

The Habitat

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

Summer 2014

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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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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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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 *Canterbury v. Deojay*, 11 Conn. App. 695, 720-21 (2009).

⁵ Telephone conversation between Attorney Mark Branse and the author on June 16, 2014. 🐘

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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

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.



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

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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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

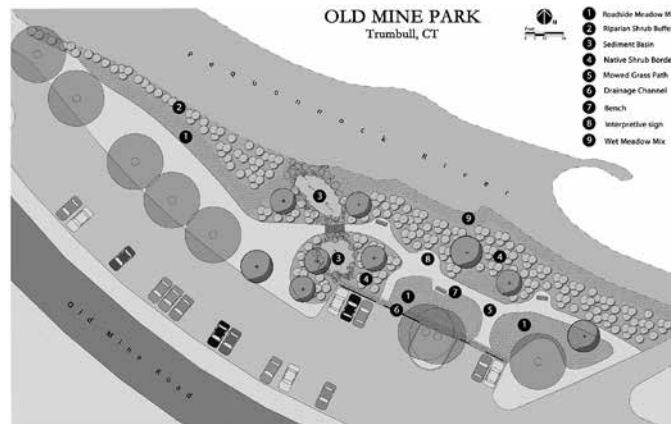
infiltration that recharges groundwater reserves and preventing dangerous flash flooding downstream.

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



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 on page 9

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, FAIA

	
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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

- **The 1000-acre Preserve coastal forest** in Old Saybrook received \$2 million in funding that was earmarked from the Recreation and Natural Heritage Fund; The Trust for Public Land has secured a contract to purchase the land for protection for \$8.09 Million. Funding is being sought from the State, The Towns and individuals through a capital campaign. The state has committed \$2 million from the Recreation and Natural Heritage Fund toward acquisition. On July 6th the town of Old Saybrook will hold a referendum to vote on supporting a \$3 million bond toward acquisition. The 16 year goal to protect 1,000 acre coastal forest, The Preserve, is within hiking distance.
- **The Community Investment Act** funding for open space, farmland protection, affordable housing and historic preservation remained intact and unraided;
- **Bonding for farmland and open space preservation** in the Department of Agriculture and CT DEEP budgets respectively was continued at last year's strong levels. 🌿

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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 finding 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 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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easement project, continued from page 16

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