

MEETING NOTICE AND AGENDA
MANSFIELD INLAND WETLANDS AGENCY
Regular Meeting

Monday, August 4, 2014 ■ 7:00 PM

Audrey P. Beck Municipal Building ■ 4 South Eagleville Road ■ Council Chambers

1. **Call to Order**
2. **Roll Call**
3. **Review of Minutes**
 - a. 7-07-2014 - Regular Meeting
 - b. 7-16-2014 – Field Trip
 - c. 7-21-2014- Special Meeting
4. **Communications**
 - a. Conservation Commission Minutes
 - b. Monthly Business memorandum
5. **Old Business**
 - a. W1531 – Markus – 59 Hillyndale Rd – Addition
 - b. W1532 – Jones – 49 Farrell Rd – Two Car Garage
6. **New Business**
 - a. W1533 – Lessenger - Monticello Lane – New Single Family Residence
 - b. Upcoming meeting schedule
7. **Reports from Officers and Committees**
8. **Other Communications and Bills**
 - a. Summer 2014 Habitat
 - b. DEEP Certification Memo Re: Eagleville Brook
 - c. Other
9. **Adjournment**

DRAFT MINUTES
MANSFIELD INLAND WETLANDS AGENCY
Regular Meeting
Monday, July 7, 2014
Council Chambers, Audrey P. Beck Municipal Building

Members present: Chairman Goodwin, B. Chandy, K. Holt, G. Lewis, P. Plante, K. Rawn, B. Ryan
Members absent: R. Hall, B. Pociask
Alternates present: P. Aho, V. Ward
Alternates absent: S. Westa
Staff present: Jennifer Kaufman, Inland Wetlands Agent

Chairman Goodwin called the meeting to order at 7:00 p.m. and appointed Aho and Ward to act in the absence of Hall and Pociask.

Review of Minutes:

- a. 6-02-2014 - Regular Meeting: Ryan MOVED, Chandy seconded, to approve the 6-2-14 regular minutes as written. MOTION PASSED UNANIMOUSLY. Ward noted for the record she listened to the recording of the meeting.
- b. 6-16-2014- Special Meeting: Ryan moved, Ward seconded, to approve the 6-16-14 special meeting minutes as written. MOTION PASSED UNANIMOUSLY. Chandy noted for the record she listened to the recording of the meeting.

Communications:

The Conservation Commission draft minutes and the Wetlands Agent report were noted.

Old Business:

- a. W1530 – Rodriguez & Pelletier – 353 Warrenville Rd – addition

Holt MOVED, Chandy seconded, to approve a request for an extension of not more than 65 days of the application of Michael Rodriguez and Melissa Pelletier (File #W1530) under the Wetlands and Watercourses Regulations of the Town of Mansfield for a house addition with basement, patio, shed and piped channel on property owned by the applicants, located at 353 Warrenville Road as shown on a revised map dated May 20, 2014 and as described in revised application submissions. MOTION PASSED UNANIMOUSLY.

Holt MOVED, Ryan seconded, to postpone action on the application of Michael Rodriguez and Melissa Pelletier (File #W1530) under the Wetlands and Watercourses Regulations of the Town of Mansfield for a house addition with basement, patio, shed and piped channel on property owned by the applicants, located at 353 Warrenville Road as shown on a revised map dated May 20, 2014 and as described in revised application submissions. Action on this item is hereby postponed to a special meeting on July 21, 2014 to allow time for the applicant to revise their application and for staff to review. MOTION PASSED UNANIMOUSLY.

New Business:

- a. W1531 – Markus – 59 Hillyndale Rd – Addition

Ryan MOVED, Holt seconded, to receive the application submitted by Etan Markus (IWA File #W1531) under the Wetlands and Watercourses Regulations of the Town of Mansfield for a bedroom, bathroom, and sunroom addition on property located at 59 Hillyndale Road, as shown on a map dated 6/11/2014 and as described in application submissions, and to refer said application to staff and the Conservation Commission for review and comments. MOTION PASSED UNANIMOUSLY.

b. W1532 – Jones – 49 Farrell Rd – Two Car Garage

Ryan MOVED, Holt seconded, to receive the application submitted by Janet Jones. (IWA File #1532) under the Wetlands and Watercourses Regulations of the Town of Mansfield for an attached two car garage on property located at 49 Farrell Road as shown on a map dated 6/1/2014 and as described in application submissions, and to refer said application to staff and the Conservation Commission for review and comments. MOTION PASSED UNANIMOUSLY.

c. W1533 – OMS Development – 625 Middle Turnpike – Request for Exemption

Wetlands Agent Kaufman reviewed the events that led to the property owner's request for a determination if his proposed project was exempt from wetlands regulations. Attorney Schrage, representing the property owner, explained that prior to beginning site cleanup, the owner contacted former Wetlands Agent Meitzler and was informed that the contemplated work may proceed without a wetlands application as no license was needed for the proposed activity. Without this knowledge, the current Agent issued a Stop Work Order. She subsequently met on site with Attorney Schrage and the Director of Planning and Development. They opined that the activity was an exempt activity under the regulations but requested that the matter be determined by the Agency.

Aho MOVED, Holt seconded, to exempt the clearing of vegetation on property owned by OMS Development, LLC, located at 625 Middle Turnpike (IWA File # 1533) as shown on a map dated 7/24/1989 and as described in a June 26, 2014 letter, because the proposal is permitted as a non-regulated activity as per Section 4 of the Inland Watercourses and Wetlands Regulations of the Town of Mansfield. MOTION PASSED UNANIMOUSLY.

Reports from Officers and Committees: The Chairman set a Field Trip for Wednesday, July 16 at 3 p.m.

Other Communications and Bills: Noted.

Adjournment: The Chairman adjourned the meeting at 7:20 p.m.

Respectfully submitted,

Katherine Holt, Secretary

DRAFT MINUTES

MANSFIELD PLANNING AND ZONING COMMISSION
INLAND WETLANDS AGENCY
CONSERVATION COMMISSION
FIELD TRIP
Special Meeting
Wednesday, July 16, 2014

Members present: K. Holt , B. Ryan

Staff present: J. Kaufman, Inland Wetlands Agent

The field trip began at 3:05 p.m.

W1532 – Jones – 49 Farrell Rd – Two Car Garage

Members were met on site by Janet and George Jones. Members observed current conditions, and site characteristics. No decisions were made.

W1531 – Markus – 59 Hillyndale Rd – Addition

Members observed current conditions, and site characteristics. No decisions were made.

The field trip ended at approximately 3:45 p.m.

Respectfully submitted,

K. Holt, Secretary

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DRAFT MINUTES
MANSFIELD INLAND WETLANDS AGENCY
SPECIAL Meeting
Monday, July 21, 2014
Council Chambers, Audrey P. Beck Municipal Building

Members present: Chairman Goodwin, B. Chandy, R. Hall, K. Holt, G. Lewis, P. Plante, K. Rawn,
Members absent: B. Pociask, B. Ryan
Alternates present: P. Aho, V. Ward
Alternates absent: S. Westa
Staff present: Jennifer Kaufman, Inland Wetlands Agent

Chairman Goodwin called the meeting to order at 7:00 p.m. and appointed Aho and Ward to act in the absence of Pociask and Ryan.

Old Business:

W1530 – Rodriguez & Pelletier – 353 Warrenville Rd – addition

Holt MOVED, Plante seconded, to grant an Inland Wetlands License pursuant to the Wetlands and Watercourses Regulations of the Town of Mansfield to Michael Rodriguez and Melissa Pelletier (File #W1530) under the Wetlands and Watercourses Regulations of the Town of Mansfield for the following activities: 1) a house addition with basement, 2) a patio, 3) a shed, 4) a channel installed in 2010, and 5) removal of the culvert installed in 2010 and installation of a wooden bridge, on property owned by the applicants, located at 353 Warrenville Road as shown on a revised map dated July 14, 2014, and as described in revised application submissions. This action is based on a finding of no anticipated significant impact on the wetlands, and is conditioned upon the following provisions being met:

1. All stockpiles of excavated material shall be located at least 50 feet away from the wetland and secured with silt fence and removed from the site as soon as feasible.
2. Erosion and sedimentation controls shall be in place prior to construction and maintained during construction and removed when disturbed areas are completely stabilized.
3. No riprap shall be placed in the area where the culvert has been removed.
4. Channel and area where culvert has been removed shall be allowed to naturally re-vegetate.

This approval is valid for five years (until July 21, 2019), unless additional time is requested by the applicant and granted by the Inland Wetlands Agency. The applicant shall notify the Wetlands Agent before any work begins, and all work shall be completed within one year. Any extension of the activity period shall come before this agency for further review and comment. MOTION PASSED UNANIMOUSLY. Hall noted for the record that he listened to the recording of the previous meeting.

New Business:

Request for Agent Approval: C. Vincente – 97 Brookside Lane – Deck Expansion

Holt MOVED, Plante seconded, to grant an Inland Wetlands License pursuant to the Wetlands and Watercourses Regulations of the Town of Mansfield to Curt Vincente (File #A 1) under the Wetlands and Watercourses Regulations of the Town of Mansfield to extend an existing deck on property located at 97 Brookside Lane as shown on a map dated July 15, 2014 and as described in application submissions. This action is based on a finding of no anticipated significant impact on the wetlands, and is conditioned upon the following provisions being met:

1. All excavated material shall immediately be distributed on site at least 75 feet away from wetlands.

2. Erosion and sedimentation controls shall be in place prior to construction and maintained during construction and removed when disturbed areas are completely stabilized.

This approval is valid for five years (until July 21, 2019), unless additional time is requested by the property owner and granted by the Inland Wetlands Agency. The property owner shall notify the Wetlands Agent before any work begins, and all work shall be completed within one year. Any extension of the activity period shall come before this agency for further review and comment. MOTION PASSED UNANIMOUSLY.

Adjournment: The Chairman adjourned the meeting at 7:08 p.m.

Respectfully submitted,

Katherine Holt, Secretary

Town of Mansfield
CONSERVATION COMMISSION
Meeting of 16 July 2014
Conference Room B, Audrey P. Beck Building
(draft) MINUTES

Members present: Aline Booth (Alt.), Joan Buck (Alt.), Neil Facchinetti, Quentin Kessel,
Members absent: Robert Dahn, Peter Drzewiecki, Scott Lehmann, John Silander, Michael Soares.

Town Staff: Jennifer Kaufman, Inland Wetland Agent

1. The meeting was called to order at 7:30 PM by Chair Quentin Kessel. Booth and Buck were designated voting members for the meeting.

2. The draft minutes of the 18 June 2014 meeting were approved as written (Buck, with Facchinetti seconding. Three voting for the motion, and Booth, having not been in attendance, abstained).

3. New Business

IWA referrals:

W1531 – Markus – 59 Hillyndale Road. This is a request to expand an existing bedroom, add a bathroom, and convert an existing deck into a sun room. The house location is close to wetlands and building it at this location would not be likely to be permitted today. Note was taken of the additional runoff and Facchinetti moved, and Buck seconded, that as long as this runoff is dealt with in such a manner the water infiltrates into the ground table (e.g., a rain garden) there should not be a significant impact on the wetland. The motion passed with three in favor and Booth abstaining.

Booth questioned whether the potential additional load on the septic system might lead to future septic difficulties in close proximity to the wetlands. The Commission urges the PZC to bring this matter to the attention of the Department of Public Health.

W1532 – Jones - 49 Farrell Road. This is a request for a two car garage to be constructed within the regulated area. Booth moved, and Buck seconded, that as long as the roof runoff is dealt with in such a manner the water infiltrates into the ground table (e.g., a rain garden) there should not be a significant impact on the wetland. The motion passed unanimously.

Other – Individuals who might replace Drzewiecki on the Commission were discussed. It was agreed that Kessel would attempt to contact one of them.

The meeting adjourned at 8:15 PM.

Respectfully submitted,

Quentin Kessel, Secretary, *pro. tem.*

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Town of Mansfield

Department of Planning and Development

Date: July 31, 2014
To: Mansfield Inland Wetlands Agency
From: Jennifer Kaufman, Inland Wetlands Agent
Subject: Monthly Business Report

Mansfield Auto Parts - Route 32

On May 20, 2014, Grant Meitzler and I inspected the site and noticed that there were numerous car doors within 25 feet of the wetlands. The owner agreed to remove the doors and store them at least 25 feet away from the wetland. The doors had not been moved as of June 6, 2014. I returned to the site on June 20, 2014 and noted that the staff was in the process of moving the items and I returned on July 31, 2014 and the issue was resolved.

It was noted that a car was parked approximately 20 feet from the wetland. The owner was asked to move it. I will return within the month to check on the status.

Agent Approvals

A-1- Vicente, 97 Brookside Lane- Expansion of a deck 80 feet from the wetlands. *(This approval was authorized by the IWA on July 21, 2014, because the property owner is my direct supervisor and I wanted to avoid any appearance of a conflict of interest).*

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Town of Mansfield

Department of Planning and Development

Date: July 29, 2014

To: Mansfield Inland Wetlands Agency

From: Jennifer Kaufman, Inland Wetlands Agent

Subject: 57 Hillyndale Road (File #W1531)*
Owner/Applicant Name: Etan Markus
Description of work: bedroom, bathroom, and sunroom addition
Plan Reference: June 11, 2014

Project Overview

- The applicant has paid the required application fee
- The applicant has submitted certified mail receipts for notices mailed to abutters

Project Description

The applicant proposes to replace an existing gravel parking space with an addition on a slab that will expand an existing bedroom and add a bathroom. A sunroom on pillars will replace an existing deck. The proposed activities are 40 feet from a watercourse and 29 feet from wetlands. The applicant proposes to remove approximately 14 cubic yards of fill to install the concrete slab and distribute it at the southern portion of the property away from the watercourse.

The Inland Wetlands Agency visited the site on July 16, 2014. The site is within the Eagleville Brook Watershed and is surrounded by a large wetland system that drains from east to west. There is a channeled water course that also drains from east to west that is 40 feet from the edge of activity.

Findings and Recommendations

- *Expanded Bedroom and Bathroom*-- The proposed bedroom and bathroom will be 9.5 feet by 21.5 feet and will be constructed in the area of the existing graveled parking space. While approximately 14 cubic yards of onsite material (gravel and top soil) will be excavated to install the slab, additional area beyond the existing parking area will not be disturbed. The applicant proposes to spread the material onsite in areas away from the wetlands. Excavated gravel will be used to fill in low spots in the driveway. Because the area of the proposed expansion of the bedroom and addition of a bathroom are already disturbed, it is unlikely that this activity will have significant impact to the wetlands or watercourse. However, due to the close proximity of the watercourse and wetlands, it is recommended that the material be stockpiled at least 40 feet away from wetlands, surrounded by silt fence, and stabilized as soon as possible.

**The IWA's receipt motion of July 7, 2014 reflected the address that the owner recorded on his application. Upon further investigation, staff determined that the correct address is 57 Hillyndale Road. This has been corrected in the file.*

- *Sunroom* --The sunroom will be placed on piers and footings and will replace an existing 26 foot by 8 foot deck. The proposed sunroom will be 12 feet by 16 feet with a 6 foot by 8.5 foot connector to the proposed bedroom and bathroom area. Because the proposed sunroom will be installed on piers and footings, there be minimal impact from construction to the watercourse and the wetland system. However, there will be additional impervious surface and roof runoff created. Thus, a rain garden or natural infiltration system should be established to collect roof runoff and prevent it from entering the wetland and eroding areas of the property. More information about rain gardens and guidelines for installation is available at <http://nemo.uconn.edu/raingardens>.
- *Other site conditions*-- The current driveway is immediately adjacent to the wetland and there is currently runoff from the driveway flowing directly in to the wetlands at the western edge of the property. While the applicant proposes no changes or improvements to the driveway at this time, future improvements will require an additional application for a wetlands license.

In addition, there is a 6 foot by 4 foot storage shed situated on blocks partially in the wetland. It is recommended that the shed be moved at least 10 feet from the wetland. Further, the site should be monitored by the property owner so that yard debris is not deposited in the wetlands.

Suggested Motion

_____ MOVES, and _____ seconds, to grant an Inland Wetlands License pursuant to the Wetlands and Watercourses Regulations of the Town of Mansfield to Etan Markus (File #W1531) for a bedroom, bathroom, and sunroom addition on property owned by the applicant, located at 57 Hillyndale Road as shown on a revised map dated June 11, 2014 and as described in other application submissions.

This action is based on a finding of no anticipated significant impact on the wetlands, and is conditioned upon the following provisions being met:

1. The applicant shall submit a revised plan for approval by the Inland Wetlands Agent that meets the following conditions:
 - a. All stockpiles shall be located at least 40 feet away from the wetland;
 - b. Silt fence shall be placed at least 20 feet away from the wetlands and water course around the perimeter of the work area;
 - c. Additional silt fence shall be place around stockpiles of excavated material; and
 - d. All roof drainage shall be directed to a rain garden or natural area where it can infiltrate to prevent increased runoff into the watercourse and wetlands.
2. The 4 foot by 6 foot shed shall be moved at least 10 feet from the edge of wetlands.
3. Erosion and sedimentation controls shall be in place prior to construction and maintained during construction and removed when disturbed areas are completely stabilized.

57 Hillyndale Road (File #W1531)*
Owner/Applicant Name: Etan Markus
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This approval is valid for five years (until August 4, 2019), unless additional time is requested by the applicant and granted by the Inland Wetlands Agency. The applicant shall notify the Wetlands Agent before any work begins, and all work shall be completed within one year. Any extension of the activity period shall come before this agency for further review and comment.

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Town of Mansfield

Department of Planning and Development

Date: July 29, 2014
To: Mansfield Inland Wetlands Agency
From: Jennifer Kaufman, Inland Wetlands Agent
Subject: 49 Farrell Road (File #W1532)
Janet Jones
Description of work: an attached garage and driveway repairs
Plan Reference: June 1, 2014

Project Overview

- The applicant has paid the required application fee
- The applicant has submitted certified mail receipts for notices mailed to abutters.
- The application is located in a Public Water Supply Watershed

Project Description

In their initial application, the owners proposed to add a two-car garage on a slab on the northeast side of their existing home located at 49 Farrell Road. This activity would take place 22 feet from the edge of wetlands. After a site visit on July 16, 2014 and discussion with the applicant, it was determined that they would also like to make repairs to an existing driveway. This activity would take place 20 feet from the edge of wetlands. An addendum to their application was submitted on July 29, 2014 and is attached.

The site is located in the Fenton River Watershed. The wetland system drains to the east, eventually into the Fenton River.

Findings and Recommendations

- *Two Car Garage*—The proposed garage is 24 feet by 26 feet and is located 22 feet from the edge of wetlands. It will be constructed on a slab and will require minimal excavation. The applicants propose to distribute the excavated material on site in areas away from the wetlands. Due to the close proximity of the wetlands, it is recommended that the material be stockpiled at least 60 feet away from wetlands, surrounded by silt fence, and stabilized as soon as possible. Silt fence should be installed at the edge of the level area to the north of the construction activities. The new structure will result in increased impervious surface and roof runoff. Roof drainage should be directed away from the wetlands and into a natural area or rain garden to reduce the runoff into the wetlands. More information about rain gardens can be found at <http://nemo.uconn.edu/raingardens>.

- **Driveway Repairs**—To repair an existing driveway, the applicants propose to distribute 30 yards of crushed gravel to fill areas of the driveway that have eroded and prepare the driveway for future paving. At its closest point, the area of activity will be 20 feet from the edge of wetlands. To prevent wetland impacts, the applicants should install silt fence along northerly side of the activity and construct the driveway so that it drains away from the wetlands. To protect the wetlands, a natural buffer separating the wetlands from the driveway should be maintained. When the applicants are ready to pave the driveway they will need to inform the Inland Wetlands Agency so that a determination can be made as to whether or not they will be required to submit an application for an Inland Wetlands License.

Suggested Motion

_____ MOVES, and _____ seconds, to grant an Inland Wetlands License pursuant to the Inlands Wetlands and Watercourses Regulations of the Town of Mansfield, to Janet Jones (File #W1532) for an attached garage and driveway repairs on property owned by the applicant, located at 49 Farrell Road, as shown on a map dated June 1, 2014 and as described in other application submissions.

This action is based on a finding of no anticipated significant impact on the wetlands, and is conditioned upon the following provisions being met:

1. The applicant shall submit a revised plan for approval by the Inland Wetlands Agent that meets the following conditions:
 - a. All stockpiles shall be located at least 60 feet away from the wetland;
 - b. Silt fence shall be placed at least 10 feet away from the wetlands along the northerly side of the work area;
 - c. Additional silt fence shall be place around stockpiles of excavated material;
 - d. All roof drainage shall be directed to southeast corner of the garage to a rain garden or natural area where it can infiltrate to prevent increased runoff into the watercourse and wetlands;
 - e. The driveway shall be sloped so that it drains away from the wetlands and
 - f. A natural buffer separating the driveway from the wetlands shall be maintained.
2. Erosion and sedimentation controls shall be in place prior to construction and maintained during construction and removed when disturbed areas are completely stabilized.

49 Farrell Road (File #W1532)

Janet Jones

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This approval is valid for five years (until August 4, 2019), unless additional time is requested by the applicant and granted by the Inland Wetlands Agency. The applicant shall notify the Wetlands Agent before any work begins, and all work shall be completed within one year. Any extension of the activity period shall come before this agency for further review and comment.

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Addendum to Application for Permit
Submitted to Mansfield Inland Wetlands Agency
June 23, 2014
Location of project: 49 Farrell Road, Storrs, CT

ATTACHMENT 2:

PART C:

C1: On June 23, 2014, we submitted an application to the Mansfield Inland Wetlands Agency for permission to build a two-car attached garage.

On July 29, 2014, we submit an addendum to that application requesting permission to make repairs to the existing driveway at 49 Farrell Road.

C1a & C1b) None: The work will be done outside the wetland boundary. No work will be performed in the wetlands area.

C2: None.

C3: Earth-fill topped with crushed gravel in preparation for future paving.

C3a) Earth-fill topped with crushed gravel for fill only. No excavation.

C3b) No excavation. 30 cubic yards of fill. The boundary between the repaired driveway and the wetlands will have natural buffers.

C4: Silt fence.

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Department of Planning and Development

Date: July 31, 2014
To: Mansfield Inland Wetlands Agency
From: Jennifer Kaufman, Inland Wetlands Agent
Subject: Receipt of New Application for Wetlands License
Lot 19 Monticello Lane (IWA File #1533)
Owner/Applicant: Kurt Lessenger
Description of work: construction of a single family dwelling, septic system, well and driveway
Map Date: 7/15/2014

Project Description

The applicant proposes to construct a 3-bedroom, single-family dwelling, with an onsite septic system, well and driveway on Lot 19 located on Monticello Lane (assessor's parcel id 22.59.19). The proposed dwelling is 28 feet from the edge of wetlands. Site grading is proposed 10 feet to the edge of wetlands. Approximately 800 cubic yards of fill will be used for grading around the house. The total disturbance in the upland review area is estimated at 0.4 acres.

- The project includes work in wetlands.
- The project includes work in the 150 foot upland review area.
- The project is located in a Public Water Supply Watershed.

Application Fees and Notifications

- The applicant has paid the required application fee.
- The applicant has submitted copies of the notice mailed to neighbors and a list of abutters to be notified. Certified mail receipts must be submitted prior to action on the application.
- The applicant has submitted copies of notices provided to the Connecticut DPH and Windham Water Works. Certified mail receipts must be submitted prior to action on the application.
- Natural Diversity Database has been checked and no state listed species or significant natural communities exist on the property.

Receipt Motion

_____ MOVES, _____ seconds to receive the application submitted by Kurt Lessenger (IWA File #1533) under the Wetlands and Watercourses Regulations of the Town of Mansfield for construction of a single family dwelling, septic system, well and driveway on property located at Lot 19 Monticello Lane as shown on a map dated 7/15/2014 and as described in application submissions, and to refer said application to staff and the Conservation Commission for review and comments.

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Department of Planning and Development

Date: July 31, 2014
To: Mansfield Inland Wetlands Agency
From: Jennifer Kaufman, Inland Wetlands Agent
Subject: Receipt of New Application for Wetlands License
Lot 19 Monticello (IWA File #1533)
Owner/Applicant: Kurt Lessenger
Description of work: New Single Family Dwelling
Map Date: 7/15/2014

Project Description

The applicant proposes to construct a 3-bedroom, single-family dwelling, with an onsite septic system, well and driveway on Lot 19 located on Monticello Lane (assessor's parcel id 22.59.19). The proposed dwelling is 28 feet from the edge of wetlands. Site grading is proposed 10 feet to the edge of wetlands. Approximately 800 cubic yards of fill will be used for grading around the house. The total disturbance in the upland review area is estimated at 0.4 acres.

- The project includes work in wetlands.
- The project includes work in the 150 foot upland review area.
- The project is located in a Public Water Supply Watershed.

Application Fees and Notifications

- The applicant has paid the required application fee.
- The applicant has submitted copies of the notice mailed to neighbors and a list of abutters to be notified. Certified mail receipts must be submitted prior to action on the application.
- The applicant has submitted copies of notices provided to the Connecticut DPH and Windham Water Works. Certified mail receipts must be submitted prior to action on the application.
- Natural Diversity Database has been checked and no state listed species or significant natural communities exist on the property.

Receipt Motion

_____ MOVES, _____ seconds to receive the application submitted by Kurt Lessenger (IWA File #1533) under the Wetlands and Watercourses Regulations of the Town of Mansfield for New Single Family Dwelling on property located at Lot 19 Monticello as shown on a map dated 7/15/2014 and as described in application submissions, and to refer said application to staff and the Conservation Commission for review and comments.

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APPLICATION FOR PERMIT
MANSFIELD INLAND WETLANDS AGENCY
4 SOUTH EAGLEVILLE ROAD, STORRS, CT 06268
TEL: 860-429-3334 OR 860-429-3330
FAX: 860-429-6863

FOR OFFICE USE ONLY
File # W15.33
Fee Paid \$185⁰⁰
Date Received 7-30-14

Applicants are referred to the Mansfield Inland Wetlands and Watercourses Regulations for complete requirements, and are obligated to follow them. For assistance, please contact Grant Meitzler, Inland Wetlands Agent at the telephone numbers above.

Please print or type or use similar format for computer; attach additional pages as necessary.

Part A - Applicant

Name Kurt Lessenger
Mailing Address 218 Route 87
Columbia, CT Zip 06237
Telephone-Home 860-228-2799 Telephone-Business _____

Title and Brief Description of Project

Construct new single family dwelling with on-site septic system, well and driveway.

Location of Project Monticello Lane-Map 22, Block 59, Lot 19

Intended Start Date to be determined

Part B - Property Owner (if applicant is the owner, just write "same")

Name same
Mailing Address _____
Zip _____
Telephone-Home _____ Telephone-Business _____

Owner's written consent to the filing of this application, if owner is not the applicant:

Signature _____ date _____

Applicant's interest in the land: (if other than owner) _____

Part C - Project Description (attach extra pages, if necessary)

- 1) Describe in detail the proposed activity here or on an attached page. (See guidelines at end of application – page 6.)

Please include a description of all activity or construction or disturbance:

- a) in the wetland/watercourse
b) in the area **adjacent** to (within 150 feet from the edge of) the wetland/watercourse, even if wetland/watercourse is **off** your property

a) No activity within wetland soils

b) Proposed dwelling-28 feet at its closest point

Well-25 feet at its closest point

Driveway-47 feet at its closest point

Primary septic system-61 feet at its closest point

Foundation drain-64 feet at its closest point

Site grading-10 feet at its closest point

- 2) Describe the amount or area of disturbance (in square feet or cubic yards or acres):

- a) in the wetland/watercourse
b) in the area **adjacent** to (within 150 feet from the edge of) the wetland/watercourse, even if wetland/watercourse is **off** your property

a) None

b) Approximately 800 cu yds of clean fill for grading around proposed house.

Upland area disturbance will be approximately 0.4 acres.

- 3) Describe the type of materials you are using for the project:

Gravel for driveway and clean fill around proposed house.

a) include **type** of material used as fill or to be excavated clean fill

b) include **volume** of material to be filled or excavated 800 cu yds

- 4) Describe measures to be taken to minimize or avoid any adverse impacts on the wetlands and regulated areas (silt fence, staked hay bales or other Erosion and Sedimentation control measures).

Silt fencing will be installed down gradient of proposed activity and maintained until area has been stabilized.

Part D - Site Description

Describe the general character of the land. (Hilly? Flat? Wooded? Well drained? etc.)

Lightly wooded with 16% ± slopes from road to approximately 4% near wetlands.

Upland soils being well drained as indicated by soil testing.

Part I - Additional Notices, if necessary

- 1) Notice to Windham Water Works is attached. If this application is in the public watershed for the Windham Water Works (WWW), you must notify the WWW of your project within 7 days of sending the application to Mansfield--sending it by certified mail, return receipt requested. Contact the Mansfield Inland Wetlands Agent to find out if you are in this watershed.
- 2) Notice to Adjoining Town. If your property is within 500 feet of an adjoining town, you must also send a copy of the application, on the same day you sent one to Mansfield, to the Inland Wetlands Agency of the adjoining town, by certified mail, return receipt requested.
- 3) The Statewide Reporting Form (attached) shall be part of the application and specified parts must be completed and returned with this application.

Part J - Other Impacts To Adjoining Towns, if applicable

- 1) Will a significant portion of the traffic to the completed project on the site use streets within the adjoining municipality to enter or exit the site? ___ Yes X No ___ Don't Know
- 2) Will sewer or water drainage from the project site flow through and impact the sewage or drainage system within the adjoining municipality? ___ Yes X No ___ Don't Know
- 3) Will water run-off from the improved site impact streets or other municipal or private property within the adjoining municipality? ___ Yes X No ___ Don't Know

Part K - Additional Information from the Applicant

Set forth (or attach) any other information which would assist the Agency in evaluating your application. (*Please provide extra copies of any lengthy documents or reports, and extra copies of maps larger than 8.5" x 11", which are not easily copied.*)

Part L - Filing Fee

Submit the appropriate filing fee. (Consult Wetlands Agent for the fee schedule available in the Mansfield Inland Wetlands and Watercourses Regulations.)

___ \$1,000. ___ \$750. ___ \$500. ___ \$250. X \$125. ___ \$100. ___ \$50. ___ \$25.

X \$60 State DEP Fee

Note: The Agency may require you to provide additional information about the regulated area which is the subject of the application, or about wetlands or watercourses affected by the regulated activity. If the Agency, upon review of your application, finds the activity proposed may involve a "significant activity" as defined in the Regulations, additional information and/or a public hearing may be required.

The undersigned applicant hereby consents to necessary and proper inspections of the above mentioned property by members and agents of the Inland Wetlands Agency, at reasonable times, both before and after the permit in question has been granted by the Agency.



Applicant's Signature

07/23/14

Date



Department of Planning and Development

Date: July 31, 2014
To: Inland Wetlands Agency/Planning and Zoning Commission
From: Linda M. Painter, AICP, Director
Subject: Changes to Upcoming Meetings

Due to deadlines for action related to the proposed Four Corners Sanitary Sewer System project, the Town Council will be scheduling a special meeting for September 2, 2014, which is the regular meeting date for the PZC. As they will need the Council Chambers to broadcast this special meeting, staff recommends that the IWA and PZC cancel their September 2nd regular meetings and schedule special meetings for September 3rd. Additionally, at this time staff also recommends cancellation of the August 18th PZC meeting as it is anticipated that open business items will be closed at the August 4th meeting. If these items are not closed out, a meeting on August 18th may be necessary.

Suggested Motion (IWA):

_____ MOVES, _____ to cancel the September 2, 2014 IWA regular meeting and schedule a special a special IWA meeting for September 3, 2014 at 7:00 p.m. in the Town Council Chambers.

Suggested Motion (PZC):

_____ MOVES, _____ to cancel the August 18, 2014 and September 2, 2014 PZC Meetings and schedule a special PZC meeting for September 3, 2014 immediately following the conclusion of the IWA meeting.

PAGE
BREAK

The Habitat

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

Summer 2014

volume 26 number 3



The New Law Protecting State Conservation and Agriculture Lands Help for Protection of State Forests, Parks, and Wildlife Management Areas

Editor's Note: The passage of P.A. 14-169 was a top priority for a coalition of partners including the CT Land Conservation Council, Audubon Connecticut, Connecticut Forest & Park Association, Rivers Alliance of CT, Sierra Club - CT Chapter, and CACIWC.

With legislature's passage and Governor's signing of Public Act 14-169, *An Act Concerning The Grant Of Property Interests In Property Held By The Departments Of Agriculture And Energy And Environmental Protection And The Establishment Of A Public Use And Benefit Land Registry*, a valuable tool has been created for the state to use in protecting the over 255,000 acres of State Parks, State Forests, Wildlife Management Areas and other open space valuable for conservation and agricultural purposes. These lands were conveyed and acquired with an expectation that they will be permanently preserved in trust for the benefit of the public. Yet they are largely unprotected.

As detailed by the CT Council on Environmental Quality Report, *"Preserved but Maybe Not: The Impermanence of State Conservation Lands"*, most of the deeds to state open space lands, including those acquired through the Recreation and Natural Heritage Trust Program (General Statutes Section 23-74 *et seq.*), do not include conservation restrictions (defined under General Statutes Section 47-42(a)) expressly providing for the dedication and protection of the land *in perpetuity*. Public Act 14-169 authorizes:

- The DEEP commissioner to place conservation or preservation restrictions, as defined by Connecticut General Statutes section 47-42a, on any lands owned by the department, and
- The Department of Agriculture commissioner to place conservation or preservation restrictions, as defined by section 47-42a, on any lands owned by the department.

Public Act 14-169 also supports implementation of P.A. 12-152, *An Act Concerning the State's Open Space Plan*, and revision of the state's Comprehensive Open Space Strategy (aka Green Plan), by:

- Authorizing the DEEP commissioner to designate department-owned lands as "lands of public use and benefit," which includes land used for conservation, public enjoyment, or recreational purposes, or activities to improve or maintain these purposes.
- Requiring the DEEP commissioner to establish, by January 1, 2015, a publicly accessible geographic information map system and database that has a public use and benefit land registry to provide identifying information on land owned by DEEP, other state agencies, and land conservation organizations, and,
- By January 1, 2015, requiring the registry to be available on DEEP's website, including the identifying information for three state parks and updating the registry with 10 state parks on a quarterly basis.

CT Environmental Review Team Seeks New Members, see page 7.

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Darcy Winther DEEP Liaison



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www.caciwc.org

CACIWC News

This past March, the U.S. Environmental Protection Agency New England Regional Office (EPA Region 1) published a summary of their New England "Climate Leaders Summit" held last November in Providence, Rhode Island. The major goal of this summit was determining ways to develop a more climate-resistant New England. Summit members specifically focused on identifying ways to assist municipalities throughout New England prepare for, and adapt to, climate change. In consultation with an External Workgroup, summit leaders identified six key actions to help New England municipalities move along the pathway to resiliency:

1. Acquire local level data and information on current and future community climate change impacts.
2. Understand the risk to your community by integrating impact information and vulnerability assessments into your existing planning processes.

CACIWC news, continued on page 12

Save the Date!

37th Annual Meeting & Environmental Conference
Saturday, November 15, 2014

Conference Will Highlight a Revised Agenda and New Location

In response to your comments from the 2013 meeting survey, CACIWC has revised the format of our 2014 annual meeting, developed an expanded lunch menu, and scheduled the meeting at a new location:

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906 North Colony Rd., Wallingford, CT 06492

www.VillaCapri.com

This year CACIWC will be piloting an efficient new Annual Meeting registration and payment system that will include an online component. Despite these changes, the CACIWC Board is pleased to announce the registration fees have not been increased for our 37th Annual Meeting & Environmental Conference.

CACIWC is lining up a speakers for our 2014 legal, procedural, and scientific workshops designed for both new and experienced inland wetlands and conservation commissioners and their agents. Many of these workshops will support our 2014 conference theme of Preparing Connecticut for the Impact of Global Changes. Watch for the complete list of new workshops on our website at: www.caciwc.org. Please direct any questions on our annual meeting to us at: AnnualMtg@caciwc.org.



Journey to The Legal Horizon

by Attorney Janet Brooks

Caveat Exemptor:

May the person wishing to undertake an exemption beware – proceed to the wetlands agency before your farm fields and horse barn, or risk liability and enforcement

Yorgensen v. Chapdelaine, 150 Conn. App. 1 (2014)

In May the Appellate Court issued another decision regarding the farming exemption within the wetlands act. For those of you who are keeping up with the court decisions, the Appellate Court has not changed its course. The take-away message consistent with prior cases is:

- 1) Those people believing that their activities fall within an exemption, the “exemptors,” are required to have those activities declared exempt by the municipal wetlands agency before undertaking those activities.
- 2) If during the agency’s review the agency seeks additional information relevant to its consideration whether the proposed activities are exempt, the exemptor is required to provide it.
- 3) If the agency has ruled against the exemptor as to any proposed activity and the exemptor still wishes to undertake that activity, the exemptor must take an appeal to Superior Court, contesting the agency’s decision.
- 4) If the exemptor takes no appeal, the agency’s finding of the facts cannot be disputed in the future.
- 5) If the agency brings an enforcement action in court against an exemptor, the exemptor cannot claim that the activity is exempt unless the agency has already declared the activities exempt.
- 6) When the agency brings an enforcement action in court, the exemptor may not file an independent court action asking for the court to rule on whether the exemptor’s proposed activities are exempt.

I have coined the term “exemptor” to mean someone who believes his or her activity is exempt. I write “believes” intentionally, because it is the agency which determines that the activity is exempt. Why do I state that the agency determines whether an activity is exempt when it is not written in the wetlands statute?

Because the state Supreme Court in a 1990 decision held that it is the administrative agency in the first instance which determines whether an activity falls within its own jurisdiction.¹ If there was any doubt that this concept applied to wetlands agencies, the following year the Appellate Court extended that principle to the wetlands statute, in a case involving the farming exemption.²

The DEEP (the Department of Energy and Environmental Protection) has created a template for agency consideration of exemptions in the Inland Wetlands and Watercourses Model Municipal Regulations, 4th ed. (2006). Found in Section 4 of the Model Regulations, Section 4 establishes a process in which the exemptor, prior to undertaking the proposed exempt activity, notifies the agency and provides it “with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of a wetland or watercourse.” Most agencies have adopted this subsection in some form in their regulations. Often these regulations are found in Section 4.

Do you know where your exemption regulations are? Whenever I get a phone call to discuss a situation involving exemptions, I always open up my official set of statutes to the exemption provision. I have the statute in front of me and review the words while having the discussion. The exemption is not intuitive; it is what the legislators said it is. It is not subjective (what do I think should be exempt?) It is also not a test of your memory. Do you bring your regulations to your agency meetings? I did, when I served on a wetlands commission.

Exemptors can feel exasperated when they see no reason why agencies should be requiring a ruling before they can commence exempt activities. I feel their pain. In almost every article I’ve written about

legal horizon, continued on page 4

exemptions I have supported amending the wetlands act to reference this line of court cases. Lawyers are educated to know that “the law” is the statute as interpreted by the highest court in the jurisdiction. Many wetlands commissions have limited or no access to legal advice. Exemptors shouldn’t have to hire lawyers to understand the exemption process. An amendment to the wetlands act explicitly setting forth the process would benefit everyone. In fact, such an amendment was enacted to the Connecticut Environmental Protection Act (CEPA) in 2013. CEPA was amended to incorporate the change made by the state Supreme Court in a 2002 decision about the specificity of facts to be included in environmental intervention petitions. Transparency in government procedures benefits the regulators and the regulated – and promotes public confidence in government.

We’ll flesh out points (1) – (6) with some of the facts in the court decision regarding Darlene Chapdelaine. Chapdelaine and her partner had a contract to purchase real estate in Eastford. Her partner applied for and obtained a building permit to construct a barn. Subsequently the wetlands enforcement officer (“officer”) inspected the property (from an off-site location) and noted regulated activity occurring on the property. The officer issued a cease and desist letter to Chapdelaine (1) to cease regulated activities within 100 feet of wetlands and (2) to submit an application to restore the wetlands. The order was upheld at the agency hearing which Chapdelaine did not attend. Chapdelaine contacted the officer to settle the matter, stating that she hadn’t received the cease and desist letter. On that same day Chapdelaine filed a request for a jurisdictional ruling that her activities were either unregulated (the agency had no jurisdiction) or exempt farming activities.

The town attorney informed her that to establish that her activities were outside the jurisdiction of the wetlands agency, she would need to submit a plan showing the wetlands and indicate the locations of fill and other proposed activities on the property. Chapdelaine did not provide a map of the wetlands, despite numerous requests to do so. The agency concluded that certain activities fell within the farming exemption, specifically equestrian instruction, training, and breeding as well as selective cutting of trees for the expansion of pasture. The agency was not able to determine whether other activities fell within in the exemption: the large stockpiling of soil in conjunction with the construction of a riding arena, which included the

grading, filling or removal of soils. Thus, the agency granted Chapdelaine an exemption as to certain activities and could not determine whether other activities were exempt, based on her unwillingness to provide additional information. She did not take an appeal from the latter ruling.

Instead of appealing that decision to court, Chapdelaine filed an action in superior court asking the court to determine that her proposed activities fell within the wetlands exemption. That suit was joined a few months later with the agency’s enforcement action that she was conducting activities without a permit for which no exemption had been issued. The Appellate Court, relying on a 2012 decision on the exemption section stated: “The proper way to vindicate a legal position is not to disobey the orders, but rather to challenge them on appeal.”³

Chapdelaine appealed the trial court’s ruling that cited to the officer’s testimony based on on-site and off-site viewing of the property to determine that work was continuing. (That work included the building of a road.) The Appellate Court set out its duty on appeal. It may overturn the lower court’s finding of facts where they are “clearly erroneous.” That is, when there is no evidence to support the finding or where the court “is left with the definite and firm conviction that a mistake has been committed.”⁴ The Appellate Court found support for the trial court’s factual findings.

I found one aspect of the posture of the case and the decision puzzling: why was it necessary to have a mapping of the soils to determine whether the activities were exempt? If the activity is exempt, it can be conducted in the wetlands itself. If the exemptor is making a claim that the activity falls outside the upland review area, and thus is exempt, then a soil survey would be essential. (Even then, many agencies reserve the right – as stated in their definition of regulated activity – to determine that other activities outside the upland review area are regulated.) The agency could have determined that stockpiling of soil, whether for farming purposes or not, whether in the upland review area or within the wetland itself, is a regulated activity and requires a permit. I spoke with Attorney Mark Branse, the town attorney,⁵ who agreed that exemption requests in general don’t require a mapping of soils. He mentioned that numerous requests by the agency for explicit listing of activities to be conducted were unanswered by Chapdelaine.

legal horizon, continued from page 4

Exemptors, beware: Your best protection is to be fully forthcoming in your proposed activities which you have not yet begun. File your request with ample time to address the agency's questions. Any other approach leaves you vulnerable to agency scrutiny and jurisdiction.

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 *Cannata v. Department of Environmental Protection*, 215 Conn. 616 (1990).

² *Wilkinson v. Inland Wetlands & Watercourses Commission*, 24 Conn. App. 163 (1991).

³ *Yorgensen v. Chapdelaine*, 150 Conn. App. 1, 14, quoting *Inland Wetlands & Watercourses Commission v. Andrews*, 139 Conn. App. 359, 364 (2012).

⁴ *Yorgensen v. Chapdelaine*, 150 Conn. App. 1, 19, quoting *Cantebury v. Deojay*, 11 Conn. App. 695, 720-21 (2009).

⁵ Telephone conversation between Attorney Mark Brause and the author on June 16, 2014. ☘

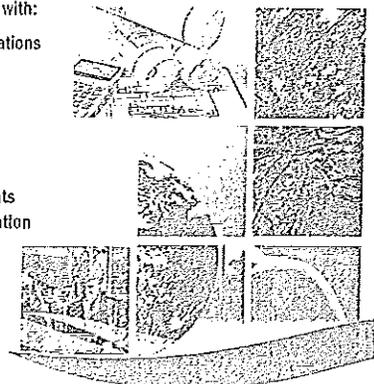
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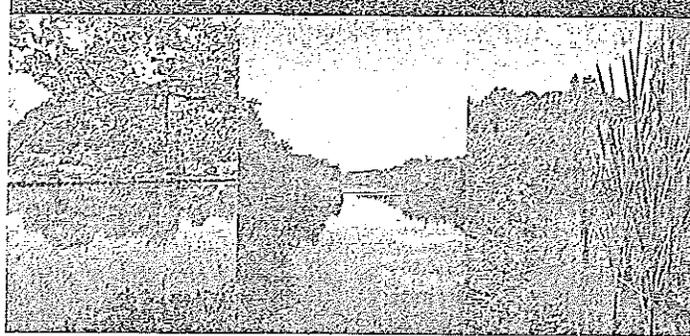
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Amy Blaymore Paterson, Executive Director,
Connecticut Land Conservation Council, receives
2014 “Women Inspiring Conservation in Connecticut” Award

“I feel so incredibly fortunate to serve as the Executive Director of the Connecticut Land Conservation Council,” said Amy Blaymore Paterson. “This position not only provides me with the opportunity to help land trusts, towns and landowners to protect the places that make our communities so special, but also, and perhaps more importantly, it puts me in that very important position to help inspire young people to embark upon a career that will continue to make a difference for generations to come. I am truly honored to receive this award.”

Amy joined a fledgling Connecticut Land Conservation Council (CLCC) in 2010 as its first Executive Director. Under her leadership and exceptional work ethic CLCC has grown and become an important voice statewide, advocating for land preservation, stewardship and funding, while working with others in the conservation and agriculture community to ensure

the long term strength and viability of land conservation in Connecticut.

Amy received the Women “Inspiring Conservation in Connecticut” Award June 26, 2014 at the



L to R: Lisa Coverdale, NRCS State Conservationist, Lt. Gov. Nancy Wyman, Amy Paterson, Executive Director, CT Land Conservation Council, Bryan Hurlburt, Executive Director, CT Farm Service Agency. Picture credit—NRCS

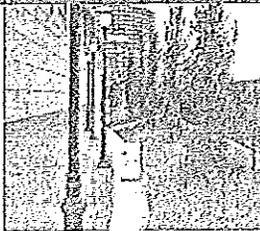
State Capitol from Connecticut’s Conservation Partnership, USDA’s Natural Resources Conservation Service and Farm Service Agency, and the Connecticut Association of Conservation Districts. Nominations for the awards were solicited from partners and the general public. This year’s theme, *Celebrating Women of Character, Courage,*

and Commitment: Stories of the Extraordinary Determination of Women, honored the exceptional and often unrecognized determination and tenacity of women in a non-traditional field.

CONGRATULATIONS, AMY! ♡

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CT Environmental Review Team (ERT) Program Seeks Team Members

We are currently seeking environmental professionals from academia, retirees, other state and local organizations, and the private sector to supplement our pool of federal, state and regional partners. We need individuals willing to act as team members with expertise in the areas of natural resource management, open space preservation and agriculture interested in participating in this unique and valuable service. Other areas of experience being sought include: ecology, soils, forestry, geology, fisheries, trails/greenways, invasive plant species, planning, energy, recreation, transportation, wetlands, watercourses, lake and watershed management and wildlife.

As a team member you will be required to participate in a field review and submit a written report on your observations and evaluations of the proposal being considered. A timeframe will be set for completing and submitting your written report. To understand the process and see the final product of an ERT you can access our website www.ctert.org.

For more information and to discuss this opportunity, please contact Elaine Sych, ERT Coordinator at (860) 345-3977 or via email at ctertelaine@aol.com or to download a Team Member Interest Form please go to: www.ctert.org/ERTWebsite/pdfs/2014_ERT_Forms/2014_TeamMemberLetter_Final.pdf.

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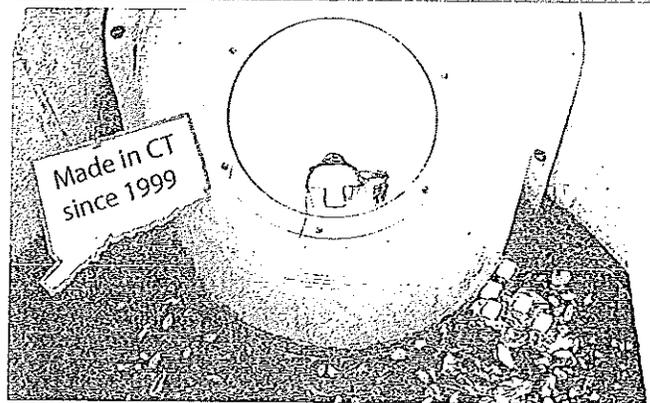
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Old Mine Park Wins Design Award

for Sensible Stormwater & Ecological Restoration Solutions

Trumbull Conservation Commission Intervenes to Promote Restoration Solution

The Old Mine Park Pond Restoration was the first of what will be several model projects by the municipalities of Bridgeport, Trumbull and Monroe under the Pequonnock River Initiative. Formed in 2010, this watershed-based plan seeks to restore the Pequonnock River to a natural and sustainable ecosystem by improving water quality, increasing native habitat, and promoting sustainable land use strategies. Demonstration pilot projects, such as Old Mine Park, would not be possible without grant funding from Section 319 of the Clean Water Act. Amendments to the Clean Water Act in 1987 created the Section 319 Nonpoint Source Management Program which supports public outreach, training, pilot projects, monitoring, and other activities that contribute to controlling nonpoint source pollution.

The original dredging plan for Old Mine Park called for putting back the original mowed lawn right down to the water's edge. However, immense disruption to the streamside areas as a result of construction operations caught the attention of Trout Unlimited who observed sediments and pollutants flowing unimpeded into the Pequonnock River. Shortly thereafter, the Trumbull Conservation Commission intervened and called for a better approach for restoring the disturbed area with the help of Save the Sound and the Town of Trumbull.

The new, award-winning design by Site Systems emphasizes Low Impact Development and stormwater management practices that mitigate the effects of downstream flooding, reduce the amount of sediments and pollutants from flowing into the river, and improve the riverbank habitat for indigenous fish and other wildlife. For local residents, a pedestrian bridge, meandering pathways, and benches near the water's

edge invite them to sit for a while and appreciate the various native flora and fauna.

The major Low Impact Design components are:

1. Riparian Buffer
2. Meadows
3. Drainage Channel & Sediment Basin

Riparian buffers are areas of trees, shrubs, and other vegetation adjacent to rivers, streams, or ponds that filter sediment and pollutants from stormwater runoff through the presence of vegetation and roots. With dense coverage of riverbanks and stream edges, less erosion occurs and fewer sediments wash into riparian areas downstream. Additionally, the extra vegetation helps slow down the flow of runoff, promoting helpful

infiltration that recharges groundwater reserves and preventing dangerous flash flooding downstream.

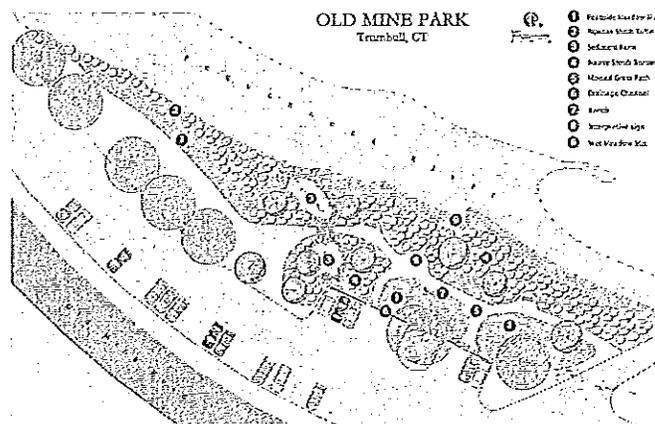
As an added bonus, the fertilizer-laden runoff from lawns and gardens (rich in nitrogen and phosphorus) is sequestered in the soil where plants can make use of it – and not in water bodies where it will cause algal blooms.

A number of native shrubs comprise the riparian buffer at Old Mine Park including Red Chokeberry

(*Aronia arbutifolia*), Winterberry (*Ilex verticillata*), and Inkberry (*Ilex glabra*). Indigenous trees such as Red Maple (*Acer rubrum*) and Heritage River Birch (*Betula nigra* 'Heritage') will eventually grow taller and add valuable shade along the water's edge, helping to moderate temperatures and create viable habitat for cold-water fish such as trout.

Meadows are a low-maintenance, native landscape alternative to traditional lawn areas that attract a variety of small mammals as well as predators such as owls and hawks. By providing shelter, food, and

Old Mine, continued on page 9



Streamside Buffer Plan

The parking lot was a major source oil, gasoline, and other nonpoint source pollutants entering the river. The design addresses that problem by adding sediment basins to collect and retain stormwater. New native plantings provide much needed habitat for local wildlife. Image Credit: Site Systems, Inc.

Old Mine, continued from page 8

nesting material, these ecosystems help protect and preserve dozens of our threatened and endangered native species.

At Old Mine Park, two distinct meadows were established from seed: a wet meadow near the water's edge, and an upland meadow near the parking lot. Along the edge of the Pequonnock River, wetland species such as Fox Sedge (*Carex vulpinoidea*) and Boneset (*Eupatorium perfoliatum*) add to the riparian buffer and help intercept and filter runoff. Closer to the parking areas, an upland meadow with Black-eyed Susan (*Rudbeckia hirta*) and Canada Goldenrod (*Solidago canadensis*) add sources of seeds and nectar amidst the drier soils and roadside conditions.

To help collect stormwater runoff, a drainage channel was installed where the parking lot meets the park itself. Water sheets off of the pavement into a gravel strip area where it drains down into a perforated pipe. This pipe then conveys the untreated runoff to the first part of the sediment basin, the forebay, where garbage and large sediments can be settled out.

The sediment basin is the final stop for the partially treated stormwater before it reaches the Pequonnock River. This basin is significantly larger than the forebay and is designed to detain runoff for a period of no more than 24 to 48 hours. The presence of vegetation within the sediment basin helps treat some



Streamside Buffer Habitat

One year later, this streamside buffer planting has filled in and provides important food and habitat sources for fish, birds, insects, and other species. Image Credit: Site Systems, Inc.

of the pollutants, but most of the heavy lifting is done by soil microbes which gradually break down the pollutants over time.

The Low Impact Design elements work together to create an attractive and functional landscape that protects the river from human impacts and creates beautiful, varied habitat for the benefit of wildlife and local residents alike. This Spring, Site Systems and Save the Sound will continue their work in Pequonnock River Watershed with another riparian buffer project at Glenwood Park in Bridgeport.

Site Systems, Inc. is a landscape architecture firm based in Trumbull, CT. The Connecticut Chapter of the American Society of Landscape Architects (CTASLA) recently honored the firm with a 2014 Design Merit Award for an ecological pond restoration and stormwater management project at Trumbull's Old Mine Park.



Streamside Buffer Construction

This "before" photograph shows the existing conditions of the site following a dredging operation within the park. The original restoration plan called for reseeding the disturbed area as lawn. Image Credit: Donald Watson, FALA



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2014 Legislative Wins for the Environment

State Will Help Cities and Towns Preserve Open Space

The 2014 Open Space Grant Program Will Benefit from \$10 Million in Funding

In addition to the passage of Public Act 14-169 (*see page 1*), other wins for the environment supported by CACIWC included funding for open space and farmland protection; long-awaited funding for 9 new positions in the state parks; the control of running bamboo; facilitation of development of a state-wide water plan; and several other important acts.

Funding Open Space Protection

In May 2014 Governor Malloy announced that the state Bond Commission would approve \$5 million to assist cities, towns, and land trusts with the purchase of important lands to protect as open space. DEEP will use the new bond funds, along with at least \$5 million it has received under the Community Investment Act (CIA) to award the 17th round of the Open Space and Watershed Land Acquisition Program (OSWLA). OSWLA is authorized and defined by Connecticut General Statutes Section 7-131d, et seq., and is funded through a combination of state bonding and funds from the Community Investment Act (CIA). The open space grants for land trusts, towns and water companies typically cover 50 percent of the purchase price for a property. The deadline for applications for the new round of grants was March 31. DEEP received 30 applications for funding open space projects totaling more than 2,200 acres. It also received two applications for the Urban Green and Community Garden portion of the grant program. The Urban Greens and Community Gardens program provides qualifying organizations with grants to refurbish or renovate community parks and gardens in targeted and/or distressed communities. Funded by the CIA, the program fosters preservation, rehabilitation and development of garden spaces, and encourages outdoor passive recreation and gathering spaces for families and children.

Other Environmental Legislation Successes Supported by CACIWC

- **Public Act 14-100 - An Act Concerning Liability for the Growing of Running Bamboo** Establishes liability for running bamboo that spreads beyond the boundaries of a property owner

and establishes a duty to contain running bamboo that is growing in such a location that it could spread beyond the boundaries of a property owner.

- **Public Act 14-163 - An Act Concerning the Responsibilities of the Water Planning Council** Will facilitate the development of a state water plan and implement legislative recommendations of the Water Summit Working Group.
- **Public Act 14-33 - An Act Concerning the assessment of horses and ponies and farm machinery and the transfer of land classified as farm land, open space land, forest land and marine heritage land.** Authorizes municipalities, by local option, to exempt all horses and ponies from property taxation; to increase the property tax exemption for farm machinery; to amend the date on which a qualified forester's report must be submitted; to require property owners to provide notice of an excepted transfer of land classified as farm land, open space land, forest land or maritime heritage land, and to make other changes concerning the assessment of such classified land.
- **Public Act 14-151 - An Act Concerning Tree Trimming** Places the burden of proving that public convenience and necessity require the pruning or removal of a tree or shrub on utility companies. This bill would improve the tree trimming done by electric utilities, bring more tree expertise into the ongoing regulation of tree trimming, clarify and improve the way that electric utilities must notify landowners, and clarify the opportunities for landowners to object or request a modification to the tree trimming proposed by the utilities.
- **State Parks received a long-awaited infusion of resources -- funding to cover 9 New Positions in the State Parks (3 Park Supervisors and 6 Park Maintainers).**

2014 legislation, continued on page 11

3. Increase communication on impacts and reasons to act now, customize the information for your community, engage and educate both citizens and decision-makers.
4. Set community-wide priority actions and set realistic goals.
5. Coordinate with regional, state, and federal agencies.
6. Identify priority actions for resiliency and integrate them into existing community planning processes.

During 2014-15, CACIWC will work with our member commissions to help disseminate summit findings to key leaders, gather local data, set community priorities, work with cooperative partner agencies, and otherwise assist members strengthen the resiliency of their municipalities to the impact of climate change.

1. To help promote the efforts of these summit leaders and other regional coalitions, CACIWC is dedicating our 37th Annual Meeting and Environmental Conference, scheduled for Saturday, November 15, 2014, with the theme of *Preparing Connecticut for the Impact of Global Changes*. The Annual Meeting Committee has been organizing a series of key speakers and informative workshops on how best to preserve important local ecosystems from the impact of habitat changes and losses, invasive species, emerging diseases, and other external threats. Speakers will also discuss state and federal legislation that may impact the work of CACIWC members. Please see the preliminary announcement in this issue of *The Habitat* and watch for additional conference news on our www.caciwc.org website. You may direct any questions or comments on our annual meeting to us at: AnnualMtg@caciwc.org

2. The CACIWC board of directors expresses its thanks to the commissions who have already paid their 2014-15 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 continued work on the development of our new strategic plan. As part of the strategic planning process, we have been incorporating information obtained from the 2013 membership-wide survey. We will be distributing a brief 2014 membership-wide survey supplement 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. Following our service as coordinating judges for the environmental science awards in the year's Connecticut Science & Engineering Fair CACIWC Board Treasurer Charles Dimmick and I are developing new opportunities for Connecticut students to participate in our 37th Annual Meeting and Environmental Conference. Watch this column and our website for more information on these activities, designed to increase interest among Connecticut students in careers and volunteer activities that support conservation and wetlands protection.

5. CACIWC was pleased to recently welcome a few new members of our Board of Directors. However, the New London County director and several other CACIWC board vacancies remain unfilled (please see the updated list in this issue of *The Habitat* and on www.caciwc.org). Please submit your name to us at board@caciwc.org if you are interested in serving as the New London County representative, one of the vacant alternate county representatives, or as one of the alternate at large representative positions.

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

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!

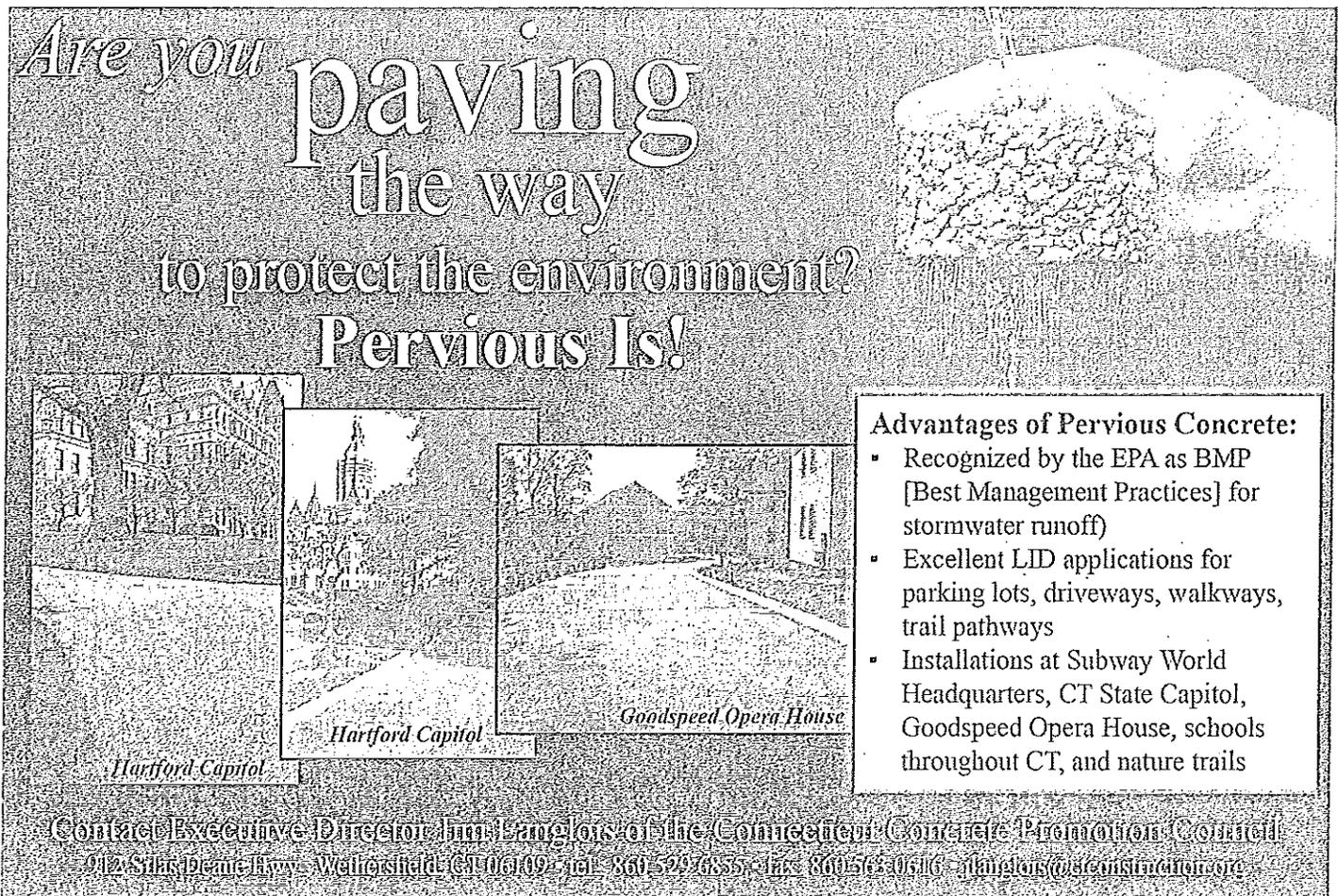
~ Alan J. Siniscalchi, President ↵

“The Functions and Values of Wetlands and Watercourses” Educational DVD Wins Telly Award

DVD titled “The Functions and Values of Wetlands and Watercourses”, produced by the DEEP’s Wetlands Management Section (WMS) and Middlesex Community College’s Corporate Media Center, is a bronze winner in the 35th Annual Telly Awards.

The Telly Award honors the very best film and video productions, groundbreaking online video content, and outstanding local, regional and cable TV commercials and programs. The DEEP video was selected for a bronze Telly out of over 12,000 entries from all 50 states and five continents. A Silver Telly is the highest award, being given to only about 7-10% of entrants. The Bronze Telly is the second highest award, being given to only about 18-25% of entrants. This is the third bronze Annual Telly Award won by the WMS and Middlesex Community College’s Corporate Media Center.

The DVD highlights the beauty and complexity of wetlands and watercourses while educating the viewer on why these natural resources are indispensable and irreplaceable. Although tailored for inland wetlands agencies, the DVD will be very beneficial to other municipal land use commissions, students and citizens. The DVD has been mailed to Connecticut’s municipal inland wetlands agencies along with two previously produced, award winning DVD’s: “Introduction to Connecticut’s Inland Wetlands and Watercourses Act”; and “Map Reading and Site Plan Review.” The video is currently available on the DEEP’s YouTube channel. Further, all three training videos produced by the WMS are available on the WMS web page. For further information regarding this new educational video please contact the WMS at (860) 424-3019. ♣



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CLCC Conservation Easement Workshop Schedule

August 8: CLCC Model Conservation Easement (CE) Workshop #2

“Amendments, Administration & Discretionary Consent”. Taught by Linda Francois, Esq., Connie Manes and members of the Model CE Working Group. (To be held in Litchfield)

October 6: CLCC Model Conservation Easement (CE) Workshop #3

“Federal Conservation Easement Rulings and Guidance: Trends and Take Aways”. Taught by Stefan Nagel, Esq., Law Offices of Stephan Small. (To be held in Hartford)

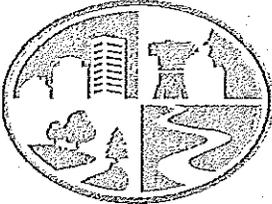
December 5: CLCC Model Conservation Easement (CE) Workshop #4

“Stewardship, Monitoring & Enforcement”. Taught by Linda Francois, Esq., Lindsey Michel, CFPA Conservation Director and members of the Model CE Working Group. (To be held at CFPA Middlefield)

For information contact Amy B. Paterson at (860) 685-0785 or abpaterson@ctconservation.org ☛

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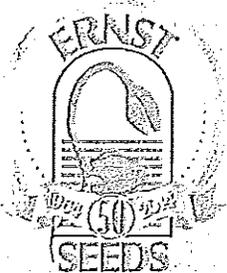
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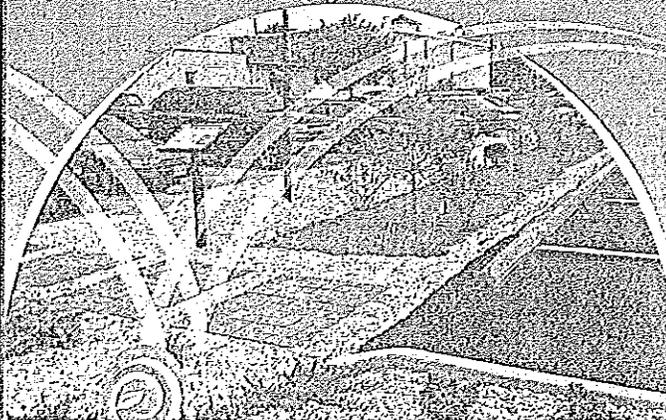
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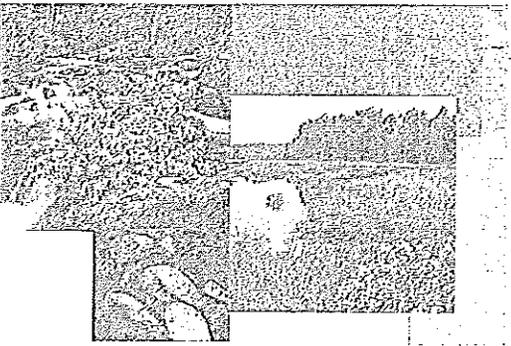
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Yet despite the prevalence of CEs and their importance to the long term viability of protected open space and farmland, many CEs are not written as well as they should be. Drafting errors and omissions, inconsistencies and ambiguities in CE language are common problems that threaten the long term viability of the document and thus its efficacy in protecting conserved lands in perpetuity.

Connecticut Land trusts are particularly vulnerable, with little to no staff, limited funds to pay legal fees, limited experience in dealing with CEs. Further, there are a limited number of attorneys practicing in Connecticut who have substantial experience in drafting conservation easements.

Weakly drafted CEs create confusion and strained relationships between the landowner and the land trust. Misunderstandings may lead to violations. Land trusts may be forced to expend considerable sums enforcing CEs. The goal of the Model is to minimize the risk of loss of conserved lands and the associated loss of public's trust in the land trust's ability to fulfill its mission.

Project Components (2014)

1. Model Conservation Easement: The Model CE along with an excellent commentary on drafting a CE is now available on the CLCC's web site www.ctconservation.org/trainingandeducation.
2. Educating CE drafters: CLCC will undertake an expansive outreach and education effort through a training program to engage and educate CE drafters (including private attorneys, land trust staff and board members, state and local government attorneys and staff, and other conservation professionals) about the model document language and format and the rationale behind specific model document terms and conditions to help them to better draft legally sound and effective CEs for their own use or that of their clients.
3. Educating: CLCC will provide training for CE Conservation Land stewards (including land trust staff and monitoring volunteers, municipal staff and commission members, and state agency staff) about the model CE language and monitoring protocols to help them to better manage and monitor existing CE conservation lands.

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Comments Requested

CLCC and the Working Group welcome suggestions for improving the substance and format of the Model and Commentary. Please share potential optional and alternative provisions and identify issues in need of further investigation. Comments may be directed to CLCC Executive Director and Project Coordinator, Amy B. Paterson at (860) 685-0785 or abpaterson@ctconservation.org.

Editor's Note: Municipal open space lands, purchased, in part, with state grant funds are required to have a conservation restriction which protects them in perpetuity. Conservation Commissions should make sure that other town designated open space lands that were not acquired with state grant funds are protected by a conservation restriction. ¶

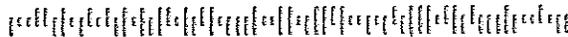


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Model Conservation Easement Project Protecting and Stewarding Connecticut's Open Space in Perpetuity

*A Project of the Connecticut Land Conservation Council made possible by
the generous support of the Geoffrey C. Hughes Foundation*

Project Overview

To address the issue of lack of standardization of easement forms and terms, CLCC assembled a Model Conservation Easement Working Group (Working Group) of attorneys and conservation practitioners from around the state to research and draft a Model Conservation Easement (Model) for use by the Connecticut land conservation community, with a goal of simplifying language as much as reasonably possible and permitting adaptation to a broad array of situations.

The Model is intended to be used mainly as a "forever wild" easement, with one set of limitations that applies throughout the protected property and is aimed at properties with minimal use and minimal structures. It does not address working lands or historic preservation easements. This Model is a first edition,

and CLCC plans to undertake future efforts to build on the format and "boilerplate" provisions to create other purposed documents and more alternatives.

The Need for a Model Conservation Easement

Conservation easements (CEs) continue to be one of the most important tools used by land trusts, government entities and landowners to protect open space and farmland in Connecticut. Well crafted CEs are a critical component of protecting land in perpetuity. CE terms, conditions and purposes clauses define allowable uses of land and the way a CE is drafted can have an enormous impact on what aspects of the land are protected and how the land acquired for conservation purposes can be used over time. In Connecticut, land trusts alone hold over 1,000 CEs and together with towns write an estimated 60-75 CEs annually.

easement project, continued on page 15



Inland Wetlands and Watercourses Permit Water Quality Certification

Permittee: Connecticut Department of Transportation
2800 Berlin Turnpike, P.O. Box 317546
Newington, CT 06131-7546
Attn: Mark W. Alexander, Transportation Assistant Planning Director

Permit No: IW-201400616, WQC-201400618

Towns: Franklin, Mansfield, Marlborough

Project: Rehabilitation of 2 corrugated metal culverts under Route 207 (Franklin), 1 corrugated metal culvert under Route 430 (Mansfield), and 1 corrugated metal culvert under Route 2 (Marlborough)

Waters: Bellows Brook, Beaver Brook, Eagleville Brook, Tributary to Lyman Brook

Pursuant to Connecticut General Statutes Section 22a-39, the Commissioner of Energy and Environmental Protection ("Commissioner") hereby grants a permit to the Connecticut Department of Transportation ("the Permittee") to conduct regulated activities associated with the rehabilitation of four (4) corrugated metal culverts in the towns of Franklin, Mansfield, and Marlborough. In addition, pursuant to Section 401 of the Federal Clean Water Act (33 USC 1341), certification is hereby granted for activities, including but not limited to construction or operation of facilities, which may result in any discharge into the waters of the state associated with the above referenced project. The purpose of said activities is to repair deteriorated culvert structures that are in critical condition.

AUTHORIZED ACTIVITY

Specifically, the permittee is authorized to: slipline two corrugated metal culverts under Route 207 in the Town of Franklin (one conveying Beaver Brook and one conveying Bellows Brook), slipline one corrugated metal culvert conveying Eagleville Brook under Route 430 in the Town of Mansfield, and slipline one corrugated metal culvert conveying an unnamed tributary of Lyman Brook under Route 2 in the Town of Marlborough. Activities include improvements to culvert inlet and outlet conditions and miscellaneous fish passage improvements.

The activities proposed will impact approximately 0.36 acres of wetlands and watercourse. This includes: 0.037 acres of impact associated with clearing / grubbing for access and water handling at Bridge No. 06678; 0.147 acres of impact associated with clearing / grubbing for access, water handling, and proposed weir for fish passage at Bridge No. 06791; 0.061 acres of impact associated

with tree clearing for access, water handling, and rip-rap streambank protection at Bridge No. 06688; and 0.105 acres of impact associated with water handling, trash rack and low flow diversion wall at inlet, fishway at outlet, and interior baffles to slow velocities at Bridge No. 06689.

All activities shall be conducted in accordance with plans entitled: "*Connecticut Department of Transportation Environmental Permit Plans for Culvert Rehabilitation on CT Route 2, 207, & 430, Town(s) / City of Franklin, Mansfield and Marlborough,*" prepared by DOT's Office of Engineering, and submitted January 24, 2014, as a part of the application.

This authorization constitutes the licenses and approvals required by Section 22a-39 of the Connecticut General Statutes and Section 401 of the Federal Clean Water Act (33 USC 1341).

This authorization is subject to and does not derogate any present or future property rights or other rights or powers of the State of Connecticut, conveys no property rights in real estate or material nor any exclusive privileges, and is further subject to any and all public and private rights and to any federal, state, or local laws or regulations pertinent to the property or activity affected thereby.

Said discharge(s) will comply with the applicable provisions of sections 301, 302, 303, 306 and 307 of the Federal Clean Water Act (33 USC 1311, 1312, 1313, 1316 and 1317, respectively) and will not violate Connecticut's Water Quality Standards.

The permittee's failure to comply with the terms and conditions of this permit shall subject the permittee, including the permittee's agents or contractor(s) to enforcement actions and penalties as provided by law.

This authorization is subject to the following conditions:

CONDITIONS:

1. **Expiration.** This permit shall expire 5 years from the date of issuance of this permit, except that Water Quality Certifications shall expire upon expiration of the U.S. Army Corps of Engineers (USACOE) Section 404 permit for the same activity.
2. **Construction Commencement and Completion.** If construction of any structures or facilities authorized herein is not completed within five years of issuance of this permit or within such other time as may be provided by this permit, or if any activity authorized herein is not commenced within five years of issuance of this permit or within such other time as may be provided by this permit, this permit shall expire five years after issuance or at the end of such time as may be authorized by the Commissioner.
3. **Notification of Project Initiation.** The permittee shall notify the Commissioner in writing two weeks prior to commencing construction or modification of structures or

facilities authorized herein.

4. De minimis Alteration.

- a. For Water Diversion Permits (CGS 22a-368) - The permittee may not make any alterations, except de minimis alterations, to any structure, facility, or activity authorized by this permit unless the permittee applies for and receives a modification of this permit in accordance with the provisions of section 22a-377(c)-2 of the Regulations of Connecticut State Agencies. Except as authorized by subdivision (5) of section 22a-377(b)-1(a) of the Regulations of Connecticut State Agencies, the permittee may not make any de minimis alterations to any structure, facility, or activity authorized by this permit without written permission from the Commissioner. A de minimis alteration means an alteration which does not significantly increase the quantity of water diverted or significantly change the capacity to divert water.
- b. For Other Permits - The permittee may not make any alterations, except de minimis alterations, to any structure, facility, or activity authorized by this permit unless the permittee applies for and receives a modification of this permit. The permittee may not make any de minimis alterations to any structure, facility, or activity authorized by this permit without written permission from the Commissioner. A de minimis alteration means a change in the design, construction or operation authorized under this permit that does not increase environmental impacts or substantively alter the construction of the project as permitted.

- 5. Maintenance of Structures.** All structures, facilities, or activities constructed, maintained, or conducted pursuant hereto shall be consistent with the terms and conditions of this permit, and any structure, facility or activity not specifically authorized by this permit, or exempted pursuant to section 22a-377 of the General Statutes or section 22a-377(b)-1 of the Regulations of Connecticut State Agencies, or otherwise exempt pursuant to other General Statutes, shall constitute a violation hereof which may result in modification, revocation or suspension of this permit or in the institution of other legal proceedings to enforce its terms and conditions.

Unless the permittee maintains in optimal condition any structures or facilities authorized by this permit, the permittee shall remove such structures and facilities and restore the affected waters to their condition prior to construction of such structures or facilities.

- 6. Accuracy of Documentation.** In issuing this permit, the Commissioner has relied on information provided by the permittee. If such information was false, incomplete, or misleading, this permit may be modified, suspended or revoked and the permittee may be subject to any other remedies or penalties provided by law.

7. **Best Management Practices & Notification of Adverse Impact.** In constructing or maintaining any structure or facility or conducting any activity authorized herein, or in removing any such structure or facility under condition 5 hereof, the permittee shall employ best management practices to control storm water discharges, to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and other waters of the State. Best Management Practices include, but are not limited, to practices identified in the *Connecticut Guidelines for Soil Erosion and Sediment Control* as revised, 2004 *Connecticut Stormwater Quality Manual*, Department of Transportation's *ConnDOT Drainage Manual* as revised, and the Department of Transportation Standard Specifications as revised.

The permittee shall immediately inform the Commissioner of any adverse impact or hazard to the environment which occurs or is likely to occur as the direct result of the construction, maintenance, or conduct of structures, facilities, or activities authorized herein.

8. **Reporting of Violations.** The permittee shall, no later than 48 hours after the permittee learns of a violation of this permit, report same in writing to the Commissioner. Such report shall contain the following information:
 - a. the provision(s) of this permit that has been violated;
 - b. the date and time the violation(s) was first observed and by whom;
 - c. the cause of the violation(s), if known
 - d. if the violation(s) has ceased, the duration of the violation(s) and the exact date(s) and times(s) it was corrected;
 - e. if the violation(s) has not ceased, the anticipated date when it will be corrected;
 - f. steps taken and steps planned to prevent a reoccurrence of the violation(s) and the date(s) such steps were implemented or will be implemented;
 - g. the signatures of the permittee and of the individual(s) responsible for actually preparing such report, each of whom shall certify said report in accordance with condition 12 of this permit.
9. **Material Storage in the Floodplain.** The storage of any materials at the site which are buoyant, hazardous, flammable, explosive, soluble, expansive, radioactive, or which could in the event of a flood be injurious to human, animal or plant life, below the elevation of the five-hundred (500) year flood is prohibited. Any other material or equipment stored at the site below said elevation by the permittee or the permittee's contractor must be firmly anchored, restrained or enclosed to prevent flotation. The quantity of fuel stored below such elevation for equipment used at the site shall not exceed the quantity of fuel that is expected to be used by such equipment in one day.

10. **Permit Transfer.** This permit is not transferable without the prior written consent of the Commissioner.

11. **Contractor Notification.** The permittee shall give a copy of this permit to the contractor(s) who will be carrying out the activities authorized herein prior to the start of construction and shall receive a written receipt for such copy, signed and dated by such contractor(s). The permittee's contractor(s) shall conduct all operations at the site in full compliance with this permit and, to the extent provided by law, may be held liable for any violation of the terms and conditions of this permit.

12. **Certification of Documents.** Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by the permittee or a responsible corporate officer of the permittee, a general partner of the permittee, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto and I certify that based on reasonable investigation, including my inquiry of the individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that a false statement in the submitted information may be punishable as a criminal offense in accordance with Section 22a-6 of the General Statutes, pursuant to Section 53a-157b and in accordance with any other applicable statute."

13. **Submission of Documents.** Any document or notice required to be submitted to the Commissioner under this permit shall, unless otherwise specified in writing by the Commissioner, be directed to:

Director, Inland Water Resources Division
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval on any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this permit, the word "day" means any calendar day. Any document or action which is required by this permit to be submitted or

performed by a date which falls on a Saturday, Sunday or legal holiday shall be submitted or performed by the next business day thereafter.

14. **Rights.** This permit is subject to and does not derogate any rights or powers of the State of Connecticut, conveys no property rights or exclusive privileges, and is subject to all public and private rights and to all applicable federal, state, and local law. In constructing or maintaining any structure or facility or conducting any activity authorized herein, the permittee may not cause pollution, impairment, or destruction of the air, water, or other natural resources of this State. The issuance of this permit shall not create any presumption that this permit should be renewed.
15. **Fisheries Notification.** The permittee shall notify the Inland Fisheries Division at (860) 295-9523 in writing two weeks prior to commencing construction or modification of structures or facilities authorized herein.
16. **Unconfined Instream Construction.** All unconfined instream construction activities shall be restricted to a time period of June 1st through September 30th unless prior written authorization from the Inland Water Resources Division is otherwise granted.
17. **Fish Passage Monitoring & Evaluation.** The permittee shall provide a Memorandum of Agreement or other suitable written contractual agreement executed between the DEEP Inland Fisheries Division and the Connecticut Department of Transportation that establishes the following: (1) arrangements by the DOT for the purchase or the funding of purchase of equipment and materials necessary for the DEEP to perform monitoring and evaluation of the designed fish passage structures using PIT tag technology; (2) expectations of both parties for the post-construction monitoring and evaluation of the culverts and associated fish passage structures, in respect to demonstrating the effectiveness of the newly constructed structures to allow effective fish passage through the culvert, including experimental design and reporting; (3) the disposition of such equipment and materials subsequent to the completion of such monitoring and evaluation studies at the Tributary to Lyman Brook site. Said agreement shall be executed prior to commencement of construction.