

AGENDA
Inland Wetland Agency
REGULAR MEETING
Monday, December 3, 2012
Council Chambers, Audrey Beck Building

Call to Order: 7:00 PM

Review of Minutes of Previous Meetings and Action Thereon:

11.05.2012 - Regular Meeting
11.14.2012 - Field Trip
11.19.2012 - Special Meeting

Communications:

Conservation Commission: W1504 - Kueffner
GM Monthly Business memorandum

Public Hearings:

None

Old Business:

W1504 - Kueffner - Rte 195 - Treescape

Pending:

W1502 - Wetlands Violation Ordinance - tabled (no new information)
W1505 - Beacon Hill Estates, Section II, Mansfield City Road, 17 Lot Subdivision
(January public hearing is scheduled).

New Business:

New Application:

W1508 - Rebecca Shafer - Echo Road - addition & Deck in buffer
W1509 - Fisher Builders LLC - Coventry Rd - garage/shop in buffer

Agent Approval:

Patrick Eye - 20 Hillynddale Road - deck 120' from wetlands

Reports of Officers and Committees:

Other Communications and Bills:

DEEP re: Eagleville Dam maintenance

Adjournment:

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DRAFT MINUTES
MANSFIELD INLAND WETLANDS AGENCY
Regular Meeting on Monday, November 5, 2012
Council Chambers, Audrey P. Beck Municipal Building

Members present: J. Goodwin (Chairman), B. Chandy, R. Hall, K. Holt, G. Lewis, P. Plante B. Pociask,
K. Rawn, B. Ryan
Alternates present: A. Marcellino, V. Ward, S. Westa
Staff present: Grant Meitzler, Wetlands Agent

Chairman Goodwin called the meeting to order at 7:00 p.m. and appointed Marcellino to act if needed in case of member disqualification.

Minutes:

10-1-12 – Regular Meeting- Hall MOVED, Chandy seconded, to approve the 10-1-12 minutes as written.

MOTION PASSED with all in favor except Plante who disqualified himself.

10-10-12 – Field Trip Meeting- Ryan MOVED, Lewis seconded, to approve the 10-10-12 field trip minutes as written. MOTION PASSED with Goodwin, Chandy, Holt, Lewis and Ryan in favor and all others disqualified.

Communications:

The 10-17-12 Draft Minutes of the Conservation Commission and the 11-1-12 Wetlands Agent's Monthly Business report was noted.

Public Hearings:

None.

Old Business:

W1504 - Kueffner - Rte 195 – Treescape

Item was tabled for consideration at the 11/19/12 Special Meeting.

W1502 - Wetlands Violation Ordinance

Item was tabled– no new information.

New Business:

W1505 - Beacon Hill Estates, Section II, Mansfield City Road, 17 Lot Subdivision

Ryan MOVED, Holt seconded, to receive the application submitted by the Eagleville Development Group, LLC, (Beacon Hill Estates, Section II) (W1505) for a 17-lot subdivision, on property located at Beacon Hill Road/Mansfield City Road, as shown on plans dated 3-11-12, and as described in application submissions, and to refer said application to staff and committees for review and comment. MOTION PASSED UNANIMOUSLY.

W1507 – (W1452/W1339) Shifrin- Mansfield Hollow Hydro Project

Ryan MOVED, Holt seconded, to receive the application submitted by Sam and Michelle Shifrin (W1507) for Mansfield Hollow Hydroelectric Project, on property located at 114 Mansfield Hollow Road (Kirby Mill), as shown on plans dated 4-26-10, and as described in application submissions, and to refer said application to staff and committees for review and comments. MOTION PASSED UNANIMOUSLY.

This application will be scheduled for discussion and vote at a Special Meeting on November 19, 2012

W1506 – Footbridge, Lions Memorial Park/Dorwart Preserve, Mulberry Road

Holt MOVED, Hall seconded, to approve the request for exemption (File W1506), submitted by the Town of Mansfield acting through Jennifer Kaufman, Recreation Coordinator, for placement of a footbridge at the Lions Memorial Park/Dorwart Preserve, located off Wormwood Hill Road and Mulberry Road, as described in the

application materials and sketch mapping dated May 2012 which have been submitted.

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

1. All erosion and sediment controls as described in the application shall be in place prior to construction, maintained during construction, and removed when disturbed areas are completely stabilized.

This exemption is granted under the provisions of Section 4.1. B (second). Any change in the work proposed is to come back before the Agency for further review. MOTION PASSED UNANIMOUSLY.

Adjournment:

The Chairman declared the meeting adjourned at 7:10 p.m.

Respectfully submitted,

Katherine Holt, Secretary

DRAFT MINUTES

MANSFIELD PLANNING AND ZONING COMMISSION
INLAND WETLANDS AGENCY
CONSERVATION COMMISSION
FIELD TRIP
Special Meeting
Wednesday, November 14, 2012

Members present: K. Holt, A. Marcellino, K. Rawn
Others Present: S. Lehman
Staff present: L. Painter, Director of Planning and Development

The field trip began at 3:30 p.m.

1. Shifrin – Mansfield Hollow Road –Kirby Mill-Hydro Project-W1507
Members were met on site by Sam and Michelle Shifrin. Members observed current conditions, and site characteristics. No decisions were made.

The field trip ended at approximately 4:50 p.m.

Respectfully submitted,

K. Holt, Secretary

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DRAFT MINUTES
MANSFIELD INLAND WETLANDS AGENCY
SPECIAL Meeting
Monday, November 19, 2012
Council Chambers, Audrey P. Beck Municipal Building

Members present: J. Goodwin (Chairman), B. Chandy, K. Holt, G. Lewis, P. Plante B. Pociask, K. Rawn
Members absent: R. Hall, B. Ryan
Alternates present: A. Marcellino, V. Ward, S. Westa (7:05 p.m.)
Staff present: Grant Meitzler, Wetlands Agent

Chairman Goodwin called the special meeting to order at 7:00 p.m. and appointed A. Marcellino and V. Ward to act in members' absences.

Old Business:

W1504 - Kueffner - Rte 195 – Aerial Treescape

L. Stoddard and C. Kueffner reviewed the changes suggested by staff and agreed to incorporate them in the final plans.

W1507 – (W1452/W1339) Shifrin- Mansfield Hollow Hydro Project

Holt MOVED, Ward seconded, to grant an Inland Wetlands license pursuant to the Wetlands and Watercourses Regulations of the Town of Mansfield to Sam and Michelle Shifrin (file no. W1507) for a hydro-power project at the Kirby Mill property in Mansfield Hollow on property owned by the applicant located at 114 Mansfield Hollow Road, as shown on site plans dated April 26, 2010, and on a sediment & erosion control plan dated revised March 6, 2006 and as described at meetings of the Inland Wetlands Agency held November 5, 2012, November 14, 2012, and November 19, 2012.

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

1. Appropriate erosion and sedimentation controls (as shown on the plans) shall be in place prior to construction and maintained during construction, and removed when disturbed areas are completely stabilized;
2. All required approvals from other agencies shall be obtained before this approval becomes effective;
3. The final plans shall include definition of tree removal and preservation areas to insure appropriate stabilization of the river bank areas;
4. A double row of silt fencing is to be placed along the downhill side of the construction areas.

This approval is valid for 5 years (until November 19, 2017), at which time a renewal of the permit is required if work has not been completed. The applicant shall notify the Wetlands Agent before work begins, and all work shall be completed within one year. Any extension of the activity period shall come before this Agency for further review and comment. MOTION PASSED UNANIMOUSLY.

Adjournment:

The Chairman declared the meeting adjourned at 7:13 p.m.

Respectfully submitted,

Katherine Holt, Secretary

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Town of Mansfield
CONSERVATION COMMISSION
Meeting of 14 November 2012
Conference B, Audrey P. Beck Building
(draft) MINUTES

Members present: Joan Buck (Alt.), Neil Facchinetti, Quentin Kessel, Scott Lehmann, John Silander. *Members absent:* Aline Booth (Alt.), Robert Dahn, Peter Drzewiecki, Frank Trainor. *Others present:* Grant Meitzler (Wetlands Agent), Linda Painter (Town Planner), Pat Suprenant.

1. The meeting was called to order at 7:30p by Chair Quentin Kessel. Alternate Joan Buck was designated a voting member for this meeting.

2. "Proposed open-space purchases" was added (under "New Business") to the agenda, which was reordered to accommodate the Town Planner.

3. The draft minutes of the 17 October 2012 meeting were approved as written.

4. Painter distributed a memo from Town Manager Matt Hart requesting comments (by 04 December) on the draft **UConn Water Supply Environmental Impact Evaluation (EIE)**, released on 06 November. Attached were copies of the Executive Summary, Chapter 1 (Introduction), and Chapter 12 (Selection of Preferred Alternative). {The full draft is available via links at <http://www.ct.gov/ceq/view.asp?a=987&Q=24943&ceqNav=%7C#EIE>.}

New water needed in 2060 by UConn and the Town is estimated at 1.23 million gallons per day (on average, including a 15% margin of safety). This reflects an increase (over previous estimates) of 0.38 mgd for the proposed UConn Technology Park. Of the potential sources studied, the only ones capable of supplying this amount of water were Windham Water Works (WWW, from Willimantic Reservoir), Connecticut Water Company (CWC, from Shenipsit Reservoir and CWC ground sources), and Metropolitan District Commission (MDC, from Barkhamsted and Nepaug Reservoirs). Capital costs (piping, pump stations, upgrading water treatment plants, etc.) are estimated at \$20.3M for the CWC option and \$47.6M for either WWW or MDC. Piping would be under or along existing roadways. Potential environmental costs are increased development along the route of the new water line and reduced streamflows from the source reservoirs.

In discussion, Kessel wondered if imported water could supply all of UConn and Mansfield's water needs. Were the Fenton and Willimantic wells no longer needed, it might be good for the Fenton and Willimantic Rivers but could also permit development in what are currently aquifer protection areas. Ms. Suprenant noted that the CWC and MDC options may be more difficult to reconcile with state and town plans of conservation and development than the WWW option, which would be built within Mansfield.

Commission members agreed to read the documents provided and to decide by Monday, 19 November, whether to convene a special meeting at 4:00p on Tuesday, 27 November, to formulate comments on the EIE.

5. Painter reported that members of the advisory committee on siting UConn's **Hazardous Waste Transfer Station** will be asked to score alternative sites (using various criteria developed by the committee) before the next meeting. The committee will then attempt to assemble the rankings of individual members into a committee ranking.

6. **Swan Lake Diversion.** The DEEP is asking (letter dated 22 October) UConn for more

information regarding its proposal to reduce storm-water flows in the Eagleville Brook watershed through low impact development (rain gardens, pervious pavement, etc.). If run-off into Eagleville Brook could be reduced in this way, UConn could avoid doing so by diverting run-off into the Fenton River watershed via Swan Lake, as proposed in the UConn master drainage plan. Such a diversion would dump polluted water into a public water supply watershed.

7. Open Space. A public hearing will be held on Monday, 26 November, on the proposed purchase of two parcels of land for open space, one near Wolf Rock, the other near Dunhamtown Forest. Both parcels are interior properties with no frontage and abut existing natural areas owned by the Town or Joshua's Trust. The Commission agreed unanimously (**motion:** Kessel, Lehmann) to recommend purchase of these properties.

8. Referrals.

a. W1505 & PZC#1214-3 (Beacon Hill Estates II, Mansfield City Rd.) Relative to the earlier proposal discussed by the Commission on 18 July, a conservation easement has been added to lot 37 along its southern boundary line so that open space to the east is connected to state land to the west; however, the size of the conservation easement on the western portion of lot 36 has been reduced accordingly. After some discussion, the Commission agreed unanimously (**motion:** Kessel, Buck) on the following comment:

The Commission is disappointed that so much of the open space dedication is wetland (with extensive barberry), which the developer could not have developed in the first place. It urges that conservation easements be drafted so as to permit a trail for public use from the dedicated open space on the east to State land on the west.

b. W1507 (Shifrin, Kirby Mill Hydro Project) This application for a wetlands permit is essentially identical to one made (and granted) in 2006, as modified in 2010. That permit has expired, so a re-application is required. Concerning the original application (W1339), the Commission commented on 15 February 2006 that "the CC supports, in principle, the reestablishment of this hydroelectric power plant. Assuming the other permits, e.g., from the Army Corps of Engineers, the DEP (including the fisheries division), etc., are in place, the CC perceives no significant negative impact on the wetlands involved." The Commission agreed unanimously to the following **motion** (Lehmann, Kessel) regarding W1507:

Inasmuch as the project described in this application is essentially identical to the one covered by the original 2006 permit, as modified in 2010, the Commission foresees no significant impact on wetlands.

{Lehmann participated in the IWA Field Trip to this site earlier in the day; his report is attached.}

9. 2013 meeting schedule. The Commission approved a meeting schedule for 2013 specifying monthly meetings at 7:30p on the third Wednesday of the month. {The draft schedule from the Planning Office incorrectly indicates that the August meeting will be on 14 August instead of 21 August 2013.}

10. Adjourned at 9:13p. Next meeting: 7:30p, Wednesday, 19 December 2012.

Scott Lehmann, Secretary, 16 November 2012.

Attachment: 14 Nov. IWA Field Trip Report

W1507 (Shirfin, Kirby Mill Hydro Project). The original permit (as modified in 2010) for this project has expired, and the Shirfins must reapply. The proposal is essentially identical to the one covered by the expired permit. It calls for constructing a new small hydro installation at the Kirby Mill as a test laboratory and demonstration project for the efficient turbine design developed by the Shirfins. Head will be provided by the existing Kirby Mill Dam. The headrace will initially follow the course of the old headrace before angling slightly toward the river to a new powerhouse with room for five small side-by-side turbines; discharge will be via a tailrace broader than the old one, but following the same course. The headrace will be enclosed in square-box concrete culvert covered by soil. The tailrace will be in wetland, as will the beginning of the headrace. Construction would occur during summer, when low flows are expected; a haybale fence and settling pond is specified to keep construction sediment out of the river. Mr. Shirfin hopes to complete the project in 2013. He indicated that it should improve fish habitat in this reach of the river by diverting high flows that flush fish downstream.

Scott Lehmann

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Memorandum:

November 20, 2012

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.
- 4.25.11: Mr. Brodin indicates he is starting with grading and spreading hay and seed to stabilize disturbed areas.

Mansfield Auto Parts - Route 32

- 12.07.11: Inspection - two vehicles are within 25' of wetlands. Payloader repairs not yet completed. Weekly inspections will be made until the two vehicles and doors are moved.
- 12.27.11: Inspection - 1 vehicle within 25' of wetlands - owner indicates it will be moved this week. Payloader is back in operation. Owner indicates doors in "rear" lot will be moved this week. Large number of tires have been moved from lot by RR tracks - approximately 65% of tires have been removed.
- 2.01.12: Inspection - employee indicates payloader repair has had problems and the one car within 25' has not yet been moved. Tire removal has continued and about 90 percent of the tires have been removed. A truck from the company removing the tires arrived while I was at the site.
- 3.01.12: Inspection - owner indicates payloader is repaired. Owner indicates the one car within 25' will be moved. Tire removal is nearing completion.
- 3.28.12: On the way to see the car moved I found the payloader blocking the entrance drive to the rear area, with the mechanic under the hood. He indicated the new engine had stopped running on the way to move the remaining car. Inspection today showed the payloader in the same location.
- 5.01.12: Payloader remains in the same location with a bad motor.
- 5.17.12: Payloader and the one vehicle have been moved. There are no vehicles within 25' of wetlands.
- 6.22.12: Inspection - no vehicles are within 25' of wetlands.
- 7.10.12: Inspection - no vehicles are within 25' of wetlands.
- 8.16.12: Inspection - no vehicles are within 25' of wetlands.
- 9.19.12: Inspection - no vehicles are within 25' of wetlands.
- 10.05.12: Inspection - no vehicles are within 25' of wetlands.
- 11.01.12: Inspection - no vehicles are within 25' of wetlands.
- 11.20.12: Inspection - no vehicles are within 25' of wetlands.

November 29, 2012

Memorandum:

To: Inland Wetland Agency
From: Grant Meitzler, Inland Wetland Agent
Re: W1504 - Kueffner - Rte 195 - Treescape Update

reference: Management Plan - undated
letter to Linda Painter, dated 11.28.2012

These two documents relate to conditions recommended in the Wetlands discussions as well as the Zoning Commission.

The letter to Linda Painter notes revisions asked for placement of parking farther from the adjacent wetlands, access to portable toilets, and parking lot circulation issues; timing for the phase 2 parking has been addressed.

A management plan based on the Connecticut Stormwater Quality Manual (2004) has been submitted and includes the recommended checklist for inspections of the Water Quality Swales.

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**Management Plan for the Maintenance of Proposed Stormwater Bioswales:
Seasonal Aerial Forest Ropes Course
Storrs Road, Storrs, CT**

Kueffner/Stoddard, PZC File #1313

Stormwater treatment/management swales will be installed along the northern (downgradient) edges of the proposed gravel parking area. These swales have been designed to capture runoff from the majority of the parking area, and will provide some storage volume for the attenuation of peak flows as well as for improvement of water quality. The design of the swales incorporates commonly used Best Management Practices and follows guidelines set forth by the CT Department of Energy and Environmental Protection Stormwater Quality Manual and the Connecticut and federal stormwater regulations.

We will follow the Best Management Practices for inspection and maintenance of the bioswales as set forth by the CT Department of Energy and Environmental Protection's Connecticut Stormwater Quality Manual (2004) and use the Maintenance Inspection Checklist for Water Quality Swales in Appendix E, page E-10. Specifically, we will adhere to the following inspection and maintenance practices:

- Lynn Stoddard and Chris Kueffner will be responsible for inspection and maintenance.
- Inspect swales several times during the first few months to ensure that grass cover is established. Inspect swales semi-annually for the remainder of the first year and after major storm events. Inspect swales annually after the first year.
- Inspect the initial sediment forebay annually for clogging and sediment buildup. Remove sediment buildup when approximately 25 percent of the water quality volume or channel capacity has been exceeded. Remove excessive trash and debris and dispose properly.
- Inspect the vegetation along the swale bottom and side slopes for erosion and repair (seed or sod), as necessary.
- Mow grass on a regular basis to maintain grass heights of 4 to 6 inches during the growing season, or at least once per year. Avoid mowing when ground is soft to avoid the creation of ruts and compaction, which can reduce infiltration and lead to poor drainage.
- Use the Maintenance Inspection Checklist for Water Quality Swales in Appendix E, page E-10 of the Connecticut Stormwater Quality Manual. The checklist appears on the following page (apologies for the poor quality) and on the hyperlink. Any fertilization of vegetation will use all natural organic compost.

Water Quality Swales

Project Location: _____

As Built Plans Available? _____

Date Time: _____

Days Since Previous Rainfall and Rainfall Amount: _____

Inspector: _____

Maintenance Item	Satisfactory	Unsatisfactory	Comments
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1. Debris Cleanout

- No excessive trash and debris in or around the swale
- No trash or debris

2. Check Dams or Energy Dissipators

- No evidence of flow going around structure
- No evidence of erosion at downstream toe

3. Vegetation

- Mowing pattern follows the length of swale
- Height of grass is not cutting growth height
- No evidence of erosion (stream bank) at any points
- No weeds present

4. Dewatering

- Flow lines between items are swaley

5. Sediment Accumulation

- Approximate depth of accumulation sediment
- Sediment accumulation is less than 10% of flowover or flow capacity (less of recommended structure)

6. Outlet/Overflow Spillway

- Good condition, no need for repairs
- No evidence of erosion

Actions to Be Taken:

To Be Completed By (Date):

Source: Adapted from Waterways of Connecticut, Inc. (WCI) "Inspection Manual for Waterways Management" (www.waterways.org) and the Connecticut Department of Transportation, "Operational Guidelines for Waterways Inspection".

November 28, 2012

Planning & Zoning Commission
Linda Painter, Director of Planning and Development
Town of Mansfield

Re: Special Permit Application, Seasonal Aerial Forest Ropes Course,
Kueffner/Stoddard, PZC File #1313

Dear Ms. Painter and the Mansfield Planning & Zoning Commission:

We would like to provide some additional information based on questions raised at the November 19th public hearing and reiterate our commitment to comply with staff recommendations summarized in Linda Painter's November 15, 2012 memo to the Planning & Zoning Commission.

Questions Regarding Safety Standards

As stated in our application Statement of Use and our November 19th presentation, the aerial park will meet the standards for Challenge Course and Aerial Adventure Course installation, operation, and inspection, as set by the Association for Challenge Course Technology (ACCT). ACCT was formally organized in 1993. The first edition of the standards was issued in 1994, and included installation standards only. The second edition was released in 1998, and also included Technical Standards for Challenge Course Operations. The most recent edition, the 7th, released in 2008, includes standards for Installation and Equipment, Inspections, Operations, Practitioner Certification and Qualifications for the Challenge Course Professional.

Town staff has addressed the questions raised on November 19th regarding state regulations of these types of parks.

Commitment to Revise Plans and Provide Information Requested by Staff

As stated in our November 19th presentation, we will make the following improvements based on staff comments:

- We will adjust the east/west ends of the parking area to be > 25 feet from wetlands, in consultation with the wetlands agent.
- We will shift the position of the portable toilets to facilitate pedestrian and service access from the Phase 1 parking area.
- We will adjust the Phase 2 parking circle area to meet emergency vehicle access requirements and enforce no parking within fire access lanes.

- We will create a pedestrian pathway linking the handicapped accessible parking spaces to the walking path network.
- We will install Phase 2 parking, if needed, within 5 years or seek extension of the Inland Wetlands license.
- In conjunction with our DOT Encroachment permit application, we will obtain sign location approval from DOT, then submit this to the Director of Planning & Development for approval.
- We will further identify mature, healthy trees to preserve in the parking area, ensuring ample shading, and revise the parking area layout accordingly.
- We have requested a meeting with the Advisory Committee on Needs of Persons with Disabilities. See my November 12 email to Mr. Goetz, which I have forwarded to Linda Painter.
- We have completed and attached a plan for management and maintenance of the bioswales.

As we also stated at the November 19th public hearing, we make the following requests in response to other staff comments:

1) We request issuance of the Zoning Permit for the parking area prior to final placement of the ropes course elements. Justification: Delaying the issuance of the Zoning Permit until the platform, aerial element and path locations have been finalized would interfere with construction timing and create additional expenses. We would like to start the parking area construction soon and follow with identification of the exact trees to be used for placement of the ropes course elements in the late winter/early spring so that we can identify any winter tree damage and fully assess tree health.

2) We request a waiver of Article VI, Section B.4.q.2 requiring a 50' landscaping buffer. Instead, we request allowance of a 35' buffer of natural forest on the east side of the parking area. Justification: The adjacent site is wetland and forest with no residential use so there is no adjacent use that requires a buffer. It is unlikely that this area is suitable for future development because of the wetland. In addition, the existing natural forest provides a more extensive buffer than new landscaping could provide and maintains the forest health and integrity.

Thank you very much. We will be happy to respond to any additional questions at the continuation of the public hearing on December 3rd.

Sincerely,

Lynn Stoddard

November 29, 2012

Memorandum:

To: Inland Wetland Agency
From: Grant Meitzler, Inland Wetland Agent
Re: New Business for December 3, 2012 meeting

New Applications:

W1508 - Rebecca Shafer - 45 Echo Road - additions to house and deck

	yes	no
	-----	-----
fee paid	x	
notice to neighbors	x	
map dated	10.29.2012	

This application is for additions to the house and deck that are within the 150' regulated area next to wetlands (Echo Lake).

Receipt and referral to the Conservation Commission are appropriate.

W1509 - Fisher Builders LLC - 260 Coventry Rd
addition, combination Christmas Tree Shop and Garage

	yes	no
	-----	-----
fee paid	x	
notice to neighbors	x	
map dated	10.25.2012	

This application is for an addition to serve seasonally as a Christmas Tree Shop and as a garage. No work is proposed in wetlands. The proposed building is within the 150' regulated areas next to wetlands.

Receipt and referral to the Conservation Commission are appropriate.

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RECEIPT OF APPLICATION FOR A WETLAND APPLICATION:

_____, move and _____ seconds to receive the application

submitted by Rebecca Shafer (File #1508)

under the Wetlands and Watercourses Regulations of the Town of Mansfield

for a home addition and garage expansion

on property located at 45 Echo Road

as shown on a map dated 10-29-12

and as described in application submissions, and to refer said application to staff and Conservation Committee, for review and comments.

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

FOR OFFICE USE ONLY
File # W1908
Fee Paid 185
Date Received 11-19-12

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

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

Part A - Applicant

Name Rebecca Shafer

Mailing Address 45 Echo Road

Mansfield Center, CT Zip 06250

Telephone-Home 860-456-5540 Telephone-Business 860-786-8286 (c)

Title and Brief Description of Project
Home addition and garage expansion.

Location of Project same as above

Intended Start Date pending approval

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

Name same as applicant

Mailing Address _____

_____ Zip _____

Telephone-Home _____ Telephone-Business _____

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

Signature N/A date _____

Applicant's interest in the land: (if other than owner) N/A

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

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

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

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

Proposed addition/ modification of existing dwelling.

See attached architectural plans.

a.) No proposed activity in wetlands.

b.) Proposed screen porch approximately 47' from edge of Echo Lake.

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

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

Area of disturbance around existing dwelling is about 6,000 sq. ft.

a.) No activity in wetlands.

b.) Disturbance approximately 35' from Echo Lake at its closest point.

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

The garage will require a concrete foundation.

The rest of building improvements will be constructed on concrete sona tubes.

- a) include **type** of material used as fill or to be excavated gravel/ 3/4" stone
- b) include **volume** of material to be filled or excavated Approximately 50 cu. yds. of loam and subsoil will be excavated for concrete frost walls and used for backfill & grading.

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

Silt fence will be installed down gradient of proposed activity (between construction area & Echo Lake). Silt fence will also provide contractors with limits of disturbance. Silt fence will be checked on a daily basis and after every storm event and repaired as needed.

Part D - Site Description

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

Front yard is relatively flat and rear slopes towards Echo Lake.

Majority of lot is wooded.

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.

The front building setback line, which is based on variances granted in 2000, has a limited amount of area with which to expand. Major portion of expansion requiring excavation has been limited to the north side of existing dwelling.

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 October 29, 2012

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
see attached sheet	

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

X \$60 State DEP Fee

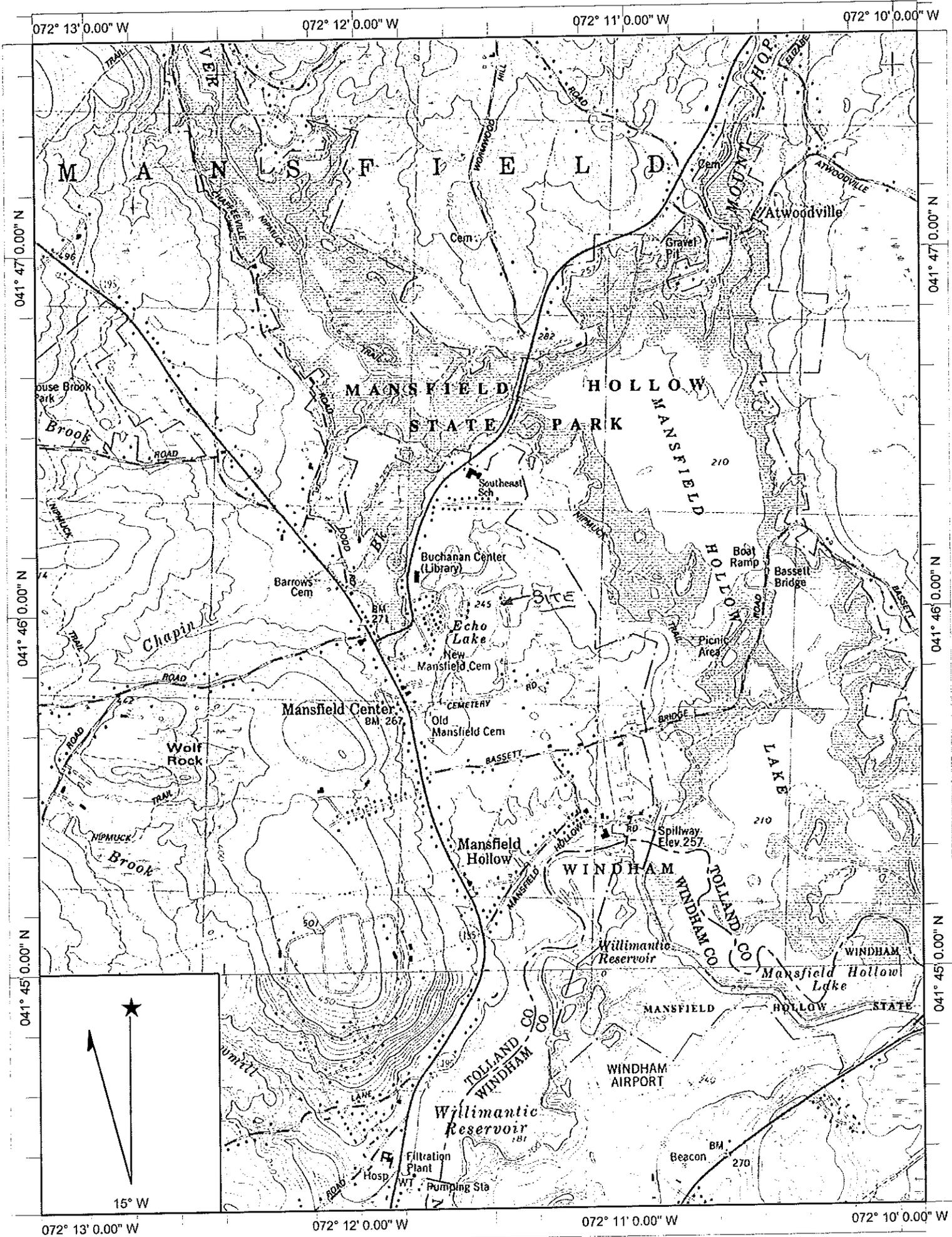
Note: The Agency may require you to provide additional information about the regulated area which is the subject of the application, or about wetlands or watercourses affected by the regulated activity. If the Agency, upon review of your application, finds the activity proposed may involve a "significant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

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

Rebecca A. Shefer
Applicant's Signature

Date

11/14/12



RECEIPT OF APPLICATION FOR A WETLAND APPLICATION:

_____, move and _____ seconds to receive the application

submitted by Fisher Builders, LLC (File #1509)

under the Wetlands and Watercourses Regulations of the Town of Mansfield

for an addition to an existing garage

on property located at 260 Coventry Road

owned by Kenneth and Minda Cone

as shown on a map dated 10-25-12

and as described in application submissions, and to refer said application to staff and Conservation Committee, for review and comments.

PAGE
BREAK

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

FOR OFFICE USE ONLY
File # W1509
Fee Paid yes
Date Received 11.29.12

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

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

Part A - Applicant

Name

FISHER BUILDERS LLC.

Mailing Address

14 BRETON DRIVE

MANSFIELD, CONN.

Zip 06250

Telephone-Home

860-456-7884

Telephone-Business

860-428-4429

Title and Brief Description of Project

ADDITION to EXISTING 2-CAR Garage presently used as a

Christmas Tree Shop for extra room for seasonal use

Location of Project

260 Coventry Rd.

Intended Start Date

JAN. 15, 2013

weather permitting

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

Name

Kenneth AND Minda Cone

Mailing Address

260 Coventry Rd.

Mansfield Conn.

Zip 06250

Telephone-Home

860-423-5690

Telephone-Business

860-423-5690

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

Signature

Kenneth Cone

date

11/28/12

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

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

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

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

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

30'x40' Addition to existing 2 CAR GARAGE. existing structure used SEASONALLY as A CHRISTMAS TREE SHOP with wreaths AND decorations. Due to increased sales more room is necessary. This structure will be further from brook than present structure. This shop when completed will also remain a SEASONAL business. PLANS FOR ADDITION are included with application. As shown ADDITION is A SLAB on grade with Frost Walls at perimeter with no drains.

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

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

a) no work in wetlands
b) combination post holes and frost walls - no cellar.

3) Describe the type of materials you are using for the project: SAND Fill under Slab AND against cement Frost Wall on Inside. Outside backfilled with existing materials

- a) include type of material used as fill or to be excavated
- b) include volume of material to be filled or excavated 16 yds. SAND Fill on Inside

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

Silt Fence to be erected AND maintained during construction between proposed addition AND brook; to remain until seeded AND grass growing in spring

Part D - Site Description

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

Sloped YARD with ledge + outcroppings

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.

This site selected to connect to existing allows an addition which would be smaller and less expensive than an entirely new structure in different location. Also a Heating Zone to garage is already in place and can be modified for addition easily.

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 10/24/12
- 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
1) MARSHALL GLADYS	31 Aspen Circle BARNEGAT N.J. 08005
2) SAMUELS ALBERT E. AND JUNE M	268 Coventry Rd. Mansfield 06250
3) SAMUELS ALBERT E. JR. AND TERESA	276 Coventry Rd. Mansfield 06250
4) VINSONHALER CHARLES J AND PATRICIA G	205 Coventry Rd. Mansfield 06250
5) CONNECTICUT STATE OF DEEP - LAND ACQUISITION AND MGMT	79 ELM ST. Hartford 06106
6) LIVINGSTON NORMAN D AND PAMELA B	176 Coventry Rd. Mansfield 06250

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).

- 7) DU FULIANG AND XUE FEI 387 Technology Dr St 2116 College PARK MD 20742
- 8) CLEMENT GERALD JR. 602 Stafford Rd. Storrs CT. 06268
- 9) POPELESKI JOHN L JR. AND SANDRA P. 206 Coventry Rd. 06250
- 10) LUSSIER CHARLES E. AND ELIZABETH C 138 Fern Rd. Storrs 06268
- 11) CARDINAL ROBERT 120 Fern Rd. Storrs CT. 06268
- 12) HERMINWAY DAVID M. AND CHARLENE E 143 Fern Rd. Storrs 06268

Part I - Additional Notices, if necessary *not required, outside watershed.*

- 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. *does not apply*
- 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 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 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 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.)

\$0 \$1,000. \$750. \$500. \$250. \$125. \$100. \$50. \$25.
 \$60 State DEP Fee

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

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

[Handwritten Signature]

Applicant's Signature

11/28/12

Date

10/25/12

TO RT 32

FERN RD

SOLTESZ

SOLTESZ

COVENTRY RD

BROOK

BROOK

SAMUELS

CONE

CONE

260 COVENTRY RD.

150'

GARAGE

House

ADDITION

Proposed 30'x40' ADDITION To

Existing 2-CAR GARAGE

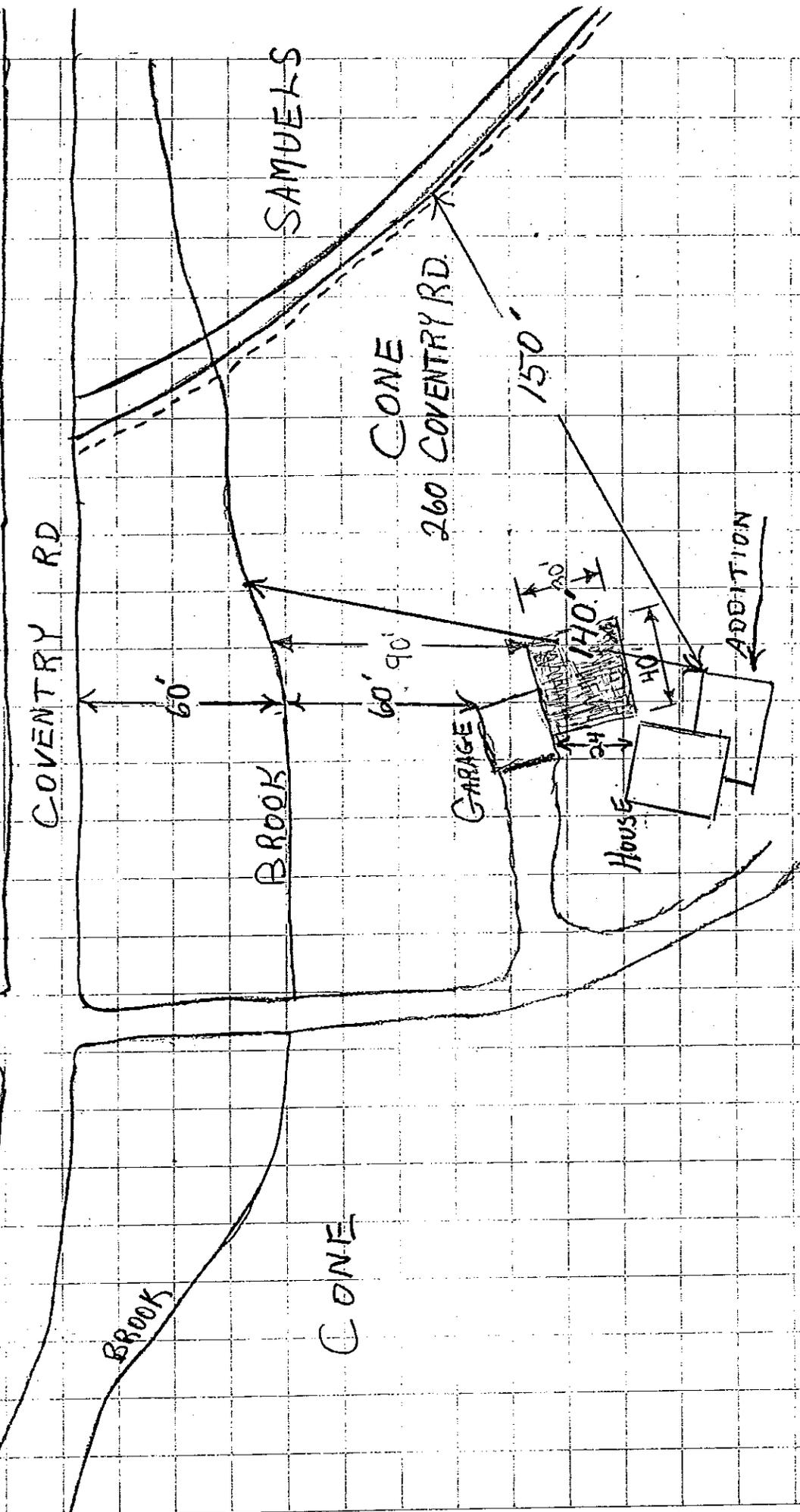
ADDITION TO BROOK 90'

ADDITION SHOWN SHADED

PROPERTY LINE

PROPERTY LINE

CONE



FISHER BUILDERS LLC

Fine Building Since 1971

14 Britony Drive, Mansfield Center, CT 06250
Phone and Fax 860 456-7884

Email gfisher456@gmail.com

November 28, 2012

Re: Proposed Addition – 260 Coventry Road, Mansfield, CT

Dear Property Owner:

This letter is to inform you of an application being made by Fisher Builders LLC of Mansfield on behalf of Kenneth and Minda Cone of 260 Coventry Road, Mansfield for an addition to their existing Christmas Tree Shop. The addition proposed will be 30'X40'; to be on back side of existing 2-car garage (Christmas Tree Shop) and attached. This addition will be approximately 90' from the brook at the front of property.

If you have any comments or concerns the Town of Mansfield will have their meeting concerning this matter on January 7th, 2013 at 7:00 PM at the Town Office Building, 4 South Eagleville Road, Storrs, CT. This letter is being sent to all abutting property owners. Also, you can contact the Mansfield Inland Wetlands Agent for more information at 860-429-3334.

Thank you,



Tom Fisher
Member, Fisher builders LLC

LEGAL NOTICE

The Mansfield Wetlands Agent has issued an administrative approval to Patrick Eye, 20 Hillyndale Road, for a 14' x 40' deck in the upland review area. Information on the application may be seen in the Planning Office at 4 South Eagleville Rd

Grant Meitzler, Wetlands Agent

TO BE PUBLISHED Monday, December 3, 2012

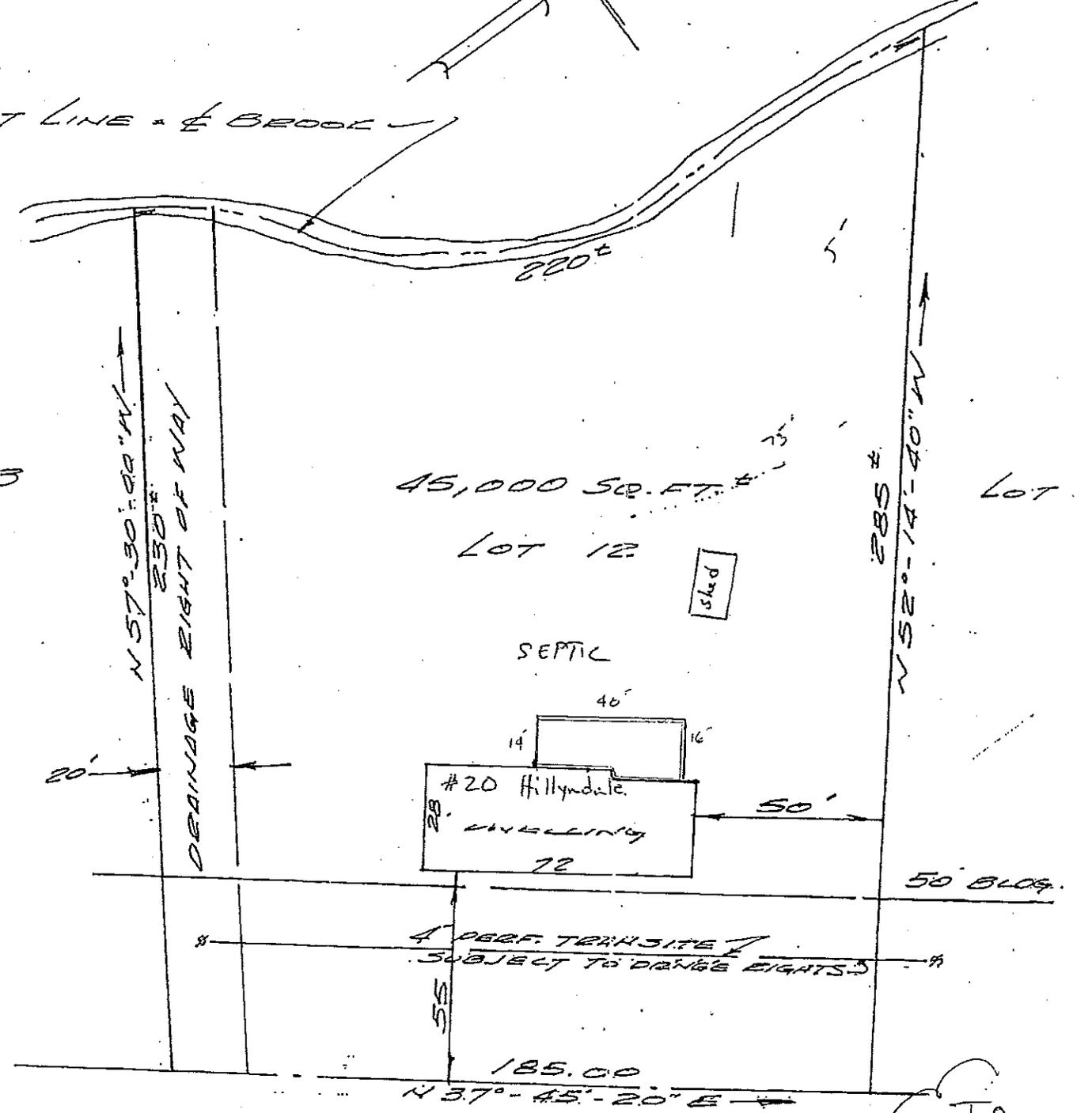
****PLEASE CHARGE TO THE MANSFIELD PZC/IWA ACCOUNT**

BOBB

LOT LINE - & BROOK

LOT 13

LOT



HILLYNDALE ROAD

LOT 12
N. WOOD #20

SECTION A
MANSFIELD, OHIO
40 FT. OCT. 4, 1965

inserted 8/17/04
per "revised" plan

CERTIFIED SUBSTANTIALLY CORRECT

F. H. Schindler

To separatorist

THE HABITAT

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



Fall 2012

volume 24 number 3

CACIWC's 35th Annual Meeting
& Environmental Conference
Saturday, November 17, 2012
9:00am to 3:30pm

Four Points by Sheraton
275 Research Parkway
Meriden, CT 06450

In response to your requests, a broad selection of administrative, legal, procedural, and scientific workshops in a series of reformatted tracks are offered this year for both new and experienced inland wetlands and conservation commissioners and their agents.

- Open Space & Conservation Biology
- Land Use Law & Legal Updates
- Wetlands Science & Engineering Track
- Commission Administration & Planning Track

See pages 8 & 9 for the complete list of workshops.

A lunchtime discussion on Connecticut environmental and land use legislation will be provided by **Martin Mador**, Legislative Chair of The Connecticut Chapter of the Sierra Club.

There is still time to submit your nominations for a CACIWC annual award! See page 9 or www.CACIWC.org for more information.

Dr. Michael Klemens Will Highlight CACIWC's 35th Annual Meeting & Environmental Conference

“Ecological Stewardship and Economic Development: Do We Have to Choose?”

Too often the choice between environmental health and economic prosperity is positioned as a choosing between one and the other. This keynote address will examine the roots of this perceived dichotomy which is at the basis of so much of the conflict and confrontation that surrounds land use decision-making. Dr. Klemens will explore options that are available to local leaders and communities to better resolve conflicts, understand the strengths and limitations of science and their practitioners, and plan for more ecologically and economically resilient communities, drawing on his own thirty plus years of experience in the field.



Educated in the United States and Europe, Dr. Michael W. Klemens is a conservation biologist and land-use planner who seeks to achieve a balance between ecosystem requirements and human needs. He has conducted field work in East Africa and throughout the United States and has written several books including the definitive study of Connecticut's amphibians and reptiles and authored over 100 scientific papers. He

is the co-author (with Aram Calhoun) of the Best Development Practices manual for vernal pool resources which is incorporated by reference into Connecticut's 2004 Stormwater Manual as well as the guidance document promulgated by the Army Corps of Engineers for the New England Region in 2011. He is on the scientific staff of the

Klemens, continued on page 12

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Darcy Winther DEEP Liaison



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

Editor: Tom Odell

Associate Editor: Ann Letendre

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www.caciwc.org

CACIWC News Briefings

The many challenges of national efforts to preserve open space and the severe drought affecting many regions of the country reminds us of the value of intact wetlands systems and other important habitats here in Connecticut and emphasizes the importance of the ongoing work by CACIWC member commissions and staff. As we approach our 35th annual meeting, the CACIWC Board of Directors extends our thanks to all Connecticut conservation and wetlands commissioners, agents, directors.

1. Based on suggestions from last year's meeting, the CACIWC Board of Directors and its Annual Meeting Committee have assembled another new series of workshops designed to bring useful information to attendees of this year's **35th Annual Meeting and Environmental Conference**. After many years of service as the host to our annual meetings, MountainRidge in Wallingford was sold and closed to the public requiring us to search for a new venue. We are excited to return to our original location, now known as Four Points by Sheraton (275 Research Parkway Meriden, CT 06450). Additional details of our meeting, scheduled for Saturday, November 17, 2012 at Four Points by Sheraton in Meriden, can be found in this issue of *The Habitat*.

2. Our keynote speaker, *Dr. Michael Klemens*, will help us celebrate this special 35th anniversary event. We are looking for **photographs documenting the activities of Connecticut's conservation and wetlands commissions through the years**. Please scan or digitize the photographs and send them to us at AnnualMtg@caciwc.org along with suggested captions and information on whom to credit. Watch for additional conference news on our website: www.caciwc.org.

3. Don't forget to **register early for 2012 Meeting**. While increasing costs have required us to raise our general admission fees, the Committee has again decided not to increase the registration fee for members from town commissions *who register early and are current with their membership dues*. Although our conference registration form was mailed to each commission, you can also print one from our website: www.caciwc.org.

4. The Board has been pleased by the number of commissions who have already sent in their **2012-13 membership dues** in response to the reminder and renewal form mailed earlier in June. A copy of this form and additional information can also be found on our website: www.caciwc.org. Would you or your company like to provide additional support to CACIWC? The

CACIWC news, continued on page 13



Journey to The Legal Horizon

by Attorney Janet Brooks

The Agricultural Exemption: The Year in Review

The agricultural exemption continues to be a topic which yields lots of legal fruit. Since December 2011 there have been one Appellate Court decision and three Superior court (trial court) decisions. While only Supreme Court and Appellate Court decisions are binding precedent for everyone, we can get an idea of the troublesome portions of the exemption by examining what's going on at the Superior Court level.

Attorney's fees were awarded to a downstream property owner which intervened in support of a town's wetland enforcement in court. In *Conservation Commission v. Red 11, LLC*, the town and intervenor prevailed in having earlier wetlands appeals brought by the LLC conducting farming activities, some of which were determined not to fall within the ag exemption. Then the town and intervenor prevailed in their enforcement action that the LLC had filled some wetlands and drained other wetlands without a permit. In that decision the Appellate Court upheld the Superior Court order requiring substantial restoration efforts. *In this cycle of the litigation, the Appellate Court upheld the Superior Court's award of an eye-popping \$391,967.80 for attorney's fees.*¹ The threat of attorney's fees usually serves as a deterrent and encourages parties to settle. Red 11, LLC is liable for the town's attorney's fee and costs of \$69,569.80 (which Red 11, LLC did not contest), the intervenor's attorney's fee and costs, which totaled \$426,437.79 (only the attorney's fee portion was contested) and its own legal fees.

This is not the usual course of litigation for cases involving the agricultural exemption. Most cases involve individuals, as the following Superior Court cases exemplify. Many exemption cases aren't pursued because of the cost of litigation. As a result there has been a slow development of the case law in this area which has hampered uniform application of the exemption. Often we are looking to Superior

Court decisions because there is no applicable Appellate Court or Supreme Court decision. However, as one of the judges in the case below pointed out, Superior Court decisions do not bind other Superior Court judges in their work. That can result in a "variety" of Superior Court decisions which are inconsistent with each other, which await resolution by a higher court.

The farming exemption decisions in the past year do not involve whether or not there is truly an agricultural activity being undertaken, but rather whether that activity falls within the exemption or not. The exemption in Connecticut General Statutes § 22a-40(a)(1) is, shall we say, inelegantly written, utilizing a double negative:

"...if the statute would be amended to include a list of explicitly included and explicitly excluded activities within the exemption, we would have better compliance."

"(a) The following operations and uses shall be permitted in wetlands and watercourses, as of right: (1) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming

operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale."

I remain convinced that if the statute would be amended to include a list of explicitly included and explicitly excluded activities within the exemption, we would have better compliance.

legal horizon, continued on page 4

legal horizon, continued from page 3

In *Yorgenson v. Chapdelaine*,² the Eastford wetlands commission was granted a temporary injunction against Chapdelaine's digging, removing of soil or stumps and use of heavy equipment in wetlands and adjacent to a watercourse. A temporary injunction is granted to preserve the status quo (or sometimes to return to the status quo before the violation occurred) at the outset of a lawsuit. The agency has a heavy burden to satisfy the court. In this case a cease and desist order was issued since Chapdelaine did not appear to defend her activities of clearing and filling near a stream. Nor did she appeal the final order that the commission issued. Months later she asserted that she could undertake farming activities without local oversight, trying to establish that the activities were exempt. Appearing pro se before the commission, she tried to rely on case law, but did not respond to the agency's request for more information. The agency determined that some of her activities fell within the exemption, but not all. She ended up in court, the defendant in an enforcement action. Chapdelaine pointed to a 2006 Superior Court decision that concluded the preparatory activities (stumping and grading the land) were encompassed within the agricultural exemption. This Superior Court judge disagreed -- as he was entitled to, as Superior Court decisions are not binding on anyone, except the parties involved. Now, there is non-binding case law for each side of the controversy for future cases.

In *Inland Wetlands and Watercourses Commission v. Andrews*,³ the Superior Court followed established precedent in granting the Wallingford wetlands agency relief against a property owner engaged in agricultural activities that the agency determined did not fall within the farming exemption. When the agency issued its initial cease and desist order, Andrews filed

a determination for exemption. The agency denied that the activities were exempt. Andrews did not appeal the final order. The agency subsequently issued another order. Andrews did not appear at the agency hearing, nor did he appeal the second order when it became final. The agency brought an enforcement action to the Superior Court. Following established Supreme Court precedent, the Superior Court ordered the land owner to refrain from conducting regulated activities without a permit and to engage in restoration with specified kinds of professional expertise within a defined timeframe. In the Wallingford and Eastford cases the people subject to enforcement actions do not have latitude to contest the orders in court, if they did not pursue appeals of the underlying orders.

The final wetlands decision turns out differently for the Fairfield wetlands agency. In *Taylor v. Conservation Commission*,⁴ the Superior Court admonishes that Taylor should be permitted to engage in his farming activities "unencumbered by the micromanagement of Fairfield officials, or 'gotcha' surveillance by residents of an upscale neighborhood." A neighbor took a video of Taylor removing material

legal horizon, continued on page 14

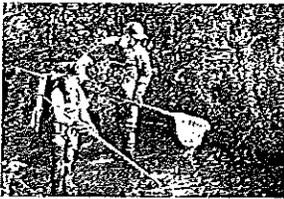
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2012 Environmental Legislation Recap

Open Space and Conservation

A NEW OPEN SPACE LAW

In June Governor Malloy signed into law Public Act No. 12-152, An Act Concerning the State's Open Space Plan. The new Act requires Connecticut to devise a formal strategy for protecting open space, and to update it every five years. For a direct link to PA 12-152 go to caciwc.org Home Page.

The bill requires the state Department of Energy and Environmental Protection (DEEP) to prepare the strategy for achieving the 21 percent goal in consultation with the state Department of Agriculture, the state Council on Environmental Quality, municipalities, regional planning agencies, and private land conservation organizations such as Connecticut Audubon Society. For example, many of the bill's provisions started as recommendations in Connecticut Audubon's *Connecticut State of the Birds* reports.

The strategy must include an estimate of the number of acres preserved statewide, as well as timetables for land acquisition by the state, plans for managing the state's preserved lands, and an assessment of the resources the state will need to acquire and manage open space. It has to identify the highest priorities for land acquisition, including wildlife habitat and ecological resources that are in greatest need of immediate preservation, and the general location of each priority. This is particularly important because many of the state's

highest quality conservation lands are at risk of being lost partly because few people know where they are.

The bill also requires the DEEP to work with other state agencies to identify lands they own that might have conservation value, and to devise a plan for preserving the tracts with the highest conservation value. This provision could lead to the preservation of important acreage without having to spend state funds. CACIWC supported this legislation and appreciates the work of the Connecticut Council on Environmental Quality, which beginning in early January worked to draft the bill and guided it through the General Assembly; and Audubon Connecticut, the state office of the National Audubon Society, for its leadership in getting the bill passed.

COMMUNITY INVESTMENT ACT SURVIVES

Community Investment Act (CIA) funds made it through the session intact and is safe until 2014. This is a priority for CACIWC and other environmental partners. Enacted with tremendous bipartisan support in 2005, the CIA provides increased funding for state programs for open space, farmland/dairy production, historic preservation and affordable housing.

In previous years, funds from the CIA account were siphoned into the general fund to help offset budget deficits. This year, the Appropriations Bill gave the Governor authority to recommend the movement of money from certain non-appropriated accounts to cover any deficit, except from the CIA and certain other accounts. Your representatives in the General Assembly deserve a thank you for their strong support.

FUNDING FOR INVASIVE PLANT COORDINATOR

Passage of H.B. 5413, An Act Concerning Invasive Plants, will enable the Invasive Plants Council to maintain the services of an invasive plants coordinator.

open space legislation, continued on page 14



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2012 Environmental Legislation Recap

Inland Wetlands Regulation and Watercourses Act

In 2012 the Connecticut General Assembly amended the Inland Wetlands and Watercourses Act (IWWA) with the passage of Public Act No. 12-151.

Public Act No. 12-151 amends section 22a-42a(d)(1) and section 22a-42a(d)(2) of the General Statutes of Connecticut. Specifically, the Public Act amends (d)(1) by stating that permit conditions can include seasonal restrictions provided the inland wetlands agency or its agent determines that such restrictions are necessary to carry out the policy of the IWWA; and amends (d)(2) by specifying that for regulated activities involving development projects also requiring approval under Connecticut General Statutes Chapter 124 (Zoning), Chapter 124b (Incentive Housing Zones), Chapter 126 (Municipal Planning Commissions) or Chapter 126a (Affordable Housing Land Use Appeals), the wetlands permit approval is valid until the companion planning and/or zoning permit approval expires, or for ten years from the date of issuance of the wetlands permit, whichever is earlier.

The following changes to the Inland Wetlands and Watercourses Model Municipal Regulations (IWWMMR) Fourth Edition, dated May 1, 2006, as amended by the Department of Energy and Environmental Protection's Legislation and Regulation Advisories dated February 1, 2007; December 10, 2007; October 14, 2008; March 3, 2010; November 17, 2010; and September 8, 2011 are made in order to conform to Public Act No. 12-151:

Section 11: Decision Process and Permit

The underlined language noted below is new and should be added to your regulations. The bracketed language noted below should be deleted from your regulations.

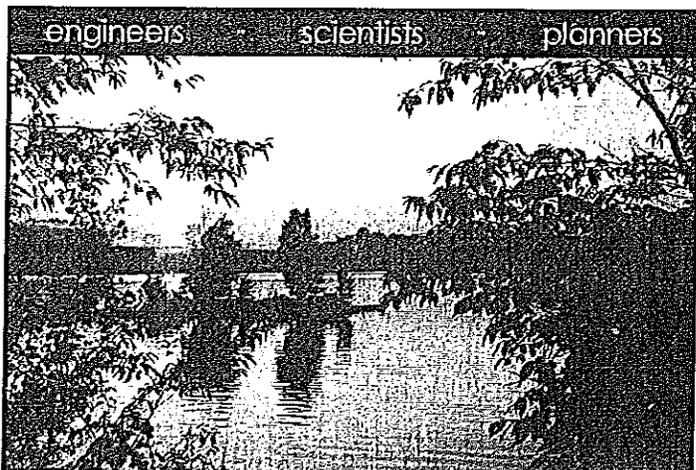
11.1 The Agency, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which

would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the Agency, or its agent, determines that such restrictions are necessary to carry out the policy of sections 22a-36 to 22a-45r inclusive, of the Connecticut General Statutes.

11.2 ... 11.5

11.6 Any permit issued by the Agency for the development of land for which an approval is required under [section 8-3, 8-25 or 8-26] chapter 124, 124b, 126 or

IW legislation, continued on page 15



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BYLAWS ~ Adopted 1977; amended 1984, 1993, 2000, 2005

Proposed Amendments

2012 Proposed Amendments (deletions in brackets, additions are underlined)

ARTICLE I - NAME, PURPOSE, and OFFICES

1.4 The principal office of the association is located in the Town of [Vernon] Middletown, County of [Tolland] Middlesex, State of Connecticut.

- eight Alternate County Representatives, one from each Connecticut county;
- up to three Alternate at Large Representatives from any Connecticut County; and
- past presidents of the association (ex officio, without voting power).

ARTICLE IV - BOARD OF DIRECTORS

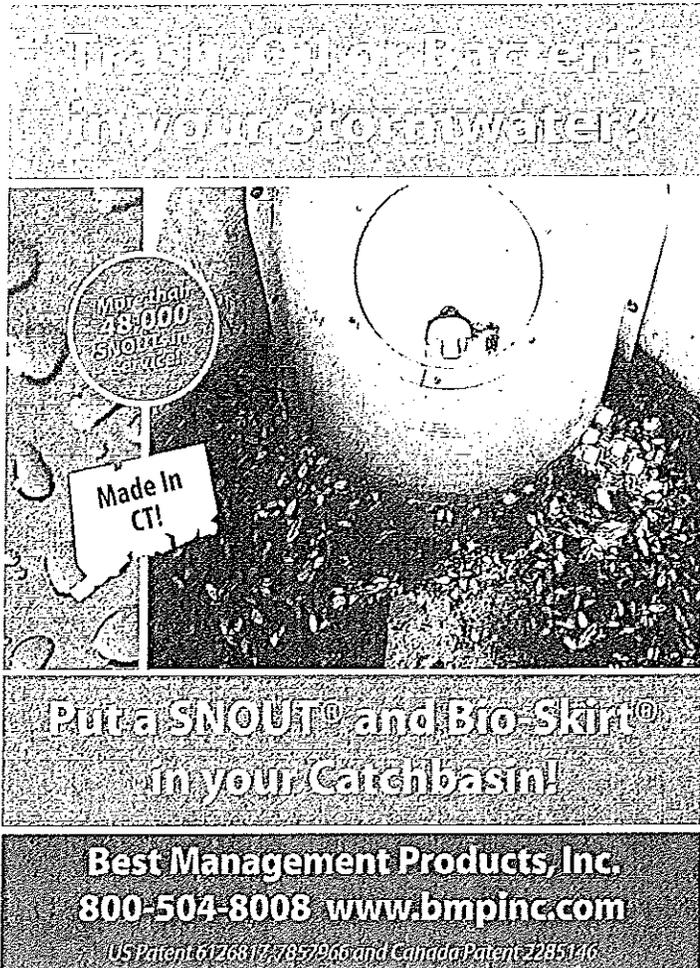
4.1 The Board of Directors shall consist of:
- the four officers of the association;
- eight County Representatives, one from each Connecticut county;

ARTICLE VII - ELECTION AND TERMS OF OFFICE

7.1 Officers and directors of the Board of Directors shall be elected at the Annual Meeting and shall serve for a term of two years, or until his/her successor has been elected and has taken office. Any past or present member or designated agent / enforcement officer of a Connecticut Conservation or Inland Wetlands Commission / Agency may be elected to the Board of Directors as an Officer, County, or Alternate County Representative. Any Connecticut resident with experience working on conservation issues may be elected to the Board of Directors as an Alternate at Large Representative.

ARTICLE X - MEETINGS

10.3.5 An Alternate County Representative or Alternate at Large Representative shall be entitled to vote at meetings of the Board of Directors if he/she is substituting for [the] a County Representative or is seated by the President. No more than 12 voting members may be seated at any Board of Directors meeting.



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Editor's Note: Proposed Amendments will be voted on at 35th Annual Meeting. For present Bylaws go to caciwc.org, click on About CACIWC.

CACIWC's Environmental Conference Workshops

SESSION 1 (9:30 - 10:30 AM)

(* Denotes Advanced Workshop)

A1. "New Approaches to Natural Resource Inventories"

Dr. Benjamin Oko, Ridgefield Conservation Commission

Ridgefield's Conservation Commission has received recognition for its comprehensive and innovative approach to a natural resource inventory. The inventory was conducted using a combination of professional and volunteer efforts. Dr. Oko, who served as the Commission's chair for ten years, guided the project. He will discuss the process of setting goals, developing methodology and outline the initial findings of the inventory. The benefits of the Ridgefield approach will be discussed and compared to other methodologies.

*B1. "Working with Expert Consultants"

Janet Brooks, Attorney at Law, LLC

Confused about the use of expert evidence? Attorney Brooks will review the current state of law and highlight a recent court case where both experts were disregarded by the trial judge. Come learn why.

*C1. "Vernal Pools: Road Effects on Biochemical Cycling & Amphibian Performance"

Steven P. Brady, School of Forestry, Yale University
Joseph T. Bushey, Civil & Environmental Engineering, University of Connecticut

Roads are distributed pervasively throughout much of North America, posing a suite of negative effects on native habitats. Contaminants and nutrients are deposited onto roads, and carried into adjacent habitats; road salt is chief among these in certain areas. In temporary aquatic habitats, which are typically small and shallow, such contaminants can become highly concentrated. Studies suggest that even in relatively undeveloped settings, roads can dramatically reshape wetlands environments. The workshop will outline the results of these studies.

*D1. "The State Plan of Conservation and Development (POCD): Next Steps"

Daniel Morley, Policy Development Coordinator
State of Connecticut, Office of Policy and Management (OPM)

Communities across the state have reviewed the *Draft Conservation & Development Policies: A Plan for Connecticut*, including the Plan's new Locational Guide Maps identifying Priority Conservation, Priority Development and Balanced Growth Areas. In this workshop, Daniel Morley, OPM Policy Development Coordinator, will discuss the record of local involvement during preparation of the Plan, the process by which comments have been addressed in the proposed final documents, and the opportunity for further municipal and public input through the upcoming legislative hearing.

SESSION 2 (10:45 AM - 12:00 PM)

(* Denotes Advanced Workshop)

*A2. "CT Wildlife Update: Declining Birds, Declining Dollars: Cause and Effect"

Min T. Huang, Migratory Game Bird Program Leader
CT Department of Energy and Environmental Protection (DEEP)

In tighter financial times, many aspects of our society are impacted in a variety of ways. The environment is no exception. Dr. Huang will focus on the decline of many of our state's non-harvested birds and the possible causes for those declines. He will review the current lack of dedicated funding for non-harvested wildlife and discuss ways in which such a stream of revenue, if available, could benefit them. Dr. Huang will also review his current projects including ruffed grouse survival and dispersal, chimney swift survival rate estimates, purple martin dispersal, along with shrub land and forest interior bird productivity and distribution.

*B2. "2012 Wetlands Law Update with Question & Answers Session"

Janet Brooks, Attorney at Law, LLC;
David Wrinn, CT Attorney General's Office;
Mark Branse, Branse, Willis & Knapp, LLC

This trio of wetlands attorneys has been brought back by popular demand to keep you current with the latest state Supreme Court and Appellate Court cases and legislative amendments to the wetlands act. This work shop will also include a 30-min question-and-answer session that you have asked that we bring back again each year!

C2. "How Sanitarians & Wetlands Agents Can Work Together to Protect Wetlands"

Amanda Clark, State of Connecticut, Department of Public Health (DPH) & others

Does receipt of a local Health District approval mean that proposed septic system work won't have an impact on a wetland or watercourse? This workshop is intended to explain the basics of how a septic system works, how sanitarians evaluate different soil types and what analysis is done to ensure proper treatment of effluent and guard against failures, what are possible impacts to a wetland or watercourse from septic effluent and what types of septic design or mitigation methods might be used to lessen the impact.

D2. "Can Open Space Be Permanently Protected?"

Amy B. Paterson, Esq., Executive Director,
Connecticut Land Conservation Council (CLCC)
& other panelists

Effective stewardship of open space is a challenging task. This workshop will review issues and obstacles to efforts to protect state, municipal and private open space in perpetuity. The panel will cover existing administrative policies and statutory provisions and review the use and effectiveness of deed restrictions and conservation easements; the role and authority of the Natural Heritage, Open Space and Watershed Land Acquisition Review Board; the role of the Conveyance Act in conservation land transfers, and an overview of PA 12-152, An Act Concerning the State's Open Space Plan, as well as a search for new and creative ways to provide better protection.

Open Space &
Conservation Biology Track

Land Use Law &
Legal Updates Track

Wetlands Science &
Engineering Track

Commission Administration &
Planning Track

SESSION 3 (2:00 - 3:15 PM)

(* Denotes Advanced Workshop)

A3. "Invasive Species, Climate Change & Other Factors"
Dr. Kirby Stafford, Connecticut Agricultural Experiment Station (CAES), Vice Director, Chief Scientist/State Entomologist;
Dr. John Silander, UCONN Dept. of Ecology and Evolutionary Biology; Gregory Bugbee, CAES Department of Soil and Water.

New Englanders are confronted with increasing occurrences of non-native invasive species, with new or changing impacts on existing habitats and wildlife. Many of these circumstances are related to our changing climate and other factors. This workshop will highlight specific examples, including Emerald ash borer, as well as broader trends, and will discuss how we can address these evolving issues.

***B3. "Working Within Your Town to Manage Complex Applications"**
Attorney Mark K. Branse, Branse, Willis & Knapp, LLC

This workshop will discuss how municipal wetlands agencies can enhance their ability to respond to complex applications. The importance of forming and managing a municipal review team, including both in-house expertise and consultants, will be discussed. Attorney Branse will also cover motions, conditions, and modifications of approval, keeping the record straight in the digital age, ensuring that the parties to play fair, and even how to maintain crowd control.

***C3. "Defining a 'Likely' Impact to the Physical Characteristics of Wetlands"**
Marjorie Shansky, Esq.;
Lisa Krall, Natural Resources Conservation Service (NRCS);
Michael Klemens, PhD

Previous workshops have made it clear that a wetlands commission cannot consider impacts to aquatic, plant or animal life in the upland review area or beyond unless the proposed activity will likely impact or affect the physical characteristics of a wetland or watercourse. This workshop is intended to provide guidance to correctly define the physical characteristics that are needed for a commission to qualify what a likely impact is to a wetland to build a record that supports a decision.

D3. "Strengthening Conservation Commissions, a Panel Discussion"
Martin Mador, Legislative Chair, The Connecticut Chapter of the Sierra Club;
Tom Ouellette, Vice-Chair, Vernon Conservation Commission;
Rod Parlee, Chair, Bolton Conservation Commission;
Elaine Sych, Coordinator, Connecticut Environmental Review Teams (ERT)

What can your conservation commission do to be more effective? This panel discussion will review successful approaches taken by a variety of conservation commissions during the past decade and review new tools developed to enhance local efforts such as the Environmental 911 brochure. The many contributions of Connecticut's Environmental Review Teams (ERT) will be discussed.

CACIWC 2012 Annual Recognition Awards

There is still time to submit your nominations for a CACIWC annual award. Nominations will be accepted until October 31, 2012 in six award categories:

1. Wetlands Commission of the Year
2. Conservation Commission of the Year
3. Wetlands Commissioner of the Year
4. Conservation Commissioner of the Year
5. Commission Agent or Staff of the Year
6. Lifetime Achievement Award

Please see www.CACIWC.org for the nomination form and additional information. Completed nomination forms should be emailed to the CACIWC Annual Award Nominations Committee at: AnnualMtg@CACIWC.org.

SCHEDULE FOR THE DAY

Registration & Breakfast	8:30 – 9:00 am
Welcome & Business Mtg.	9:00 – 9:30 am
Session 1 Workshops	9:30 – 10:30 am
Break 1	10:30 – 10:45 am
Session 2 Workshops	10:45 am – 12:00 pm
Lunch & Keynote speaker	12:00 – 1:30 pm
Awards	1:30 – 1:45 pm
Break 2	1:45 – 2:00 pm
Session 3 Workshops	2:00 – 3:15 pm
Final display viewing	3:15 – 4:00 pm

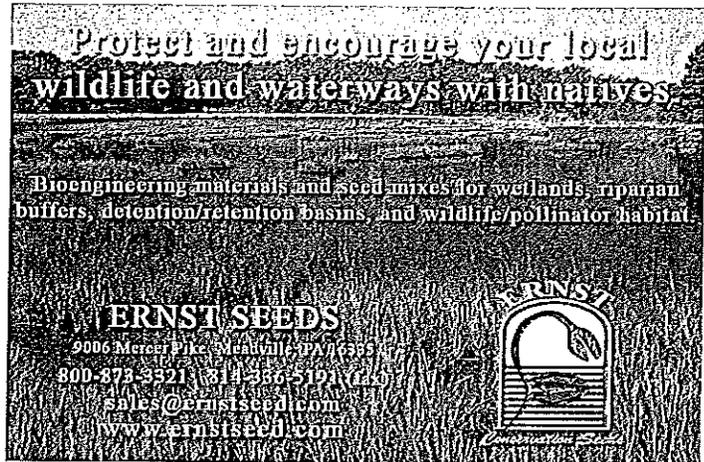
Displays will be on view from 8:30 am – 4:00 pm.

DEEP's 2012 Municipal Inland Wetland Commissioners Training

Segment 3 of the DEEP's 2012 Municipal Inland Wetland Commissioners Training Program will be conducted in late October through mid-November. This year participants will be able to choose one of two workshop topics – Vernal Pool Ecology or Monitoring for Benthic Macro invertebrates: What These Organisms Can Tell Us About the Health of a Stream.

Participants choosing to attend the vernal pool workshop will have a choice of two dates- Friday October 26th and Saturday November 3rd. Both workshops will be held in Middletown. Participants choosing to attend the macro invertebrate workshop will also have a choice of two dates – Thursday November 8th and Wednesday November 14th. Both workshops will be held in Burlington. Program brochures containing registration information will be mailed to every municipal inland wetlands agency in early October.

Finally, the DEEP is still accepting registrations for the new online Segment 1 course. Registrations will be accepted up to December 1st and all coursework needs to be completed by December 15th. The course will be shut down at that time for edits and maintenance. If you have any new members on your commission please recommend that they take this course. For more information please contact Darcy Winther of the Wetlands Management Section at (860) 424-3019. 

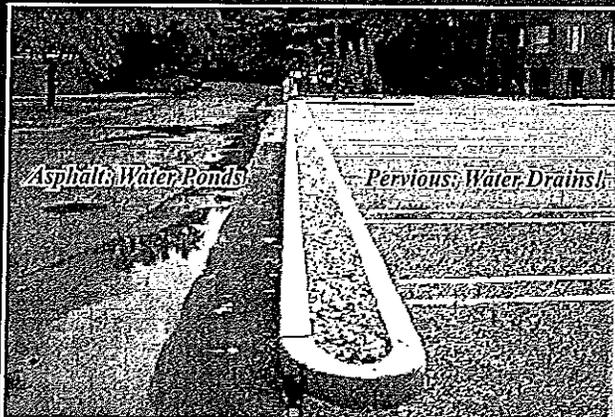
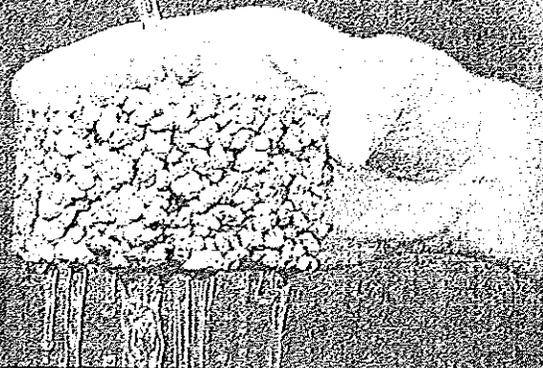


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CT Inland Wetlands & Watercourses Act Section 22a-42a

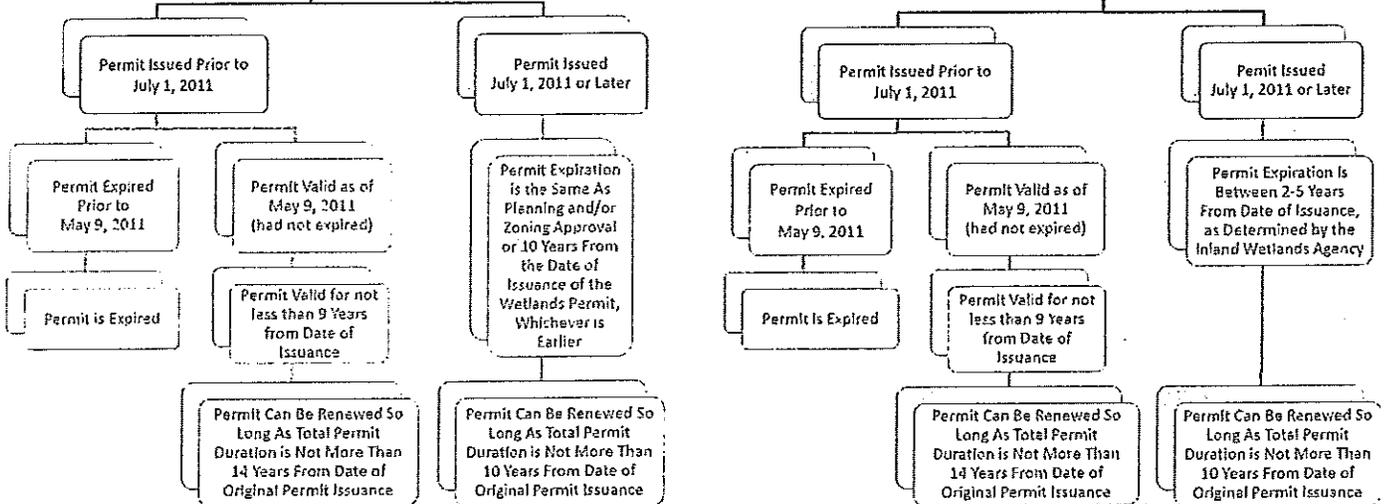
Application Received

Permit Expirations
Refer to the CT Inland Wetlands and Watercourses Act for specific statutory language and permit timeframes

For Regulated Activities Associated with Projects Requiring Approval Under Any of the Following Chapters ("Planning and/or Zoning Approval"):

- CGS Chapter 124 (Zoning)
- CGS Chapter 124b (Incentive Housing Zones)
- CGS Chapter 126 (Municipal Planning Commissions)
- CGS Chapter 126a (Affordable Housing Land Use Appeals)

For All Other Regulated Activities



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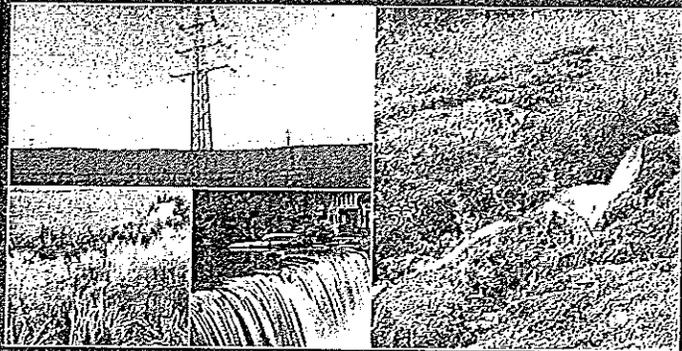


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Klemens, continued from page 1

American Museum of Natural History, serves as a consultant to various Federal agencies, and is adjunct faculty at several universities.

Locally, Michael has served over six years on the Salisbury Planning and Zoning Commission, most recently and currently as its Chairman. Under his leadership the P and Z has assumed authority over critical natural resources such as vernal pools, complementing the authority of the local Inland Wetland Commission to afford seamless protection of both the pools and the critical upland habitat. He states that "recognizing the distinct regulatory authorities of these agencies, and creating regulations that dovetail with one another, is the best legal fix that can fill the void created by the regressive Avalon Bay decision." He was recently re-elected on a platform that "brings an independent perspective to planning issues, mindful of the need to balance the stewardship of community interests with rights of land-owners to use their properties productively. Increased public participation in municipal government is essential, and that all points of view have merit and require the serious attention of local government."

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website also provides a description of additional individual and business membership categories. Please consider making an additional contribution to support CACIWC education and outreach efforts!

5. Although the Board and its Annual Meeting Committee have already received several excellent nominations for our **2012 Annual CACIWC Awards**, there is still time to submit yours! The 2012 nomination form has been placed on our website. Just print it out, scan it and email it to us at: AnnualMtg@caciwc.org.

6. While we continue to hear from individuals who are interested in filling one of our current **board vacancies** many positions still remain. Please submit your name to be considered for nomination at: board@caciwc.org Let us know if you currently do not have time to serve on the board, but wish to volunteer in support of our many administrative, education, and outreach activities.

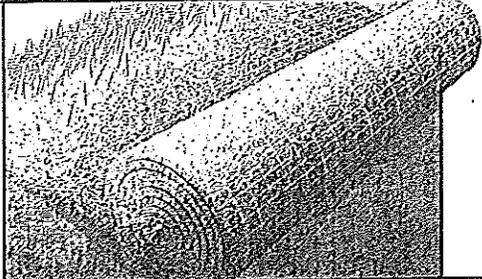
7. To provide us with additional opportunities to recruit new members, our board of directors has proposed several **bylaws amendments**, copies which were mailed to each commission. These amendments include the creation of several *alternate at large* positions that can represent more than one county. These positions will also allow us to retain well qualified directors from areas whose county and alternate county positions are already filled. We hope that you will vote to support these amendments during the business meeting of our annual conference.

8. During the last several months the board has been reviewing priority goals established for the 2008 **strategic plan** and evaluating the board's progress in attaining these goals. Board members will be selecting new goals and objectives for the next three to five years. You will be hearing more about these efforts during the coming year.

We thank you for your efforts to protect wetlands and conserve natural resources in your town!

~ Alan J. Siniscalchi, President 

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legal horizon, continued from page 4

from a trench on his property in which he conducts farming, although the Superior Court points out that the area is more conducive to "McMansions." The agency issued a cease and desist order and required him to restore the "watercourse." Taylor had removed 5 cubic yards of material from the ditch, such as debris, leaves, grass clippings and sediment. A soil scientist (it is not stated for whom he worked) believed the activity was not affecting drainage. In upholding the order, the agency did not require restoration, it gave Taylor 60 days to file for a permit to maintain the ditch. Taylor appealed. On appeal the Superior Court sought a definition of "reclamation" and found only a footnote mentioning the dictionary definition of reclamation in an Appellate Court decision. Applying the most restrictive definition of reclamation, the Superior Court found that it did not include Taylor's activity which maintained the ditch in its present location and its current dimensions. Maintaining the ditch was just part of "prudent farming."

There continues to be a broad spectrum in which the Superior Court cases appear. One unifying theme is that where the recipient of a cease and desist order does not appeal a final order, there is virtually no opportunity to contest that the activities complained of were actually exempt. On the other hand, if the person brings an appeal, the Superior Court can examine the basis of agency decision. In this Fairfield case, that worked to the advantage of the property owner.

The lack of Appellate Court and Supreme Court precedents continue to thwart uniform application of the farming exemption statewide.

Janet P. Brooks practices law in East Berlin. You can read her blog at: www.ctwetlandslaw.com.

(Endnotes)

¹ You can read the case on the Judicial Website at: <http://www.jud.ct.gov/external/supapp/Cases/AROap/AP135/135AP344.pdf>. Or go to: www.jud.ct.gov, click on Opinions, click on Appellate Court Archives, click on 2012, scroll down to "published in the Connecticut Law Journal of 5/29/12, click on the case.

² Superior Court, judicial district of Windham, Docket No. WWM CV 11 6003791 S (December 12, 2011).

³ Superior Court, judicial district of New Haven, Docket No. CV 10 5033404 S (January 23, 2012).

⁴ Superior Court, judicial district of Fairfield, Docket No. CV 11 6017217 S (August 30, 2012).

open space legislation, continued from page 5

Funding for the position will be provided to DEEP via the Department of Agriculture (DoAg) budget.

BAD BILLS DEFEATED

S.B. 445, An Act Concerning Liability for the Recreational Use of Land, which would have rolled-back protections from liability extended to municipalities for the recreational use of land, died during the session.

S.B. 447, An Act Modernizing the State's Telecommunications Laws, also died during the session. There was strong opposition to a section of the bill which would have allowed the construction of public or private telecommunications towers to be considered as compatible uses of state park and forest conservation lands.

S.B. 343, An Act Concerning Intervention in Permit Proceedings Pursuant to the Environmental Protection Act of 1971. This bill proposed amendments that would have severely weakened the CT Environmental Protection Act of 1971 (also known as CEPA). CEPA provides citizens with the ability to challenge land use proposals that would unreasonably pollute, impair or destroy Connecticut's natural resources.

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126a of the Connecticut General Statutes shall be valid [for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted] until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued by the Agency for any [other] activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years. [Any permit issued by the Agency prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.]

11.6.1 Notwithstanding the provisions of Section 11.6 of these regulations, any permit issued by the Agency prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.

The flow chart on page 11 includes the new relevant statutory permit approval time frames to assist the commission in revising commission regulations to reflect these new amendments. Also note, that in your wetland commission's regulations all references to the "Department of Environmental Protection" and "DEP" should be changed to the "Department of Energy and Environmental Protection" and "DEEP."

Should you have any further questions regarding the above changes, please feel free to contact Darcy Winther of the Wetlands Management Section at (860) 424-3019. 

conservation initiatives and investments, or not.

- How much the conveyance fee should be up to 1% of the sale amount over \$150,000
- What conservation purpose(s) the fund will be used for.

Commission and municipal support will be critical to the passage of this local funding opportunity.

For more information on CRCA and how your commission can help support the legislation please contact Tom ODell by email at todell@snet.net and Amy Paterson, CLCC Executive Director, at abpaterson@ctconservation.org. 

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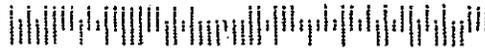
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Editor's Note: Please pass this article on to your Town Planner. Often projects identified in the town's Plan of Conservation and Development would benefit from establishment of a local CRCA matching fund.

Matching Funds for Municipal Conservation & Redevelopment Grants

Most State, Federal and private granting agencies require municipalities to have at least a 50% match for grants requesting funding for conservation-related projects such as open space protection, farm land acquisition, restoration of degraded land, historic preservation, and implementation of storm water management plans. The Community Redevelopment and Conservation Act (CRCA) will provide municipalities with a local match fund to increase the town's success in competing for grants that enhance local economies, public health and the environment.

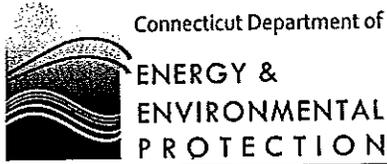
CRCA will enable a municipality to establish a conveyance fee (up to 1%) on buyers of real property on the sale amount over \$150,000. The proposed

legislation will specify that the fee be retained by the municipality, kept in a separate account and be used for the planning and implementation of a broad range of local preservation, conservation, restoration and development projects.

Provided there is support for the legislation from municipalities, the Connecticut Land Conservation Council and its partners are planning to introduce the Community Redevelopment and Conservation Act in the 2013 session of the Connecticut Legislature, next January. The legislation would give the town the right but not the obligation to establish the program. It would be up to the voters in each town to decide:

- To establish the conveyance fee as a reliable source of funds for leveraging resources for

CRCA, continued on page 15



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JPM

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Affirmative Action/Equal Opportunity Employer

October 26, 2012

Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106

Attn: Jennifer Perry, Supervising Environmental Analyst

Re: Dam Repair Temporary Authorization No. DS-201206309TA
Eagleville Lake Dam, CT Dam #7804, Hazard Class C (High)

Dear Ms. Perry,

In response to your letter addressed to me dated September 21, 2012, the Commissioner of the Department of Energy and Environmental Protection has approved a temporary authorization to conduct a regulated activity at Eagleville Lake Dam in Mansfield and Coventry. Your attention is directed to the conditions of the enclosed authorization. You should read your authorization carefully, as all construction and work must conform to that which is authorized. Lastly, please be advised this authorization is valid for ninety (90) days, whether consecutive or not (i.e. days of work taking place), from the date of its issuance.

If you have any questions concerning the enclosed authorization, please contact me at (860) 424-3880.

Sincerely,

A handwritten signature in cursive script that reads "Arthur P. Christian II".

Arthur P. Christian II, Supervising Civil Engineer
Inland Water Resources Division
Bureau of Water Protection and Land Reuse

COPIES FURNISHED TO:

- Karl Acimovic
- Town Clerks (Mansfield & Coventry)
- Chief Elected Officials (Mansfield & Coventry)
- Planning Commissions (Mansfield & Coventry)
- Inland Wetland Commissions (Mansfield & Coventry)
- Conservation Commissions (Mansfield & Coventry)

BREAK

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TEMPORARY AUTHORIZATION

To: Jennifer Perry
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106

Authorization No.: DS-201206309TA
Authorization Type: Dam Construction Temporary Authorization
Town(s)/City(ies): Mansfield & Coventry
Project: Eagleville Lake Dam, CT Dam #7804, Hazard Class C (High)

Pursuant to Connecticut General Statutes Sections 22a-6k(b) and 22a-403 the Commissioner of the Department of Energy and Environmental Protection (DEEP) hereby grants a temporary authorization to the Department of Energy and Environmental Protection's Engineering Services Section "grantee" to conduct repairs at Eagleville Lake Dam in the Town of Mansfield and Town of Coventry. This repair work shall be in accordance with this authorization and the plans entitled "Improvements and Repairs to Eagleville Lake Dam" dated August 2012, revised 08-20-12 and prepared by Karl F. Acimovic.

In granting this temporary authorization the Commissioner has found that (1) such activity will not continue for more than ninety days; (2) such activity does not pose a significant threat to human health or the environment; (3) such authorization is necessary to protect human health or the environment or is otherwise necessary to protect the public interest; (4) such authorization is not inconsistent with the federal Water Pollution Control Act, the federal Rivers and Harbors Act, the federal Clean Air Act or the federal Resource Conservation and Recovery Act, and (5) the commissioner has the authority to issue a general permit for such activity under section 22a-411.

AUTHORIZED ACTIVITY

Specifically, the grantee is authorized to conduct the repair work necessary correct deficiencies as shown on the above referenced plans. The repair authorized includes placing and grouting standard riprap at the base of the spillway, where there is a scoured area; repairing deteriorated concrete along the left and right training walls; removing sediment from the intake structure; installing a new eel passage; and removing brush and woody vegetation on the dam, training walls and among the existing riprap.

This work shall be completed within ninety (90) days, whether consecutive or not (i.e. days of work taking place), of the initiation of work authorized by this temporary authorization beginning as soon as Eagleville Lake can be drawn down as necessary for this project. Refilling of the Lake shall be initiated as soon as possible and be done in such a manner that a downstream release is maintained at all times.

This authorization does not derogate any present or future property rights or other rights or powers of the State of Connecticut, conveys no property rights in real estate or material nor any exclusive privileges,

and is further subject to any and all public and private rights and to any federal, state, or local laws or regulations pertinent to the property or activity affected hereby.

GRANTEE'S FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS AUTHORIZATION SHALL SUBJECT GRANTEE AND CONTRACTOR(S) TO ENFORCEMENT ACTIONS AND PENALTIES AS PROVIDED BY LAW.

This authorization is subject to the following conditions:

SPECIAL CONDITIONS

1. Within ten (10) days of the completion of the construction authorized herein, the grantee shall notify the Commissioner in writing of the completion of said construction.
2. As-built drawings certified by the engineer depicting the construction authorized herein shall be submitted within thirty (30) days of the completion of said construction, which shall include any deviations from the approved plans and specifications. Said drawings shall be prepared and sealed by the engineer who oversaw the construction. In addition, the grantee shall arrange for submission of an electronic copy of the final record drawings in Adobe Acrobat "pdf" format.
3. All of the construction activities authorized herein shall be performed under the supervision of a Professional Engineer licensed in CT.
4. Prior to the start of construction, a water handling plan/flood contingency plan shall be submitted to the engineer/consultant for approval. These approved plans shall be submitted to DEEP's Dam Safety Section. Any changes in the erosion and sedimentation control plan shall also be submitted concurrently with these documents.
5. The proposed work shall take place from November 1 to April 1, the dormant season of the Wood Turtle. The work may take place outside of this dormant season if the following conditions are met: all workers at the site shall be educated about the turtles; and on each work day, before large equipment, trucks or vehicles are moved on site, the workers shall look closely for turtles that may have wandered onto the site and move the turtles to a safer location.

GENERAL CONDITIONS

1. Pollution Prevention/Best Management Practices
Grantee shall not cause or allow the authorized activity, including any construction associated therewith, to result in pollution or other environmental damage and shall employ the best management practices to prevent such damage. Grantee shall, in addition to employing any other best management practices necessary to prevent such damage, perform the following:

(A) Controlling Erosion. Grantee shall install and maintain in optimal condition erosion and sedimentation controls to prevent erosion and discharge of material into any waters of the state, including wetlands, as a result of the authorized work or any construction associated therewith.

Such controls shall be installed and maintained in conformity with the Connecticut Soil Erosion and Sediment Control, published by the Connecticut Council on Soil and Water Conservation pursuant to Section 22a-328 of the General Statutes.

(B) Disposing of Excess Material Properly. All excess material and solid waste generated during any construction associated with the authorized activity shall be disposed of in accordance with applicable federal, state and local laws.

2. Recording and Reporting Violations

Within 48 hours after the grantee learns of a violation of this authorization, he shall report the violation in writing to the Commissioner. Such report shall include the following information:

- (A) the provision(s) of the authorization that has been violated;
- (B) the date and time the violation(s) was first discovered and by whom;
- (C) the cause of the violation(s), if known;
- (D) if the violation(s) has ceased, the duration of the violation(s) and the exact date(s) and time(s) it was corrected;
- (E) if the violation(s) has not ceased, the anticipated date when it will be corrected,
- (F) steps taken and steps planned to prevent a reoccurrence of the violation(s) and the date(s) such steps were implemented or will be implemented;
- (G) the signatures of grantees and of the individual(s) responsible for actually preparing such report.

3. Modification of Authorized Work

In constructing the authorized work, the grantee may not make any alteration, except a de minimis alteration without first obtaining written approval from the Commissioner for such alteration. For the purposes of this temporary authorization, a de minimis alteration means a change in the design or operation of the authorized activity that does not increase its adverse environmental or other impacts and does not significantly change its location.

4. Contractor Notification

If the authorized activity will be constructed by a person(s) under contract to the grantee, the grantee shall (1) give a copy of the temporary authorization and of their approval of authorization hereunder to such contractor(s) prior to the start of construction, and (2) for one year after completion of construction, retain a written receipt for such copy, signed and dated by such contractor(s).

5. Expiration of Authorization

This authorization shall expire ninety (90) days, whether consecutive or not (i.e. days of work taking place), from the date of issuance. This authorization may not be renewed.

OTHER CONDITIONS

1. Reliance on Request for Authorization

In evaluating grantee's request for authorization, the Commissioner has relied on information provided by the grantee. If such information proves to be false or incomplete, this approval of authorization may be suspended or revoked in accordance with law, and the Commissioner may take any other legal action provided by law.

2. Other Applicable Law

Nothing in this authorization shall relieve the grantee of his obligation to comply with any other applicable federal, state and local law, including the obligation to obtain any other lawfully required authorization.

3. Other Rights

This authorization is subject to and does not derogate any present or future rights or powers of the State of Connecticut and conveys no rights in real or personal property nor any exclusive privileges, and is subject to all public and private rights and to any federal, state and local laws pertinent to the property or activity affected by such authorization. In conducting any activity hereunder, the grantees may not cause pollution, impairment or destruction of the air, water or other natural resources of this State. The issuance of this authorization shall not create any presumption that this authorization should or will be renewed.

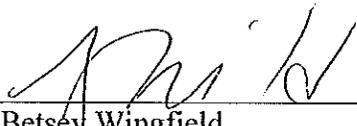
4. Certification of Documents

Any document, including but not limited to any notice, information or report, which is required to be submitted to the Commissioner under this temporary authorization shall be signed by grantee or his duly authorized representative, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

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

Issued as a Temporary Authorization of the Commissioner of the Department of Energy and

Environmental Protection on: November 1, 2012.



Betsey Wingfield
Bureau Chief
Bureau of Water Protection and Land Reuse