ad-Hoc Committee to establish a Conservation Commission.



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DEP RELEASES NEW MODEL REGULATIONS FOR INLAND WETLANDS AND WATERCOURSES


The Department of Environmental Protection released a revised Inland Wetlands and Watercourses Model Municipal Regulations in April 2006. The new model has been revised to reflect all legislative changes to the Act as of December 2004. In addition, the revised model corrects errors in the prior model and clarifies numerous items.

The Inland Wetlands and Watercourses Model Municipal Regulations is guidance. It reflects not only the legislative changes to the Inland Wetlands and Watercourses Act but also the lessons and advice provided in the department's Municipal Inland Wetland Commissioners Training Program. Since this document is a model, it can be adopted word for word or tailored to reflect a municipality's individuality.

The model now contains several appendices of important reference material. One such appendix is the department's guidelines for upland review area regulations. The department encourages each municipality to consider adopting the guidance document's recommended 100-foot upland review area.

Further, section 19 of the Inland Wetlands and Watercourses Model Municipal Regulations contains suggested language

for a new item called the *Complex Application Fee*. This guidance should help a municipal inland wetlands agency cover the cost of expert review of certain application items.

For further information regarding the Inland Wetlands and Watercourses Model Municipal Regulations please contact the Department of Environmental Protection's Wetlands Management Section at 860.424.3019. 

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CACIWC'S 29TH ANNUAL MEETING & ENVIRONMENTAL CONFERENCE: "EXCELLENT, WE WANT MORE, A WONDERFUL LEARNING EXPERIENCE!"

On a crisp and clear November day, 230 Connecticut conservation and inland wetlands commissioners invested valuable time to strengthen land use decision skills – at our 29th Annual Meeting and Environmental Conference. The November 4th event, held at the Mountainside in Wallingford, was again a huge success. We thank YOU who attended – for your willingness to educate yourself, and for the work you do for your community.

Whitney Hatch, Vice President and New England Regional Director of the Trust for Public Land, was the keynote speaker. His

presentation, *"Thinking Big and Implementing Big Conservation in New England,"* focused on answering the question, "Given the municipal and independent character of New England, how can we leverage the vision, the funding and the hard work taking place in most New England towns to protect our priority lands?" He described several "Big Idea" programs now being implemented in the U.S. This model provided a vision of what could occur with the Big Idea program presently being considered for Connecticut. Now called The Face of Connecticut, this program is a 10- year, \$1+ billion state investment to save farms, forests and historic buildings, and to restore the urban streetscapes that are the Face of Connecticut. Mr. Hatch's keynote address was enthusiastically received and contributed greatly to the positive spirit of the conference and to the success of the entire day.

Twelve excellent, well-received workshops were given by specialists and technologists in their respective fields. **Thirty-two exhibits** by vendors and non-profit



John Rozum of NEMO presents a GIS workshop.



Rod Parlee, CACIWC Board of Directors, with Linda Birely of Lyme, at GIS workshop.

agencies provided additional and interesting materials for commissioners. Your evaluation forms told us how much you liked the workshops and displays. We agree - they were THE best yet. Can we improve? You bet!

We thank the staff at Mountainside for the great accommodations and wonderful food.



Bottom line: a great day was had by all! See you at our 2007 conference!



Pictured (l-r) are CACIWC President Tom O'Dell and Thomaston IWWC members Marissa Wright, Joe Fainer & Robert Flanagan.

AND MORE APPLAUSE TO THE AWARD RECIPIENTS!

Alan Siniscalshi, CACWIC Vice President and Conference Chair presented awards to the recipients.

Mihir Patel of the Windsor Locks Conservation Commission received the award for “**Conservation Commissioner of the Year.**” Mr. Patel was recognized for his efforts in the promotion of the conservation ethic within his community. In addition to serving on the Conservation Commission since 1998, Mr. Patel has chaired the Windsor Locks Connecticut River clean-up event since he first organized it in 1999. Along with other Commission members, he organized and sponsored a Windsor Locks tree planting day and represented his commission at the Connecticut College Meskwaka Tree Program Seminar. Mihir also works to inspire future conservationists by actively involving local middle and high school students in all of the environmental activities that he organizes.



Lt. Colonel Paul Hennen of the Pomfret Inland Wetlands and Watercourses Commission received the award for “**Inland Wetlands Commissioner of the Year.**” CACIWC recognized Lt. Colonel Hennen for his personal commitment to wetlands protection through his careful review of applications to the Pomfret Inland Wetlands and Watercourses Commission (IWWC) along with his efforts on public education. He worked to improve commission operations by drafting bylaws and regulations. During the last several years, Mr. Hennen has invested many hours in the creation of a series of articles, entitled “Wetlands Demystified” published in the Pomfret Times and posted on the town website. Through these articles and his efforts, he has promoted the value of wetlands systems and the importance of an engaged inland wetlands commission.



Neil Angus, Assistant Town Planner and Wetlands Agent for the Town of Enfield received the award for “**Commission Agent of the Year.**” Mr. Angus was recognized for his invaluable service to his town as an agent, advisor and educator. Mr. Angus constantly strives to ensure that all applications receive a fair and thorough review, while raising awareness of the importance of wetlands and watercourses. During his tenure, he developed and implemented an “Authorized Agent Approval Process” to improve efficiency of minor regulated activities and updated the official Inland Wetlands and Watercourse Map. Using federal grant funding, he created a Terrace Escarpment Soil Information fact sheet with the North Central Conservation District to help guide protection of this highly erodible soil type, present in many areas throughout his town.

Middletown Conservation Commissioner Katchen Coley received the “**2006 Lifetime Achievement Award.**” For greater than 15 years, Katchen has participated as an active member of her commission in support of environmental conservation and habitat protection. She served on the original Planning and Zoning Subcommittee that helped prepared the 1990 Middletown Plan of Conservation and Development. During this time Katchen was an important advocate for inclusion of an open space preservation component of this plan. Working with other advocates, she also lobbied for creation of the original \$5 million and subsequent \$3 million open space funds. She also served on the committees that ultimately evaluated and preserved 1,253 acres throughout the city. Katchen’s activities are not limited to open space preservation, as she also finds the time to track legislation and raise awareness of environmental issues among elected officials and members of the public. 🍁



Many thanks to
**Bob Flanagan of the
CACIWC Board of
Directors** for his great
photography!



THE CT INLAND WETLANDS AND WATERCOURSES ACT: THE CITATION PROCESS

In 1996 the Connecticut General Assembly amended the Inland Wetlands and Watercourses Act (IWWA) by adding Section 22a-42g. This section is unique in that it allows a municipality to establish a fine, or citation process, for violations of the Act. It is very important to note that this is not equivalent to Section 22a-44 of the Act, which enables a court of law to assess civil penalties for violations of the Act.

Pursuant to Section 22a-42g of the IWWA a municipality may establish a fine for violations of the Act provided the following requirements are met: 1) The municipality must establish an ordinance allowing for the fine; 2) The amount of the fine shall be not be more than one thousand dollars; 3) The fine can not be levied against the state or any employee of the state acting within his or her scope of employment; 4) The municipality must adopt a citation hearing procedure; and 5) The fine collected must be deposited into the General Fund of the municipality or any special fund designated by the municipality.

This is a unique enforcement process that a town can undertake. The fine can be issued by any police officer, or any other person authorized by the chief executive officer of the municipality. As a result, the process can be separate and distinct from any business of the inland wetlands agency. An example is if only the police issue the fine and the hearing procedure is conducted by a separate entity in town other than the inland wetlands agency.

The process can also be fully incorporated into the business of the inland wetlands agency. An example is when the chief executive officer authorizes the inland wetlands agent to issue the fine, and the inland wetlands agency is the entity conducting the citation hearing. In this situation it is important to note that the inland wetlands agency must include the fine and hearing process in its inland wetlands regulations.

For further information regarding the citation process please contact the Department of Environmental Protection's Wetlands Management Section at 860.424.3019. 

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November 17, 2006

Dear Conservation Commissions,

We are writing to bring your attention to the recently published **Connecticut Statewide Forest Resource Plan**. This plan is a collaborative effort between numerous forest stakeholders. The plan identifies key issues facing Connecticut's forests, provides visions for the future of our forests, and action steps to achieve those visions. Eight different committees have been formed under the Connecticut Forestlands Council to address the various forest issues listed in the plan.

The Public Forest Stewardship Committee's role is to promote awareness of the benefits of forest and wildlife habitat management on both state-owned and municipal forests. Public forests are managed for benefits often not cultivated on private lands, including forest health, watershed protection, recreation and biodiversity. Due to the importance of these benefits to the quality of life for all residents of Connecticut, this Committee feels that Connecticut's public forests deserve special consideration. If given town authority, Conservation Commissions can provide leadership in the management of municipal forests.

We urge your commission to consider and recommend implementation of forest planning and management for the public forests in your town. In addition to providing the above-mentioned values, public forests can also enhance town revenues through tourism, increased property values, and timber and fuel wood sales when commercial forestry serves the public purpose. For instance, carefully planned harvesting operations are often used to enhance biodiversity and wildlife habitat in a forest environment. A balance of passive use as well as active management often provides the desired outcomes on public forests.

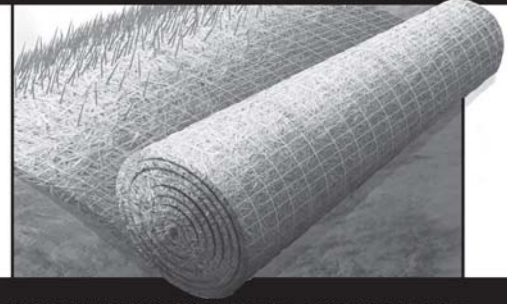
The Connecticut Statewide Forest Resource Plan can be found on-line at www.dep.state.ct.us/burnatr/forestry. Then scroll down and click on Public Forest Stewardship. Please take the time to look over this plan to see how it may support objectives in your town. If you have questions, comments or recommendations on Public Forest Management please contact us (see below).

The Public Forest Stewardship Committee looks forward to interacting with your commission on public forestry stewardship issues. If you are interested in participation in the committee process, please provide your Name, Town, Commission and phone number or e-mail address to Robert Rocks at robert.rocks@po.state.ct.us or the Public Forest Stewardship Committee, CT_Public_Forest_Stewardship@yahoo.com.

Sincerely,
Curtis M. Rand & Joe Voboril

c/o Connecticut Forest and Park Association
16 Meriden Road, Rockfall, Connecticut 06481

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Renaissance, continued from page 3

and Inland Wetlands Commission. The Commission had five responsibilities; inland wetlands, conservation, forest practices, municipal aquifer agency and State aquifer regulations. The strain was debilitating and nothing was being completed.

Ashford - Separation of the combined commission was recommended by the Ashford Plan of Conservation and Development. The Selectmen agreed and scheduled ordinance for a town meeting.

Does the Town ordinance establishing the CC specify what activities the commission “shall” carry out or does it just refer to the Connecticut enabling legislation (CGS Chapter 97, Section 7-131a, as amended)?

Ordinances in all five towns refer to 7-131a of the CGS. Madison and Newtown added language that encouraged inclusion of historic and cultural resources in the NR Inventory. Newtown specified types of natural resources.

Have By-Laws been established?

Thompson, Madison and Ashford established bylaws; Torrington and Newtown will be doing so.

Please list the top three activities the commission is now or will be addressing in the next year.

Thompson - Conservation easement stewardship; review of applications and recommendations to the IWC and the P&Z Commissions; recommendations to the Board of Selectmen regarding conservation issues, land acquisitions and conservation easement acquisitions.

Torrington - Open space acquisition; Naugatuck River Clean-up and Church Street Dam removal; update of the open space plan in the PC&D.

Madison - Developing a procedure for reviewing questions forwarded to the CC by other commissions; developing the open space inventory; natural resources inventory.

Newtown - In process of developing the activities, using the town charter for guidance in structure for the commission.

Ashford - Mapping and natural resource inventory; open space plan; educational outreach

Do you expect to provide recommendations to other town land use commissions (Planning, Zoning, Inland Wetlands)?

Five towns responded with an emphatic ‘yes;’ some have already been doing so:

Thompson notes that there is now greater communication between and among the land use boards as well with the

public in general. **Madison** says that both the P&Z and the Board of Selectmen specifically indicated a desire to have the Conservation Commission provide them with recommendations.

Please provide any other information you believe would assist other towns to support establishment of a separate conservation commission.

Thompson - The greatest benefit of a separate CC is that conservation work can be focused upon exclusive of any other duties or responsibilities. Combined commissions spend all of their time on regulatory duties and conservation is at best a by-product of their regulatory work.

Torrington - The CC is a very flexible entity and can get the town or city more involved with the community, and also building relationships and connections between government agencies.

Madison - The biggest concern was opposition to establishing “yet another commission that would tell people what they could and couldn’t do with their property.” This was countered by emphasizing that the CC was an advisory agency with no regulatory powers, and that the provision of science-based data for decision-making would enable better and more defensible decisions to be made.

Renaissance, continued on page 13

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Renaissance, continued from page 12

Newtown - Clearly define the goals and agenda for the commission. Have staff support and funding established.

How can CACIWC assist you in carrying out your goals and objectives?

Thompson - CACIWC is already assisting us...by keeping us informed...and by being there for any questions or help needed as things arise. Thank you.

Torrington - As novice members we could use help on fund raising, developing a volunteer network, and educating about natural resources for helping update the open space plan for the City.

Madison - CACIWC has already provided examples of plans, inventories and regulations for other communities. We hope to be able to build on these examples rather than "re-inventing the wheel"

Newtown - CACIWC has been instrumental in the accomplishments thus far. Keep the publications rolling!

Ashford - Habitat keeps us up to date regarding legislation and info from other towns. 

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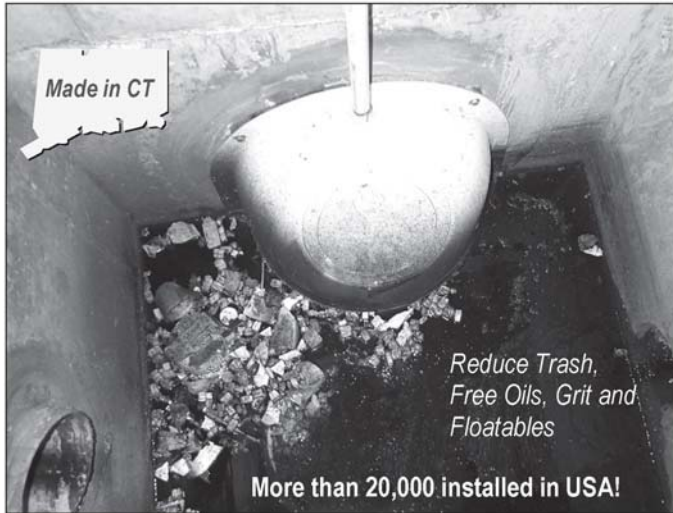
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SAVE THE DATE – CT Bar Association Legal Course

The Planning & Zoning Section of the CT Bar Association has scheduled the biennial all-day course for land use commissioners and staff for Saturday March 7, 2007, Science Tower, Wesleyan Campus, Middletown. More information will be available after January 1, 2007.

WETLANDS AGENT REQUESTS INFORMATION


Problem: Permittees often commence permitted activities prematurely without contacting my office — against the specific written terms of the permit approval.

Question: Does anyone know of a municipal Wetlands Department that has instituted a system whereby the Permittee is prevented from commencing work on the permit without “sign off” from staff regarding conditions of approval through the issuance of a “**Permit Ticket**”- whereby when, and only when, all the conditions have been met, the Permittee comes in to get a starting ticket or notice. This may be a green permit form in a plastic sleeve, let’s say, that the Permittee then posts prominently on the site. The point of this system is 1) applicants know about the famous green ticket and 2) that it is CRYSTAL clear to everyone when work may begin. Please call Erin O’Hare at 203.294.2090.

RIPARIAN SETBACKS: TECHNICAL INFORMATION FOR DECISION MAKERS

“Riparian Setbacks: Technical Information for Decision Makers” is an excellent synthesis of information. It’s a review of the recent scientific literature organized to provide the scientific basis upon which a township or municipality could begin the task of defending a riparian setback ordinance from the growing, increasingly sophisticated legal challenges being mounted by the development community. The “technical” content is largely in the first 30 pages http://www.crw.org/pdf_files/riparian_setback_paper_jan_2006.pdf. The document touches on recent literature on wood in streams, sedimentation effects, shading and temperature effects, riparian forest effects on flood damages and bank stability. It emphasizes the trade-offs among functions that are all served by buffer width and emphasizes contiguity of the riparian corridor. It also presents information with a format more aligned to the context of “ecosystem services.”

EPA REPORT - “Riparian Buffer Width, Vegetative Cover, and Nitrogen Removal Effectiveness: A Review of Current Science and Regulations”

The report provides a synthesis of existing scientific literature on the effectiveness of riparian buffers to improve water quality through their inherent ability to process and remove excess anthropogenic nitrogen from surface and ground waters. <http://www.epa.gov/ada/download/reports/600R05118/600R05118.pdf>. - or contact the author, Paul Mayer, at 580.436.8647. 

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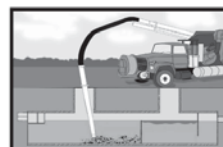
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Pictured are Steve Tessitore (left) and Darcy Winther (right) of DEP Inland Water Resources Division, with DEP Commissioner Gina McCarthy (center).

The Connecticut Department of Environment Protection, in partnership with Middlesex Community College (MCC), has won a Bronze Telly Award for the interactive training DVD titled "Introduction Connecticut's Inland Wetlands and Watercourses Act." Designed and produced by MCC's Corporate Media Services in Middletown, this DVD was distributed to all 169 town in Connecticut for use by their IW Commissions. The "Telly Awards" was founded in 1978 and is the premier award honoring outstanding local, regional and cable TV commercials and programs, as well as the finest video and film productions. The Telly Awards annually showcases the best work of the most respected advertising agencies, production companies, television stations, cable operators, and corporate video departments in the world. With a record 13,379 entries from all 50 states and around the world, this year's competition has been the most competitive and successful in the long history of the Telly Awards.

Fall 2006

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