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**DRAFT MINUTES**  
MANSFIELD INLAND WETLANDS AGENCY  
Regular Meeting  
Monday, March 7, 2011  
Council Chambers, Audrey P. Beck Municipal Building

Members present: R. Favretti (Chairman), J. Goodwin, R. Hall, K. Holt, G. Lewis, P. Plante, B. Ryan  
Members absent: M. Beal, B. Pociask  
Alternates present: F. Loxsom (7:04 p.m.), K. Rawn  
Alternates absent: V. Ward  
Staff present: G. Meitzler (Wetlands Agent)

Chairman Favretti called the meeting to order at 7:00 p.m. Alternates Rawn and Loxsom were appointed to act in members' absence.

**Minutes:**

2-7-11 – Hall MOVED, Ryan seconded, to approve the 2-7-11 minutes as written. MOTION PASSED with all in favor except Goodwin who disqualified herself.

3-1-11 Special Meeting- Holt MOVED, Ryan seconded, to approve the 3-1-11 minutes as written. MOTION PASSED with Favretti, Holt, Rawn and Ryan in favor and all others disqualified.

**Communications:**

The 2-24-11 Wetlands Agent's Monthly Business report and the 2-16-11 Conservation Commission Draft minutes were noted.

**Old Business:**

W1467 - Listro - Candide La - driveway crossing

Joseph Boucher, of Towne Engineering, reviewed the revised plans dated 11/4/11, revised to 3/3/11. Holt questioned Boucher if the applicant would agree to driveway work being conducted during the dry months of June to October. Boucher agreed on behalf of the applicant.

Holt MOVED, Plante seconded, to approve an Inland Wetlands License pursuant to the Wetlands and Watercourses Regulations of the Town of Mansfield to Suzanne and John Listro (file # W1467), for construction of a residence with appurtenant construction on land located at 260 Stearns Road and 12 Candide lane, as shown on a site plan dated November 4, 2010, revised to March 3, 2011, and 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. Erosion and sedimentation controls shall be in place (as shown on the plans) prior to construction, maintained during construction, and removed when disturbed areas are completely stabilized.
2. Construction of the driveway shall be done between June 1 and October 15 to lessen the chance of sediment movement into the adjacent wetlands.

This approval is valid until March 7, 2016, at which time a renewal of the permit is required if work has not been completed. 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 with all in favor except Goodwin who abstained.

W1471 - Savin Foods LLC - 153 N. Eagleville Rd - sewer connection

Holt MOVED, Rawn seconded, to approve an Inland Wetlands License pursuant to the Wetlands and Watercourses Regulations of the Town of Mansfield to Savin Foods LLC (File # W1471), for installation of underground utilities to connect to UConn sewers and gas within regulated areas located at and adjacent to 153 North Eagleville Road.

The work along North Eagleville Rd includes removal of the present non-conforming septic systems, connection to a sewer force main and gas main, excavation and repair of parking lot, landscaping repairs, and repairs to a sidewalk along the north edge of N. Eagleville Rd, as shown on a site plan dated January 17, 2011, and 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. Erosion and sedimentation controls shall be in place prior to construction and maintained during construction and removed when disturbed areas are completely stabilized.
2. Silt "socks" are to be installed at catch basins grates that will catch flow into the drainage system along the edge of N. Eagleville Rd.
3. This approval is to become effective when other required approvals are obtained.

This approval is valid until March 7, 2016, at which time a renewal of the permit is required if work has not been completed. 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.

W1472 - White Oak Condominiums - footing drain modifications

Mark Peterson, of Gardner and Peterson, reviewed the proposed drainage improvements depicted on plans revised to 2/8/11.

Holt MOVED, Plante seconded, to approve a modification of wetlands File # W1420 for installation of building drains, yard grading, and outlet flow protection for Building #4, White Oak Condominiums, as outlined in application submissions including a map dated 3/31/2010 and revised through 2/08/2011.

This action is based on a finding of no significant impact, and is conditioned on the following provision being met:

1. All erosion and sediment controls (as shown on the plans) shall be in place prior to construction, maintained during construction, and removed when disturbed areas are completely stabilized.
2. Work is to be done between the dates of June 1 and October 15 when groundwater levels are expected to be lower.

This modification is valid for the original period of five years approved for file 1420 (until January 20, 2014), 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.

W1469 - Town of Mansfield - statutory regulation revisions from 2010

Item tabled, pending April 4, 2011 Public Hearing.

**New Business:**

**W1474 - Plimpton - Wormwood Hill/Gurleyville Rds – 4-lot subdivision**

Goodwin MOVED, Holt seconded, to receive the application submitted by Scott Plimpton (IWA File #1474) under the Wetlands and Watercourses Regulations of the Town of Mansfield for a 4-lot subdivision at 627 Wormwood Hill Road, on property owned by the applicant, as shown on a map dated January 2011, revised through February 9, 2011, and as described in other application submissions, and to refer said application to the staff and Conservation Commission for review and comment. MOTION PASSED UNANIMOUSLY.

**Reports of Officers and Committees:**

Favretti noted a field trip set for 3/15/11 at 1:30 p.m.

**Other Communications and Bills:**

Noted.

**Adjournment:**

Favretti declared the meeting adjourned at 7:26 p.m.

Respectfully submitted,

Katherine Holt, Secretary

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## MINUTES

MANSFIELD INLAND WETLAND AGENCY/PLANNING AND ZONING COMMISSION  
FIELD TRIP  
Special Meeting  
Tuesday, March 15, 2011

Members present: R. Favretti, M. Beal, K. Rawn, K. Holt, B. Ryan,  
Staff present: G. Meitzler (Wetlands Agent, Assistant Town Engineer),  
C. Hirsch, (Zoning Agent)  
Conservation Commission: S. Lehmann

The field trip began at 1:30 p.m.

1. Sterling Trust Company, 3-Lot Subdivision, 64 Puddin Lane. PZC file # 1299  
Members were met on site by owner S. Stein and R. Hellstrom, surveyor.  
Members observed the site noting the existing conditions and areas of  
proposed house development. No decisions were made.
2. Plimpton Property, 4-Lot Subdivision, PZC File # 1298, IWA File # W1474  
Members were met on site by surveyor D. Bonoff. Members observed site  
characteristics with respect to proposed house, driveway and septic locations.  
Existing wetland areas near the proposed activity were also observed. No  
decisions were made.

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Town of Mansfield  
**CONSERVATION COMMISSION**  
Meeting of 16 March 2011  
Conference B, Audrey P. Beck Building  
**(draft) MINUTES**

*Members present:* Peter Drzewiecki, Neil Facchinetti (Alt.), Quentin Kessel, Scott Lehmann, John Silander, Frank Trainor. *Members absent:* Joan Buck (Alt.), Robert Dahn. *Others present:* Grant Meitzler (Wetlands Agent).

1. The meeting was called to order at 7:36p by Chair Quentin Kessel.
2. The draft minutes of the 16 February 2011 meeting, with revisions of items 5 and 7c, were approved.
3. **IWA referrals.**

a. **W1474 (Plimpton, Wormwood Hill & Gurleyville Rds)** The applicant proposes to split 43 interior acres into 3 back lots: Lot 2 (5.3 acres) and Lot 3 (4.8 acres) would be accessed by a common driveway from Gurleyville Road passing between 3 existing houses, Lot 4 (32.9 acres) by a long driveway from Wormwood Hill Road passing between 2 existing houses. The yield plan secures the required frontage by replacing the common driveway with a road that extends to a cul de sac on the edge of Lot 4; actual frontage for the proposed subdivision, however, would be only the sum of the widths of the two narrow driveway corridors. A large wetland 80 vertical ft. below and some distance from the house site on Lot 4 is included in a 19-acre conservation easement. The end of the common driveway and Lot 2's house are about 70 ft from the southwest end of a wetland that may be a vernal pool.

After some discussion, the Commission unanimously agreed on the following comment (**motion:** Silander, Trainor):

The Commission suggests (1) that the house on Lot 2 be moved farther from the wetland lying to the northeast and (2) that the conservation easement on Lot 4 be enlarged by moving its eastern boundary farther up the slope to increase protection of the large wetland below from logging and other activities.

The Commission observes (a) that the common driveway provision of the subdivision regulations is again being used to enable development at less expense to the developer with no off-setting environmental gain from clustering, (b) that some stone walls will apparently be disturbed by construction, and (c) that no open space calculation has been provided. It hopes that disturbed stone walls will be rebuilt as required and that the open space calculation, when done, will take account of previous lots carved out of the Plimpton property.

{Lehmann visited this site on the 02/15 IWA Field Trip; his report is attached.}

b. **W1469 (Town of Mansfield, Statutory Regulation Revision).** No action necessary (cf. Commission minutes for 01/19/11, item 3b).

4. Kessel reported on various meetings, presentations, and hearings.

a. Kessel attended a recent meeting of the Town's **Open Space Acquisition Committee**, which oversees acquisition of Town open-space land and considers requests from other parties – such as the White Oak Condominium Association – to purchase, lease, or exchange parcels. He urged the Committee to use some of the Town's \$1M open-space bonding authority to purchase of conservation easements on large tracts of interior forest (cf. Commission minutes for 11/17/10, item 7). He reported that the Downtown Partnership plans to deed the significant open space component of the Storrs Center development to the Town; this may enable a trail to be routed, largely on preserved land, from the Center to the Nipmuck Trail along the Fenton River.

b. Having attended a Green Valley Institute presentation on 02/28/11 concerning **light pollution**, Kessel suggested that the Commission might approach the University of Connecticut about improving lighting to lessen its impact on the night sky.

c. On behalf of the Naubesatuck Watershed Council, Kessel testified at a hearing before the Legislature's Commerce Committee on a bill that would vitiate the DEP's proposed **streamflow regulations**, which are designed to avoid the sort of drawdowns that left the Fenton River dry several summers ago. Unfortunately, the bill was passed out of committee by a lopsided vote.

5. **Natchaug River Basin Conservation Compact.** The Town Council will take this up at its 3/28/11 meeting. Kessel will attend and urge that Mansfield sign on (see Commission minutes for 02/16/11, item 4).

6. **Swan Lake diversion.** On 02/28/11, the DEP notified UConn that the MOA will be amended to avoid diverting runoff to the Fenton River via Swan Lake, provided the University can sufficiently reduce the TMDL in Eagleville Brook in other ways (primarily by reducing runoff, through installation of green roofs, porous pavement, etc.).

7. **Ponde Place.** The developers plan to pump-test a new well to see if enough water is available to permit the now scaled-down project to be enlarged; a monitoring well has been drilled to assess the impact of drawdown on nearby wells.

8. **Adjourned** at 8:51p.

Scott Lehmann, Secretary, 18 March 2011

**Attachment:** Report on 03/15/11 IWA Field Trip.

IWA 1474 (Plimpton, Wormwood Hill & Gurleyville Roads). A 3-lot subdivision is proposed for 43 interior acres off Wormwood Hill and Gurleyville Roads.

A 32.9 acre backlot (numbered 4) would be accessed by a long driveway ascending from Wormwood Hill Road (between two existing houses) along the path of an old woods road. We did not walk to the house site. This lot does not appear to raise wetland issues: house & septic system would be located at considerable distance from, and about 80 vertical ft above, a large wetland, which would be protected by a 19-acre conservation easement.

The remaining two backlots (numbered 2 and 3 – 5.3 and 4.8 acres respectively) would be accessed by a common driveway (running between three existing houses) off Gurleyville Road. The interior end of this common driveway is close – around 60 ft – to a wetland that may be a vernal pool. (It did not have a particularly vernal aspect when we saw it, being still partially ice-covered.) The house proposed for Lot 2 is also about 60 ft from this wetland. A minimum distance to wetlands of 100 ft is recommended for vernal pools; both the driveway and this house could be moved to honor this recommendation. There is also a small area near Gurleyville Road and about 70 ft from the proposed driveway entrance that was submerged when we visited – probably runoff dammed by the next driveway to the east. Development proposed for Lot 3 is not as close to wetlands as the house on Lot 2.

Logging on Lots 2 and 3 this past fall removed every tree of value from the area; only spindly specimens remain. Apparently these lots will be marketed to people who prefer acres of lawn.

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Memorandum:

March 22, 2011

To: Inland Wetland Agency  
From: Grant Meitzler, Inland Wetland Agent  
Re: Monthly Business

**W1419 - Chernushek - hearing on Order**

- 3.10.09: The hearing on the Order remains open and should continue until the permit application under consideration is acted upon.  
(The Order was dropped on approval of the application required in the Order.)
- 4.30.09: Former rye grass seeding is beginning to show green. I spoke with Mr. Chernushek this afternoon who indicated health problems that delayed his starting but indicated he will be working this weekend. I will update on this Monday evening.
- 5.26.09: A light cover of grass growth has come in. Mr. Chernushek indicates health problems and two related deaths have delayed his start of work since the permit approval was granted. It appears that some light work has started. He has further indicated that he will start a vacation on June 22, 2009 to finish the work.
- 6.13.09: Work is underway.
- 6.21.09: Bulldozer work has been completed - finish work remains. The additional silt fencing has been placed along the northerly wetlands crossing, and the additional pipe under the southerly crossing has been installed. Remaining work includes finish grading along edges, spreading stockpiled topsoil, and establishing grass growth.
- 7.01.09: I spoke with Mr. Chernushek who indicated he expects work to be completed by September 1, 2009. (Site photo attached).
- 9.03.09: Mr. Chernushek has been working on levelling and grading. The formerly seeded areas have become fairly thick growth surrounding the central wet areas. He has further indicated that with the combination of weather and the slower moving of earth with the payloader compared to the earlier rented bulldozer has led him to contact contractors for earth moving estimates which have not yet been received. The site is not yet finished but has remained quite stable.
- 9.12.09: I met with Mr. Chernushek today and discussed again what his plans are for stabilizing this work site.
- 10.01.09: Mr. Chernushek indicated he has not heard back from the contractor he had spoken with about removing material, and is in progress of contacting others. In discussion is removal of material from the site either within the 100 cubic yard limit or obtaining a permit for such removal.
- 10.28.09: Mr. Chernushek has indicated he has made arrangements with DeSiato Sand & Gravel to remove 750 cubic yards of material. Staff is in the process of clarifying permit requirements.

**W1445 - Chernushek - application for gravel removal from site**

- 11.30.09: Packet of information representing submissions by Mr. Chernushek, Mr. DeSiato and myself is in this agenda packet as Mr. Chernushek's request for modification.
- 12.29.09: Preparation of required information for PZC special permit application is in progress. Tabling any action until the February 1, 2010 meeting is recommended.
- 1.12.10: 65 day extension of time received.

- 2.18.10: No new information has been received.
- 2.25.10: This application has been **withdrawn**.
- 6.30.10: As viewed from the adjacent property, the upstream and downstream areas have grown to a decent protected surface. I did not see indication of sediment movement.
- 10.26.10: A sale of the East portion of the Chernushek property has been in negotiation.
- 12.27.10: The property exchange has been completed. The owner is now the neighboring property owner Bernie Brodin. He has indicated his intention to stabilize the area as weather permits.

**Mansfield Auto Parts - Route 32**

- 2.18.10: Same - they are in the process of rebuilding the engine on the payloader.
- 3.30.10: Same - Mr. Bednarczyk indicates a continuing problem finding engine parts.
- 4.13.10: Owner indicates the payloader is operating again.
- 4.15.10: Owner indicates he will have the cars moved this week.
- 4.23.10: No vehicles are within 25' of wetlands.**
- 5.17.10: Inspection - no vehicles are within 25' of wetlands.
- 6.02.10: Inspection - no vehicles are within 25' of wetlands.
- 6.23.10: Inspection - no vehicles are within 25' of wetlands.
- 7.15.10: Inspection - no vehicles are within 25' of wetlands.
- 9.01.10: Inspection - no vehicles are within 25' of wetlands.  
Mr. Bednarczyk has started removing tires from the westerly part of his site using roll-off containers. With this arrangement a moderately steady rate of removal of the tires should be possible to maintain until the tires are completely removed.
- 9.28.10: Inspection - no vehicles are within 25' of wetlands.  
Tire removal is continuing with 1 to 2 roll-off containers being removed per month.
- 10.07.10: Inspection - no vehicles are within 25' of wetlands.  
Tire removal has been continuing.
- 11.29.10: Inspection - no vehicles are within 25' of wetlands.  
Owner has been trucking cars for crushing with 6 tires per vehicle. He indicates 3 cars per day or 18 tires per day. The actual number is probably lower than 18.
- 12.23.10: Inspection - no vehicles are within 25' of wetlands.
- 1.07.11: Inspection - no vehicles are within 25' of wetlands.
- 1.20.11: Vehicle storage areas are snowed in and inaccessible.
- 1.26.11: Snows remain, although some clearing has been done I could not count on being able to get out.
- 2.24.11: Inspection - no vehicles are within 25' of wetlands.
- 3.09.11: Inspection - no vehicles are within 25' of wetlands.
- 3.22.11: Inspection - no vehicles are within 25' of wetlands.

# O'Brien and Johnson

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Attorney Susan Johnson  
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March 31, 2011

Inland Wetlands Agency  
Town of Mansfield  
Audrey P. Beck Building  
Four South Eagleville Road  
Mansfield, CT 06268-2599

Ladies and Gentlemen:

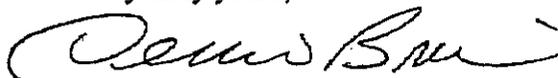
As requested by Town of Mansfield Director of Planning Gregory Padick, I have completed my review of the **Proposed Revisions to Mansfield's Inland Wetland Regulations, February 14, 2011 Draft.**

As you know, the only question for me as town counsel is whether the proposed amendments are legal. It is my responsibility to say whether the proposed amendments are within the purview of the Commission's authority under our constitutions and laws especially, but not limited to Connecticut General Statutes section 22a-42a, the statute which expressly authorizes the IWA to adopt regulations controlling the regulation of inland wetlands of land, but only to the extent set forth in that law.

My review of the inland wetlands law of the State of Connecticut has revealed no legislative provision or case directly on point that provides or holds that any condition or requirement like those proposed in these amendments is beyond the scope of the legislative mandate, or unconstitutional. In fact, the proposed revisions are per 2010 legislation which amended section 47-42d of the Connecticut General Statutes regarding permit applications filed with a state or local land use agency, especially those pertaining to conservation or preservation restrictions.

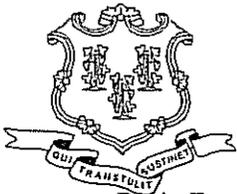
My opinion, then, is that the IWA has the legal authority to enact and to implement the subject draft amendments to the Town of Mansfield Inland Wetland Regulations. Please contact me if there are any questions that arise, now or during the public hearing process.

Very truly yours,



Dennis O'Brien  
Attorney at Law

cc: Gregory Padick



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

March 17, 2011



Rudy Favretti  
Chairman, Mansfield IWA  
A.P. Beck Building  
4 South Eagleville Road  
Mansfield, CT 06258

Dear Commission,

The Connecticut Department of Environmental Protection is in receipt of the proposed Inland Wetlands and Watercourses Regulations of the town of Mansfield, attached to your letter dated February 15, 2011. The regulations were received on February 18, 2011.

Due to resource limitations, the department is focusing its work efforts on updating and enhancing our municipal training materials and tools and not conducting conformity reviews. The attached information is highly recommended to guide you in your regulation development process.

1. Inland Wetlands and Watercourses Act, Connecticut General Statutes sections 22a-36 through 22a-45,
2. Inland Wetlands and Watercourses Model Municipal Regulations, Fourth Edition May 1, 2006.

This material has been specifically prepared to be in conformance with the Inland Wetlands and Watercourses Act. The important issue of regulating activities outside of wetlands and watercourses is thoroughly discussed in our publication titled "Guidelines, Upland Review Area Regulations, Connecticut's Inland Wetlands & Watercourses Act, June 1997". This publication can be found in appendix C of the model regulations noted in item number 2. This guidance document explains the administrative and scientific rationale for regulating such activities and provides specific examples of definitions of regulated activity which incorporate the upland or buffer area. The document also sets forth a detailed explanation regarding the reasonableness of the department's recommended 100 foot upland review area for municipal inland wetlands agencies.

In order to ensure that your proposed regulatory scheme is within the confines of the Act and accomplishes your objectives, we strongly suggest consultation with your town attorney. While the department will not be providing a separate review of your regulations, staff of the Wetlands Management Section is available to answer your questions you may have regarding your regulations. Please feel free to contact Mr. Steven F. Tessitore at (860) 424-3019.

Lastly, please provide this office with a copy of your final regulations as adopted by the commission pursuant to section 22a-42a(b) no later than ten days after such adoption.

Sincerely,

Steven F. Tessitore  
Supervising Environmental Analyst  
Inland Water Resources Division

SFT:DLW:pr  
Enclosures

**Memorandum:**

February 1, 2011

To: Inland Wetlands Agency  
From: Grant Meitzler, Inland Wetland Agent  
Re: W1469 - Town of Mansfield - 2010 IWA statute changes

reference: DEP Communication re: Changes from Public Act No. 10-85  
Dated November 17, 2010

In our regulations there are specific requirements for adoption of amendments to the Inland Wetlands Regulations. The changes below for Section 7.10 C, 10.9, and 10.10, have already been made to the General Statutes and became effective on October 1, 2010. Making these changes part of our current regulations requires the following:

1. a public hearing is to be held within 65 days  
**April 4, 2011 is recommended for the public hearing.**
2. notice of the proposed changes and legal notice is to be sent to the Commissioner of Environmental Protection at least 35 days before the public hearing
3. the maximum time to hold the public hearing open is 35 days
4. extensions of time up to a maximum of 65 days are allowed
5. referrals of the proposed changes are also needed to be made to:
  - Town Council
  - Town Attorney
  - Conservation Commission
  - Planning & Zoning Board
6. legal notices have to be published in a local newspaper twice, the first not more than 15 days and not less than 10 days before the public hearing, and the second more than 2 days before the public hearing. The two legal notices must appear more than 2 days apart.
7. action must be taken by the agency within 35 days after the close of the public hearing.

**Section 1.** Section 47-42d of the general statutes has been repealed and the following has been substituted in lieu thereof (Effective October 1, 2010). This statute, 47-42d, deals with easements on properties applying for wetlands permits.

(The section numberings below are from the Mansfield Wetlands Regulations).

**PROPOSED REGULATION REVISIONS:**

Proposed changes are underlined. Proposed deletions are in brackets.

**Section 7.10 C.** No person shall file a permit application, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of [an] such existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided

written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than 60 days prior to the filing of the permit application.

**Section 10.9** In the case of an application where the applicant fails to comply with the provisions of subsections 7.10 C or 7.10 D of these regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the inlands wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction[.]; or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the inlands wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall immediately reverse such approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.

**Section 10.10** Nothing in subsection 7.10 C or 7.10 D of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

Section 2. of Public Act 10-85 is new and became effective May 26, 2010.

Section 47-42a of the General Statutes deals with easements and defines farm land, forest land, open space land, municipality, planning commission, plan of conservation and development, certified forester, and maritime heritage land. all these definitions seem to focus on Property Taxes as related to easements.

The Dept. of Environmental Protection has made no recommendation to revise our regulations based on this Section 2.

DRAFT MOTION

PLIMPTON PUBLIC HEARING FILE #W1474

\_\_\_\_\_ MOVED, \_\_\_\_\_ seconds to set a public hearing on 5/2/11 to receive comments from the public, staff and committees on the application submitted at the 3/7/11 IWA meeting by Scott Plimpton (IWA File #1474) for a 4-lot subdivision at 627 Wormwood Hill Road, owned by the applicant and as shown on a map dated January 2011, revised through February 9, 2011, and as described in other application submissions. This action is deemed necessary because there is a chance that the proposed activity may have significant impact the adjacent wetlands.

The applicant shall consult with Wetlands Agent Meitzler to find out how much the fee is to be increased for a Public Hearing application.”

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Memorandum:

March 29, 2011

To: Inland Wetlands Agency  
From: Grant Meitzler, Inland Wetland Agent  
Re: W1474 - Plimpton - Gurleyville & Wormwood Hill Rds  
4 lot subdivision

plan reference: bearing latest revision date February 9, 2011, 21 sheets

This application proposes 3 new lots together with one lot containing the existing Plimpton homestead and associated buildings.

The new lots are numbered 2, 3, and 4. Lots 2 and 3 are on a shared driveway located on Gurleyville Road. Lot 4 is on a drive located on Wormwood Hill Road.

The wetland areas here:

1. there is a seasonally wet pool on Lot 2 from which flow runs to the north across Gurleyville Rd. This appears from the town map to flow to Fisher's Brook and the Fenton River. There is a large ponded area in this wetland that may qualify as a vernal pool. (More later).
2. there is a second seasonally wet area flowing from Lot 3 across part of 580 Gurleyville Rd and to the north side of Gurleyville Rd. This also appears to flow to Fisher's Brook and the Fenton River.
3. On the existing house lot east of the proposed drive on Gurleyville Rd there is a very small wetland area that has dried up now but was flooded two weeks ago. Water levels here appear to be determined by the elevation of the existing driveway for this house.

Each of these wetlands shows typical tree and shrub swamp type growth.

4. In the southwest area of the property (the rear of Lot 4) there is a large system of wetlands starting from a small pond on the front of the Plimpton house lot near Wormwood Hill Rd and flowing across the proposed open space areas at the rear of lot 4 eventually reaching the Fenton River also. This is a complicated shape and the wetlands here cover much of the proposed open space. This wetland area shows large areas of swamp grasses and reeds. I did not see any areas of open water.

On Lot 2, the pool is quite probably a vernal pool. It is located only 52 feet from the BAE and DAE. This is of potential concern if the vernal pool is an appropriate designation.

I recommend:

1. require professional comment from the applicant on this pool.
2. that the BAE be moved to keep it 100' away from the pool edge if this pool does indeed qualify as a vernal pool.

SEPARATING DISTANCES  
TO WETLANDS

Lot Number

item .....	1 .....	2 .....	3 .....	4 .....
house .....		65'	170'	460'
septic .....	no	145	100	470
reserve .....	change	133	65	450
driveway .....	to	110	120	500
well .....	existing ..	53	225	440
footing drain ....	Lot	55	200	430
BAE .....		52	60	440
DAE .....		52	60	440

My own determination of the amount of disturbance within 100' of the pool on Lot 2 shows 6% disturbance. The area from 100' out to 750' showed 45% disturbance. Both these numbers suggest further information is needed to evaluate potential impacts on this pool. Until the breeding season starts further evaluation of this pool is subject to error.

Drainage

The shared drive for lots 2 and 3 is graded to keep outflow on the west side of the drive. Protection for potential construction period impacts has been provided by beginning excavation away from Gurleyville Rd and directing collected water to a dirt bag to filter sediment from the water being removed. This is appropriate treatment.

I recommend placing stone filled areas on the west side of the drive near the edge of Gurleyville Rd and at stations 11+00 and 12+00 to limit outflow for the longer term.

On Wormwood Hill Rd for the Lot 4 driveway, upgrading of the roadside drainage from the present 6" underdrains to 15" pipe is shown. Additional piping is needed to maintain the roadside flow coming from the uphill section of roadside swale. The proposed pipe ends where the existing pipe size increases to 15". Adding new water to this pipe system across the Potz property and Lot 1 on the Plimpton property requires the acquisition of drainage rights in favor of Lot 4 from each of these properties.

Sediment & Erosion Plan

Silt fencing has been provided along downhill edges of the house construction area on Lot 4. The sediment & erosion plan provides for excavation starting at the top of the hill on both driveways and excavation towards the adjacent roads. This will trap water and allow suitable treatment with fabric bagging to trap sediments.

Silt fencing on Lots 2 and 3 should be extended to protect wetland areas located downhill to the rear of each lot.

Summary Recommendations:

1. I recommend professional comment be sought from an appropriate expert to comment on the potential for significant impact on this pool.
2. I recommend placing a stone filled excavation on the west side of the drive near the edge of Gurleyville Rd and at stations 11+00 and 12+00 to limit outflow for the long term.
3. On Wormwood Hill Rd for the Lot 4 driveway, upgrading of the roadside drainage from the present 6" underdrains to 15" pipe is shown. Additional piping is needed to maintain the roadside flow coming from the uphill section of roadside swale.
4. Adding new water to the system carrying water across the Potz property and Lot 1 on the Plimpton property requires the acquisition of drainage rights in favor of lot 4 from each of these properties.
5. Silt fencing on Lots 2 and 3 should be extended to protect wetland areas located downhill to the rear of each lot.
6. The potential of significant impact triggers consideration of the holding of a public hearing - May 2, 2011 is an option. If more time is needed extension of time for up to 65 days is possible.



# TOWN OF WINDHAM WATER WORKS

174 Storrs Road  
Mansfield Center, CT 06250  
Tel. 860-465-3075 • FAX 860-465-3085

- Inland Wetlands Commission
- Zoning Commission
- Planning & Zoning-Commission
- Zoning Boards of Appeals

TOWN:       Ashford       Chaplin       Eastford  
               Hampton       Mansfield       Pomfret  
               Union       Willington       Windham  
               Woodstock

INSPECTED BY:

  
\_\_\_\_\_  
*Troy Quick      W.W. Watershed Inspector*

DATE:

March 8, 2011, WW File #M0111

The Windham Water Works has received notification of a proposed project per the requirements of Public Act 89-301.

### PROJECT DESCRIPTION:

4-lot subdivision on 49 acres w/septic systems & wells, 2-lots at 5 ac+/-, 1-lot at 32 ac +/-, 1 lot w/house existing at 6-1/2 ac +/-

Applicant: Scott Plimpton

### COMMENTS:

The Windham Water Works has reviewed the proposed project and with best management practices and with proper soil and erosion control measures throughout the duration, we would have no objections, we will monitor accordingly.

**Memorandum:**

**March 31, 2011**

To: Inland Wetland Agency  
From: Grant Meitzler, Inland Wetland Agent  
Re: New Business for 4.04.2011 meeting

**Modification request:**

W1420 - White Oak Condominiums - footing drains

1. request to change June 1 construction date to allow an April 15 starting date.
2. request to add unit 7 drain to earlier approval. Detailed plans have been submitted as were finalized for Building no. 4

This is a two step request for modification of the starting time for the drainage work around Building no. 4 from June 1 to April 15, and adding similar work around Building no. 7.

The timing change for start of work on both Building no. 4 and no. 7 comes about as a result of the need on the part of residents to deal with interior repairs and storage of portions of the unit contents until the work is done.

I am told the contractor has informed them he can't start work until mid-April because the ground has been so wet.

The addition of drainage work around Building no. 7 did not come in earlier because interior repairs had been done. The March 11 storm damaged the earlier repairs bringing this building to us for approval. Again respecting the impact on the interior of the units involved I think there is ample reason to allow this work to proceed quickly.

There is a detailed site plan for both Building 4 and Building 7 repairs.

Building no. 4: plan dated 3.31.2010 revised through 2.08.2011  
Building no. 7: plan dated March 11, 2011

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**Part E - Alternatives**

Have you considered any alternatives to your proposal that would meet your needs and might have less impact on the wetland/watercourse? Please list these alternatives.

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**Part F - Map/Site Plan (all applications)**

1) Attach to the application a map or site plan showing **existing conditions** and the **proposed project** in relation to wetland/ watercourses. Scale of map or site plan should be 1" = 40'; if this is not possible, please indicate the scale that you are using. A sketch map may be sufficient for small, minor projects. (See guidelines at end of application – page 6.)

2) Applicant's map date and date of last revision 3/11/01

3) Zone Classification RAR-90

4) Is your property in a flood zone?  Yes  No  Don't Know

**Part G - Major Applications Requiring Full Review and a Public Hearing**

See Section 6 of the Mansfield Regulations for additional requirements.

**Part H - Notice to Abutting Property Owners**

1) List the names and addresses of abutting property owners

Name Address

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2) **Written Notice to Abutters** . You must notify abutting property owners by certified mail, return receipt requested, stating that a wetland application is in progress, and that abutters may contact the Mansfield Inland Wetlands Agent for more information. Include a brief description of your project. **Postal receipts of your notice to abutters must accompany your application.** (This is not needed for exemptions).

**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.)

\_\_\_ \$365. \_\_\_ \$110. \_\_\_ \$60. \_\_\_ \$25. \$50

*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

3-23-11

Date

**GARDNER & PETERSON ASSOCIATES, LLC**

PROFESSIONAL ENGINEERS • LAND SURVEYORS

BARRY D. CLARKE, L.S.  
SUSAN E. JAMAITUS, L.S.  
ERIC R. PETERSON, P.E.  
KENNETH R. PETERSON, L.S.  
MARK A. PETERSON, P.E.

178 HARTFORD TURNPIKE  
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TELEPHONE (860) 871-0808  
FAX (860) 875-2086  
EMAIL Info@GardnerPeterson.com

EVERETT O. GARDNER, P.E., L.S. Emeritus

March 31, 2011

Mr. Rudy Favretti  
Chairman – Inland Wetland Agency  
Town of Mansfield  
4 South Eagleville Road  
Mansfield, CT 06268

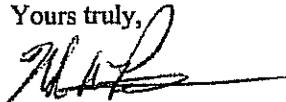
Re: White Oak –Building #7  
Poplar Drive

Dear Mr. Favretti:

I have been contacted by the Property Manager and the President of the White Oak Condominium Association alerting me that Building #7 at the White Oak Condominiums has flooded, similar to Building #4. I have submitted a drainage plan to intercept the groundwater and a modification of permit application for activities with the 150' regulated area. The design incorporates the same drainage control and erosion control measures as approved for Building #4.

We ask that you approve the modification request and allow for construction to commence as early as April 18, 2011. At this time, a unit is vacant and can not be rented due to the flooding. In addition, I have monitored groundwater levels this spring at another site and have determined that the groundwater has dropped substantially from its peak levels in early March after the heavy rain and snowmelt. I have spoken to the contractor chosen to make the repairs and, with your approval, he is available at this time. We feel that allowing construction to start on April 18, 2011 would greatly assist the owners of Building #7 and still provide protection to the wetland system.

Yours truly,



Mark A. Peterson, P.E.

MAP:jml

9944-bldg7.doc

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Wetlands Draft Approval Motion for:

**Re: W1472 - White Oak Condominiums**

\_\_\_\_\_ moves and \_\_\_\_\_ seconds, to modify the earlier approval for wetlands file W1420 for installation of building drains, yard grading, and outlet flow protection for Building no. 4, White Oak Condominiums, as outlined in application submissions including a map dated 3.31.2010 and revised through 2.08.2011, and for installation of building drains, yard grading, and outlet flow protection for Building no. 7, as detailed on plans dated March 11, 2011.

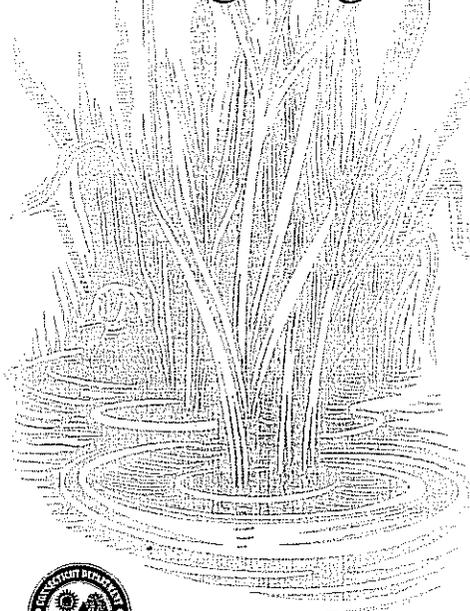
This action is based on a finding of no significant impact, and is conditioned on the following provisions being met:

1. All erosion and sediment controls (as shown on the plans) shall be in place prior to construction, maintained during construction, and removed when disturbed areas are completely stabilized.
2. work is to be done between the dates of April 15 and October 15.

This modification is valid for the original period of five years approved for file 1420 (until January 20, 2014), 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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# 2011 Municipal Inland Wetland Commissioners Training Program



State of Connecticut  
Department of Environmental Protection  
79 Elm Street, Hartford CT 06106-5127  
[www.ct.gov/dep](http://www.ct.gov/dep)

## The 2011 Training Program

The Municipal Inland Wetland Commissioners Training Program is presented by the Connecticut Department of Environmental Protection (DEP) Wetlands Management Section. Pursuant to the General Statutes of Connecticut Section 22a-39, the DEP is charged with developing an annual comprehensive training program for inland wetlands agency members and staff. The annual program covers a broad range of legal, administrative and scientific subjects relevant to municipal inland wetlands regulation.

### Who should attend?

The Municipal Inland Wetland Commissioners Training Program is intended for Connecticut's 170 municipal inland wetlands agencies. The training program is organized into three segments in order to meet the varying needs and diverse backgrounds of agency members and staff. The three segments are designed as follows:

- ▲ Segment 1 is tailored for new agency members and staff.
- ▲ Segment 2 is recommended for all agency members and staff.
- ▲ Segment 3 is designed for agency staff (wetland agents) and experienced agency members.

### Is pre-registration required?

Due to limited enrollment, participants must pre-register. Registration is on a first-come, first-served basis with priority being given to inland wetlands agency members and staff. Registrants will receive confirmation and directions online or in the mail.

### What happens if a program segment is cancelled or rescheduled?

The DEP reserves the right to cancel or reschedule the training program. Registrants will be notified at the earliest possible time and offered a different date/location. If the participant is unable to switch to a different date/location any paid registration fees will be refunded in full.

### Can a refund be made if a participant needs to cancel?

Registration fees are refundable only if cancellation is received 48 hours prior to the start of the program. If cancellation is received with less than 48 hours notice the participant will be charged the full program fee. Registration fees for the Segment 1 online course are refundable only if the registrant has not entered the online course. These cancellation policies apply to voucher registrants as well. Please call the UConn student services office at 877-892-6264 or 860-486-4905.

### Are program registration fees waived for any reason?

CT General Statute Section 22a-42(d) provides that the DEP waive program registration fees for one person from each town. A voucher for Segments 1 and 2 of the 2011 Municipal Inland Wetland Commissioners Training Program has been sent to each town's inland wetlands agency with instructions on its use. To receive complimentary registration, the designated representative must include the *original DEP voucher* with the mailed registration form or use the voucher code with online registration. *Participants that register for a Segment using the voucher and fail to attend, or fail to cancel at least 48 hours prior to the start of the program, will be charged the full program fee.*

### Which segment meets the agent training requirement pursuant to CT General Statute Section 22a-42a(c)(2)?

The Statute requires duly authorized wetland agents to complete the DEP's comprehensive training program before the above authority can be delegated to them by their inland wetlands agency. Agents who have completed all segments of a DEP Municipal Inland Wetland Commissioners Training Program offered annually since 1995 meet this requirement. Other agents must complete all segments of the 2011 or a future annual training program to meet this requirement.

 University of  
Connecticut

Center for Continuing Studies

Visit us online at  
[ct.gov/dep/inlandwetlands](http://ct.gov/dep/inlandwetlands)  
[continuingstudies.uconn.edu](http://continuingstudies.uconn.edu)

## April 2011 - Segment 1

### Connecticut's Inland Wetlands and Watercourses Act: A Primer for New Inland Wetlands Agency Members and Staff

Segment 1 is designed for new agency members and staff. Participants will learn the fundamentals of the Connecticut Inland Wetlands and Watercourses Act. The segment will also include a presentation on wetland soils, a lesson on site plan review and map reading, and a brief summary of the functions and values of wetlands and watercourses, with a focus on fisheries habitat and stream crossings.

enforcement of the Inland Wetlands and Watercourses Act, agricultural issues, and the Upland Review Area. This portion of the program will conclude with an open question and answer session.

The second half of Segment 2 will focus on the subject of storm water management. Storm water results from rain or snowmelt that runs off surfaces such as rooftops, paved roads, or parking lots; or infiltrates into the ground. Along the way, the water may pick up and transport contaminants including motor oils, gasoline, antifreeze, brake dust, fertilizers, pesticides, and soil sediments. Storm water may result in significant pollution to surface water affecting aquatic life and recreational activities. Joseph Bushey, Assistant Professor at the University of Connecticut, Department of Civil & Environmental Engineering, will provide an overview of the storm water topic including a review of different contaminants.

Additionally, municipal decisions about land use and the design and management of municipal facilities, especially storm water management systems, impact the quality and quantity of surface and ground waters. The U.S. Environmental Protection Agency (EPA) has mandated a number of permit programs to deal with storm water pollution, which are administered in Connecticut by the CT DEP. The DEP Storm Water Permitting and Enforcement Section will discuss these state permit programs, including the Small Municipal Separate Storm Sewer Systems (MS4) General Permit and the specific requirements it contains.

## October 2011 - Segment 3 Program information available in September

Segment 3 is designed for municipal inland wetlands staff and experienced agency members. The workshop will focus on a selected technical subject with classroom presentations followed by a field excursion. Brochure and online registration for this segment will be available in September.

### New Online Training Option

In addition to the two scheduled Segment 1 workshops, a new online training course will be available that will allow you to receive the same curriculum and credit for this Segment. If you would like to complete Segment 1 online, provide your email address and select the online option on the registration form. You will be contacted when the online course is available. You may then choose to complete your registration for the same program fee.

## May/June 2011 - Segment 2

### Connecticut's Inland Wetlands and Watercourses Act: A Legal, Administrative, and Resource Management Update

Segment 2 is recommended for all agency members and staff. DEP representatives will provide a synopsis of the 2011 legislative session, including any amendments to the Inland Wetlands and Watercourses Act. The program will continue with representatives from the Office of the Attorney General presenting an examination of recent court cases. A number of issues associated with these cases will be discussed including, but not limited to,

Please copy this registration form for additional registrants.

**Online registration:**  
Have credit card information ready.  
Visa, MasterCard, Discover, Diners International.  
<http://continuingstudies.uconn.edu/professional/dep/wetlands.html>

**Mail:**  
Enclose completed form & DEP voucher, check or P.O. :  
University of Connecticut, Student Services Office,  
One Bishop Circle, Unit 4056, Storrs, CT 06269-4056

Name \_\_\_\_\_  
(Name as it will appear on your certificate, if applicable.)

Phone: Day (\_\_\_\_) \_\_\_\_\_  
Evening (\_\_\_\_) \_\_\_\_\_

Preferred Mailing Address:  Home  Business

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Please list any special needs you may have.

*The following required information must be provided for this registration form to be processed.*

Check one of the following:

I am a member of my municipal Inland Wetlands Agency for the Town/City of: \_\_\_\_\_

I am a municipal employee hired/assigned to support the Inland Wetlands Agency for the Town/City of: \_\_\_\_\_

My title is: \_\_\_\_\_

Other, please briefly explain (i.e.: Conservation commission member, concerned citizen, consultant, etc.) \_\_\_\_\_

Certificate Group # 3310

### Segment 1, Term 1113

Saturday, April 2nd, Storrs, Bishop Center, UConn, (S101) 9:00 AM - 4:00 PM

Saturday, April 9th, Bridgeport, Housatonic Community College, (S102) 9:00 AM - 4:00 PM

Please contact me when the Segment 1 online option is available.

### Segment 2, Term 1115

Saturday, May 21st, Storrs, Bishop Center, UConn, (S201) 9:00 AM - 4:00 PM

Thursday, May 26th, Torrington, UConn Campus, (S202) 9:00 AM - 4:00 PM

Saturday, June 4th, Old Lyme, DEP Marine Headquarters (S203), 9:00 AM - 4:00 PM

Friday, June 10th, Bridgeport, Housatonic Community College (S204), 9:00 AM - 4:00 PM

Tuesday June 14 & Thursday, June 16, Hartford, UConn Graduate Business Learning Center (S205) 6:30 PM - 9:30 PM

### Fee: \$65 per course section

(includes handouts and refreshments)

DEP voucher # \_\_\_\_\_ enclosed.

Check enclosed made payable to UConn.

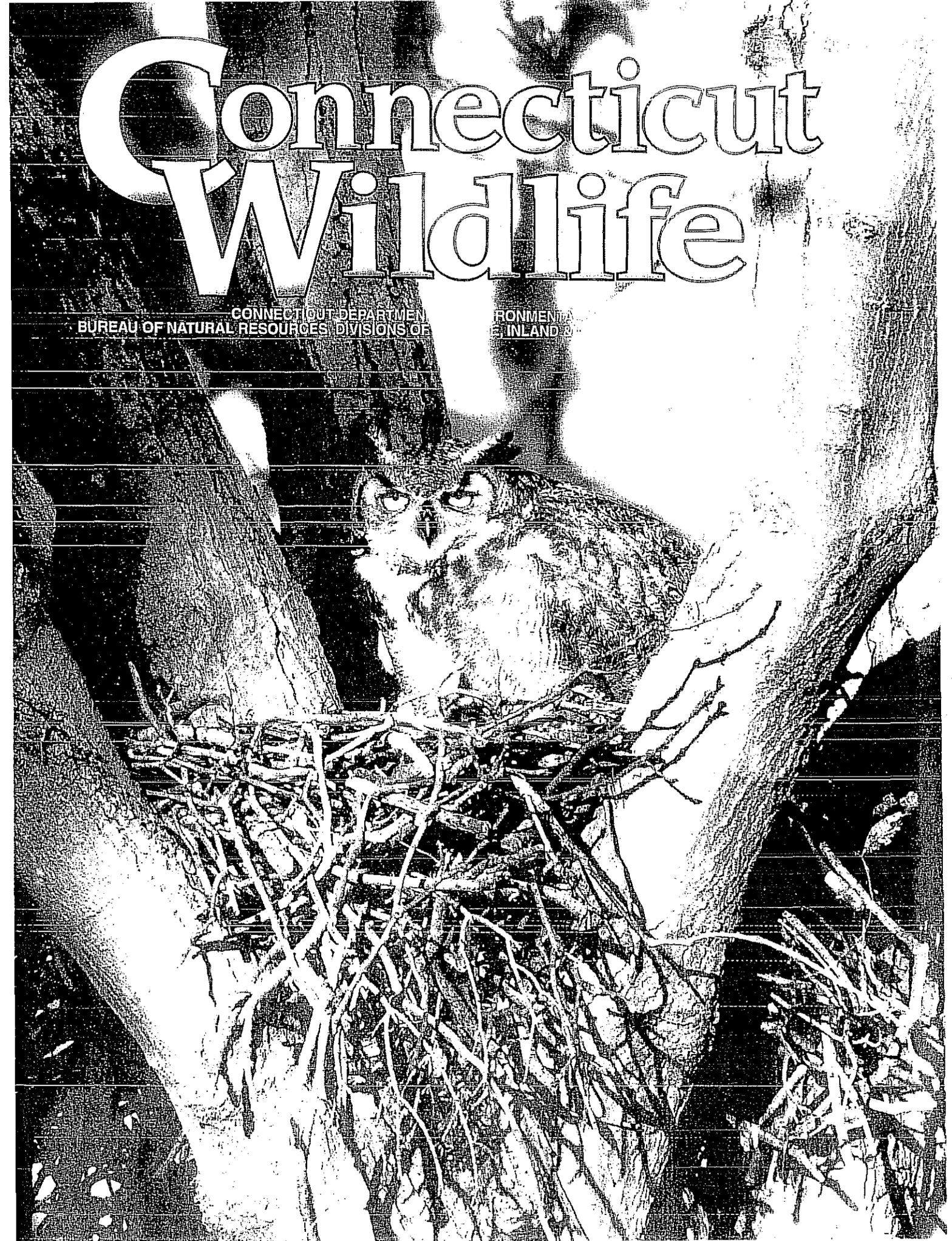
PO# \_\_\_\_\_

Directions to segment locations are available online (<http://continuingstudies.uconn.edu/professional/dep/wetlands.html>).



# Connecticut Wildlife

CONNECTICUT DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES  
BUREAU OF NATURAL RESOURCES DIVISION OF WILDLIFE & FISHERIES



# From the Director's Desk



As wildlife professionals, and stewards of Connecticut's Public Trust resources, we take management actions every day, either by 'improving' habitats, removing individual or groups of animals, or taking no action. Taking no action is still a conscious decision that has consequences that will affect the future of wildlife populations, locally and regionally. That said, we often find ourselves in the difficult position of taking actions that will benefit one group to the detriment of another, and by extension will be subject to criticism. One such example is our recent decision to remove deer from Charles Island off the coast of Milford to preserve a nesting colony for several rare bird species.

In this instance, there are several factors at play. First and foremost is the relationship between deer, vegetation, and heron and egret nesting sites. We've been monitoring the island's deer population for the past few years and have found it to be unstable, with wild fluctuations in the number of deer over time. For instance, 23 deer were counted on the island in December 2009, equating to more than 1,000 deer per square mile, some 50 times the number of deer recommended for maintaining a healthy forest ecosystem. A short four months later, in April 2010, staff returned to the island looking for deer carcasses. Four of the 11 carcasses found during the survey were of the 23 live deer of the previous count. Examination of bone marrow samples indicated that the deer died of severe malnutrition (e.g., starvation). Additional dead deer were observed throughout 2010.

In terms of the vegetative community, there were several disturbing observations. Deer browsing has eliminated all native plants in the understory. Virtually all understory growth has been replaced with invasive, non-native Japanese barberry, a thorny shrub that deer find unpalatable. Overbrowsing by deer also has created gaps in vegetation, allowing other invasive, non-native plants to become established. In just two years, this has led to the loss of mid-story nesting habitat, and birds, such as the glossy ibis, were forced to abandon the island for nesting in 2010. Most of the canopy trees on the island have become cloaked in non-native oriental bittersweet, which adds tremendous weight to the overstory and greatly increases the surface area in the upper reaches of the trees, magnifying the effects of winter winds much like the sail of a boat. These combined effects have caused several of the canopy trees forming the rookery to topple. With the elimination of the understory, there are no young trees to replace the canopy trees lost to winter storms. Exacerbating all of this is the presence of a soil fungus that attacks the roots of canopy trees, further destabilizing island ecology.

Relocating deer to another location is fraught with complications. For one, deer populations throughout the state are doing extremely well; too well in some instances. We constantly receive requests for more aggressive approaches to reducing deer densities in New Haven and Fairfield Counties as the number of deer in these areas exceeds both their biological and cultural carrying capacities. As such, there is no place to relocate these animals without exacerbating deer overabundance and creating new problems in other neighborhoods. Under the best of circumstances, post-release survival of relocated deer is low. The prognosis for survival is dire when deer health is compromised by malnutrition. Given these constraints, relocation is not a viable option.

Recognizing all of these complicating factors, the Department developed a management plan that involves removal of deer and non-native invasive plants, re-planting of native vegetation (primarily trees), erecting exclosures around newly-planted stock, and annual monitoring, management, and maintenance. This plan to restore the island ecosystem will take several years, but in the end we're confident the nesting colony will be restored.

Understandably, many people struggle with the notion of euthanizing deer. But as resource managers, we are faced with needing to take an action – either allow the rookery of state-threatened herons and egrets and a designated Natural Area Preserve to be lost or remove the deer and restore the island ecosystem. In this case, we believe the choice is clear.

Rick Jacobson, Director – Wildlife Division

**Cover:** A great horned owl sits on its nest. See the article on page 12 to learn more about Connecticut's largest owl

Photo courtesy of Paul J. Fusco

# Connecticut Wildlife

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Bureau of Natural Resources

Wildlife Division

[www.ct.gov/dep](http://www.ct.gov/dep)

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State Land and Private Land Habitat Management

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Phone: 860-675-8130



The Federal Aid in Wildlife Restoration Program was initiated by sportsmen and conservationists to provide states with funding for wildlife management and research programs, habitat acquisition, wildlife management area development, and hunter education programs. Connecticut Wildlife contains articles reporting on Wildlife Division projects funded entirely or in part with federal aid monies.



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# Study Shows Rehabilitated Fawns Have Poor Survival

Written by Andrew LaBonte, DEP Wildlife Division

At the same time that white-tailed deer are giving birth in early summer, the Wildlife Division is receiving phone calls about “injured or orphaned” fawns. However, very few of these fawns are actually in trouble. Fawns are nearly odorless when they are born. To protect her young and not leave a scent, a white-tail doe will leave the fawn alone during the first three weeks of its life, only to return to nurse it periodically throughout the day. People who find fawns are encouraged to leave them alone and not touch them.

On occasion, fawns that are picked up as “orphaned or injured” have been raised by state-licensed rehabilitators and released back into the wild at the end of summer. Over the years, many fawns have been raised and released with little known about their tendency for dispersal or their survival after release. In conjunction with the Connecticut Agricultural Experiment Station and with cooperation from three fawn rehabilitators, the Wildlife Division initiated a research project during summer 2010 to assess tameness, survival, and movements of rehabilitated fawns exposed to two different release techniques.

When fawns were ready for release, seven were subjected to a “soft release” (pen door remained open to allow fawns to use food and water) and 12 fawns were subjected to a “hard release” (relocated to a large forested tract of state forest with no food or water provided). All fawns were ear-tagged, weighed, radio-collared, and evaluated for tameness prior to release. Tameness was evaluated again at 24 hours, one week, and three weeks post release. Fawns were monitored daily for 60 days and then two or three times per week thereafter. If the mortality sensor on a fawn’s radio collar was activated, the animal was located and the cause of death was determined.

Weight of fawns ranged from 19 to 65 pounds at the time of release and had little effect on survival rates. All fawns at the hard release site died within 36 days (average = 14.4 days), while all



In conjunction with the Connecticut Agricultural Experiment Station and with cooperation from three fawn rehabilitators, the Wildlife Division initiated a research project during summer 2010 to assess tameness, survival, and movements of rehabilitated fawns exposed to two different release techniques.

fawns at the soft release site died within 85 days (average = 45.8 days). Sources of mortality included coyote (8), pneumonia (2), motor vehicle (2), bobcat (1), hunter harvested (1), illegally killed (1), and undetermined (4). Fawns at the hard release site had unknowingly contracted pneumonia prior to being released, which increased their vulnerability to predation by coyotes. Additionally, few of the animals showed any fear of humans and tameness indices changed little over time.

Regardless of release technique, animals exhibited high fidelity to release sites. Average distance deer were found from the soft release site was 209 yards, while average distance from the hard release site was 367 yards. Distance found from the release site did increase over time, indicating that if fawns had survived for a longer period of time they might have dispersed greater distances.

Based on these preliminary results, weight, tameness, and release technique had little effect on survival of rehabilitated fawns. This project is expected to continue through the 2011 fawning season.



Wildlife Division Michael Gregonis holds one of the rehabilitated fawns before it was released back in the wild. Note the yellow ear tag and radio collar.

A. LABONTE, DEER MANAGEMENT PROGRAM (2)



# Mixed Results for First Year of Forest Interior Bird Studies

Written by Geoffrey Krukar, DEP Wildlife Division

The Wildlife Division initiated a study in 2010 aimed at gathering much needed information about forest interior bird species in Connecticut (see the May/June 2010 issue of *Connecticut Wildlife*). The major objectives of this study were to determine the current distribution and abundance of forest interior birds, and to measure productivity of each species relative to habitat and landscape conditions. This suite of birds requires large tracts of contiguous forest and many of these species have suffered severe declines regionally as forests are being slowly fragmented by development.

Managing for forest interior birds is difficult because, despite previous survey attempts, their status and distribution have remained unclear in Connecticut. Forest interior birds are often missed by large scale monitoring programs, like the Breeding Bird Survey, that do not typically sample in the middle of large forests. To complicate matters further, little is known about specific habitat preferences and how they influence the productivity of these species.

The study focused on four target species: the cerulean, black-throated blue, black-throated-green, and worm-eating warblers. They were selected as focal species because the results of an analysis

indicated that all four would be prevalent enough that changes in occupancy could be determined with only 80 survey points. In addition, the cerulean and worm-eating warblers were selected because they both require large patches of forest and are extremely unlikely to occur in smaller sites. The intention was to have them serve as "indicator" species. Essentially, if the forest was large enough and healthy enough to have either of these two species, then it should be able to support the other forest interior bird species as well.

## Data Collection

Repeat surveys were conducted between mid-May and late June along 20 survey routes that were randomly distributed statewide in large forests. Each survey route was made up of four survey points. Approximately half of the 80 survey points were located along organized trails, while the other half were located in the middle of the forest. DEP staff and volunteers conducting the surveys were asked to record information about all bird species detected. Two additional visits were made to each site in July when the juvenile birds were off the nest. Surveyors walked line transects that overlapped the four survey points. Any observations of juvenile birds were

recorded. Habitat measurements were collected around each point after all the bird surveys were completed.

## Results

All four of the target species were found during the point count surveys. Black-throated warblers were found across the state and occurred on the most survey routes (8 for black-throated blue and 11 for black-throated green). Worm-eating warblers were found along six survey routes, but the bird was noticeably absent from all the routes in northern Connecticut. Only one site, located in northwestern Connecticut, had any cerulean warblers.

Most of the bird species, including all four target species, did not show any significant difference in abundance between points along trails and those not along trails. Interestingly, the four species that did exhibit a significant difference (blue jay, hairy woodpecker, pine warbler, and tufted titmouse) were actually more abundant along trails where human disturbance is presumed to be higher.

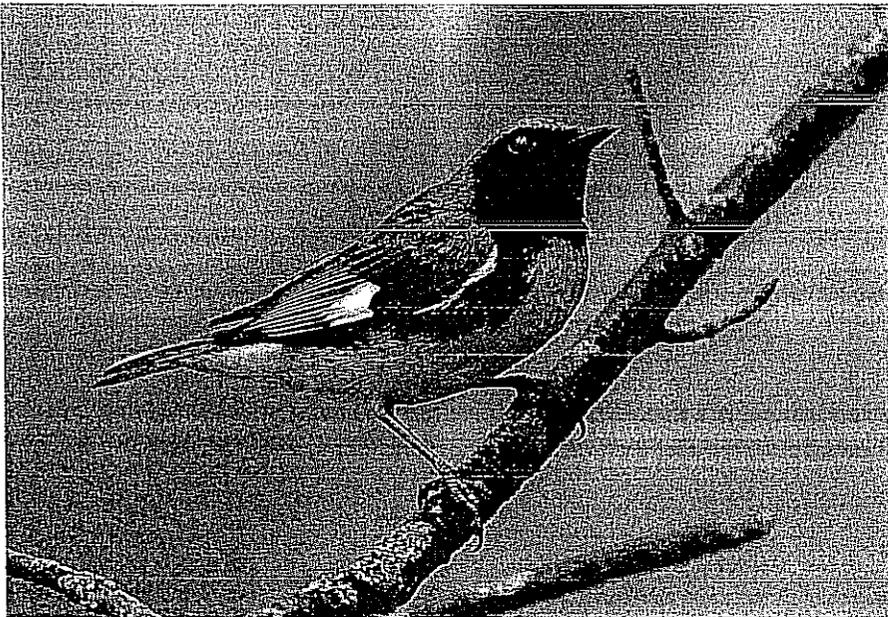
Productivity sampling was successful, yielding 65 broods of juvenile birds. These data will be used to generate an index of productivity to allow for comparisons between sites. Coupled with the habitat measurements that were collected, this information can be used to provide meaningful recommendations to forest managers.

## Future Work

Another year of surveys is planned for 2011. Changes to the survey design are being considered to increase the detections for the four target species, especially the cerulean warbler. Other potential changes may be to focus on more common forest bird species, increasing the number of survey routes, and mist-netting for juvenile birds.

If you have considerable experience identifying forest bird species and would like to get involved with this project, please contact Geoffrey Krukar at 860-675-8130 or by E-mail to [geoffrey.krukar@ct.gov](mailto:geoffrey.krukar@ct.gov). A mandatory training session for volunteers will be held in April.

P. J. FUSCO



The black-throated blue warbler requires large tracts of uninterrupted forest to successfully rear young. It is one of four forest interior birds being studied to determine current distribution and abundance, along with the productivity of each species relative to habitat and landscape conditions.



# Outlook Good for Spring Turkey Hunting Season

The spring wild turkey hunting season has always been popular with Connecticut hunters. This year is no exception as anticipation runs high for another successful season. Several changes were implemented last year to provide additional hunting opportunities, which were well received by sportsmen.

The 2011 season will start on April 27 and end on May 28. Private land hunters will be able to harvest three birds, while state land hunters can harvest two birds. Regulation changes increased the spring season by one week and now allow hunters to purchase both private and state land permits. Hunting licenses and turkey permits can be purchased on the DEP's Web site ([www.ct.gov/dep/sportsmen-licensing](http://www.ct.gov/dep/sportsmen-licensing)) and at most town clerks, some sporting goods stores, and DEP offices. Hunters are required to have a 2011 firearms hunting license or a small game and deer archery permit to apply for a spring turkey permit. (See page 7 to learn about receiving a credit toward the purchase of a 2011 license if you paid a higher price for a 2010 license and permits between October 1, 2009, and April 14, 2010.)

## Season Outlook

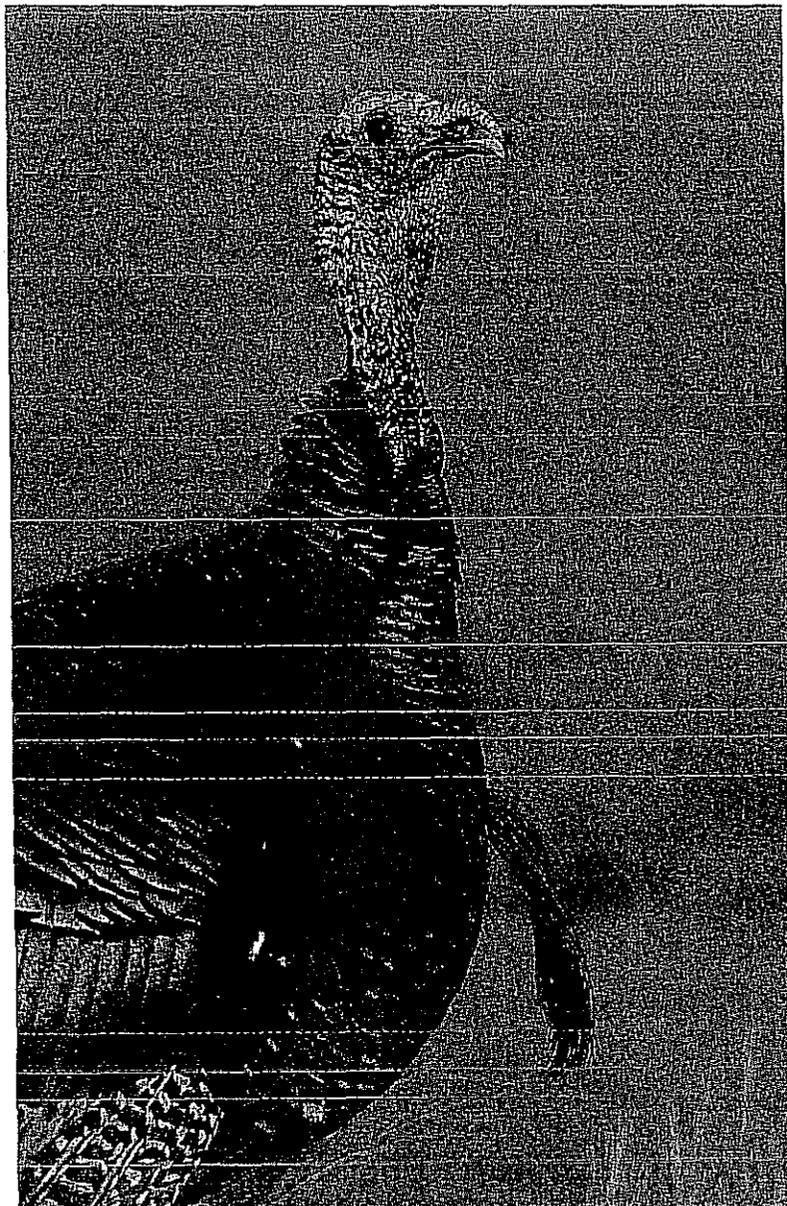
Hunters should expect to see a good number of jakes (males less than one year old) during the 2011 season because last summer's turkey brood survey indicated higher productivity. Connecticut had experienced lower productivity in previous years, causing some declines in the overall statewide wild turkey population and making the spring hunt more challenging during those years.

## Safety Comes First

With the upcoming arrival of the spring turkey season, now is the perfect time to practice and prepare. Spring turkey hunting requires a great deal of skill to be successful, and the best way to acquire these skills is to heed the advice of seasoned turkey hunters and to practice. Hunters also should make sure every field adventure is safe and enjoyable.

One way to prepare is to attend a turkey hunting safety seminar in early spring. The Wildlife Division's Conservation Education/Firearms Safety (CE/FS) Program, as well as several local sportsmen's clubs, sponsor training seminars every year, which cover hunting techniques, but also stress safety and ethical hunting. To find out about any upcoming turkey hunting seminars sponsored by the CE/FS Program, check the Calendar of Events section on the DEP Web site ([www.ct.gov/dep/calendar](http://www.ct.gov/dep/calendar)).

**Sign up for a Conservation Education/  
Firearms Safety class today! Check the DEP  
Web site ([www.ct.gov/dep/calendar](http://www.ct.gov/dep/calendar)) to view the  
list of available classes. Classes fill up quickly!  
You can also contact the Wildlife Division at  
860-642-7239 or 860-675-8130.**



P. J. FUSCO

## Spring Turkey Junior Hunter Days, April 16 & 23

Spring turkey junior hunter training days provide junior hunters with an opportunity to learn safe and effective hunting practices from experienced hunters. Licensed junior hunters may hunt for turkeys when accompanied by a licensed adult hunter 18 years of age and older. The adult mentor may not carry a firearm. The junior hunter must have a valid spring turkey season permit for state or private land. Those hunting on private land also must have written consent from the landowner. The adult mentor may assist in calling turkeys. Hunting hours for Junior Hunter Training Days only are one-half hour before sunrise to 5:00 PM. Harvested turkeys must be tagged and reported. Consult [www.ct.gov/dep/hunting](http://www.ct.gov/dep/hunting) to learn more about tagging and reporting requirements.

*Hunting can be a safe and enjoyable activity. Thinking before you react will keep it that way. Remember, once the trigger is pulled, there is no calling back the shot.*

# From Hatchery to Stream: Trout Stocking for Opening Day

Written by Brian Eltz, DEP Inland Fisheries Division; Photos provided by DEP Inland Fisheries Division

**O**pening Day! To non-anglers, it's just the third Saturday in April. But to trout anglers, it is Christmas, New Year's Eve, and the Fourth of July all rolled into one! Opening Day of Connecticut's 2011 trout season begins at 6:00 AM on April 16. Nearly 100,000 anxious anglers will hit the water, eagerly anticipating the catch of the day or maybe even the catch of their lives.

The first day of trout season is not for those seeking solitude and respite in the far-off corners of nature. Local tackle stores are usually chock-full of last minute shoppers purchasing supplies the night before. In the morning, anglers can be seen standing shoulder-to-shoulder along a streambank or lake shore before the sun even peeks above the horizon.

For many, Opening Day is steeped in tradition. Some anglers will fish in popular fishing derbies. Some will attend fisherman's breakfasts to fuel-up for the day's "work" that lies ahead. Still others meet for an annual rendezvous with family and friends on the water. Many will stake claim to the exact Opening Day spot that they've fished for decades, much like salmon returning to their natal waters.

## Trout Stocking

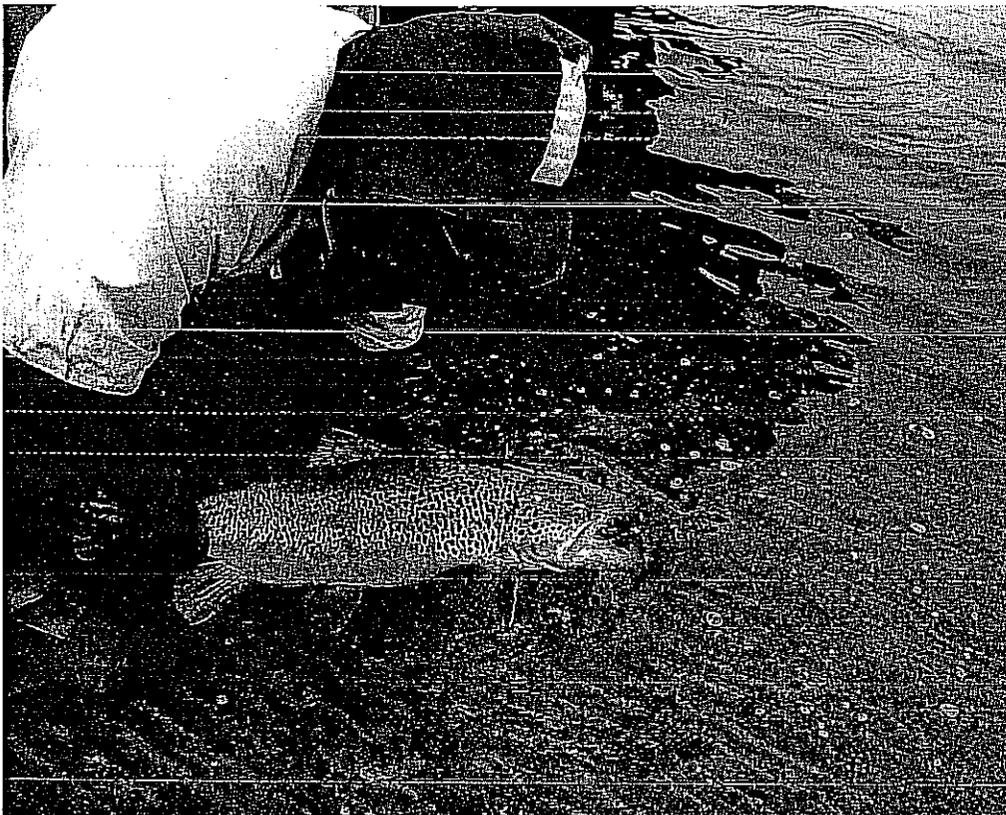
In preparation for this hugely-anticipated occasion, Inland Fisheries Division employees will stock 400,000 trout before Opening Day. Brook, brown, rainbow, and tiger trout (a brook trout x brown trout hybrid) will be swimming in waters across the state. Ten percent will be "trophy trout," with many measuring 14 inches long. Even better than that, an additional 2,000 will be broodstock, with many weighing more than 10 pounds! Catching any of these fine trout is satisfying, but successfully landing a trophy or broodstock may convey bragging rights for years to come!

Connecticut's trout are raised from eggs at three hatcheries located in Central Village, Burlington, and Kensington. Once the



(Above) Stocking trout through the ice prior to Opening Day.

(Left) A broodstock brown trout being released into one of Connecticut's lakes.



trout are about 18 months old (although broodstock trout may be over 4 years old), they are netted from hatchery ponds, loaded by hand into tanks on trucks, and then driven to far reaches of the state. The fish will be distributed into 100 lakes and ponds and 200 rivers and streams. In all, over 200 truckloads of trout will be distributed throughout Connecticut by both hatchery and fish management staff prior to Opening Day.

Once a hatchery truck reaches a stocking location on a stream or lake, trout are scooped out with large nets from tanks that can hold as many as 40 fish. In a few places, where the stocking truck can get right next to the water, trout slide down tubes right into the lake or pond. However, most of the time, heavy nets full of thrashing trout have to be carried down to the water and released quickly. Often this occurs through ice and snow or is hampered by

rain and muddy roads. Scrambling down and climbing back up steep streambanks makes for some very tired workers by the end of the stocking run! But their dedication results in lots of fine trout awaiting you at your favorite waters on Opening Day.

### *Something for Everyone*

From the most avid purists who pursue their quarry with hand-tied flies, to the beginners who are learning the art of fishing with bait, there is something for everyone when it comes to Opening Day in Connecticut. The Inland Fisheries Division is proud to offer a wide variety of angling options. While most waters have the general five-trout-per-day creel limit, there also are many specialized areas to fish, too.

"Trout Parks" are family-oriented waters. They receive frequent additions of new trout and have a reduced creel limit of two trout per day. These areas often have amenities like restrooms and picnic tables available.

"Trophy Trout Streams" are rivers stocked with a higher proportion of large trout over 12 inches long.

"Trout Management Lakes" have special regulations that protect some sizes of trout through special length regulations. This enables more anglers to do battle with these larger fish.

"Fishing in Neighborhoods" ponds are found in city parks. They receive frequent stockings, so there always is plenty of trout available. These ponds provide great fishing opportunities that are close to home for many people.

Trout anglers looking for an early start to their season might want to try one of the state's 16 "Trout Management Areas" or any of nine "Class I Wild Trout Management Areas." All of these allow catch-and-release fishing prior to Opening Day. These waters have special seasons and regulations, with some even offering year-round fishing! Similarly, portions of six designated "Sea-run Trout Streams" are open year-round with a two trout per day and 15-inch minimum length rules.

### *Get Ready for Opening Day*

Opening Day marks the turn of seasons in Connecticut. It will be here sooner than you think! Be sure to buy your 2011 fishing license, inspect your fishing gear, and consult the 2011 Connecticut Anglers Guide. To view the guide on-line, enter "Angler's Guide" in the search box



Opening day stocking and fishing at Southford Falls Pond Trout Park, located in Southford Falls State Park, Southbury.

at [www.ct.gov/dep](http://www.ct.gov/dep). While you're on the DEP homepage, check the "In the News" section on the left side of the screen for recent press releases. One release will include details of trout stocking sites where you can join the Inland Fisheries

Division on April 16 and actually stock some trout yourself! Take advantage of Connecticut's Trout Stocking Program, which is one of the best in the Northeast! Good luck on Opening Day!

## *Fees and Credits for Fishing and Hunting Licenses, Permits, and Tags*

Legislation was approved and signed into law in April during the 2010 session of the Connecticut General Assembly reducing many of the fees for sportsmen's licenses and permits. This was followed in June by legislation authorizing a credit to be applied against the fee for any 2011 sportsmen's license, permit, or tag when purchase of a license, permit, or tag had been made at the higher prices in place between October 1, 2009, and April 14, 2010. The credit amount will be the difference between the higher amount paid during that time period and the amount set by the new fee structure established on April 14, 2010.

Credit redemption is not available from town clerks, retail vendors, or through DEP's Online Sportsmen Licensing System. You must purchase your 2011 license, permit, or tag by mail or in person at one of the following DEP facilities to obtain a credit:

- Marine Headquarters, 333 Ferry Road, Old Lyme; 860-434-6043; Mon.-Fri. 8:00 AM-4:00 PM
- Eastern District Headquarters, 209 Hebron Road (Route 66), Marlborough; 860-295-9523; Mon.-Fri. 8:30 AM-4:00 PM
- Western District Headquarters, 230 Plymouth Road, Harwinton, 860-485-0226; Mon.-Fri. 8:30 AM-4:00 PM
- Franklin WMA, 391 Route 32, Franklin, 860-642-7239; Mon.-Fri. 8:30 AM-4:00 PM
- Sessions Woods WMA, 341 Milford Street (Route 69), Burlington, 860-675-8130; Mon.-Fri. 8:30 AM-4:00 PM
- DEP Main Office, 79 Elm St., Hartford, License & Revenue Office, 860-424-3105; Mon-Fri 9:00 AM-4:00 PM and the DEP Store, 860-424-3555; Mon.-Fri. 9:00 AM-3:30 PM

Mail-in Option: A form to purchase your license, permit, or tags by mail when redeeming a credit is available on-line at [www.ct.gov/dep/sportsmensfeereduction](http://www.ct.gov/dep/sportsmensfeereduction).

# Restoring River Herring Runs in Connecticut

Written by Steve Gephard, DEP Inland Fisheries Division

We often mark the advent of spring with observations of robins, pussy willows, or daffodils. Annual milestones occur in our streams, too. A sure sign of the approaching spring is the run of alewives. The alewife (*Alosa pseudoharengus*) is an anadromous member of the herring family. Most herring live in the ocean but a handful have adopted anadromy – hatching in freshwater, then emigrating as juveniles to the ocean to mature. When they are ready to spawn, between two and four years, they migrate back to the same freshwater body in which they originated. In Connecticut, that annual migration begins in March (and usually is over by early June). But the show is not over! Another similar species, the blueback herring, typically enters the streams in May and continues to run well into June. Collectively, the alewife and blueback herring (*Alosa aestivalis*) are referred to as ‘river herring’ and both average between 10 and 12 inches long as adults.

The two species look remarkably alike. Both are laterally flattened fish with dazzlingly silver scales, a deeply forked tail, and large eyes. Both species travel in schools – you rarely see one or two alone. If the fish are “in,” you are more likely to see 100 to 200, or 1,000.

The spectacle of a strong river herring run is a sight to behold and ranks as one of our state’s notable animal migrations. One day, there are no fish, and the next day, the stream may be packed with a dense school of swirling, splashing, surging silvery fish, so enthusiastic that they may literally swim right out of the water and onto dry land. The fact that they are typically chased by striped bass from below and osprey and herring gulls from above only adds to the excitement.

Alewives seek quiet areas like back coves of large rivers (e.g., Keeney Cove off the Connecticut River), lakes (e.g., Bride Lake in East Lyme), or old millponds behind dams (e.g., Moulson Pond in Lyme). Blueback herring, on the other hand, spawn in streams with moderate flows, like the Naugatuck, Quinnipiac, and Salmon Rivers. Often, both species spawn in the same streams, but use different areas. In the Connecticut River, alewives stop before reaching Massachusetts, but blueback herring accompany American shad, another anadromous

species, all the way to Bellows Falls, Vermont, about 174 miles from Long Island Sound.

River herring are edible, but they are full of bones and generally considered too small to bother eating. Colonists used them to fertilize their fields and lobstermen and anglers have long used them for bait. Right up into the end of the twentieth century, some Connecticut residents caught these fish and pickled them for

food. In the 1700s and 1800s, New England states exported huge numbers of salted river herring in barrels to sugar cane plantations in the South for the slaves to eat. Those

same states then imported molasses from the plantations to be used for distilling rum. River herring were netted from the beach in many rivers, but nowhere was the harvest greater than at Rocky Hill and Wethersfield on the Connecticut River, where the fishery persisted right up to the 1960s.

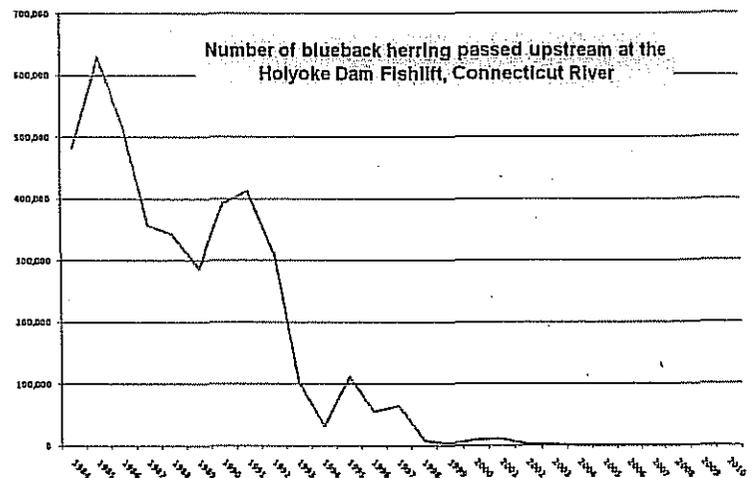
## A Decline in Herring Populations

The main reason for the demise of river herring, however, was the construction of thousands of dams in the 1700s and 1800s to power mills. These dams blocked the fish from reaching their ancestral spawning grounds and the runs were decimated. Severe water pollution between 1920 and 1970 exacerbated the problem and, by the time the DEP was created in 1972, the river herring runs were already a fraction of their former size.

Runs began to rebuild through the



Alewives moving up a rapidly-flowing freshwater stream to spawn.



1970s and 1980s, and places like the mouth of the Farmington River, the Housatonic River below Derby Dam, and Whitford Brook in Mystic once again turned black with river herring. However, a new decline began in the late 1980s, and it became so severe that by 2002, the Department implemented an emergency closure of all river herring fisheries in the state. It now is illegal to take either herring species by any means. The cause of the recent decline is unclear, but it appears to be happening in the ocean because river herring runs along the entire East Coast are affected, not just from one or two rivers. It is known that recovered stocks of striped bass are eating more river herring than in past years, but there also is some evidence that river herring are being incidentally taken at sea by other fisheries. More research is needed to identify the causes and reverse the trend.

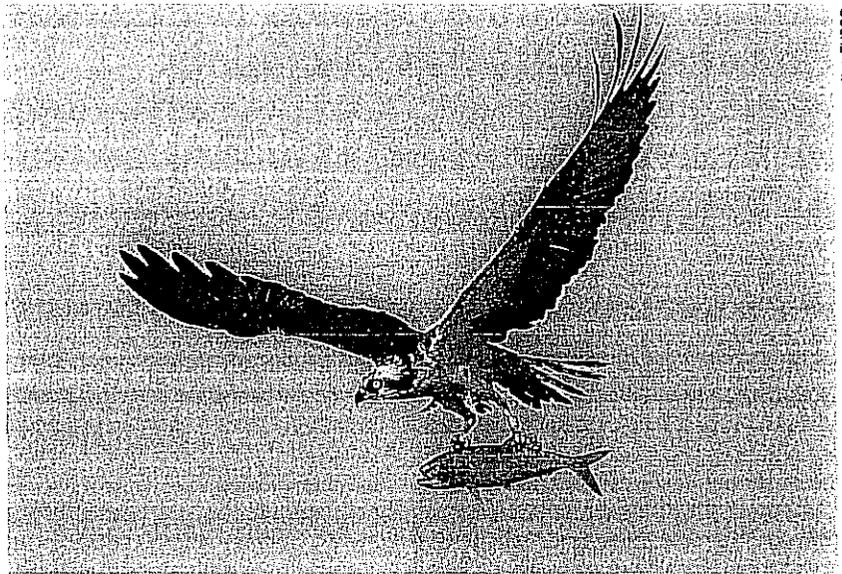
## Want to Witness River Herring Runs?

It's not as easy as it used to be to observe river herring runs, and many occur at night. Following are a few suggestions of where to see the fish run in Connecticut (if you go during the day, be sure to bring along polarized sunglasses):

- Mianus Pond Fishway - in April and May. Contact the Greenwich Conservation Commission about any public tours.
- Sasco Brook - in May, mostly at night. Located below the Boston Post Road Bridge (boundary between Westport and Fairfield). Try not to frighten the black-crowned night herons stalking the fish!
- Pequonnock River, Bridgeport - in April and May. Located between Glenwood Park and the Bunnells Pond Dam (by the Ice Palace.)
- Farmington River, Windsor - in May. Located near the Route 159 bridge and "Bart's."
- Salmon River, East Haddam - in May. Located below the Leesville Dam off Powerhouse Road.
- Latimer Brook Fishway, East Lyme - in April. Located between Flanders Four Corners and Interstate 95 to the east. Look right below the fishway.
- Poquetanuck Brook, Preston - in April and May. Located above the Route 2A bridge by the Brookside Restaurant.

Remember—look but don't touch! You are not allowed to harvest any herring. The runs are under observation and any illegal take will be reported to the EnCon Police.

If humans no longer eat herring, who should care about them? Everyone should—herring are among the most important forage species in our coastal ecosystems, both saltwater and freshwater. Everything eats them: stripers, bluefish, ospreys, eagles, largemouth bass, smallmouth bass, otter, mink, seals, porpoises—the list goes on. If these fish crash, so do the populations of the many species that depend on them for food.



P. J. FUSCO

Although this osprey appears to have nabbed a menhaden for dinner, the similar-appearing river herring is an important prey item for this fish hawk

### Restoring Runs with Fishways

But the news is not all bad. Many groups throughout Connecticut are partnering with the Inland Fisheries Division to restore runs of river herring in their communities by sponsoring projects to tear out dams or build fishways around dams. River herring are once again regaining access to their ancestral spawning grounds and populations are rebounding. In Greenwich, the Mianus Pond Fishway allowed a run of alewives to go from "dozens" to 90,000. In just four years, the annual run in Queach Brook in Branford went from 700 to 30,000, thanks to a fishway built by the Branford Land Trust and partners. Connecticut now has over 50 fishways built by land trusts, municipalities, watershed groups,

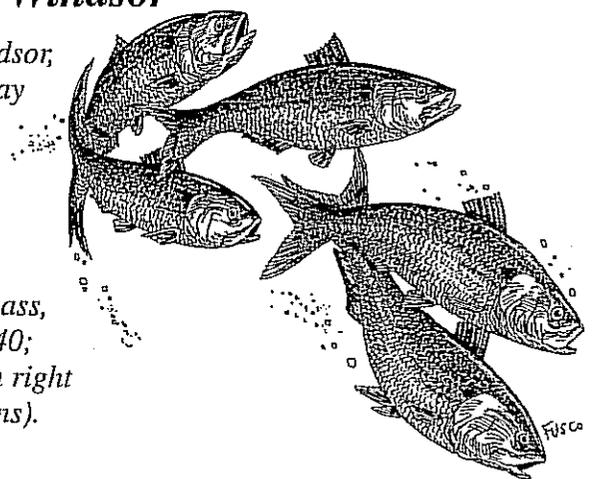
fishing groups (e.g., Trout Unlimited), conservation groups (e.g., The Nature Conservancy and Save the Sound), private individuals, and—oh yes—the DEP. In December 2010, former Governor M. Jodi Reil and DEP Commissioner Amey Marrella announced a series of grants to fund projects that will soon allow river herring to get around 11 more dams. Further assistance is being provided by the Inland Fisheries Division, which transplants river herring from healthy runs to streams under restoration (where fishways are about to be built) to re-start runs that have died out.

Problems in the ocean still need to be sorted out to help restore river herring to their glory, but these fish passage projects are helping maintain that wonderful spring tradition of "bucky runs" to Connecticut's streams.



## Open House at Rainbow Dam Fishway in Windsor

An Open House is planned at the Rainbow Dam Fishway, in Windsor, on June 4, 2011, from 10:00 AM-3:30 PM. Visit the largest fishway in Connecticut, a concrete structure that circumvents a 59-foot high hydroelectric dam and allows migratory fish to continue up the Farmington River to spawn. This is the one day during the year the public is allowed inside the gates, down the stairs, and into the counting house to watch migrating fish through the viewing window. If you're lucky, you'll see shad, trout, suckers, bass, sea lamprey, and maybe even an adult salmon! Take I-91 to exit 40; go west on Rt. 20 to the Hamilton Road South exit; turn left, then right onto Rainbow Road; the area is 1/4-mile on the left (look for signs).



FUSCO

# Cooperation from Canada to Ecuador to Determine Why Chimney Swifts Are Declining

Written by Shannon Kearney-McGee, DEP Wildlife Division

Connecticut's chimney swifts have been the focus of increased research and monitoring for the past five years. These birds have had a rate of decline of approximately seven percent range-wide since 2002. This decline rivals many of Connecticut's state-listed birds. This rate of decline, along with a lack of information, earned the chimney swift a new spot on the International Union for the Conservation of Nature (IUCN) Bird Life International Red List as "near threatened." The IUCN Red List of threatened species is widely considered to be the most objective and authoritative system for classifying species in terms of the risk of extinction. Information on a species' population size, population trends, and range size are used to determine its Red List category. Although chimney swifts are often observed in Connecticut, where they prefer to nest remains unanswered and more birds continue to disappear each year.

The potential reasons for the decline of chimney swifts include: 1) reduction in nesting and roosting opportunities as a result of new building practices; 2) reduction of suitable flying insects for food; 3) stress from major weather events, such as hurricanes, during migration; and 4) unknown threats on their wintering grounds in South America. Monitoring and research has begun to address the first two causes of decline.

## ***Adopt a Chimney!***

***Are you interested in helping the Wildlife Division understand what is happening to chimney swifts while they spend the summer in Connecticut?***

***Volunteers are needed to monitor active nests and roosting sites from April through August. Each volunteer will be assigned a historically active chimney site at which to count birds at least once a week during the half hour surrounding sunset or sunrise.***

***If you would like to assist with this project or know of any chimneys with nesting or roosting swifts, please contact Shannon Kearney ([shannon.kearney@ct.gov](mailto:shannon.kearney@ct.gov); 860-675-8130) at the Sessions Woods Wildlife Management Area.***

Regionally organized surveys in the eastern United States from 2008 to 2010 were designed to understand whether suitable nesting locations in chimneys were limiting birds. Results from these surveys in Connecticut indicated nesting was a relatively rare phenomenon across the entire landscape despite a myriad of seemingly suitable nesting opportunities. Random survey locations in Connecticut indicated that at least 25% of the chimneys appeared to be available for nesting swifts. In these same locations, however, chimneys are becoming unavailable due to chimney capping at a rate of 16% over the past two years.

These surveys and public reports indicated that birds were not evenly distributed across the state, but were being observed mostly in urban locales along river corridors. Results from surveys focusing on places where chimney swifts are often observed indicated that, even in known hotspots, only zero to four percent of chimneys were occupied by nesting swifts. These low rates were surprising because 86% of survey sites had swifts flying in the general vicinity. In addition, analysis of observations indicated that surrounding habitat did not influence nesting status, although swifts were more likely to be observed flying in urban locations. So, the question remains as to why swifts are observed flying, but not nesting.

## ***Which Chimneys Are Preferred?***

There could be some aspect of the maintenance, use, or structure of chimneys, or maybe even the placement that makes some chimneys less desirable for nesting. This past fall, staff and volunteers began an intensive effort in one location where chimney swifts are known to occur to determine which chimneys had birds in them. This effort should shed light on the required characteristics of chimneys, thus helping researchers refine estimates of how many chimneys are truly available for nesting birds.

## ***International Cooperation***

This past year was the first season of monitoring to investigate what the birds might be eating. This research is being done in cooperation with biolo-

*Although chimney swifts are observed in Connecticut, where they prefer to nest remains unanswered and more birds continue to disappear each year.*

gists in Canada. Canadian researchers at the University of Trent have determined that the onset of the population crash for chimney swifts was associated with a major reduction in the amount of beetle and bug prey and an increased reliance on fly prey. To understand whether or not swifts in Connecticut are consuming beetles and bugs or less nutritious flies, researchers enlisted homeowners with swifts in their chimneys to collect guano during the 2010 nesting season. These samples are being analyzed to determine what the birds were eating while nesting. If the birds are consuming more flies than beetles, nesting adults may be less able to raise their young successfully, indicating that the food supply in Connecticut may be contributing to the decline of swifts.

If nesting habitat and food are not driving the chimney swift decline, other possible causes, like conditions at the wintering grounds and weather, are more difficult to monitor and manage. Roost and nest monitoring may be used as an index of population decline in relation to weather events, but specific monitoring plans have not been finalized. However, because of online educational information, researchers were made aware of a large roosting colony of about 1,000 swifts in Ecuador this past fall. Interestingly, the observer was concerned for the safety of chimney swifts in Ecuador because of the potential threat from vampire bat eradication efforts! There has been an active eradication program of vampire bats in coastal Ecuador, and there is the potential for farmers to misidentify the swifts as bats. There is no quantitative information on how this activity may be threatening chimney swifts, but identifying the threat is the first step towards understanding its effect and possibly using education to lessen its impact.



# Mast Was Plentiful for Wildlife in 2010

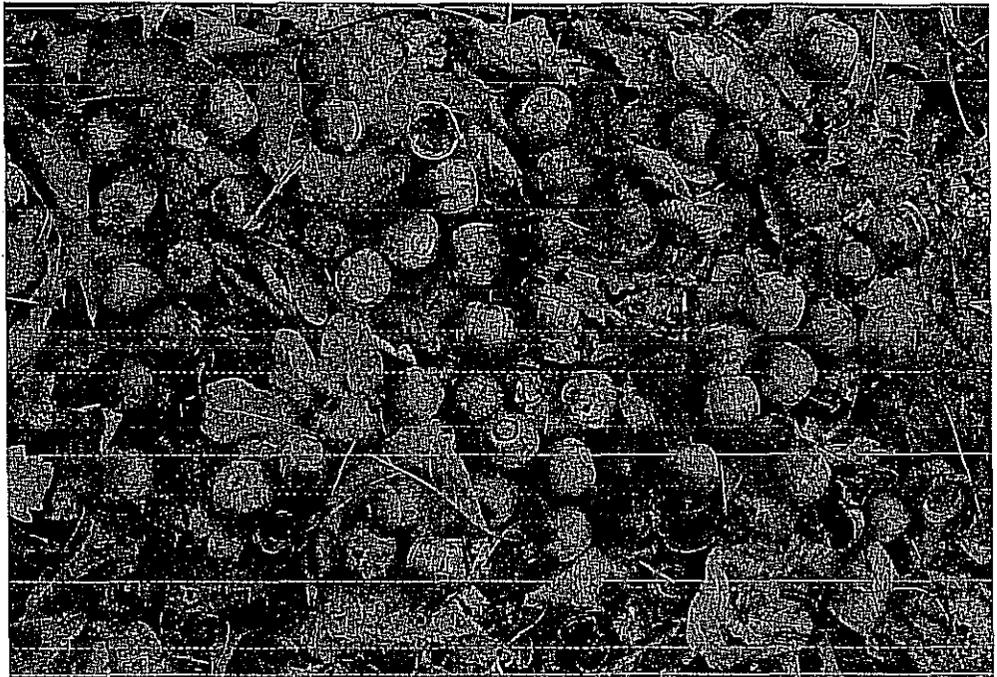
Written by Michael Gregonis, DEP Wildlife Division

Every year, established survey plots on various state properties are visited by Wildlife Division staff to assess the production of mast, mainly acorns, in forest areas. Mast is the dry fruit from woody plants. Examples include samara from maple, elm and ash; various pine seeds; and nuts from oak, hickory, beech, witch hazel and black walnut. Mast is the primary fall and winter food for many forest wildlife species. In some areas, acorns may comprise more than 50% of the fall diets of white-tailed deer and wild turkey.

Information from mast surveys is used to predict productivity in some wildlife populations, as well as the potential deer harvest. Past research has shown that in years with high acorn abundance, survival and the production of young increase for some wildlife species (e.g., tree squirrels). Information reported on annual deer hunter surveys indicates that in years of high acorn abundance, the deer harvest generally decreases. This reduction in the harvest can be attributed to deer moving less frequently from feeding areas to bedding areas and foraging for shorter periods of time, making them less likely to be harvested. Acorn mast is important to many wildlife species, often causing populations to fluctuate and impacting their vulnerability to hunting pressure.

*Mast is the primary fall and winter food for many forest wildlife species. In some areas, acorns may comprise more than 50% of the fall diets of deer and wild turkey.*

At 11 of the 12 survey sites, 25 trees from the white oak group (e.g., white, chestnut, and swamp oak) and 25 trees from the red oak group (e.g., red, black, pin, and scarlet oak) were selected for sampling. At one site, only 25 trees were selected from the red oak group because an insufficient number of white oaks were available for sampling. All survey trees are numbered, and the white oak group is marked with white paint, while the red oak group is marked with red paint. Marking the trees with paint and a metal numbered tag assists with locating



Acorn mast is important to many wildlife species, often causing populations to fluctuate and impacting their vulnerability to hunting pressure.

each tree on an annual basis.

Surveys are conducted from August 15 through September 1. The crown of each marked tree is scanned for 30 seconds with binoculars to detect the presence or absence of acorns. All trees are assessed to determine the proportion of sample trees that have mast, providing an index of productivity (see table). A productivity scale of 0 (scarce) to 6 (abundant) was used to rank mast abundance at both the regional (management zone)

and statewide level. The statewide index for the 2010 field mast survey was 4.4, whereas during 2008 and 2009 the index was 2.4 and 3.2, respectively. 2010's index indicates that statewide acorn abundance was moderate to abundant. On a regional basis, acorn abundance ranged from a high of 6.0 in Deer and Turkey Management Zone 3, to a low of 2.8 in zone 9. The remainder of the management zones had mast indices that fell into the moderate to abundant category.

## Connecticut Hard Mast Survey, 2010

Zone	Site Location	Percent Acorn Abundance		Total Percent Acorn Abundance	Research Mast Index
		White	Red		
1	Housatonic WMA	28	84	56	3.4
2	Sessions WMA	60	84	72	4.3
3	Scantic River SP	N/A	100	100	6.0
4	Belding WMA	92	100	96	5.8
5	Yale Forest	84	84	84	5.0
6	Aldo Leopold WMA	96	100	98	5.9
7	Sleeping Giant SP	20	84	52	3.1
8	Cockaponset SF	16	84	50	3.0
9	Hurd SP	24	68	46	2.8
10	Franklin WMA	92	92	92	5.5
11	Huntington SP	56	84	70	4.2
12	Barn Island WMA	36	100	68	4.1
Average					4.4

# Connecticut's Tiger of the Night - The Great Horned Owl

Article and photography by Paul Fusco, DEP Wildlife Division

**M**ore often heard than seen, the great horned owl is one of Connecticut's largest avian predators. Its size and strength easily surpass that of our large buteo hawks, the red-tailed and red-shouldered. Its ferocity has been likened to that of a tiger. Only the eagle is a more formidable raptor.

Known as the traditional "hoot-owl," the great horned is most often heard vocalizing as it sets up its territory and as courtship progresses into the nesting season. The voice is a deep, low-pitched series of three to seven hoots – *hoo, hoo-oo, hoo, hoo, hoo* – which resonates through the night forest.

Males hoot from a number of different perches within their claimed territory. Other nearby males may be heard answering the hoots as territorial boundaries become established. Territories and nest sites are claimed by early winter and nest-

ing begins shortly after.

Great horned owls do not build their own nests. They use existing nests that were previously built by hawks, ospreys, crows, or herons. Because they are early nesters, owls will have nesting well underway by the time red-tailed hawks or other birds come back to reclaim their old nest. Great horneds also may use tree hollows, bare rock ledges, or man-made structures for nests. They rarely will use the same nest as they did the previous year.

In Connecticut, usually one or two eggs are laid. The eggs take 28 to 30 days to hatch, usually in mid- to late winter. They are asynchronous, in that one egg will hatch two or three days before the other. Thus, one chick will be bigger and more dominant.

The young owls leave the nest in six to eight weeks. As they grow, the young gradually crowd the nest, causing them to begin to "branch," or walk out of the nest, onto surrounding branches before they have the ability to fly.

## Description

Great horned owls are large, bulky, and powerful. Their plumage is heavily mottled gray/brown and buff, with fine barring on the underside. They have a rusty orange facial disk and a white throat patch. The large feet and talons have the strength to kill prey that may be larger than the owl. Females are bigger and heavier than males.

Great horned owls have large heads with broad ear tufts. The large yellow eyes are set wide apart and positioned frontally, giving the birds binocular vision, which helps with judging distance and accuracy when hunting. The eyes have limited movement, so the birds must move their head to look in different directions. Flexible neck vertebrae allow the owls to rotate their head 180 degrees to look in any direction without moving their body.

The wingbeats of the great horned owl are power-

ful, steady, and stiff. The owl has broad, rounded wings and a short tail. Owls have serrations on their flight feathers which soften the rush of air through the wings as they fly, making their flight silent and stealthy.

## Distribution

Great horned owls are the most widespread owl in the Western Hemisphere. They are basically nonmigratory, but may disperse from their territories after breeding, and then return for the following breeding season. Although found throughout Connecticut in a variety of habitats, great horned owls are most common in the mature upland forests of the western and central parts of the state.

## Behavior

The great horned owl is an aggressive and ruthless hunter at night. During the day, it stays hidden out of sight with perfectly camouflaged plumage, blending into tree trunks and shadowy evergreens.

Perhaps the best time to see a great horned owl is at dusk. The bird comes out of hiding just after sunset and before the last light of the sky is lost. It will fly up to a hunting perch, frequently in a treetop or other high point along a forest edge or within a clearing, as it begins to scan for prey.

The loud and raucous calls of crows will sometimes alert a person to the presence of a great horned owl. The owls are often harassed when found by crows during the day. At night, however, the tables are turned as roosting crows may get raided by a hungry great horned owl. In fact, great horned owls are the most significant predator of crows.

As one of the most opportunistic predators in Connecticut, the great horned owl will take any animal it can catch. It will take animals that walk or crawl on the ground, birds and bats from roosts or out of the air, and fish out of the water. The owl will even regularly prey on such unappetizing morsels as skunks and sometimes even porcupines.

Their chief prey is small to medium sized mammals, with a large percentage of them being rodents, rabbits, and skunks. They also will take house cats. The birds they are known to kill include ducks, turkeys, hawks, herons, and songbirds. Other owl species normally will not



Great horned owls frequently perch close to the trunk of a tree where their plumage blends into the bark.



Before they are old enough to fly, young owls will normally "branch" from the nest by climbing out of the nest onto surrounding branches.

be found within a great horned's territory as great horned owls have been known to kill and eat smaller owls, including barred owls. When prey is plentiful, an owl will only eat the head and brains of its victim, leaving the carcass for scavengers.

Stealth is the primary technique employed when hunting. Silent flight and radar-like hearing allow an owl to take unsuspecting victims, including ducks that may be sleeping on the water. When all is said and done, there are few nocturnal creatures that can carry out their activities without fear of the great horned owl.

### ***Conservation and Management***

Great horned owls are adaptable and widespread, and they use a great variety of food resources. They have benefited from forest regeneration and maturation, as well as from laws protecting raptors and other birds. The creation of edge habitat that results from forest fragmentation has likely benefited great horned owls.

In Connecticut, wildlife managers have found that great horned owls will kill nestling ospreys. In other parts

of the country, there have been localized problems of owls preying on endangered species, which have included peregrine falcons, barn owls, spotted owls, and sea turtle hatchlings. In the past, the great horned owl was considered a harmful

species by many because of its potential for preying on poultry and game animals. Today, however, the great horned owl is widely recognized for the positive role it plays in controlling destructive rodents and other problem species.



# Paugussett State Forest - Sweetest of Them All?

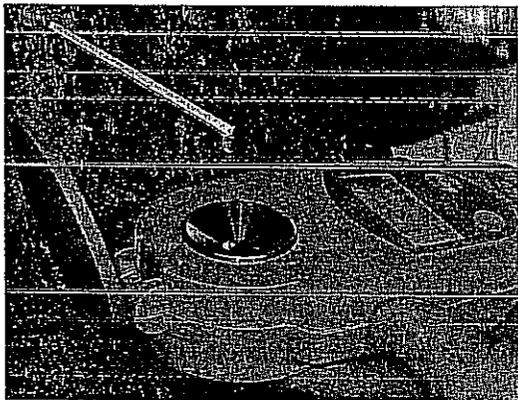
Article and photography by Jerry Milne, DEP Division of Forestry

**P**augussett State Forest in Newtown may be the sweetest woods in Connecticut. That's because the Division of Forestry has been actively managing a sugarbush as a demonstration area. A sugarbush is a stand of sugar maples that is tapped for maple syrup. It gets its name from the Dutch word "bosch," meaning "woods."

## Sugarbush Features

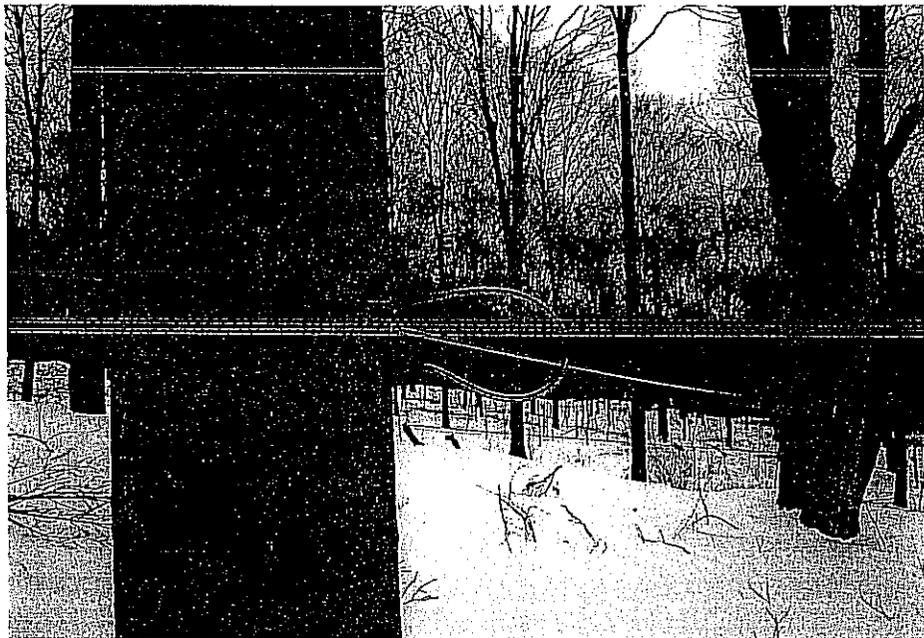
There are several characteristics that make for a good sugarbush. Obviously, the most important criterion is to have a forest made up mostly of sugar maples, although red maples also can be tapped. In addition, the site should be on a gentle slope to allow for the use of tubing and gravity to collect the sap. Even better would be an east-facing slope, allowing the sun to warm the trees early in the day, causing the sap to flow sooner. Moist, fertile soils that provide good growing conditions for sugar maples are needed, and access to a nearby road for sap collection also is helpful.

When the first management plan for Paugussett State Forest was written in the 1980s, a six-acre area that met all of the criteria for a sugarbush was identified. It presented the perfect opportunity to show landowners how to manage their own



A refractometer is used to measure sap sugar content. Some trees are consistently sweeter than others and should be favored as crop trees.

woodlots to produce maple syrup, while also allowing the public to cut firewood and the Division of Forestry to generate revenue. This particular grove originated when a pasture was abandoned around 1960, and the sugar maples along the bordering stone walls seeded in. At first, thousands of maple saplings per acre covered the ground. Over the years, as they grew and competed for sunlight, the numbers were reduced to a few hundred trees per acre that were growing slowly. Because the trees were relatively small (the average trunk was six inches in diameter) when the potential area was identified, it presented an ideal time to create a sugarbush of well-spaced, high quality, productive trees.



Tubing has replaced buckets for collecting sap in most sugaring operations.

## Developing the Sugarbush

The first step was to identify the potential crop trees. These would be the tallest maples with the widest and healthiest crowns. The trunks would have the fewest defects and forks, and they would be spaced about 25 to 30 feet apart. When these trees were at least 12 inches in diameter (measured at chest height), they would be big enough to tap.

The second step was to measure the sugar content of the sap of these selected trees and compare it to the others. If the sap was as sweet or sweeter, it became a crop tree.

## The Rule of 86

Just as people vary in height, the sugar content of sap can vary widely from tree to tree. Sugar concentration can range from as low as one percent to well over five percent, with most trees averaging between two and two-and-a-half percent. Maple syrup producers are familiar with the "Rule of 86" (86 divided by the sap sugar concentration gives the number of gallons of sap needed to make one gallon of syrup). For example, to produce one gallon of syrup, it takes 43 gallons of 2.0% sap compared to only 24.5 gallons of 3.5% sap. That's quite a difference in time and energy needed to produce the same amount of syrup.

Sugar content is measured by placing a drop of sap on a refractometer; the more sugar in the sap, the higher the reading.

## Competing Trees Sold for Firewood

After the crop trees were identified, the trees that competed with them for growing space were marked for removal. Trees whose crowns touched the crop trees were targeted. These trees were sold to the public through the Division of Forestry's firewood cutting program. In this program, DEP foresters mark the trees to be removed, and the individual pays \$60 for a permit



Trees that compete with crops trees in a sugarbush are marked for removal and sold to the public through the Division of Forestry's firewood cutting program.

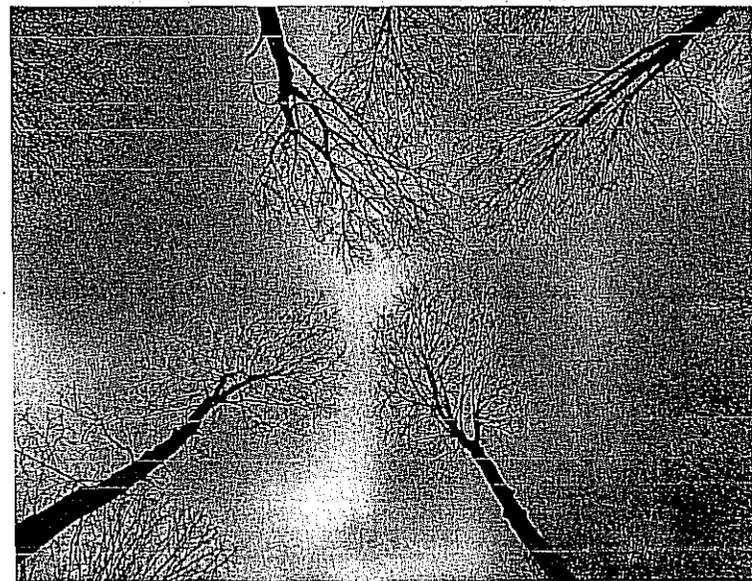


The sugarbush before thinning. The flattening of a tree's crown on one side, shown on the tree to the left, indicates too much competition from adjacent trees.

to cut two cords of firewood. (To learn more about the DEP's firewood cutting program on state forests, go to [www.ct.gov/dep/forestry](http://www.ct.gov/dep/forestry), and click on "firewood.")

After several years of thinnings (and many cords of wood sold), the growth rate of the trees had doubled. This was verified by counting the growth rings. Currently, the trees have eight annual rings per inch, meaning that in eight years, the tree's trunk grew in diameter by two inches. After 16 years, many of the original crop trees were big enough to be tapped. The sugarbush has been leased to a commercial maple syrup producer for many years. Originally, there were enough crop trees to accommodate 50 taps. Now, there are over 400 taps.

Several years ago, the Maple Syrup Producers Association of Connecticut held a field meeting at Paugussett State Forest where sugarmakers learned how to manage their own sugarbushes. Statewide, the Division of Forestry leases a few areas on state forests to large scale maple syrup makers. Suitable sites are limited, and they are carefully chosen to not conflict with other uses of the forests.



The sugarbush after thinning. The crowns of the crop trees have been opened up on two or three sides. They now will grow twice as fast.

### *Visit the Sugarbush*

The Paugussett State Forest sugarbush is located near the entrance to the forest, at the end of Echo Valley Road in Newtown. You also can reach the sugarbush by hiking the Lillinonah Trail, part of the Blue Trail system maintained by volunteers from the Connecticut Forest and Park Association ([www.ctwoodlands.org](http://www.ctwoodlands.org)). The trail runs right past the area.

### *For More Information*

If you think your woodlot has potential for a sugarbush, call the Division of Forestry at 860-424-3630 to arrange for a visit from one of the DEP Service Foresters.

Maybe you don't have your own woodlot, but have access

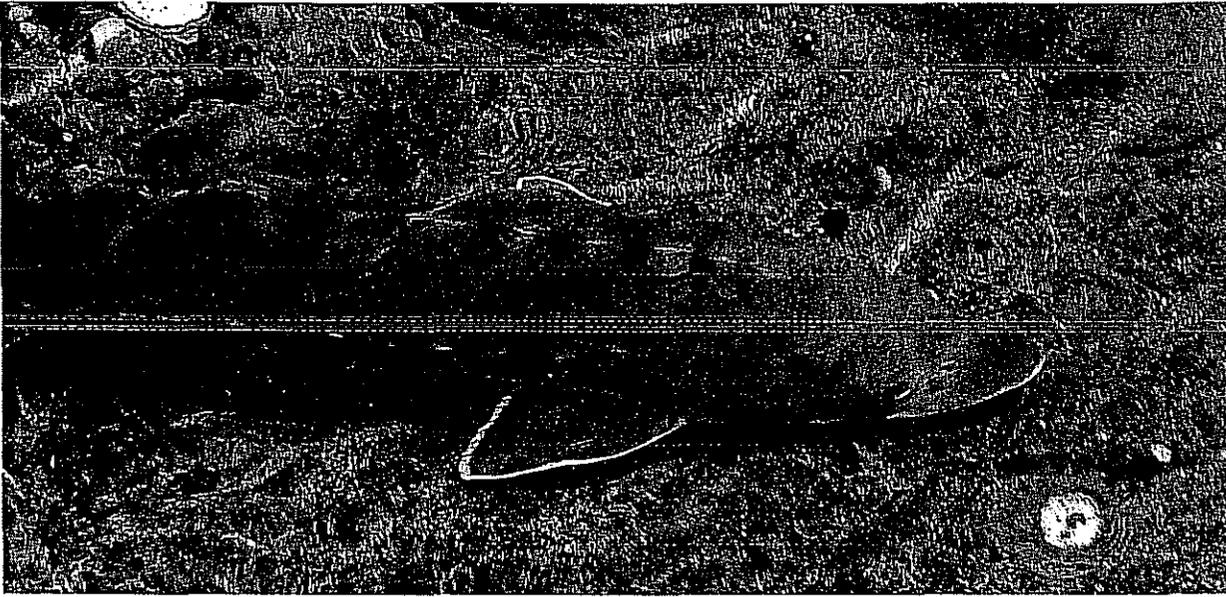
to sugar maples, perhaps roadside trees or some in the backyard. To learn more about making maple syrup, contact the Maple Syrup Producers Association of Connecticut ([www.ctmaple.org](http://www.ctmaple.org)). The DEP Goodwin Conservation Center in Hampton also offers maple sugaring classes ([www.ct.gov/dep/goodwin](http://www.ct.gov/dep/goodwin)). You also should obtain a copy of the North American Maple Syrup Producers Manual, produced by the Ohio State University Extension Service ([www.estore.osu-extension.org](http://www.estore.osu-extension.org)).

### *Forest Fire Danger Updates Available on DEP Web Site*

*Connecticut traditionally experiences high forest fire danger from mid-March through May. The Division of Forestry constantly monitors forest fire danger levels to help protect Connecticut's 1.8 million acres of forested land. Throughout the spring forest fire season, DEP posts daily advisories on forest fire danger levels on its Web site ([www.ct.gov/dep/forestfiredanger](http://www.ct.gov/dep/forestfiredanger)). Advisories also are sent to DEP field staff, municipalities, fire departments, and the media. Forest fire danger levels are classified as low, moderate, high, very high, or extreme.*

# Connecticut's 'Prehistoric' Fish

By Tom Savoy and Penny Howell, DEP Marine Fisheries Division; Photos provided by DEP Marine Fisheries Division



Shortnose sturgeon migrate throughout the Connecticut River, moving to the river mouth in spring and northward in summer. The species' distinctive scutes are visible running along its back and sides. The leading edge of the pectoral fin calcifies somewhat and a thin section of a piece of this fin is used to age the fish.

Of the 200 or so species of finfish swimming in Connecticut waters, the sturgeons are among the most primitive and strange-looking fish. Sturgeons appeared in the fossil record around 200 million years ago, during the Mesozoic Pleistocene Era, making them among the most ancient of fishes with very little change in their appearance over millennia. Like some dinosaurs, they have scutes, or hard plates, instead of scales lining their sides and dorsal (top) surface. They have no true bones, no teeth, and a skeleton of cartilage.

Two species can be found in Connecticut waters. The Atlantic sturgeon is the larger of the two and is anadromous, meaning that it spends most of its time in coastal saltwater but swims to freshwater to lay eggs. This species can grow up to 12 feet in length and weigh hundreds of pounds. The smaller shortnose sturgeon is more of a freshwater resident as it does not move into the marine zone for extended periods of time. A remnant population of shortnose sturgeon occurs in the state in the Connecticut River. These fish are usually two to three feet in length, never exceeding four feet. Maturity is a slow process for both species: sturgeon take from 10 to 25 years to become sexually mature, and can live up to age 60. After reaching maturity, males breed every one to two years, but females usually breed every third to sixth year. Females spend multiple years with reduced feeding and

growth and produce 40,000 (shortnose) to 3.8 million (Atlantic) eggs.

## Abundant to Rare

American Colonial journals recorded accounts of huge Atlantic sturgeon being harvested commercially for food. In the late 1800s, sturgeon were second only to lobster among important coastal fisheries. Because of their delayed maturity and long reproductive cycle, over-harvesting of sturgeon for flesh and eggs (a.k.a. caviar) in the 1880s caused Atlantic sturgeon numbers to plummet. Life history characteristics, in combination with sensitivity to pollution and loss of access to spawning areas, have kept populations from recovering to pre-Colonial period numbers. A coastwide harvest moratorium was implemented in 1998, but it will take many more years to see any recovery.

The shortnose sturgeon is the only fish species in Connecticut waters which is classified as an endangered species throughout its range, having been recognized as such in 1967. The Atlantic sturgeon currently has no federal status, but it is listed as threatened in Connecticut waters. Action is expected in early 2011 on a federal petition to list the New York bight DPS (Distinct Population Segment) as endangered.

## Research to Learn More

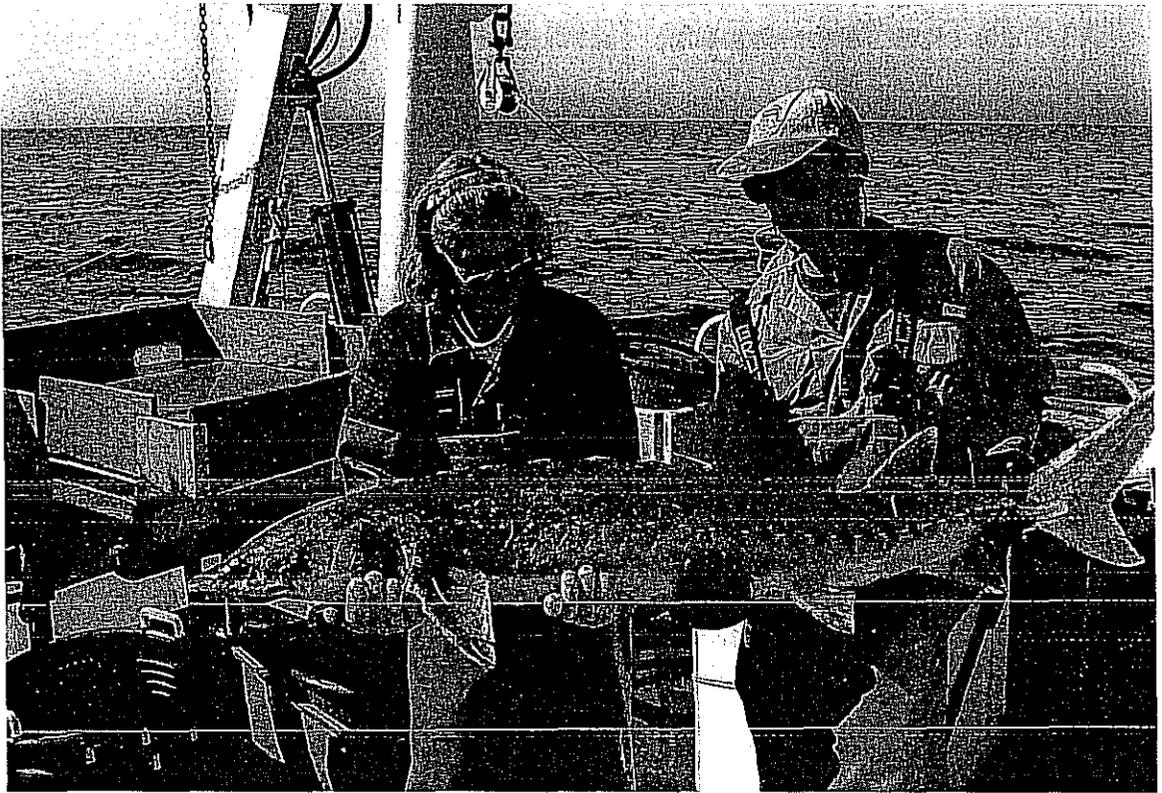
DEP Marine Fisheries Division biolo-

gists have been monitoring both sturgeon species in Connecticut waters since the 1980s. To aid in the protection of these unique fish, a variety of tags have been used, including exterior t-bar and surgically implanted ultrasonic tags. These tags have been placed on hundreds of individuals over the last 25 years to record information on movements and behavior. Recent developments include the use of Passive Integrated Transponder (PIT) tags, similar to those used by people to 'mark' their pets. Sturgeon also have had ultrasonic tags surgically implanted to record information on locations and movements of individuals. These studies have revealed that the Connecticut River population of shortnose sturgeon over-winters primarily north of Hartford and then migrates south to the estuarine (brackish) sections of the river near Essex and Old Saybrook with the spring freshet. Access to this region and the available food resources is important to the general health and well-being of this species. These fish slowly move northward over the summer when the lower river regains its salinity. Several key feeding areas have been identified where the fish congregate seasonally. Keeping disturbances away from these areas when the fish are present has paid off. Monitoring and tag return data have shown that the population in the river has increased from about 850 fish in the early 1990s to over 1,800 in 2002.

Studies of Atlantic sturgeon are more

challenging, not only due to the fish's larger size but also because the species migrates seasonally along the entire East Coast. Connecticut's spawning population is essentially extirpated. Spawning rivers along the East Coast with remnant populations of Atlantic sturgeon remain unclear, but the largest population appears to be in New York's Hudson River.

Through research grants funded by The Nature Conservancy, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, DEP biologists have captured and examined over 1,500 Atlantic sturgeon in Connecticut waters since 1984. Additionally, 84 Atlantic sturgeon have been implanted with ultrasonic tags in the last five years. Data from self-contained acoustic receivers placed in



Atlantic sturgeon are found in Long Island Sound and the lower sections of Connecticut rivers from May through November. Note the protective scutes running along the fish's side and the finger-like barbels surrounding the mouth, which the sturgeon uses to "feel" along the bottom for food. Two externally applied t-bar tags can be seen on this sturgeon (small, yellow "threads"); one above the left pectoral fins and one below the dorsal fin. DEP staff examined, measured, weighed, and tagged this sturgeon before releasing it.

Long Island Sound are downloaded monthly to track the movements of the tagged fish. Early data showed that the mouth of the Connecticut River and the area surrounding Faulkners Island, off Guilford, are seasonal concentration zones critical to the fish's successful growth and survival. Over the years,

cooperating scientists in other states have tracked Atlantic sturgeon tagged in Connecticut in waters off New York, New Hampshire, Delaware, Maryland, Virginia, North and South Carolina, and Georgia. Connecticut biologists have recorded similar data from an equal number of sturgeon from other states.

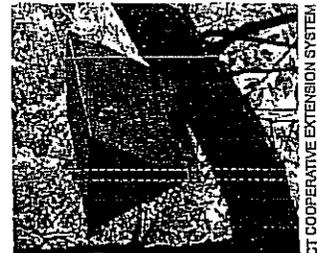
## Emerald Ash Borer Monitoring Underway in Spring

The Connecticut Cooperative Extension System ([www.extension.uconn.edu](http://www.extension.uconn.edu)) will lead an emerald ash borer monitoring effort this spring and summer, with funding and assistance from the Animal Plant & Health Inspection Service (USDA APHIS). The survey will cover approximately 75% of Connecticut to help monitor for the presence of this non-native, invasive insect. Purple traps will be placed on a two-mile by two-mile square grid in all counties except Windham and New London. Private and municipal landowners may be called upon to allow the placement of traps on their property. The traps will be hung by rope, preferably in or near ash trees. State and federal agency staff will periodically monitor the traps from April through August.

Federal agricultural officials confirmed the presence of the emerald ash borer in Saugerties, New York (about 25 miles from the Connecticut border), in July 2010. This destructive pest is an exotic wood-boring beetle from Asia that has killed more than 50 million ash trees, causing extensive environ-

mental and economic damage throughout infested areas in the Northeastern United States and Canada. It has metallic green wing covers and a coppery red or purple abdomen. It is about one-half inch long, with a flattened back.

Early detection is the best defense against further infestation. Possible emerald ash borer infestations should be reported to the Connecticut Agricultural Experiment Station at 203-974-8474, 203-974-8485, or [CAES.StateEntomologist@ct.gov](mailto:CAES.StateEntomologist@ct.gov) (digital photos of suspect insects are helpful). Suspect infestations also can be reported to APHIS via their Web site at [www.aphis.usda.gov](http://www.aphis.usda.gov). More information on the emerald ash borer can be found on the DEP Web site ([www.ct.gov/dep/forestry](http://www.ct.gov/dep/forestry)), or at [www.emeraldashborer.info](http://www.emeraldashborer.info).



CT COOPERATIVE EXTENSION SYSTEM

# 2011 Is the Year of the Turtle

**T**urtles are in trouble. Because of the issues surrounding turtles and the need to raise awareness, Partners in Amphibian and Reptile Conservation (PARC) has proclaimed 2011 as the Year of the Turtle. Through outreach efforts to researchers, educators, natural resource managers, and the public, the "Year of the Turtle" campaign aims to increase U.S. involvement in local-to-national turtle issues. State and federal wildlife agencies, along with several conservation and turtle organizations, are partnering with PARC to help spread the word about the plight of turtles. The DEP Wildlife Division also has made a commitment to inform Connecticut residents about the state's native turtles through monthly press releases, articles and species profiles (see page 19) in issues of *Connecticut Wildlife* magazine, a children's art contest, and related events.

The United States has more native turtle species than any other country; it is a turtle biodiversity hotspot. Currently, 328 species of turtles are known worldwide, with 57 species in the United States and Canada, and 12 species in Connecticut (bog, Eastern box, musk, painted, snapping, wood, and spotted turtles; northern diamondback terrapin; and loggerhead, leatherback, Atlantic green, and Atlantic ridley sea turtles).

Turtles (which include tortoises) occur in fresh water, salt water, and on land. Their shells make them some of the most distinctive animals on Earth. Turtles are

## What Is PARC?

Partners in Amphibian and Reptile Conservation (PARC) is an inclusive partnership dedicated to the conservation of the herpetofauna – reptiles and amphibians – and their habitats. Membership comes from all walks of life and includes individuals from state and federal agencies, conservation organizations, museums, pet trade industry, nature centers, zoos, energy industry, universities, herpetological organizations, research laboratories, forest industries, and environmental consultants. The diversity of its membership makes PARC the most comprehensive conservation effort ever undertaken for amphibians and reptiles. PARC is habitat focused, and centers on endangered and threatened species and keeping common native species common.

The Connecticut DEP has been a member of PARC since 1999.



The spotted turtle is one of 12 species of turtles found in Connecticut. It is considered to be of conservation concern throughout most of its range, including in our state. PHOTO BY P. J. FUSCO

typically slow creatures. This isn't limited to their speed; they also grow slowly. It may take 10-15 years before individuals of some species can reproduce. A thriving turtle population relies on turtles surviving many years, if not decades. But if a population loses adults and begins to decline, a slow recovery can be expected. Because of these "slow" characteristics, the primary threats to turtles are intensified.

## Threats to U.S. Turtles

The bad news is that humans cause the largest harm to turtle populations, but the good news is that we have the power to make positive changes toward turtle survival. The largest threats to turtle populations include:

- Habitat loss and degradation;
- Overharvest of wild turtles for food, traditional medicines, and pets;
- Mortality from roads, agricultural machinery, fishing bycatch, and predators;
- Exotic invasive species and diseases;
- Loss of unique genetic makeup due to hybridization; and
- Climate change.

## Conservation Action Can Help

Careful stewardship and conservation action can successfully slow or reduce the declining trend of turtles. Because turtles

can respond well to population management and conservation, it is not too late to preserve our turtle heritage. Three basic approaches for species conservation include: 1) protecting rare species and their habitats; 2) managing common turtle species and their habitats so that they remain common; and 3) managing crisis situations, such as species in peril from acute hazards (e.g., oil spills).

Important progress is already being made in the United States. The freshwater turtle science and conservation community, in conjunction with state and federal wildlife agencies, recently developed recommendations for managing freshwater and land turtle populations. These recommendations include better monitoring and tracking of turtle harvests, as well as the need for more long-term population studies on wild turtles.

Stay tuned to future issues of *Connecticut Wildlife* to learn more about turtles during the "Year of the Turtle." You also can visit PARC's Web site at [www.yearoftheturtle.org](http://www.yearoftheturtle.org) for more information, as well as the DEP Web site ([www.ct.gov/dep/yearofturtle](http://www.ct.gov/dep/yearofturtle)).

Adapted from the "State of the Turtle," written by Deanna Olson from the U.S. Forest Service, and A. Ross Kiester, from The Turtle Conservancy. This report can be viewed at [www.yearoftheturtle.org](http://www.yearoftheturtle.org).

# Bog Turtle

*Glyptemys muhlenbergii*

*State and Federally Endangered Species*

## Background

The state endangered bog turtle is the rarest turtle in Connecticut. Only small, isolated populations exist in the state and information on them is scant. Populations have been documented in five Connecticut towns, and unconfirmed sightings and single specimens have been reported from several other towns between the Housatonic and Connecticut Rivers. Illegal collection for the pet trade has further depleted local populations.

The bog turtle was given protection in 1973 by CITES, the Convention on International Trade in Endangered Species. The turtle was added to the federal endangered species list on November 4, 1997. In Connecticut, it is against the law to remove any bog turtle, including eggs, from the wild.

Intensive development pressure in all portions of the bog turtle's range have caused the draining and filling of wetland habitat. Remaining wetlands have been isolated, resulting in the fragmentation of bog turtle populations. These small populations cannot mix with others and only breed within the population. The result is a loss of genetic variation, which reduces the population's ability to adapt to a changing environment. Bog turtles are extremely sensitive to changes in their environment, such as increased nutrification, altered drainage, vegetation changes, or pollution.

## Range

Bog turtles currently occur in scattered colonies in western Connecticut, western Massachusetts, and through New York, south to northeast Maryland, southern Virginia, western North Carolina, and Georgia.

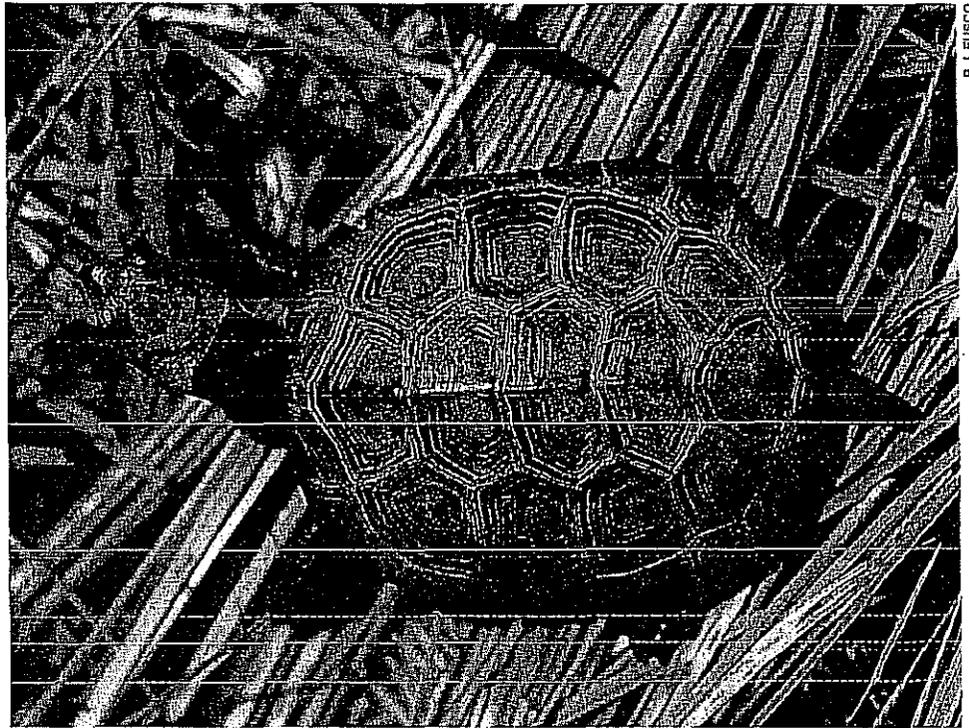
## Description

The bog turtle is the smallest of the turtles found in Connecticut, measuring from three to three-and-a-half inches and weighing approximately four ounces. It has an orange or yellow head patch which is sometimes divided into two parts. The large scutes (shell segments) of the dark carapace (upper shell), have yellow or reddish hues. Males have a flatter carapace, concave plastron (bottom shell), and a long, thick tail. Females have a wider carapace, convex plastron, and a short, thin tail.

## Habitat and Diet

Suitable bog turtle habitat consists of calcareous (containing calcium carbonate, calcium, or lime) wetlands, such as open sphagnum bogs, wet meadows, and wet pastures. In Connecticut, these special habitats only occur in the western part of the state. Bog turtles rely on an abundance of grassy or mossy cover and high humidity. Open, sunny areas where the turtles can bask to raise their body temperature also are important.

Bog turtles eat seeds, berries, insects, slugs, worms, crayfish, frogs, snakes, snails, and carrion.



R. L. FUSCO

## Life History

Bog turtles breed in late April to early June after emerging from hibernation. Nests are usually in tussocks or on sphagnum moss in sunny areas of a bog. The two to five (usually 2-3) eggs are laid from June to July and are left on their own to develop and hatch. Incubation lasts for seven to eight weeks and hatching occurs from July to early September. In Connecticut, eggs may overwinter in the nest and hatch in spring when there is an abundant food supply. The nests are often preyed on by skunks and raccoons. The young are only one inch long at hatching and are often taken by a variety of birds and mammals. Bog turtles reach sexual maturity between nine and 15 years of age.

## Interesting Facts

During winter, bog turtles hibernate underwater in deep areas of bogs in about six to 18 inches of mud. Immature turtles do not hibernate in deep mud until they are two to three years old. The turtles emerge from hibernation in late March through April and may migrate short distances to feeding and breeding sites.

Bog turtles feed during the daylight hours; however, they are seldom active during the hottest part of the day and are inactive on chilly mornings.

Adults are preyed on by raccoons, skunks, foxes, and dogs.

## How You Can Help

According to Connecticut regulations, bog turtles may not be collected from the wild. They also should never be kept as pets. The pet trade has encouraged illegal capture of bog turtles in many areas of the country and can only effectively be stopped by reducing the demand for bog turtles as pets.

Another way to help bog turtles is to protect their bog habitats by not disturbing or damaging them.

# Musk Turtle

*Sternotherus oderatus*

## Background and Range

Both the scientific and common names of the musk turtle pay heed to the odor produced when this turtle is captured or disturbed. The musk of this turtle and its relatives in the Kinosternidae family comes from a yellow fluid produced by two pairs of glands beneath the margin of the carapace (top shell).

Musk turtles occur throughout much of the eastern United States. Within Connecticut, musk turtles are found in low elevation areas, especially in the Housatonic and Thames River drainages. They are less widespread in north central Connecticut, with very localized populations.

## Description

This small turtle, which measures 3 to 5 inches, has a tan, brown, gray, or black carapace that may bear dark flecks, a central longitudinal keel, and a thick coating of algae. Though variable, the carapace is usually smooth, oval, and steeply domed. Musk turtle hatchlings are dark and have a rough carapace with a prominent or possibly multiple keels. Like the snapping turtle, the musk turtle's plastron (bottom shell) is highly reduced. A good amount of the turtle's flesh is exposed around the limb and tail joints. The color of the plastron is often similar to that of the carapace and may have a dark coloration on the scutes (shell segments) with a light ivory color in between scutes.

The musk turtle's head is distinct from the heads of Connecticut's other turtles in that it is triangular in shape and large when compared to body size. A pair of yellow lines runs along each side of the head from the nostrils to over and under the eyes. These lines may become broken or fade completely with age. A set of short barbels (soft barb-like projections) can be found on the chin and another set on the throat. The musk turtle's feet are heavily webbed and clawed.

Several characteristics can be used to distinguish males from females: 1) Males have patches of rough scales on the inside of the hind legs that are used to grasp the female's carapace during mating; 2) More skin is in between the seams of the scutes on the male's plastron; 3) The tails of males are longer, thicker, and equipped with a spike at the tip; and 4) Males have larger heads than females.

## Habitat and Diet

The most common habitat types for this highly aquatic turtle are rivers, streams, and reservoirs associated with river systems (including impoundments). Shallow, slow-moving streams and rivers with muddy bottoms and dense aquatic vegetation are preferred. Unlike most other species, the musk turtle actually benefits slightly from dam construction because this creates the slow moving, muddy water habitats in which these creatures thrive.

The diet of the musk turtle includes freshwater mussels, snails, crayfish, aquatic insects, worms, small fish, tadpoles, carrion, and aquatic vegetation.



Both the scientific (*Sternotherus oderatus*) and common names of the musk turtle pay heed to the odor produced when this turtle is captured or disturbed. PHOTO BY P. J. FUSCO

## Life History

One beneficial aspect of the musk turtle's biology is that it reaches sexual maturity in a relatively short amount of time compared to the Connecticut state-listed wood turtle (special concern), box turtle (special concern), and bog turtle (endangered). These imperiled species often take well over a decade before they can reproduce. Male musk turtles usually mature in only three years, while females take from four to seven years. Mating occurs underwater. This generally takes place from April through early May. Female musk turtles will leave the water to nest up to three times during May to June. Nest cavities are dug near the water's edge, often under a log, tree stump, or leaf litter. Approximately five to eight eggs are laid in the cavity and covered up. Hatchlings emerge in September and October.

## Interesting Facts

When the colder weather of fall arrives and the water temperature drops below 50 degrees Fahrenheit, musk turtles head to their hibernacula beneath the mud, where they are safe from impending freezing temperatures. Following this period of winter dormancy, musk turtles become active again in spring. They can be found during the day basking in shallow water or on top of emerging rocks, logs, and angled tree trunks. These turtles are known to climb high up into the branches of shrubs and trees.

Musk turtles often are found walking along the bottom of a waterbody rather than swimming. They also camouflage themselves by burrowing slightly into the muck. The algae frequently found growing on their shells help the animals blend in among the plants and similar-looking algae-covered stones.

A largely nocturnal species, activity increases as the sun sets and continues into the night. The barbels on this turtle's chin and throat are sensory organs which allow the turtle to feel for prey resting on the bottom of the waterbody.

Musk turtles are rarely found on land, typically leaving the water or their elevated basking perches only to nest or find new aquatic habitats. They also are gregarious animals and are usually found together in numbers.

# Numbers Up for the 2011 Midwinter Waterfowl Survey

Written by Min T. Huang, DEP Wildlife Division

Every year since 1955, the Wildlife Division has conducted the Midwinter Waterfowl Survey to obtain an index of long-term wintering waterfowl trends. The total number of ducks observed during the 2011 survey – 22,926 – was the highest since 1999, and the puddle duck count was the highest since 1985. Puddle ducks, which are typically found in fresh, shallow marshes and rivers, include the mallard, American black duck, American wigeon, and gadwall.

The Midwinter Waterfowl Survey is conducted in early January throughout the Atlantic Flyway. The Atlantic Flyway is a bird migration route that generally follows the Atlantic Coast of North America and the Appalachian Mountains. Most of the states that make up the Atlantic Flyway participate in the survey. The survey is conducted from a helicopter in Connecticut and a census is obtained from the coast, the three major river systems (Connecticut, Thames, and Housatonic) and selected inland lakes and reservoirs. The survey is a snapshot in time of waterfowl distribution throughout the Flyway.

The survey was conducted in Connecticut during the first week of January 2011. Survey conditions were excellent. Many of the inland lakes and ponds were frozen due to prolonged cold weather in the weeks prior to the survey. When inland water areas freeze, waterfowl concentrate along the coast and on the major river systems. Clear skies and light winds on the day of the survey led to unlimited visibility and good flying conditions.

## Survey Results

Continuing the trend of 2010, counts of all puddle ducks in 2011 were above their five-year averages. The mallard count was the highest in over 15 years, as was the count for American black ducks. American wigeon and gadwall counts also were above their respective five-year

## Please DO NOT Feed Waterfowl

More and more puddle ducks are being observed in urban sanctuaries during the Midwinter Waterfowl Survey where, in many instances, supplemental feeding by the public is occurring. The Wildlife Division discourages citizens from feeding waterfowl for a number of reasons, including increased risk of disease transmission and potential for poor nutrition. The Division has published a brochure, "Do Not Feed Waterfowl," that outlines the potential hazards of feeding waterfowl. It is available on the DEP Web site ([www.ct.gov/dep/wildlife](http://www.ct.gov/dep/wildlife)).

averages. There has been a slow, but noticeable redistribution of puddle ducks on the coastline in recent years.

The scaup count was well above that of 2010 and the highest since 1999. Despite a relatively high count this year, scaup wintering numbers in Connecticut continue to be lower than historical counts. The decline in the continental scaup population continues to be of concern for biologists nationwide. Habitat changes on the scaup's breeding grounds may be a factor in the long-term decline of the population. Eiders were not observed in the survey, but the number of scoters observed was higher than in 2010. Mergansers were abundant and above the levels observed in 2010, but under the five-year average.

The common goldeneye count was much higher than last year. The vast majority of goldeneyes were counted from New Haven to Norwalk. Counts for buffleheads and long-tailed ducks were above those from last year and slightly above their five-year averages. Atlantic brant numbers were higher than in 2010 and above the recent average. Canada goose counts were once again high.

## Rethinking the Survey



Mallards have adapted well to co-existing with humans. Recent wintering numbers of mallards have been increasing. PHOTO BY P. J. FUSCO

Winter surveys are costly and dangerous, and with the recent advent of breeding ground surveys for most hunted species, the continued utility of the winter survey is in question. Currently, regulatory decisions (promulgation of hunting seasons) for only two species, Atlantic brant and Eastern Population tundra swans, are set using midwinter survey data. Consequently, the U.S. Fish and Wildlife Service and the four Flyway Councils (Atlantic, Central, Mississippi, and Pacific) are conducting an analysis of the Midwinter Waterfowl Survey, and may replace the survey in the near future.



## Connecticut Midwinter Waterfowl Survey Results for Major Species\*

Species	2011	2010	Five-year Avg.
Atlantic Brant	1,600	1,000	1,300
Black Duck	3,500	3,200	2,200
Bufflehead	1,200	1,100	800
Canada Goose	3,800	4,800	3,400
Canvasback	100	0	100
Mallard	2,600	2,500	1,400
Merganser	1,100	900	1,200
Mute Swan	700	700	800
Long-tailed Duck	600	200	200
Common Goldeneye	1,000	400	700
Scaup	5,400	800	2,000

\* rounded to nearest hundred



## CT Forest Products Now Marketed Under "Connecticut Grown" Label

Goods, such as furniture, flooring, lumber and fencing, made from wood harvested in Connecticut forests will now bear the popular "Connecticut Grown" marketing label. This initiative appeals to the growing number of consumers who choose to buy locally grown materials and is a boost for the state's forest products industry and the jobs it creates.

The Connecticut Grown Program was developed in 1986, when the green and blue logo was created to identify agricultural products grown in the state. Over the past two decades, a strong marketing and outreach effort has established Connecticut Grown as a well-known and popular program.

Connecticut's foresters are committed to managing forests responsibly to ensure a continual source of valuable products for future generations by applying long-term forest stewardship principles. Supporting the forestry industry by purchasing Connecticut Grown products is one way to give back to the local economy, and through the Connecticut Grown logo, consumers will know that the forest products came from local wood grown in Connecticut's forests.

Expansion of the Connecticut Grown program to include products from Connecticut forests is the result of an agreement between the DEP and the Department of Agriculture. To be given permission to attach the Connecticut Grown labeling to their products, companies must participate in a rigorous certification process to ensure that the label is only used on forestry products made from Connecticut lumber, similar to what exists for agricultural products.

**Connecticut's Forests:** With 1.7 million acres, or about 60% of its land area, in forest, Connecticut is one of the most heavily forested states in the nation. Ironically, Connecticut also is one of the most densely populated states. The state's forests and trees add immensely to the quality of life for residents. Not only do they produce locally grown forest products, they filter the air, safeguard private and public drinking water sources, provide essential wildlife habitat, and moderate summer and winter temperatures near homes. To learn more about Connecticut Grown expanding to include forestry products, contact the Division of Forestry at 860-424-3630.



## Programs at the Sessions Woods Conservation Education Center

Programs are a cooperative venture between the Wildlife Division and the Friends of Sessions Woods. Please pre-register by calling 860-675-8130 (Mon.-Fri., 8:30 AM-4:30 PM). Programs are free unless noted. An adult must accompany children under 12 years old. No pets allowed! Sessions Woods is located at 341 Milford St. (Route 69) in Burlington.

**March 20, Medicinal Mushrooms, from 9:30 -11:30 AM.** Join the Connecticut Valley Mycological Society during their annual meeting at Sessions Woods for a presentation on medicinal mushrooms. Author Gary Marley from Maine will be the speaker for the event. Refreshments will be served at 9:30 AM, followed by the speaker at 10:00 AM.

**April 10, Friends of Sessions Woods Annual Meeting with a program on "Turtles," starting at 1:00 PM.** The annual meeting is open to all! In honor of the "Year of the Turtle," The Children's Museum Education Director and Master Wildlife Conservationist Cindy King will present an informative program on "turtles." Cindy will bring live turtles for the audience to view as she provides information on this diverse and unique group of reptiles. A potluck dessert extravaganza will precede the presentation at 12:30 p.m. Please bring a dessert to share.

**May 14, Charcoal to Iron: An Interpretive Hike, starting at 1:30 PM.** Join Master Wildlife Conservationist Shirley Sutton for a hiking talk, featuring Sessions Woods and the importance of the charcoal industry. Shirley is an avid educator about the history of Connecticut's past land use. She has presented programs on the "Leatherman" and "Native Americans in Northwest Connecticut." This program will include a slide presentation indoors and an outdoors hike to view signs of past land use.

**May 25, Plants and their Wildlife Value, from 10:00 AM-12:00 PM.** Join Jack Hamill on an interpretive walk to identify plants and shrubs and their use to wildlife as food or shelter. A mile or so in length, this program will traverse mild terrain. Please wear appropriate outdoor gear and meet in the exhibit room.

**June 4, Trails Day Educational Walk at Sessions Woods, starting at 1:30 PM.** Sessions Woods will be participating in National Trails Day with an educational walk to learn about wildlife and wildlife habitat on a one-mile hike to the beaver marsh. Participants can return the same way or continue on their own to complete a three-mile loop of the property. Meet leader Laura

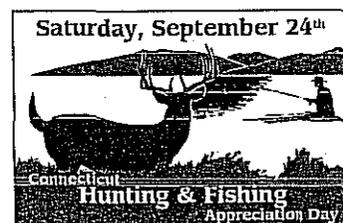
Rogers-Castro at the flagpole in front of the Conservation Education Center.

**July 9, Butterflies of Sessions Woods, starting at 10:00 AM.** Visit the flowers and fields at Sessions Woods to identify the local butterfly fauna with Wildlife Division Natural Resources Educator Laura Rogers-Castro. Participants will learn the basics to butterfly identification, including tips on distinguishing the various butterfly families.

## Paul Fusco's Photographs on Display at Session Woods

Wildlife Division photographer, Paul Fusco, whose stunning photographs are found throughout *Connecticut Wildlife* magazine, recently captured a series of images of an amazing predator-prey encounter while visiting Yellowstone National Park in Wyoming. Paul was fortunate to witness and photograph a desperate struggle for survival as a majestic, but injured, bull elk tried to elude a pack of wolves. Unfortunately, the wolves prevailed and the elk met its demise.

The photographic "story" will be on display in the Sessions Woods Conservation Education Center through the month of April 2011. The Center is open on Mondays through Fridays, from 8:30 AM until 4:00 PM. You may also view the exhibit if you attend the Friends of Sessions Woods Annual Meeting and "Turtle" presentation on April 10 or any other public program scheduled at Sessions Woods.



**Save the Date! The 2nd Connecticut Hunting & Fishing Appreciation Day will be held on Saturday, September 24, 2011, at the Sessions Woods Wildlife Management Area in Burlington. Stay tuned to Connecticut Wildlife and the DEP Web site ([www.ct.gov/dep/wildlife](http://www.ct.gov/dep/wildlife)) for updates.**

# Calendar of Events

- Late March..... Remove bird feeders from your yard to avoid attracting hungry bears that are emerging from their winter dens. Whenever a bear visits a bird feeder, take the feeder down immediately. To learn more about what to do if you encounter a black bear, visit the DEP's Web site at [www.ct.gov/dep/wildlife](http://www.ct.gov/dep/wildlife).
- March 13-20 ..... **National Wildlife Week**, sponsored by the National Wildlife Federation. The National Wildlife Week Web site ([www.nwf.org/nationalwildlifeweek](http://www.nwf.org/nationalwildlifeweek)) offers resources for kids, teens, parents, and educators.
- Late April-August.... Respect fenced and posted shorebird and waterbird nesting areas when visiting the Connecticut coastline. Also keep dogs and cats off shoreline beaches to avoid disturbing nesting birds.
- April 22 ..... **Earth Day** — Visit the DEP Web site for more information and a listing of Earth Day events ([www.ct.gov/dep/earthday](http://www.ct.gov/dep/earthday)).
- May 14..... **International Migratory Bird Day** — The theme for the 2011 annual celebration, "Go Wild, Go Birding!" focuses on involving youths and adults in learning about birds, birdwatching, and bird conservation. To learn more about this special day, visit [www.birdday.org](http://www.birdday.org).
- June 4..... **Rainbow Dam Fishway Open House** in Windsor, from 10:00 AM-3:30 PM (see page 9 for more information).

## Programs at the Kellogg Environmental Center

The DEP's Kellogg Environmental Center is located at 500 Hawthorne Avenue, in Derby. Call 203-734-2513 for more information. Visit the Calendar Events section of the DEP Web site for a complete listing of programs offered at the center.

- April 9 ..... **Get Your Fishing On**, from 1:00-4:00 PM. Learn about water, habitats, fish, and fishing through activities, DVDs, and demonstrations. The program, for both kids and adults, will cover the basics of fishing through hands-on use of equipment. Participants will learn how to identify fish and understand habitat needs, follow rules and regulations, and enjoy the outdoors.
- May 17..... **Singing Leaves: The Stories and Songs of the Crickets and Katydid**s, starting at 7:30 PM. This 50-minute presentation by John Himmelman introduces the audience to the creators of the insect songs we have all heard since childhood. John Himmelman is the author and co-recording artist for "Guide to Night-singing Insects of the Northeast" and "Cricket Radio." His book is illustrated by local artist Michael DiGiorgio. A field guide will be available for purchase and signing. A donation of \$4.00/adult and \$2/student or child is requested. Registration is requested but not required.
- June 21..... **Here Come the Birds**, starting at 7:30 PM. Teresa Kramer, Director of Canton Raptor Care, will give a presentation on raptors and will be bringing five live birds of prey, including a screech owl, great horned owl, kestrel, and red-tailed hawk. A donation of \$4.00/adult and \$2/student or child is requested. Registration is requested but not required.

## Hunting and Fishing Season Dates

- Jan. 1- June 1 ..... Application period for deer lottery permits, either online ([www.ct.gov/dep/hunting](http://www.ct.gov/dep/hunting)) or by mail. To apply, you must possess a 2011 hunting license. There is no fee to apply for the deer lottery. Applications must be postmarked by the June 1 deadline.
- April 16..... Opening day of trout season.
- April 16 & 23..... Spring Turkey Junior Hunter Training Days to provide junior hunters with an opportunity to learn safe and effective hunting practices from experienced hunters. Visit the DEP Web site ([www.ct.gov/dep/hunting](http://www.ct.gov/dep/hunting)) to learn more.
- April 27-May 28 ..... Spring Turkey Hunting Season
- ..... Consult the 2011 Connecticut Hunting and Trapping Guide and 2011 Angler's Guide for specific season dates and details. Printed guides will be available in April at more than 350 locations statewide — including town halls, bait and tackle shops, DEP facilities, and commercial marinas and campgrounds. The guides also are available on the DEP Web site ([www.ct.gov/dep/hunting](http://www.ct.gov/dep/hunting) or [www.ct.gov/dep/fishing](http://www.ct.gov/dep/fishing)). Go to [www.ct.gov/dep/sportsmenlicensing](http://www.ct.gov/dep/sportsmenlicensing) to purchase Connecticut hunting, trapping, and fishing licenses. The system accepts payment by VISA or MasterCard.

# Connecticut Wildlife



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# THE HABITAT

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

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WINTER 2010 VOLUME 22 NUMBER 4



## Journey to the Legal Horizon

by Janet P. Brooks

**Author's Note:** The Editor of *The Habitat*, Tom ODell, sat through the wetlands legal workshops that Attorneys David Wrinn, Mark Branse and I offered at the CACIWC annual environmental conference, November 2010. He had a few questions for me after the sessions and asked if I would expand our discussion into an article.

### REGULATING ACTIVITIES OUTSIDE WETLANDS BOUNDARY AND UPLAND REVIEW AREA: NAVIGATING COURT WETLANDS DECISIONS

*What does it mean, in general, and then specifically for wetlands agencies, when there are two Appellate Court decisions that aren't consistent?*

In our legal workshops I touched upon this very issue that came up in the context of agency jurisdiction. Is a wetlands agency authorized to regulate activities outside of wetlands/watercourse boundaries or an adopted upland review area? That question is answered with opposite outcomes in two Appellate Court decisions. I will address how the Appellate has resolved the jurisdictional issue after I lay out the foundation of how land use appeals go through our state court system.

#### *The Court system: Superior - Appellate - Supreme*

The initial court to which wetlands appeals are brought are the Superior Courts, which you probably recognize as trial courts. (As I mentioned at the workshops, do not get confused by the use of the term "Supreme Court" in the television series, *Law & Order*, which is set in New York where the New York Supreme Court is equivalent, in many aspects, to the Connecticut Superior Court.) One Superior Court judge is assigned to a wetlands appeal. That judge's focus is on whether there is any reason for the wetlands agency's action that is legally sufficient and for which there is substantial evidence in the record. Once the judge issues a written decision, that decision is binding on all of the parties to the appeal -- but on no other wetlands agency, person or entity. I like to be aware of Superior Court decisions if they address an area of the law for which there is little case law from our Supreme Court or a new argument is being raised. But I don't get overly exercised

about every Superior Court decision, precisely because no other judge or party is bound by it. If the legal analysis is persuasive, I may want to use it in framing a similar issue in a future case. I don't take a Chicken Little approach to a Superior Court decision. The sky is not falling from one Superior Court case. It may affect one town or one applicant very strongly, but not the whole state.

Once the judge has issued a decision and one of the parties (agency, applicant, abutter, CEPA intervenor) is dissatisfied, such party may petition the next higher level of court, the Appellate Court, for further review. While anyone "aggrieved" may bring an appeal to the Superior Court, there exists no absolute right to further appeal in land use matters. These requests for further review are called petitions for certification. That is, the higher court has to certify the appeal, to allow the appeal to pro-

*continued, page 14*

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# CACIWC's 33rd ANNUAL MEETING

## Connecticut Commissioners and Staff Enjoy Successful Conference

Over 200 Connecticut conservation and inland wetlands commissioners along with municipal staff and other professionals attended CACIWC's 33rd Annual Meeting & Environmental Conference held on Saturday November 13, 2010 at MountainRidge in Wallingford. The title of this year's conference, "Celebrating Four Decades of Environmental Conservation and Habitat Protection," recognized the many contributions made by Connecticut commissioners and staff in the decades since the original Earth Day on April 22, 1970. This year's conference provided important new information relevant to both novice and experienced commission members and staff. We again thank the many workshop leaders and display staff who provided us with useful information along with the many attendees who spent their Saturday with us learning and sharing ideas on behalf of their community and our state.

### Keynote Speakers:

For this year's conference, CACIWC hosted two keynote speakers to discuss "The State of the Environment in Connecticut and New England; 40 Years after Earth Day." The year 1970, and the decade that followed, was a historic time for national, regional, state, and local efforts to promote environmental protection and conservation. From the celebration of first Earth Day and formation of the U.S. Environmental Protection Agency (EPA) in 1970, through the organization of the Connecticut Department of Environmental Protection (DEP) in 1971, and the expansion of local Connecticut commissions in 1972, profound changes were being made in the role of government on all levels in shaping these efforts.

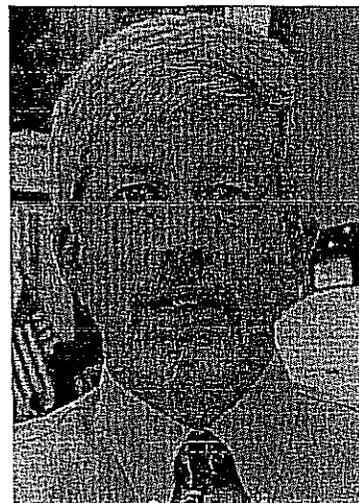
**Amey Marrella, Commissioner of the Connecticut Department of Environmental Protection (DEP)** discussed the many significant environmental improvements that have occurred in Connecticut during since the 1970s, reviewing the numerous programs and legal tools that are now available to ensure environmental protection and promote habitat conservation. Mrs. Marrella, who is a graduate of Williams College and Harvard Law School, was able to provide attendees with a unique perspective on these programs, having served as DEP's Deputy

Commissioner for environmental quality before being selected as DEP Commissioner by Governor M. Jodi Rell in September of 2009. Prior to joining DEP, Mrs. Marrella had served as the First Selectman of the Town of Woodbridge and as an Attorney Advisor for the U.S. Environmental Protection Agency.



*Amey Marrella, Commissioner CT DEP, Key Note Speaker*

Commissioner Marrella completed her talk by reviewing some of the remaining environmental challenges for Connecticut, emphasizing the important role played by Connecticut's conservation and inland wetlands commissions and their agents in continuing progress through the decades to come.



*Stephen S. Perkins, Director of the U.S. Environmental Protection Agency (EPA) New England's Office of Ecosystem Protection, Key Note Speaker*

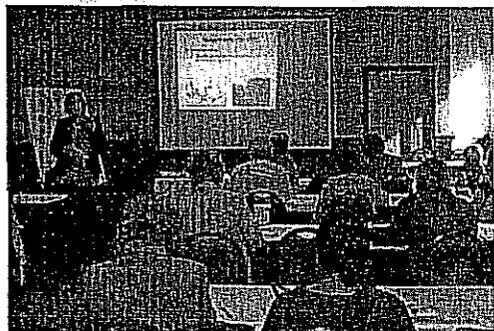
**Stephen S. Perkins, Director of the U.S. Environmental Protection Agency (EPA) New England's Office of Ecosystem Protection** provided the New England perspective to the keynote discussions. Mr. Perkins, whose office is responsible for the federal air, water, climate and tribal programs in the six New England states, had graciously

agreed to substitute for EPA Regional Administrator H. Curtis "Curt" Spalding, who was recovering from surgery. Mr. Perkins reviewed EPA's role, and gave an inspiring discussion on the value of joint federal, state, and local efforts in conservation and environmental protection. Mr. Perkins, who joined EPA in 1981

*continued, page 4*

annual meeting, continued from page 3

as an air quality dispersion modeler after working in the private sector as an air quality consultant, has also served as Director of the regional Office of Environmental Stewardship which implements EPA's enforcement and compliance assistance programs and as the Director of the Office of Administration and Resource Management. Stephen, who received his Master of Science degree in Atmospheric Science from Yale University and a Bachelor of Arts in Political Science from Brown University, encouraged all those in the audience to continue their ongoing efforts, in cooperation with others throughout the region.



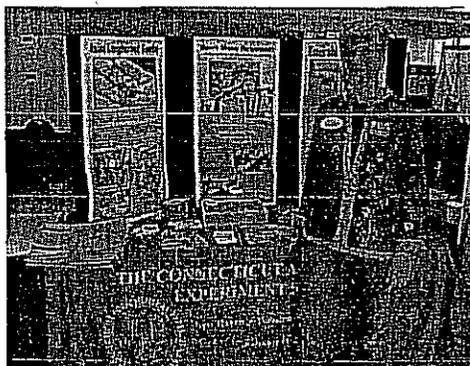
Teresa Gallagher, CT Greenways Council, presenting workshop on CT Greenways and Trails.

**Workshops & Displays:** Twelve informative workshops were provided by various experts in fields of interest for conservation

and wetlands commissioners and their staff. These covered a variety of topics relevant to Connecticut commissioners including wetlands law and procedures, riparian corridors, changing mammal population dynamics, stopping the Emerald Ash Borer & Asian Longhorned Beetles and the latest invasive plant species, along with new approaches to land conservation.

We thank all the workshop leaders for their time spent preparing and presenting these well-received forums.

Over twenty commercial entities and non-profit groups provided a rich array of displays to further inform visitors of current issues relevant to their work and volunteer efforts. The CACIWC Board of Directors has begun a detailed review of the evaluations forms submitted by participants of



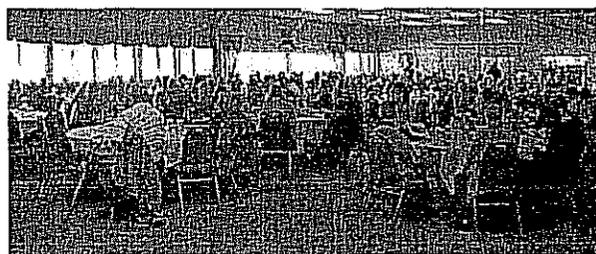
Display by CT Agriculture Experiment Station. photo credit: Jeff Mills

this conference. In addition to informing us of their opinions of the educational sessions, the participants also provided valuable suggestions for workshop topics for next year's conference.



Attendees trying on CACIWC hats.

To allow other members the opportunity to submit ideas for workshop topics and other suggestions, the CACIWC Annual Meeting Committee has decided to again maintain the AnnualMtg@caciwc.org email throughout the year. Please keep those suggestions coming! We thank the



Attendees at lunch. photo credit: Jeff Mills

staff at MountainRidge for hosting the conference again this year and extend our sincere appreciation to our 2010 conference sponsors. We look forward to seeing you again at our 2011 Annual Meeting and Environmental Conference!

**Awards:**

Two major CACIWC awards were given at the Saturday November 13, 2010 ceremony.

Jennifer Allcock, a member and chairperson of the Guilford Conservation Commission received the 2010 "Conservation Commissioner of the Year" award. Dr. Allcock, who served on the Conservation Commission from 2004 to 2010 and as its chairperson for five years, was recognized for her extraordinary contributions to the Town of Guilford. Jennifer has led or been involved in virtually every significant conservation activity undertaken by the Town. She has continuously supported the efforts of the Planning and Zoning Commission in developing conservation related plans and implementing them, including the Town's *Plan of Conservation and Development 2002*, *Growth Management Strategies 2004*, and the 2007 *Municipal Coastal Plan*. She worked closely with the

*continued, next page*



Dr. Jennifer Allcock, Guilford Conservation Commission

P&Z Commission and its staff in developing zoning to implement these plans including Stormwater Management, Low Impact Development Guidelines and new Coastal Zone regulations. She has served on the Planning Committee of the P&Z Commission and monitors the agendas of the Commission to insure the continuing commitment to conservation principles in the day to day activities relating to the development of the Town.

She, along with other advocates in the Town, created the *Natural Resource Inventory and Assessment* in 2005. This detailed comprehensive description of the Town's resources has proved to be an invaluable tool in making land use and conservation decisions and has served as a model to land use professionals throughout the state. Not content to work only at the policy level, Jennifer has also led the Conservation Commission in the ongoing management of the Town's 500-acre Timberlands property and created and managed a research orchard on Town land in support of a nationwide effort to develop a blight resistant American chestnut tree.

In 1965, Dr. Jennifer Allcock co-founded the pioneering Covenant House Health Services in Philadelphia and served as its Director for 25 years. She received the Philadelphia Award, given each year to a citizen who acted and served on behalf of the best interests of the community, and went on to earn an M.A. in Landscape Design. In addition to participating on the Guilford Conservation Commission from 2004 to 2010 and serving as its Chairperson for five of those years, Jennifer led many conservation initiatives in town and served as a Director of The American Chestnut Foundation's Connecticut Chapter. Jennifer is a model conservation citizen and leader and although she will be returning to Pennsylvania this year, her contributions will be long remembered in Guilford.

**George A. Ziegra, a member and chairman of the Salem Inland Wetlands and Conservation**

**Commission** was honored with the 2010 "Lifetime Achievement Award." Mr. Ziegra was recognized for his more than three decades of service to the Town of Salem. Mr. Ziegra first became a commission member within the first decade of the original Earth Day on January of 1980, when the Commission was known as the Conservation Commission. He and his fellow commissioners took on the additional task of regulating inland wetlands on April 1992, when the commission expanded to become the Salem Inland Wetlands and Conservation Commission.

Mr. Ziegra, a retired engineer from Electric Boat, has dedicated almost 31 years of service to the Town of Salem and its



Sally Snyder and George A. Ziegra, Salem Inland Wetlands Commission

residents as a member of the Inland Wetlands and Conservation Commission, serving as its Chair for many of those 31 years. Through those years, he has proven to be a valuable asset and member, who has grown and continues to grow in his knowledge and experience, re-ensuring the protection of Salem's valuable natural resources.

Mr. Ziegra's passion for promoting conservation and natural resource protection also led him to become involved in many regional efforts. His participation in a working group that reviewed the Niantic River Watershed Plan is a recent example. George invested many hours with the workgroup conducting a detailed review of the plan, which resulted in numerous recommendations for improved implementation of protective actions.

His fellow commission members know that they can count on Mr. Ziegra. He rarely misses a meeting, and places high value on the importance of wetlands and conservation. Moreover, he is always willing to respond to requests from new members to share his perspective and guidance based on his many years of experience. CACIWC is pleased award this special honor in recognition of his dedicated efforts on behalf of his town.

**D**emocracy can be messy, and no one ever said it was efficient. It just seems to be better than anything else out there. Public hearings can bring out both the best and the worst in people and you need to control them.

## What Does the Law Require?

The United States and Connecticut Constitutions guarantee every citizen the right to “procedural due process.” *Substantive* due process means that the *decision made* was in accordance with Constitutional principals, but *procedural* due process means that the decision was made *in the right way*. They are separate guarantees of Constitutional rights and both must be accorded.

The touchstone of procedural due process when applied to public hearings and other proceedings is “fundamental fairness.” Fundamental fairness has been the subject of thousands of court cases, but in essence it means that the proceeding was conducted in a way that protected the rights of all parties. That would include obvious things like allowing everyone to be heard, not considering *ex parte* communications (communications made outside the hearing room), disclosing the true nature of the proposal, using the applicable regulations as they are written, and having decision-makers (commissioners) who are objective and open-minded.

It also means conducting hearings in such a way that no one is improperly intimidated, harassed, or disadvantaged in the presentation of their position. When the topic is hot, and the crowd gets hot, and the meeting gets hot, you must expect trouble.

## Who Cares if the Crowd Gets Nasty?

You do, whether you know or not. First, your decisions are subject to appeal if an “atmosphere of hostility” is allowed to pervade the proceedings. *Pirozzilo v. Berlin Inland Wetlands and Water Courses Commission*, 32 Conn. L. Rptr. No. 3, 103 (1-17-02): The *applicant’s* consultant made a joke about his own client’s Italian background; a commission member joked back. Held that an atmosphere of hostility had been created against people of Italian ethnicity which prevented the applicant from obtaining a fair hearing. This was an administrative appeal seeking to overturn the commission decision, not a civil case for money damages.

In *Thomas v. West Haven*, 249 Conn. 385 (1999) two commission members were openly hostile to the applicant, using foul language and threats, trying to deny the application before the public hearing was even completed, and demanding information not authorized by the regulations.

Thomas brought a civil rights claim—a civil suit for money damages—against the town, claiming that he had been denied procedural due process in the way that the hearing was conducted on his application. West Haven defended on the ground that the two commission members acted on their own, did not reflect the conduct of the majority of commission members, and the town could not be held liable because of two bad apples in the barrel. Held: You can be, and are *liable* for bad apples in the barrel. The public hearing was characterized by an “atmosphere of hostility” that prevented Thomas from getting a fair hearing on his application. The town has an obligation to assure procedural due process—fundamental fairness—in every proceeding. If they fail to do so, they *are liable*. So chairmen, staff, whoever— you owe it to your town and its taxpayers to deal with and control conduct that creates an “atmosphere of hostility.”

This is especially critical where the flashpoint is a civil right issue all its own: religion, free speech (adult book stores or other entertainment uses or political signs), ethnic background, race, disability. Examples I have experienced:

- Islamic Cemetery before a wetlands commission.
- Affordable housing where minorities may be expected to reside.
- “Half-way” house for persons recovering from traumatic brain injury (TBI).
- Clinic for disabled persons recovering from alcohol or drug addiction.
- “Half-way” house for juveniles transitioning out of prison.
- Treatment facility for persons suffering from Alzheimer’s Disease.
- Synagogue in residential zone.
- Christian prayer meeting in residential zone.

If you allow prejudice to flare at a public hearing, you are inviting the overturn of your decision and, even worse, money damages against your town.

## Be Prepared

If you suspect trouble, have police on hand, preferably in uniform. Have more than one if any doubt at all and more on call.

Have a large room—oversized, in fact. Packing people together contributes to their anonymity and encourages heckling or shouting out (the “voice from the crowd.”)

Have a board or other way to display plans, etc. It avoids having people shout out, “I can’t see that.”

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Have an AV system. People will sit in the back row and then shout, "I can't hear." Invite persons with hearing problems to sit in the front of the room (they won't.)

Set out the rules of the game before the applicant ever stands up: "We will hear from the applicant; then questions from the Commission and staff; then those in favor; then those opposed; then those who don't wish to be categorized as in favor or opposed. There will be no shouting, applause, booing, heckling, or other disturbance. Those who break these rules will be ejected from the meeting. There will be no exceptions." Explain what kind of proceeding this is (wetlands, zoning, etc.) and what the criteria for review are. Have copies of those criteria available for distribution and ask people to address their comments to those criteria. If need be, state expressly that the religion, race, ethnicity, etc. of the applicant or ultimate occupant/user is irrelevant and no such comments will be entertained. And stick with it!

### **Keep the Lid On**

Nothing spirals out of control faster than a mob mentality. You must react swiftly and decisively to the *very first person* who gets out of order. Shout them down at once and explain that the next person who interrupts the proceeding will be ejected. And then *do it* and have the uniformed personnel to carry out the threat. Be sure that they are ready, willing, and able to perform that function.

If things go crazy, stop the whole show and continue the public hearing to another night. And have more police on hand.

### **Keep Your Own Troops in Line**

Chairmen: Your own colleagues may be your worst enemy if they are playing it up for the crowd, are bigoted people, or are just plain stupid. You have to keep *them* in line, too. If you don't think you can handle that role, have your town attorney present to do it for you. The town attorney doesn't have to run for office and (usually) doesn't live in your town. Let him/her be the lightning rod for misdirected energy. We're used to having people mad at us! We can handle it.

If you have a nut case on your commission, deal with it: A stern lecture from the First Selectman, Town Attorney, party chairman—whoever can reach the jerk. If nothing works, you have to force that person off if your local ordinance or charter provide a proceeding for doing so. Obviously, when their term expires, they shouldn't be reappointed but don't expect the chief executive to know that. The rest of you have a duty to tell the appointing authority that this nut has got to go. Be sure it's nonpartisan, nonpersonal. It's just that the nut is setting you up for trouble.

### **Keep the Applicant In Line**

Some applicants are "trolling" for bigoted remarks just so that they can bring a civil rights claim later on. They may actually try to incite the crowd or goad you into saying something stupid. Make the rules just as clear to the applicant as to the crowd: Address the application and the regulations—nothing else. If they refuse to do so, table the item to the end of the meeting or the next meeting. I prefer the former because the applicant has to pay all their experts to wait around while you go through hours of routine applications, minutes approvals, staff reports, wedding/birth/death announcements, etc. Next time, they'll stick to the point.

### **Basic Rules**

- All comments are directed to the commission. There is to be no argument among proponents and opponents, applicants and neighbors, etc. If someone demands a right of cross examination, deal with that in an orderly way, but otherwise, no communications except to and from the chair. Even cross examination is under the chair's control, like the way a judge controls it in the courtroom.
- Never allow *anyone* to interrupt a member of the commission, especially the chairman. This goes for applicants or the public. You are volunteering your time to sift through this stuff and you deserve to be treated with respect. *Demand* that you be treated with respect. This is especially true for professionals (lawyers, engineers, consultants, etc.) who should know better. It is *your* meeting and *you* are running it. Not them.
- No one speaks—including commission members—unless and until they are recognized by the chair.
- No applause, no booing, no heckling, no shouting out, no disruption. **No show of hands.** It's not a popularity contest!
- Keep people on the point. As soon as they wander off, bring them back or tell them they're finished for now ("compose your thoughts and you can speak again later.")
- Don't run too late at night. As people get tired, they get cranky and harder to control. Better to meet once a week from 7 pm to 9:30 pm than once every two weeks from 7 pm to midnight. It's the same number of hours, but a different dynamic.
- If it's likely to be bad, have your attorney there to assist you.

### **Conclusion**

You run serious legal risks by allowing a free-for-all in a controversial application, especially where race, religion, ethnicity, or disability are involved. Run a tight ship, don't let yourself get blown off course, and have troops on deck.

*Mark Branse is a partner with Branse, Willis, & Knapp, LLC; [www.bransewillis.com](http://www.bransewillis.com).*



# ENSURING THAT YOUR OPEN SPACE PLAN IS AN IMPORTANT PART OF THE PLAN OF CONSERVATION AND DEVELOPMENT

by Tom ODell and Ann Letendre

## INTRODUCTION

Conservation commissions are key players in the process of preparing or updating the Plan of Conservation and Development (POCD) in their communities. As a research and advisory board, the conservation commission collects and maintains an inventory of natural resources, as well as an index of all open areas within the town. This information provides the baseline data needed for creation of your open space plan, a critical element of your POCD.

Data collected by conservation commissions also enable informed decisions and recommendations for the location of growth areas, potential open space areas, and conservation areas. To effectively prepare for this work, your commission can do some early groundwork to understand the basics of the POCD process, and ready your open space plan for inclusion in the POCD.

To assist you, Part I of this article summarizes the legal basis for a conservation commission's important role in a POCD and describes the responsibilities of municipal boards and commissions in the POCD process. Part II, "Is Your Open Space Plan Ready for the POCD?" will appear in the Spring 2011 issue of *The Habitat*. It will describe the basic elements you will need to obtain or update that are essential to the open space plan and critical for town approval.

## Part I - THE BASICS – WHAT YOU NEED TO KNOW

### 1. Know the legal authority for including the open space plan in the Plan of Conservation and Development (POCD).

In 1995, passage of **Public Act No. 95-335, *An Act Concerning Greenways***, changed the designation of the municipal plan of development to the plan of conservation and development. Planning commissions are required to prepare and adopt (or amend) a "Plan of Conservation and Development" that establishes policies, goals and recommendations for the most desirable use of land within the community.

The POCD may serve numerous functions. It may include recommendations for land to be used for conservation purposes and may designate areas recommended

for preservation as open space land, provided such designation is approved by a majority vote of the legislative body of the municipality. It may include recommended programs for the implementation of the plan, including plans for open space acquisition and greenways protection and development. Both are particularly important since open space designations in the POCD are necessary for the community to

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*"The designation of 'conservation' by PA 95-335 as a major component of a community's land use plan amplified the importance of the conservation commission's advisory role."*

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qualify for open space grants, per Connecticut General Statutes, Section 8-23.

PA 95-335 enables conservation commissions to propose greenway plans for inclusion in the POCD, and clarifies the importance of planning for conservation at the local level. It also emphasizes the need for planning commissions and conservation commissions to collaborate on the formulation of comprehensive conservation plans for their municipalities. The designation of "conservation" by PA 95-335 as a major component of a community's land use plan amplified the importance of the conservation commission's advisory role. Data gathered by a conservation commission in conducting research into the possible utilization of land areas of the municipality, formulating watershed and draught management plans, and indexing open space are of great value to both boards as they develop open space and greenway plans, and the POCD.

Legal authority for a conservation commission's research and advisory role in land use planning is cited in the enabling legislation for conservation commissions, Connecticut General Statutes, Section 7-131a: "A commission *shall* conduct research into the utilization and *possible* utilization of land areas of the municipality...." - and - "A commission *shall* keep an index of all open areas, public or privately owned including wetlands, for the purpose of obtaining information on the proper use of such areas...". (Emphasis added).

## 2. Know the POCD decision-makers in your town

Recognize and contact those in the community who

are responsible for revising and approving your municipal POCD. Contact should be made at an early stage to request and discuss integrating an approved open space plan in the POCD.

*Planning Commission* – Planning commissions are required to prepare and adopt (or amend) a POCD for the community. Request that a representative of the planning commission work with you on the open space plan. Keep the planning commission informed of your progress.

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*"The POCD...may include recommended programs for the implementation of the plan, including plans for open space acquisition and greenways protection and development."*

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*Town Planner* - Generally, the town planner is given responsibility by the planning commission to lead a POCD steering committee (if one is established), and to work closely with planning consultants hired to assist with the POCD. Request assistance from the town planner in the update of your open space plan as it may relate to the POCD revisions.

*Zoning Commission* – A POCD may recommend changes to zoning regulations, including changes that are related to the open space plan. For example, a POCD may recommend enhanced open space requirements as part of Subdivision Regulations that include an increase in the minimum percent of the parcel be dedicated as open space. Keep the zoning commission informed and ask for their comment on the open space plan as it evolves.

*Inland Wetlands and Watercourse Commission*  
Wetlands regulations, and their administrative officer, have a significant role in protecting open space. A POCD could recommend changes in wetlands regulations that will contribute to protection

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of the most important wetlands and watercourses identified in the open space plan in order to ensure that development in these areas will be reviewed. Examples include riparian corridors and other critical habitats associated with wetlands, watercourses and upland review areas.

*Town Council, Board of Selectmen, Mayor* – It is very important to determine the role and views of community leaders on open space protection and the POCD.

*Town Residents* – Ultimately, approval of the both an open space plan and the POCD requires a vote of the legislative body of the town. Engage town residents early in the process of revising or developing the town's open space plan, and keep them engaged throughout the process.

*Political Landscape* - Politics can influence how an open space plan is received by the community and whether or not it is accepted as an important part of the POCD. Make sure the economic benefits of protecting natural resources and town character become recognized outcomes of the open space plan. Provide all town boards, including those responsible for financial matters, with opportunity to comment on the Plan.

### **3. Ensure consistency of the open space plan with other POCD elements.**

Open space plans should address how the plan relates to – or is consistent with – other POCD elements. Review key topics in the previous POCD, such as Natural Resource Protection, Community Character, Historic Resources, Utility and Transportation Infrastructure, and Housing Needs. The open space plan should also be consistent with regional and state land use plans.

### **4. Understand the POCD preparation process; where feasible, become a part of the process.**

After the initial steps are taken (hiring consultants, establishing a steering committee, and setting a schedule), the process of obtaining input for the various sections of the POCD begins. Review the POCD schedule and outline. Identify the sections that are relevant to the open space plan. Workshops and community surveys are usually held to acquire public input. Take these opportunities to gain information on your community's open space priorities.

*Steering Committee* - Ask to be a member of the committee. If not appointed, request notification of meetings so that conservation commission

members can attend. Review minutes of the steering committee, make minutes available to the commission, and discuss as appropriate.

*Community survey* - Ask to review the survey questions; make sure they seek opinions on protection of natural resources, community character and open space protection. Public opinion should also be sought on expenditure of tax monies for open space protection.

*POCD Workshops* – These types of meetings are held to gather public input on various POCD topics. Utilize these public meetings to create awareness of open space planning as it relates to the importance of protecting natural resources and town character.

*Final steps* in the process include public hearings and approval of the new (or revised) POCD by the planning commission and by the town's legislative body. If the process has been sufficiently interactive and has provided ample opportunity for input from the public, town staff, and town decision-makers, then the final public hearings should proceed smoothly.

*Tom O'Dell is Chairman of the Westbrook Conservation Commission, and is currently on the Westbrook POCD Steering Committee; he is editor of The Habitat. Ann Letendre served on the Vernon Inland Wetlands - Conservation Commission, participated in four Vernon POCD processes, and is the Associate Editor of The Habitat.*

### **Resources**

Jim Gibbons; "Putting Conservation into the Municipal Planning Process": *The Habitat*, Autumn 1995, Vol. IX No. 3.

Karl Wagener; "Greenway Law Puts New Tools into the Hands of Commissions": *The Habitat*, Autumn 1995, Vol. IX No. 3.

Michael A. Zizka; "What's Legally Required? A Guide to the Rules for making local land-use decisions in the State of Connecticut": DEP Bulletin 39, 2004.

Marjorie Shansky, Attorney; "The Conservation Commission: Your Town's Key to Natural Resource Protection": *The Habitat*, Spring 2005, Vol. XVII No. 2: <http://caciwc.org/library/habitat/index.html>.

John Mullaney and Michael O'Leary; "Hebron's Coordinated Approach to Riparian Area Protection": *The Habitat*, Winter 2008, Vol. XX No. 1: <http://caciwc.org/library/habitat/index.html>.



# Open Space And Green Infrastructure Planning

The Westbrook Conservation Commission is working to strategically integrate protection and restoration of the community's natural green infrastructure into revisions to the Open Space Plan and Westbrook's Plan of Conservation and Development.

Green infrastructure has been defined as our natural life support system – an interconnected network of waterways, wetlands, woodlands, wildlife habitats and other natural areas; greenways, parks and other conservation lands; working farms and forests; and other open spaces that support native species, maintain natural ecological processes, sustain air and water resources and contribute to the health and quality of life for communities and people.

Green infrastructure provides a framework to help planners and developers minimize the adverse impacts that community development can have on ecosystem functions and services, such as the loss of vegetated buffers of streams and rivers, and other natural areas that slow and absorb storm water runoff and recharge ground water and surface water supplies.

## Changing Perceptions

Open space is often viewed as something nice to have; green infrastructure implies something that we must have. Protecting and restoring our communities natural life support system is a necessity, not an amenity.

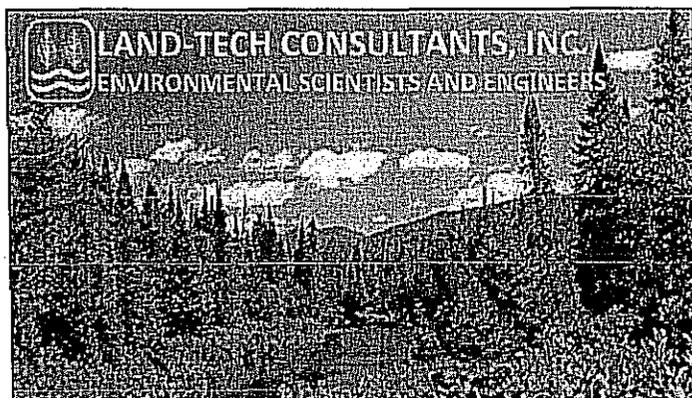
Open space is often thought of as isolated parks, recreation sites or natural areas. Green infrastructure emphasizes interconnected systems of green areas and other open spaces that are protected and managed for the ecological benefits they provide people and the environment.

Open space is often viewed as self-sustaining. The term 'green infrastructure' implies something that must be actively maintained and at times restored.

## Westbrook CT's Green Infrastructure

Westbrook's green infrastructure, including the tidal shoreline of beaches, islands and salt marshes, the uplands of forests, wetlands, rocky ridges and agricultural fields, and the rivers and streams that link

*continued, page 12*



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these natural resources, provides strong historical and present influence on our environment, public health, sense of character, community physical structure and quality of life.



Tidal Marsh and Woodlands; Green Infrastructure along Patchogue River: photo credit: Tom Odell, Chairman, Westbrook Conservation Commission

These natural assets should be protected not only for aesthetic and natural resource protection reasons but also to pass on this natural green infrastructure to future generations for their enjoyment, for their clean water supply, and for the diversity of wildlife and marine life we enjoy today.

### A Green Infrastructure Plan

The continual attraction to the amenities of Long Island Sound communities has increased development pressure on Westbrook's remaining undeveloped land. It is imperative that we continually strive to identify and preserve those green infrastructure elements that contribute to Westbrook's rural character and protect natural resources that are so important to this shoreline community. Restoration and preservation of the town's green infrastructure must be a first consideration when talking about development and integrating smart growth principals into community structure - the overall physical organization of Westbrook.

Protecting and restoring a town's natural green infrastructure in Plans of Conservation and Development ensures that existing unprotected open space such as river and stream vegetated buffers and farms and forests, are seen as part of the communities essential assets and not left vulnerable to development pressures that would leave green infrastructure further reduced and fragmented.



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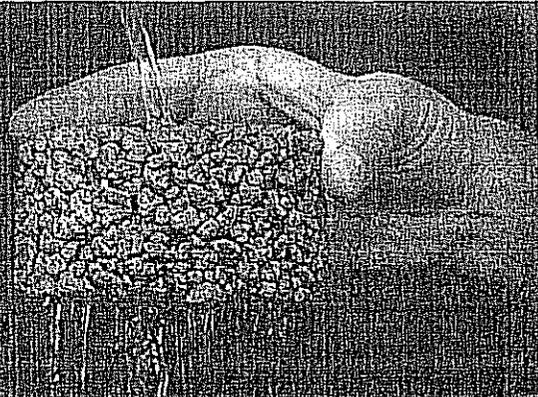
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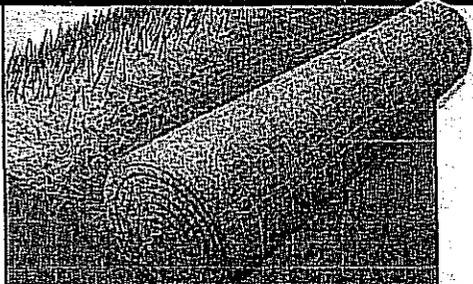


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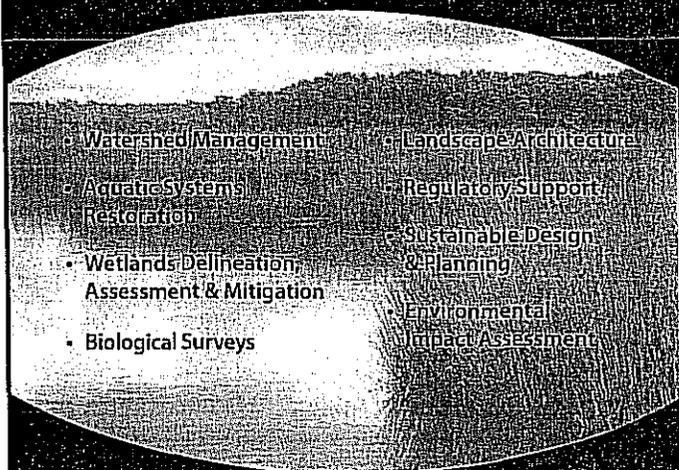
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journey, continued from page 1

ceed at the next level. Lawyers refer to them as “cert.” petitions. The petitioning party must persuade two judges on the Appellate Court that the lower decision was wrongly decided based on existing Supreme Court case law or that the issue hasn’t been reached by the Supreme Court but is likely not how the Supreme Court would rule or the matter is of great public importance. Once “cert.” has been granted, the matter proceeds with the filing of papers. Oral argument is the first time that the parties are in open court. While the Appellate Court comprises ten judges, appeals are heard in panels of three. The focus of the Appellate Court panel is whether the Superior Court properly ruled. (When I began practicing law, the focus was on whether the Superior Court “erred”; now the expression is more genteel.) The written decision of the Appellate Court is binding on all parties *and* is precedent on the law. There’s the rub. Exactly what the legal holding is, may be crystal clear . . . or a matter of opinion.

To continue with the court overview, again, the right to further review from an Appellate Court decision is not absolute. A party must petition for “cert.” to the Supreme Court. The same procedure is set in play, except that the would-be appellant must persuade three justices of the Supreme Court to grant certification. Beginning in September 2009, the Supreme Court voted to consider appeals en banc, that is, with all seven justices participating (where there are no disqualifications.) Previously, a panel of five justices was the custom, with seven justices participating in extraordinary appeals. The Supreme Court’s focus is whether the Appellate Court properly decided the case.

### *What this means for wetlands agencies*

In 2003 the Appellate Court ruled that prior to a wetlands agency regulating activities outside of wetlands and watercourse, it must first adopt a regulation establishing an upland review area. *Prestige Builders v. Inland Wetlands Commission*, 79 Conn. App. 710 (2003), cert. denied, 269 Conn. 909 (2004). The Supreme Court had not ruled on that specific issue and declined to grant certification in that case. Thus, the Appellate Court’s decision is the highest court decision and is binding on all wetlands agencies.

In 2010 the Appellate Court ruled that the Old Saybrook wetlands agency properly exercised jurisdiction over activities outside of the established upland review area because the majority of the activities were proposed within the upland review area. *River Sound Development, LLC v. Inland Wetlands and Watercourses*

*Commission*, 122 Conn. App. 644, cert. denied, 298 Conn. 920 (2010). Again, the Supreme Court declined to certify the appeal.

Thus, we are left with one case which requires an agency to have adopted an upland review area in order to exercise its jurisdiction and another case which concluded that an agency may regulate activities outside the upland review area. Until the Supreme Court grants certification in an appeal presenting this issue, wetlands agencies can’t know with any certainty how their actions regarding activities outside the upland review area will be adjudicated by the courts.

What’s an agency to do until the Supreme Court definitively resolves the issue? Shortly after the decision in the *Prestige Builders* case was released, the Attorney General’s Office and the DEP included recommendations in their training of wetlands commission members. The advice: to protect the agency’s maximum authority to regulate activities outside of wetlands and watercourses, they recommend the adoption of the following sentence in addition to the definition of “regulated activity”: “The Agency may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.” This language had already been widely broadcast by DEP in its 1997 Guidance Document, Upland Review Area Regulations Connecticut’s Inland Wetlands & Watercourses Act, page 3. If the holding in the *Prestige Builders* case is eventually reversed, the additional language in an officially adopted regulation may be unnecessary, but the regulation still serves two salutary purposes. The agency will be certain of the scope of its jurisdiction and can refer back to the language in its own definition. The public will also be able to find written support for the agency’s assertion of jurisdiction. For both the regulating agency and the public, more information is a benefit.

*Janet P. Brooks practices law in East Berlin. You can read her blog at: [www.ctwetlandslaw.com](http://www.ctwetlandslaw.com).*

i The decisions of the Appellate Court are cited in the following way: 1 Conn. App. 1 (1983). Decoded: 1 [number of the volume in which the decision is printed] Conn. App. [Appellate Court decision] 1 [page number on which the decision begins] (1983)[year in which the decision is published]. The Appellate Court decisions are printed in separate volumes from the Supreme Court decisions. The Supreme Court decisions are cited: 196 Conn. 218 (1985). Decoded: 196 [volume in which the decision is published] Conn. [Supreme Court decision] 21[page number on which the decision begins] (1985) [year in which the decision is published]



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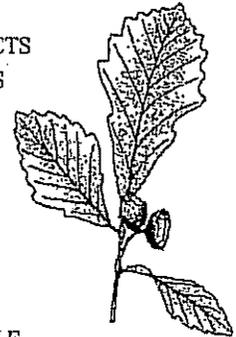
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**Grant Meitzler**

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**From:** jackie damato [jackie\_damato@yahoo.com]  
**Sent:** Tuesday, March 15, 2011 11:40 AM  
**To:** Robert L. Miller; Grant Meitzler; dziaks@fahesketh.com; rkellman@fahesketh.com; Town Mngr; Gregory J. Padick  
**Cc:** Beverly Sims  
**Subject:** Ponde Place Well Drilling

Dear Sirs,

I live on Northwood Road, and would like to know when the drilling of the well for Ponde Place is going to be completed. It is my understanding that letters went out to my two neighbors requesting if they would allow monitoring of their wells, and also that the work was to be on or about March 12th. Given that there are only three residential homes on Northwood Road I would have thought just out of common courtesy I would have been informed of the intended well drilling. This was not the case and that being said I have had to put up with the constant noise of the drilling since all of the equipment arrived on March 3rd. At times the drilling has started as early as 7:00am and ended at 6:30pm. I have had to put up with not only the incessant noise, but trucks and other vehicles turning around in our driveway and most disturbing of all is that men are urinating in the woods facing my home.

It was my understanding that only one well was going to be drilled yet that does not appear to be the case. If you knew the project was going to take this long then way was there not a Port-a-let made available for the crew. I work from home and quite honestly don't want to see men relieving themselves across from my house. I would respectfully like to know when the drilling is scheduled to be completed, and how many wells to date have been drilled and how many more are scheduled.

Thank you in advance,  
Jackie D'Amato

3/15/2011

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