

*Robert Allen Blatt*

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LARCHMONT, NEW YORK 10538  
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July 13, 2020

Via Email to:

Gary Upton, Chairman  
Inland Wetlands Agency  
108 Pennsylvania Avenue  
Niantic, CT 06357

Re: Public Hearing July 13, 2020  
Proposed Text Amendment to Section 2.1 of the East Lyme Inland Wetland  
Regulatory Changing Regulated Area from 100' to 500'

Dear Chairman Upton:

I write on behalf of my company Niantic Real Estate LLC and myself personally to provide notice, for the reasons set forth herein, of my opposition to the proposed text amendment to Section 2.1 of the East Lyme Inland Wetland regulations changing the regulated area from 100' to 500'.

Please enter this correspondence and all its exhibits, including but not limited to the Freedom of Information Act Request and the answers, correspondence, communications and documents produced relative thereto into the record of this public hearing.

As initial matters, I am the sole member of Niantic Real Estate LLC which owns real property known as Assessor Map 35.0 Lot 31-6 and Map 40.0 Lot 18 each of which would be affected the proposed text amendment.

We have reviewed the Tape of the May 18, 2020 Inland Wetland meeting, the correspondence between Mr. Upton and Mr. Nickerson, Ex. 1, as well as other posted submissions located in the Inland Wetlands Agency "Materials" Section of town of East Lyme website as of July 10, 2020, and the article in the New London Day dated July 11, 2020, Ex. 2.

We are opposed to the text amendment as drafted as it will require the vast majority of property owners in East Lyme to be unnecessarily and unreasonably subjected to a time consuming, and potentially expensive process that is not supported

by any scientific fact whatsoever. In fact, the Connecticut Department of Energy and Environmental Protection Guidelines, Ex. 3-page 4/5, states in pertinent part as follow's;

"The Dep believes that a 100-foot-wide upland review area is sufficient for reviewing construction activities surrounding wetlands or water courses because most of the activities are likely to impact or affect these resources will be located in that area.... However, beyond 100' it is neither practical or desirable, from a wetlands and watercourses management perspective to automatically require a inland wetlands permit for all construction activities. It must be emphasized that other municipal authorities and mechanisms involving planning, zoning and subdivision decisions and plans of conservation and development play a role in addressing the broader watershed issues."

At best this contemplated, proposed text amendment represents an unlawful attempt by members of the East Lyme Inland Wetlands Agency to seize control over all, or the vast majority, of any land uses matters in the Town. Such conduct under the circumstances and record is a deliberate abuse of power and authority.

In addition we submit that the proposed text amendment is inappropriate for the following additional reasons;

1. A "zoom" meeting is an inappropriate forum to address this matter given the consequences to a vast majority of property owners in the Town of East Lyme.
2. At a minimum Chairman Upton clearly has a bias against, amongst other things, Town Staff, the First Selectman and Real Estate Development. In fact upon information and belief Mr. Upton recently expressed his opposition to any further real estate development in East Lyme to a member or members of the East Lyme Board of Finance. In addition Mr. Upton's statements and actions during the May 18, 2020 Inland Wetland Agency Zoom meeting demonstrated he has predetermined his vote on this matter. For these, and other reasons to be addressed herein, that will not allow him to be objective Mr. Upton must recuse himself from the matter referenced herein.
3. The Vice Chairman, Mrs. Chantrell, also has a bias and has predetermined her vote on the matter based upon, at a minimum, her comments on the record on the May 18, 2020 Inland Wetlands Agency Zoom meeting. The tape of said meeting is incorporated herein by reference. In addition the Vice Chairman is an open vocal opponent of the subdivision of land by Robert Fusari, near her personal residence, that would be affected by this text amendment. In addition Mrs. Chantrell was cited by this very agency and subjected to a Cease, Desist and Restore Order for clearing, grading and building a dock without a permit from this Agency. Ex. 4. For any and all of these reasons Kristen Chantrell cannot be objective and therefore must recuse herself from participating in this matter referenced herein.

4. Members of the East Lyme Inland Wetlands Agency held unlawful, unnoticed, Ex Parte meeting(s) during the period beginning on or about February 25, 2020 and continuing, at a minimum, until May 18, 2020. Such meeting or meetings violate Connecticut law. See Connecticut General Statutes 4-181, see now General Statutes (Rev to 1989) 4-183(j)(3) and *Mattabasset Grp., Inc. v. Inland Wetlands & Watercourses Agency v. City of Middletown*, No. 60372, 1992 WL 83535, at \*4 (Conn Superior Ct. Apr.21,1992)
5. At its bare minimum the proposed text amendment represents a Regulatory Temporary Taking and is subject to the 5<sup>th</sup> Amendment Taking Clause “{N}or shall private property be taken for public use, without just compensation”.
6. The proposed Text Amendment fails to contain a clear and concise standard of what activity is covered by the regulation. This matter is demonstrated by Chairman Upton’s comments in the *New London Day* wherein he allegedly stated “the last thing we are trying to do is keep Harry the Homeowner from the enjoyment of his property” To be clear the proposed text amendment clearly requires “Harry the Homeowner” in the first instance to determine if there is an inland wetland or watercourse within 500’ of his property and then requires “Harry” to obtain a permit or finding from this Agency before quietly enjoying his/her property.
7. The East Lyme Inland Wetlands Agency has failed to provide online 24 hours before the scheduled Zoom Public Hearing a single document that supports the scientific or other need to increase the Upland Review area from 100’ to 500’. In fact the record in “online materials” demonstrates rather conclusively there is no need for the increase.
8. In support of its claims of necessitating a blanket increase in the Upland Review area from 100’ to 500’ members of the East Lyme Inland Wetlands Agency made false statements regarding the Upland Review Areas in Greenwich, CT (Ex. 5), Burlington, CT (Ex. 6), Glastonbury, CT (Ex. 7), Rocky Hill, CT (Ex. 8) wherein they indicated 500’ buffers existed. The Inland Wetlands Regulations in these Towns are incorporated herein by reference as the statements made regarding these Towns are false.

I have enclosed as Ex. 9 a Freedom of Information Act Request which is served upon the Town of East Lyme Inland Wetlands Agency, its regular and alternate members and Town Staff who are the most likely to have access or possession of the requested documents.

Sincerely,

Niantic Real Estate LLC



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By Robert A. Blatt, Managing Member

Cc Anthony Novak, Esq.

# EXHIBIT 1

# Town of



# East Lyme

**Mark C. Nickerson**  
First Selectman  
MNickerson@eltownhall.com

108 Pennsylvania Ave.  
P.O. Box 519  
Niantic, Connecticut 06357  
Phone (860) 691-4110  
Fax (860) 739-2851

June 4, 2020

To Inland Wetlands Commission Members:

For over two weeks, I have asked the Chair of your commission to meet with me, Mr. Goeschel, and the town attorney prior to your next meeting. I was compelled to ask for this meeting after reading a string of emails from your Chair to the town staff where the tone was quite negative, disrespectful and hostile. No matter how frustrated we might be with a person, the "system", or an applicant, we should always remain professional and respectful. I feel that the line has been crossed.

The purpose for the requested meeting was quite clear; to reset communications between the Chair, Staff and Counsel. I also wanted to layout my expectations of following established protocols and the long-standing precedent of scheduling meetings, publicizing public hearings, and the partnership that must be observed between the commission and the town hall staff. This was not a meeting to discuss substance or agenda items...just procedure.

The Chair refused to meet and then became hostile with me.

I would be quite concerned with any commission that displays a renegade/rogue attitude. This is the first time I have witnessed this behavior in the 21 years I have volunteered and worked for the town. There exists an expectation and precedent for the Chair of a commission and the staff to work together. Sadly, this is not happening with your commission.

As commissioners, no one will ever tell you how to vote, but you are expected to listen and consider the advice of town counsel, our professional staff, and state agencies. They have an obligation to guide commissioners on legal matters, on what is required when rendering a decision, and the ramifications of decisions on a broader scale. Disregarding and even resisting this guidance could potentially cost the taxpayers of our town significant damage. That is not what you were appointed to do.

You took an oath to serve our town and make decisions based on what was best for our citizens. I am asking each commission member to keep this in mind when sitting as an Inland Wetland Commissioner.

In closing, I sincerely thank you for your service to our beloved town. I am available anytime for a discussion.

Most Sincerely,

Mark C. Nickerson  
First Selectman

Gary Upton  
Chairman – East Lyme Inland Wetlands

June 5<sup>th</sup> 2020

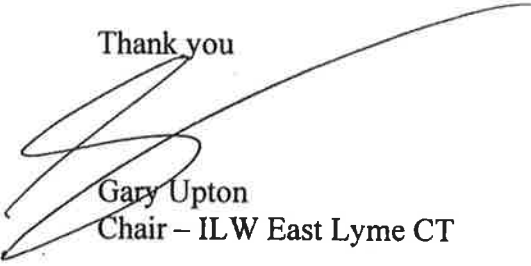
Dear Fellow Commission Members,

Regretfully in response to the letter from our first selectman dated June 4 2020 in which the selectman makes a variety of accusations regarding his interactions with me. I must unfortunately enter into the record the chain of communication that came before that letter. Also be it clear that I have not met with Mr Nickerson or spoken to him on the phone. All correspondence has been in writing. As for meeting with him and/or staff I asked to do so by zoom.

Please find attached to this letter our email chain. I thank every one for your service and apologize in advance for having to deal with issues like this.

I will let the record speak for itself.

Thank you



Gary Upton  
Chair – ILW East Lyme CT

From: Gary Upton gary@uptonbass.com  
Subject: Re: Your meeting request  
Date: Jun 3, 2020 at 9:26:49 AM  
To: Mark Nickerson MNickerson@eltownhall.com  
Cc: Gary Goeschel GGoeschel@eltownhall.com, Marc Salerno marcsalerno@sbcglobal.net, Kevin Seery kseery@sbcglobal.net, Roseann Hardy rannhardy@yahoo.com, Dan Cunningham drclawllc@aol.com, Paul Dagle ptd33@aol.com, Mark S. Zamarka mszamarka@wallersmithpalmer.com, Kristen Chantrell kristenkeenan@hotmail.com, M.biekert@theday.com

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Mark, that's more than extreme and sadly what I expected. You have spent more time conjuring these emails than needed to have a zoom meeting.

I hope as you make these accusations others will review all of the emails back and forth from the start, and our meeting records. Including records with you not allowing our agency to meet against the direct order from the governor. Hopefully I don't have to show your massively rude and condescending text messages. Hopefully they will learn about the history of the commission prior to me and the last chair of the commission.

It's sad to see people pushed around this way. But it aligns with what I have experienced from the start. Your way or the highway.

I'm sorry you see non-compliance with your agenda as "rouge" "disrespect" and "hostility". Certainly flashy words to get others attention. No Mark, I'm just not a yes man. Maybe you didn't know that when you appointed me, and asked me to register as an R to do so. I did say yes to that, my mistake. I got involved for my interest to help people and help the town, just like my work on non profits and both my



business.

Please feel free to outline the comments on the record that were problematic. As for disregard for legal counsel; we are a voting commission and I always weigh the legal advice, always. Please do clarify when legal advice was given to me that I disregarded? I certainly vote with my own mind if that's what you're referring to? Other than recent email comments from the town's attorney that align with the continued stalling of updating our regulations, I have had no contact with attorney Zamarka since the twin valley lakes application much more than a year ago. No phone calls, emails, meetings etc.

As for the town being sued...yes that's what developers do as they re-apply, I myself have done the same in my commercial work. It's 101 operations to use a little money to apply pressure to get the desired outcome.

Again I'll remind you our agency has been working very cohesively with healthy discourse. We continue to learn and understand the regulations and CGS in more and more detail. Your internal resistance is creating this very situation and it's unfortunate to put it back on me. I hope those

you cc to build your case will watch our full meeting. **I'd be happy to meet with the full board of selectmen.**

Mark, as I have said, I have no agenda other than transparency and I feel uncomfortable with back room discussions and badgering commission members in private. I'm a volunteer on a simple commission in town.

I have not copied my attorneys at Robinson & Cole and I hope this matter can die out. But please know, I am not the guy who will roll over and be pushed around. I'd hate to have to use my own resources to stand up for what's right, but know I will.

And as for me "personally" I think it's best for all that our personal private matters are not mixed into things like this...don't you?

I'm sorry mark you're going too far with this one.

CC Mark Beikert The Day Newspaper

Regretfully,  
Gary Upton

Chair - East Lyme Inland Wetlands

[www.uptonbass.com](http://www.uptonbass.com)

On Jun 3, 2020, at 6:26 AM, Mark Nickerson  
<[MNickerson@eltownhall.com](mailto:MNickerson@eltownhall.com)> wrote:

Gary,

There are no "restrictions" that would prohibit us to meet. We've been meeting with people at the town hall "by appointment" for 2 weeks.

I am extremely concerned with the direction your commission has taken. I am more concern with your disregard of the advice staff and our legal counsel has given the commission. You have put the town in a position of being sued for actions by your commission that are not defensible.

I'm not sure what is going on with you personally. In my 21 years serving the town, I have never witnessed this disrespect, rogue attitude, and

hostility with anyone. We take an oath to serve our town. Recent actions by you, comments on the record, disregard of the town's legal counsel, and your refusal to meet with me suggests that You are not putting the town's interests ahead of your own agenda.

You are making EVERYTHING difficult. With all that is going on in this world and it's effects on the citizens and businesses of our town, you continue to be my biggest problem. I have been asking you for a meeting for two weeks and you have refused. In addition, I am requesting that you meet with the town attorney before any public meeting is scheduled. This can happen at the same time as our meeting.

I have copied members of the Board of Selectmen and our town attorney.

Lastly, when would you like to meet?

Mark C. Nickerson  
First Selectman  
Town of East Lyme, CT

On Jun 2, 2020, at 4:07 PM, Gary Upton <[gary@uptonbass.com](mailto:gary@uptonbass.com)> wrote:

Mark, due to the current restrictions I think it's best if we have a zoom meeting or even easier communicate as we have been, here by email. Sorry but I don't want to meet in person as we are in a pandemic. Keeping in mind our town meetings are on zoom.

Also you could attend the agency zoom meeting on the 8th and I can call executive session where we can meet just with the commission, you and Gary.

Stopping our meeting and creating a quid-pro-quo situation seems just wrong. I hope you'll consider the alternate suggestions.

Again I am unclear to the exact purpose of our meeting that seems it cannot be discussed by email.

Thank you,

Gary Upton

<http://www.uptonbass.com>

On Jun 2, 2020, at 1:06 PM, Mark Nickerson  
<[MNickerson@eltownhall.com](mailto:MNickerson@eltownhall.com)> wrote:

Gary Upton,  
Again, when would you like to meet. I have instructed staff and IT to not schedule your next Zoom meeting until we sit down and talk.

Mark C. Nickerson  
First Selectman  
Town of East Lyme, CT

On Jun 2, 2020, at 12:13 PM, Gary Upton <[gary@uptonbass.com](mailto:gary@uptonbass.com)>  
wrote:

Mark,

This message is in response to your texts requesting that you and I meet with Gary Goeschel.

Your message; *"Please work with the staff. I'm watching emails fly back and forth. You are a commission of the town monitored and advised by the staff. He/they cannot be positioned as "the enemy" or an agent for a developer. "*

Mark,

Respectfully, I think you need to talk to your staff and I am not comfortable with the back room discussions that continue to go on. Please watch the meeting, I think you'll see for yourself. Further I would request that the next zoom meeting; staff, with the exception of the recording secretary are muted like our commission. So they are not speaking out of order, interrupting members and railroading conversation.

If you watch our videos and come to a meeting you'll see that our commission is very cohesive, with healthy discourse. Any strange

disagreement and upset on staffs end is created entirely unto their own and quite apparent. "The enemy" or "agent for the developer" is clearly not the commissions doing. I'm not putting words in Gary's mouth. It's upsetting to both the public and fellow commission members and has been a theme since I came on board and certainly echos the sentiments of the Twin Valley Lakes application...as to your comments on lawsuits; *"Dangerous positions being played out here. Definitely headed for lawsuit. Time for me and the two Gary's to sit down. Citizens are not being well served if we wind up in court. Avail next week?"*

Twin valley has cost what \$100,000 in legal etc at this point? Another application I know many people felt Gary Goeschel was working with the developer. With my new study and understanding of the regs and law, I'm sorry to say I do see exactly what people are talking about. Lots of fancy footwork...

It got so bad from Gary Goeschel in our past meeting I had to say something about it. even just for the fact that as his friend I was embarrassed for him.



As the chair and per our bylaws I have called a special meeting for the 24th, more than a week ago. We meet all the statutory requirements to a T, all the commission members have confirmed. I have spoken with DEEP and confirmed. This seems on repeat; like the meetings I asked to have in April (in adherence with the governors order) which you would not allow. Once again myself, and our commission have been completely ignored by Gary and Jenn in that request. And I can only assume at your direction.... This stalling must end Mark.

Please work with your staff regarding their own personal bias so that we can do our (volunteer) job.

**If the special meeting for the public hearing on our regs for June 24th is not posted on or before EOB Friday June 5th 2020 I will have no choice other than to go public with this matter. Please allow our agency to act with its own anonymity.**

For further understanding of the matter please listen to Gary Goeschel's comments about financial impacts to his own property on the 500 upland review area. I think an understanding of the CGS Chapter 10 sec 1-85 is in order. Clearly just like his own friends

application (Pazzaglia) the regulation changes are a direct conflict of interest.

I don't feel it's appropriate for me to come and meet in private about these sensitive public matters and if you do wish to speak to our commission, you can do so at our public hearing. Further I feel the back channel discussion and asking members of the commission to recuse themselves etc. when they are working to the letter of the law is unethical.

Clearly as you can see from the link below the 500 foot matter is an important topic to many residents and as such we demand our public hearing.

<https://www.change.org/p/east-lyme-inland-wetlands-agency-support-the-preservation-of-east-lyme-s-wetlands>

Gary Upton

Chair - East Lyme Inland Wetlands Agency

June 8, 2020

Mr. Nickerson,

I am writing in response to your June 4, 2020 letter written to the Inland Wetland Commission. I would like to assure you that our commission is by no means displaying a “renegade/rogue” attitude as you suggest.

Your letter further states that as commissioners we “are expected to listen and consider the advice of town council, our professional staff, and state agencies...Disregarding and even resisting this guidance could potentially cost the taxpayers of our town significant damage.” I believe I speak on behalf of the rest of the commission, that we are not resisting guidance or ignoring advice. We are considering each application and rendering our decisions in accordance with our Inland Wetlands and Watercourses Regulations.

Our purpose, as stated formally in town regulations, is “[...] to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority [...]”. And I sincerely believe that my fellow commission members are dedicated to this mission.

Every member of the commission has listened, researched and fairly debated each application, as the record shows. Each member brings a unique skill set that I am proud to be witness to as I feel our discussions during meetings have been well-rounded, productive and represent all sides. We are volunteers of the town who are dedicating our time and expertise to the town we love.

In regards to the emails between our Chair, Gary Upton, and yourself, I have read them a number of times, and I haven’t seen a “refusal to meet” in the emails. We are in the midst of a global pandemic and I would hope that as First Selectman of this town you would be empathetic towards people’s different circumstances and comfort levels and adjust your meeting flexibility accordingly. Chair Gary Upton did suggest a zoom meeting and, therefore, I do not agree that he refused to meet with you.

I am proud to be serving on the Inland Wetlands Commission alongside some of the brightest, genuine and dedicated volunteers, whom are serving in accordance with our town Inland Wetlands and Watercourse Regulations.

Best regards,

*Kristen Chantrell*

Kristen Chantrell  
Vice Chair  
Inland Wetlands Commission

# EXHIBIT 2

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## Support journalism that matters to you

Since COVID-19 impacts us all and we want everyone in our community to have the important information they need, we have decided to make all coronavirus related stories free to read on [theday.com/coronavirus](https://www.theday.com/coronavirus) (/coronavirus). While we are providing free access to articles, they are not free to produce. The newsroom is working long hours to provide you the news and information you need during this health emergency. Please consider supporting our work by subscribing or donating.

Subscribe (<https://home.theday.com/subscribe/M201&CSReferrer=web>)


Donate (<https://givebutter.com/theday>)

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# East Lyme wetland agency seeks public input on proposal to extend upland review area

Published July 11, 2020 8:33PM | Updated July 11, 2020 8:42PM

By **Mary Biekert** (/apps/pbcs.dll/personalia?ID=m.biekert) Day staff writer

✉ [m.biekert@theday.com](mailto:m.biekert@theday.com) (mailto:m.biekert@theday.com)  [\\_marybiekert](https://www.twitter.com/_marybiekert)  
([http://www.twitter.com/\\_marybiekert](http://www.twitter.com/_marybiekert))

East Lyme — Members of the Inland Wetland Agency are urging members of the public to attend a hearing Monday on a proposal to extend the agency's upland review area from **100 feet to 500 feet** (<https://www.theday.com/local-news/20200521/east-lyme-wetlands-agency-proposes-extending-review-area-to-protect-town-waters>).

They argue the measure will help further protect the town's various bodies of water and drinking water aquifers, which they believe have been threatened by development over the years.

If approved, the extended review area could place 80% to 90% of the approximately 9,000 residential and commercial properties in town within the upland review area, Inland Wetlands Agent Gary Goeschel estimated Wednesday. He said he used waterbodies, wetlands and streams maps digitally provided by the state Department of Energy and Environmental Protection to compute how much of the town would lie within the upland review area if it were to be extended. He added that DEEP's survey does not identify all wetlands in town.

Goeschel, who is also the town's planner, has openly opposed the extension, arguing there are other ways to regulate development and preserve the environment.

The Inland Wetland Agency regulates, but does not prohibit, activity within upland review areas — currently 100 feet surrounding any water body. Homeowners and developers proposing to build anything from a shed or a porch to a home or septic system within such an area must submit an application for a permit from the town to complete the work.

The extent of activity proposed in the area determines whether the applicant can simply receive an administrative permit from Goeschel, who is also the wetlands enforcement officer, or if they must go before the Inland Wetland Agency for further review.

"If I put my (town planner) cap on, there will be an economic impact," Goeschel said. "It will certainly create a perception in town. If you were a developer, it's a negative perception. It's 'Oh boy, this is going to be a cumbersome process.'"

"This certainly will have an impact on growth and, in my professional opinion, I don't think it will necessarily be positive," Goeschel said.

Increasing the area from 100 to 500 feet, agency members have argued, will allow Goeschel and the agency to review and regulate a greater number of activities near town waterbodies and watercourses, thereby protecting them, and would place East Lyme in line with more “progressive towns” throughout the state which have extended their upland review areas, agency member Rosemary Ostfeld has said.

“This is not to prohibit the use of land within 500 feet of an upland. It is simply a review area, which we see builders and developers trying to avoid (review from) left and right,” agency Chairman Gary Upton said by phone this past week. “We are not trying to stop Harry the homeowner from building a garden or a deck. The last thing we are trying to do is keep Harry the homeowners from the free enjoyment of his property. If anything, we are looking to protect current property owners to keep their properties the way they are and their neighboring properties the way they are.”

Upton added that revising the upland review area is “just the beginning” of revising agency regulations. He said some next steps may include ensuring “new regulations are not too burdensome (on property owners).” Agency members also have clarified that their proposal to extend the upland review area may be increased by 100 or 200 feet, instead of 400, depending on the feedback they receive at Monday’s public hearing.

“I don’t believe that 100 feet for an upland review is even coming close to protecting an iota of the wetlands. And (our charge as the wetland agency) ... is to protect them,” Upton said. “We want to increase the boundary line to make sure things are getting checked on. ... I believe there are a number of, if not many, applications that have been approved in town that shouldn’t have been.”

Those unable to attend the virtual public hearing can email comments with “To the Inland Wetland Agency and Chairman Gary Upton” in the subject line to [ggoeschel@eltownhall.com](mailto:ggoeschel@eltownhall.com) (<mailto:ggoeschel@eltownhall.com>).

The public hearing will be held virtually at 7 p.m. Monday and will follow a 6 p.m. show cause hearing reviewing a cease and desist order to local developer and home builder Jason Pazzaglia. The town has provided two separate Zoom links to attend each event and both can be found at [eltownhall.com](https://eltownhall.com/) (<https://eltownhall.com/>).

[m.biekert@theday.com](mailto:m.biekert@theday.com) (<mailto:m.biekert@theday.com>)

## STORIES THAT MAY INTEREST YOU



### **Protesters gather at Stonington police headquarters in support of assault victim (/local-news/20200711/protesters-gather-at-stonington-police-headquarters-in-support-of-assault-victim)**

Saturday’s gathering was part of the backlash for what critics say is a bungled police investigation into the allegedly racially motivated June 26 assault on Crystal Caldwell, a 59-year-old Black woman.

# EXHIBIT 3



**STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**

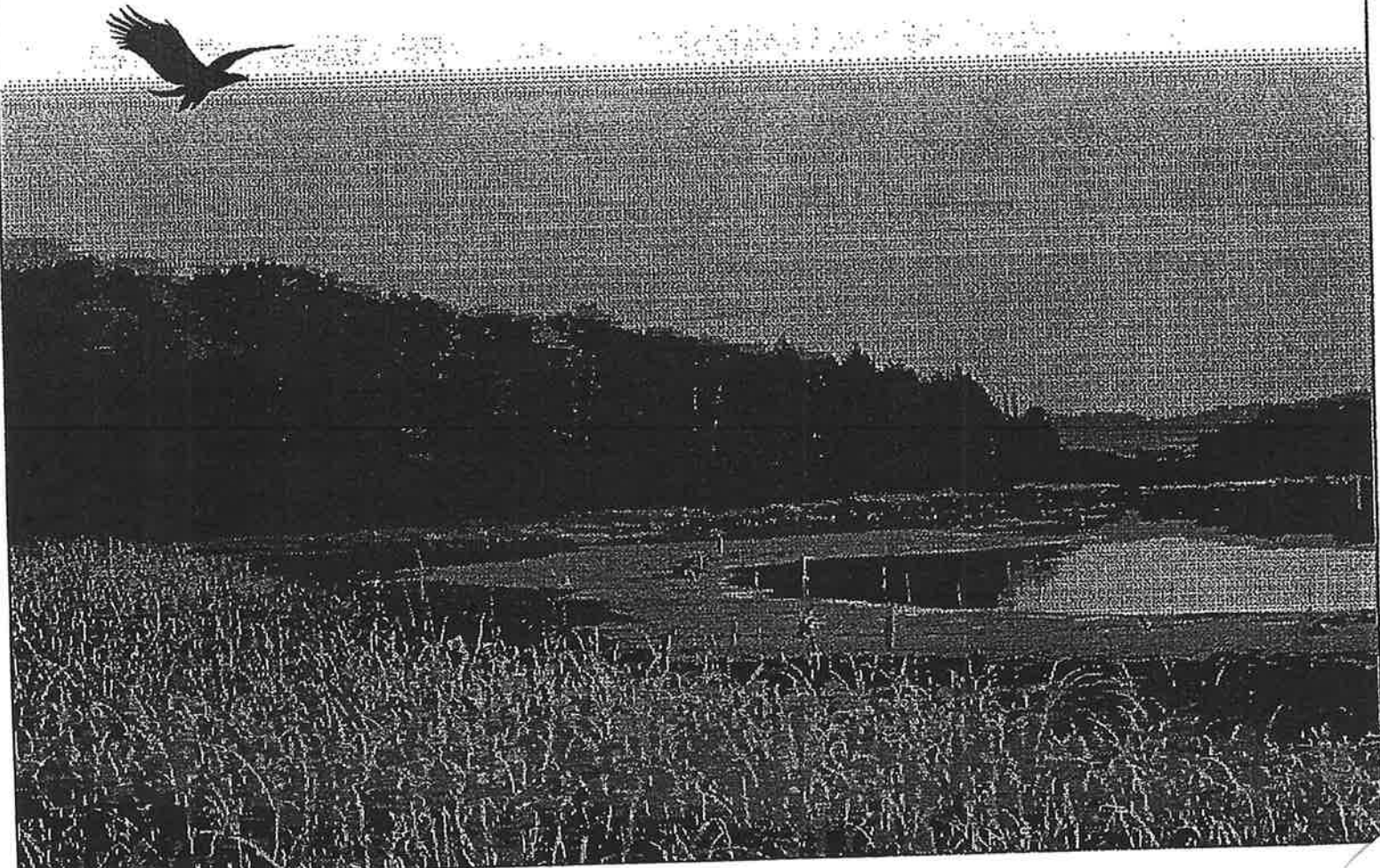
79 Elm Street  
Hartford, CT 06106-5127

**Sidney J. Holbrook**  
Commissioner

**GUIDELINES  
UPLAND REVIEW AREA REGULATIONS  
CONNECTICUT'S INLAND WETLANDS &  
WATERCOURSES ACT**

June, 1997

Wetlands Management Section  
Bureau of Water Management





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Preparation of this report was funded in part by a grant from the U.S. Environmental Protection Agency.

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Cover Picture From: Forested Wetlands/Functions, Benefits and the Uses of Best Management Practices, U.S.D.A. Forest Service.

(Printed on Recycled Paper)



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



To: Municipal Inland Wetland Agencies

From: Charles E. Berger, Director  
Inland Water Resources Division

A handwritten signature in black ink, appearing to read "Charles E. Berger".

Date: June 30, 1997

Under the Inland Wetlands and Watercourses Act, Connecticut's municipalities regulate proposed development activities in or affecting wetlands and watercourses. In support of the municipal wetland agencies, DEP's Wetlands Management Section provides a comprehensive Wetlands Management Training Program for wetland agency commissioners and *Model Regulations* for local inland wetland programs. *Guidelines for Upland Review Area Regulations* was published in accordance with sections 22a-42(d) and 22a-42a(f) of the General Statutes to assist Connecticut's inland wetland agencies in developing and implementing municipal regulations for activities proposed on uplands around wetlands or watercourses.

The guide was drafted in response to inquiries from wetland agency members, river management groups, the regulated community, and other interest persons, for guidance in implementing what are popularly called buffer or setback provisions in wetland regulations. The guide uses the term upland review area to describe the non-wetland or non-watercourse area in which certain types of activities, as defined in municipal regulations, are regulated activities. Other terms for describing this area are used in municipal regulations. We selected the term upland review area because it best conveys the regulatory scheme under the inland wetlands statutes wherein a wetland agency reviews regulated activities case-by-case and approves or disapproves them on their merits.

For further information about DEP's Inland Wetlands Management Programs, please call (860) 424-3019.

# **Guidelines for Upland Review Area Regulations Under Connecticut's Inland Wetlands and Watercourses Act**

## **Wetlands and Uplands: an Introduction**

The relationship between a wetland or watercourse and its surrounding upland is complex. Upland land clearing, excavating, filling and other construction activities if not properly planned and executed can have significant impacts on adjacent wetlands and watercourses. Under the Inland Wetlands and Watercourses Act, the municipal wetlands agency has broad authority to issue permits not only for activities in wetlands or watercourses themselves, but for activities located elsewhere when such activities are likely to impact or affect wetlands or watercourses. *It is the department's policy to encourage municipal wetland agencies to review proposed activities located in upland areas surrounding wetlands and watercourses wherever such activities are likely to impact or affect wetlands or watercourses.*<sup>1</sup>

An understanding of how certain activities in upland areas affect wetlands and watercourses has led most towns to adopt regulations requiring wetland agency review of proposed development adjacent to wetlands and watercourses.<sup>2</sup> Such regulations are optional under the Act, but serve to inform the public as to the circumstances under which a wetlands permit is required of activities proposed adjacent to a wetland or watercourse.<sup>3</sup>

While requiring a permit for specified activities within defined upland review area boundaries, these wetland agencies still maintain their authority to regulate proposed activities located in more distant upland areas if they find that the activities are likely to impact or affect a wetland or watercourse.

The purpose of these guidelines is to assist municipal wetlands agencies to review and revise their wetlands and watercourses regulations, if necessary. As such, the guidelines provide a foundation for consistency in municipal regulations and permitting activities. They are not intended to substitute for reasoned evaluation and judgement by municipal wetlands agencies of the local wetland and watercourse resources, the conditions surrounding those resources, and the types of activities which are likely to impact or affect those resources. Nor are they intended to guide wetlands agencies through the decision making process for acting on permits. Both these topics are more appropriately addressed in detail through the department's Inland Wetlands Management Training Program for wetland agency commissioners and their staff. Wetlands agencies are reminded that they should review proposed changes in their inland wetlands and watercourses regulations with their town attorney.

## Model Municipal Upland Review Area Regulations

In addition to implementing the law to protect wetlands and watercourses, regulations inform the public on what to expect if one proposes an activity in or affecting a wetland or watercourse in the subject town. Upland review area regulations reduce or eliminate the need for case-by-case rulings by providing notice as to what activities need wetland permits. By specifying where a permit is required, such regulations foster consistency and are convenient for the public. In determining the boundaries for its upland review area regulations, the wetland agency should consider the specific kinds of development activities on uplands which are likely to impact or affect wetlands and watercourses and the nature of that impact or affect.

An upland activity which is likely to impact or affect wetlands or watercourses is a *regulated activity* and should be identified as such in the regulations. In identifying upland review area regulated activities, the wetlands agency must apply the standard established under section 22a-42a(f) of the General Statutes and find that the activity is "... likely to impact or affect wetlands or watercourses."<sup>4</sup> Examples of upland regulated activities are included in the models below. In implementing its upland review area regulations, the wetland agency must be cognizant that certain proposed activities, which are permitted uses as of right or as nonregulated uses under section 22a-40 of the General Statutes, are not regulated and do not require a permit from the wetlands agency under the Inland Wetlands and Watercourses Act.

There are a number of ways that the boundaries of an upland review area may be defined in regulations. In selecting its approach, the wetland agency should consider the special nature of their town's wetland and watercourse resources, the purposes and intent of the Inland Wetlands and Watercourses Act, and how the regulations will be implemented.

Three models for upland review area regulations are presented below. The first model provides that certain specified activities if conducted within a specified distance measured from *any* wetland or watercourse are regulated activities. As such, the first model is the basic model and easiest to implement. The second model expands upon that basic model by identifying specific wetland and watercourse resources of special concern and providing site specific review area widths for those resources. This model should be used where the wetland agency believes additional protection though a wider review area is needed or to take existing land development or uses into account with a narrower review area. The third model adds to the basic model a slope and soil factor in determining the site specific width or location of the upland review area. The first and second models are easily understood and implemented, while the third is technically complex and not easily implemented without trained staff.

Note that the first sentence of each model definition below is the definition of the term *regulated activity* taken from section 22a-38(13) of the Inland Wetlands and Watercourses Act and, as such, its meaning may not be changed in municipal inland wetlands regulations.

## *Model Regulation Options<sup>5</sup>*

**Model I.** “Regulated activity” means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in section 22a-40 of the Connecticut General Statutes. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water on the land within \_\_\_\_\_ feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Agency may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

**Model II.** “Regulated activity” means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in section 22a-40 of the Connecticut General Statutes. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water on the land within the following upland review areas is a regulated activity:

- (1) within \_\_\_\_\_ feet measured horizontally from the ordinary high water mark<sup>6</sup> of Town Lake, Smith Lake or Pine Meadow Pond;
- (2) within \_\_\_\_\_ feet measured horizontally from the ordinary high water mark of Ledge Brook and of Big Trout Brook between the Route 51 and Main Street Bridges over Big Trout Brook.
- (3) within \_\_\_\_\_ feet measured horizontally from the boundary of the wetlands comprising Great Swamp;
- (4) within the area enclosed by the \_\_\_\_\_ foot contour elevation surrounding Ice Pond Bog; such contour is depicted on the Inland Wetlands and Watercourses Map for the Town of \_\_\_\_\_;
- (5) within \_\_\_\_\_ feet measured horizontally from the boundary of any other wetland or watercourse.

The Agency may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

**Model III.** “Regulated activity” means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the

specified activities in section 22a-40 of the Connecticut General Statutes. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging in the following areas is a regulated activity:

- (1) on land within \_\_\_\_ feet measured horizontally from any wetland or watercourse, provided
- (2) if the slope of such land exceeds 5%,<sup>7</sup> within the distance measured horizontally from the boundary of the wetland or watercourse equal to \_\_\_\_ feet plus an additional 5 feet for each 1% increase in slope greater than 5%, but not more than \_\_[e.g., 200]\_\_ feet;
- (3) on land designated on the Inland Wetlands and Watercourses Map of the Town of \_\_\_\_\_ as containing highly erodible soils.

The Agency may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

## Considerations in Establishing Upland Review Areas

### *Regulated Activities*

The Inland Wetlands and Watercourses Act (Sections 22a-36 through 22a-45a of the General Statutes) defines *regulated activity* to mean:

*"... any operation within or use of a wetland or watercourse involving the removal or deposition of material, or any obstruction, construction, alteration or pollution of such wetlands or watercourses, but shall not include the specified activities in section 22a-40 of the Connecticut General Statutes."*<sup>8</sup>

In addition to activities located in a wetland or watercourse, any activity located in a non-wetland or non-watercourse area which is likely to impact or affect a wetland or watercourse may be deemed to be a regulated activity (unless the activity is a use permitted as of right or as a nonregulated activity). However, the likelihood of an activity having a substantive impact on a wetland or watercourse will depend on a number of factors, including the nature of the wetland or watercourse, the activity, soils and slope of the land, and would generally decrease with increasing distance of the activity from the wetland or watercourse. At some point, impacts from that activity on wetlands and watercourses would be expected to become de minimis and not measurable.

The DEP believes that a 100 foot-wide upland review area is sufficient for reviewing construction

activities in areas surrounding wetlands or watercourses because most of the activities which are likely to impact or affect these resources will be located in that area. However, based on the special factors of concern to a wetlands agency, e.g., wetland and watercourse values, slope, soils, existing development, etc., a greater or lesser distance may be appropriate for a particular municipality. However, beyond 100 feet it is neither practical nor desirable, from a wetlands and watercourses management perspective, to automatically require an inland wetlands permit for *all* construction activities. It must be emphasized that other municipal authorities and mechanisms involving planning, zoning and subdivision decisions and plans of conservation and development, play a role in addressing the broader watershed issues.

### ***Upland Review Areas, Setbacks and Buffers***

In a number of municipal inland wetlands regulations, upland review areas are referred to as setbacks or buffers.<sup>9</sup> We chose the term *upland review area* to describe the non-wetland or non-watercourse area in which certain activities would be regulated because it best conveys the regulatory scheme under the wetlands statutes wherein a wetland agency reviews regulated activities case-by-case and approves or disapproves them on their merits. The inland wetland statutes do not authorize a blanket prohibition of *all* activities either in the wetlands or in upland review, buffer or setback areas.

### ***Use of Upland Review Area Regulations***

Most municipal wetland agencies have already adopted some form of upland review area regulations.<sup>10</sup> Such regulations are based on a presumption that the regulated activity will have an adverse impact on the adjacent wetland or watercourse. A person proposing to conduct a regulated activity has the burden to demonstrate to the wetlands agency that the impacts of his proposal are consistent with the purposes and provisions of the Inland Wetlands and Watercourses Act and, therefore, that he is entitled to the permit. An applicant who successfully documents to the satisfaction of the wetlands agency that his proposed activities are fully consistent with the purposes and provisions of the Inland Wetlands and Watercourses Act is entitled to receive a permit. The factors the wetlands agency must consider in making its decision on the application are prescribed in section 22a-41 of the General Statutes.<sup>11</sup>

### ***The Role of the Upland Review Area in Protecting Wetlands and Watercourses***

Upland areas surrounding wetlands or watercourses function in a number of ways to protect these resources. An understanding of these functions and how they potentially may be impacted by construction activity or development is necessary for the wetlands agency to adopt an upland review area and subsequently regulate activities therein. Since the functions will vary depending on the specific project site, each permit application will be different and must be reviewed on its individual merits.

### Control Non-point Source Pollution

- \*Vegetation and natural soils foster removal of nutrients, sediments, particulates, and other potential pollutants and pathogens from storm-water runoff thereby protecting water quality
- \*Sediments arising from road sanding and construction activities are trapped
- \*Flood flows, stream bank erosion, and storm-water discharges to wetlands and watercourses are attenuated
- \*Separating distances from wetlands or watercourses allow for treatment of wastewaters

### Protect Aquatic Habitat

- \*Wind-thrown trees, dropped branches and detritus create important habitat for aquatic organisms within watercourses
- \*Stabilize under cutting stream banks, providing shelter for fish and other aquatic organisms
- \*Riparian areas are an essential component of habitat and for mammals, birds, amphibians, reptiles, invertebrates and other wetland animals
- \*Watercourses are allowed to meander naturally without endangering development

### Control Temperature

- \*Shrubs and trees shade wetlands and watercourses and help maintain cold water aquatic habitats in summer and insulate them from deep frost in winter
- \*Water temperatures suitable for fish spawning and egg and fry development are maintained
- \*Cooler water supports higher dissolved oxygen

### Provide Food for Aquatic Life

- \*Decomposing leaves and detritus contribute to the food chain, especially of aquatic insects
- \*Insects falling from branches feed fish and other aquatic life



### Insulate Fish and Wildlife From Human Activities

- \*Potential for human interference with fish and wetland wildlife is reduced

### Provide a Corridor Linking Wetlands and Watercourses

- \*Wildlife habitats are continuous, not fragmented or isolated, allowing for migratory habits of wetland wildlife

### *Examples of Regulated Activities in Upland Review Areas and Their Potential Wetland or Watercourse Impacts*

Keep in mind that the substance and significance of an impact will vary from site to site and may decrease with increasing distance from the wetland or watercourse.

#### Clearing, grubbing and grading

- \*Loss of stream shading
- \*Increased surface water temperature
- \*Loss of food source for aquatic organisms
- \*Loss of riparian habitat/diminished in stream habitat value
- \*Increased storm-water runoff
- \*Reduced capacity to remove nutrients and other impurities from runoff
- \*Soil erosion/sedimentation
- \*Destabilization of stream banks
- \*Increased disturbance of aquatic and wetland animals
- \*Release of nutrients bound in the soil
- \*Loss of instream habitat diversity from wind-thrown trees and branches

#### Paving

- \*Increased storm-water runoff/discharge
- \*Decreased ground-water recharge, reduced stream flow during dry seasons
- \*Non-point source of water pollution, including petroleum products from motor vehicles
- \*Source of sand and grit from storm water discharges
- \*Disruption of fish spawning and fish-egg incubation
- \*Periodic disturbance from maintenance of storm-water management system
- \*Thermal loading in watercourses

#### Excavating

- \*Soil erosion/sedimentation
- \*Altered surface and ground-water discharge patterns and quantity

- \*Diversion or dewatering of wetland/watercourse
- \*Destabilization of watercourse channels

### Filling

- \*Diversion of surface water drainage/dewatering
- \*Loss of flood-water storage
- \*Increased flooding or flood hazards
- \*Increased stream erosion
- \*Erosion of fill material
- \*Sedimentation

### Constructing

- \*Soil erosion/deposition
- \*Disturbance of adjacent fish and wildlife habitats
- \*Increased non-point sources of water pollution
- \*Fragmentation of wetland/watercourse habitats

### Depositing material

- \*Erosion/loss of material into regulated area
- \*Leaching/pollution potential
- \*Disturbance of adjacent aquatic habitats
- \*Alteration of riparian habitats
- \*Other impacts similar to filling and constructing

### Removing material

- \*Discharge/loss of material to regulated area
- \*Modification of riparian habitats
- \*Surface drainage changes
- \*Other impacts similar to clearing, grubbing or grading

### Discharging storm water

- \*Water quality - discharge of road sands/grit; oils; grease
- \*Water quantity - flow attenuation; velocity dissipation
- \*Erosion/sedimentation
- \*Assimilation of potential pollutants
- \*Change in receiving stream water temperature
- \*Increase velocity of runoff and decrease travel time to the receiving watercourse
- \*Nuisance flooding

### ***Determining Upland Review Area Boundaries***

Due to the variability of Connecticut's landscape features, even within the same watershed, and the multiplicity of regulated activities which may be involved in site development, it is not practical to establish separate upland review area boundary distances *for each category or type of regulated activity*. Instead, the upland review area should be of sufficient width to ensure that it will encompass the activities that are most likely to impact or affect the adjacent wetlands or watercourses. It is recommended that upland review area boundaries be delineated using a uniform distance measured horizontally and perpendicular from the ordinary high water mark of a lake, pond, river or stream or from a wetland soil boundary.

The upland review area width adopted by the wetlands agency may be wider or narrower than the 100 foot width recommended by DEP. DEP encourages municipal wetlands agencies base their upland review area widths giving due consideration to local landscape factors including the value, or importance, of wetland or watercourse resources, extent of existing land use and, if a wetland agency deems it to be practicable, on the slope and soils of the land to be developed or other factors.

To be enforceable, the upland review areas must be adopted in the town's inland wetlands and watercourses regulations following the procedures described under section 22a-42a of the General Statutes.<sup>12</sup> Importantly, the upland review area regulations must be easy to understand by a property owner and easy to implement by the inland wetlands agency (should it need to take an enforcement action), as well as by any other interested person.

A uniform review area width has the advantage of simplicity over a variable width in that it is easier to delineate, understand and administer. The disadvantage of a variable, non-uniform, width upland review area regulation is that its inherent complexity may make the regulation difficult to establish and subsequently administer. Ordinarily, the agency will need a professional staff person to delineate and enforce variable upland review area regulations. Also, citizens may be confused using a variable approach and disagreements over the actual location on the ground of the outer limit of the upland review area may complicate permit and enforcement proceedings. Verification of the upland review area location is particularly important in an enforcement action where the burden is on the agency to prove that there is a violation of its regulations. For these reasons, the department urges caution in adopting complex upland review area boundaries (e.g., Model Option III, above).

While it is desirable for upland review areas to be depicted on the town's official inland wetlands and watercourses map, depending on the type of review area adopted, actual mapping may not be necessary provided appropriate narrative description is included in the town's inland wetlands and watercourses regulations and such provisions *are clearly referenced on the official map*. Wetlands agency regulations governing wetlands maps and the official wetlands maps themselves should state that such wetlands and watercourses maps were prepared for information purposes only and that the actual character of the land shall govern the agency's jurisdiction thereon. The

official wetlands and watercourses maps should also clearly reference or depict all upland review areas which have been adopted by the agency.

### Boundary Factors

There are a number of factors which should be considered in defining upland review area boundaries. For unique situations, such as with an important bog, the boundary of the review area could be set by using an elevation contour encompassing the subject area. In addition, upland review areas may be wider or narrower for specified wetlands or watercourses. For example, an upland review area for a significant wetland or watercourse habitat or for wetlands and watercourses located in a public water supply watershed could be set wider than a review area for wetlands or watercourses located in other less critical areas.

#### \* Significant Wetland and Watercourse Resources

All wetlands have intrinsic value, some wetland areas being more or less ecologically valuable than others. But if a wetland or watercourse is known to be ecologically significant, or to have a critical function or value such as in flood control or as habitat for an endangered species, a wider, more protective, upland review area may be appropriate. Unique wetland and watercourse values such as in research, education or recreation may also warrant a wider upland review area.

DEP encourages all towns to evaluate their wetlands resources. To that end, DEP offers training guidance on a methodology for identifying the relative importance of the wetlands and watercourses in a town or within a watershed. (See: DEP Bulletin # 9 *Method for the Evaluation of Inland Wetlands in Connecticut*, 1989<sup>13</sup>) This methodology uses mathematical and word expressions to assign relative "wetland value units" (WVU) to a number of the common wetland and watercourse functions. The following functions are defined in DEP Bulletin #9:

- Flood Control
- Ecological Integrity
- Wildlife Habitat
- Fish Habitat
- Nutrient Retention and Sediment Trapping
- Education Potential
- Visual/Esthetic Quality
- Agricultural Potential
- Forestry Potential
- Water Based Recreation
- Ground-water Use Potential
- Shoreline Anchoring and Dissipation of Erosive Forces
- Noteworthiness, including public water supply watersheds

In addition, guidance on vernal pools is provided in a recent publication by the Connecticut Forest Stewardship Program and the University of Connecticut Cooperative Extension System titled *Identification and Protection of Vernal Pool Wetlands of Connecticut*. Both of the above referenced publications are available from the DEP Bookstore, 79 Elm Street, Hartford, phone 860-424-3555.

#### \* Slope

By enlarging the width of the upland review area in proportion to its slope upward from the wetland or watercourse, the wetland agency may have a better opportunity to protect wetlands and watercourses from sedimentation originating from upland construction activities. For example, wherever the minimum 100 foot upland review area slope exceeds 5%, regulations could add 5 feet (or other reasonable measure) of review area distance *horizontally* for each 1% increase in slope. Thus, if the basic 100 foot wide review area has a 15% slope upward from the ordinary high water line or wetland soil boundary, an additional 50 feet would be added to the horizontal width of the upland review area ( $5\text{ft}/1\% \times 10\% = 50\text{ft}$ ). Similarly, where the land slopes away (downward) from the regulated area, e.g., as in the case of a hill-side seep wetland, the width of the review area could be reduced.

In general, the greater the slope of the land being developed, the greater the potential threat of damage to adjacent wetlands and watercourses from erosion and sedimentation. However, in practice, unless a town already has good town-wide topographic mapping, calculating a slope parameter for a town-wide map of the upland review area boundary would require considerable professional engineering expertise.

A practical approach to using the slope factor may be for wetland agencies to assert their jurisdiction case-by-case over major construction activities on any steeply sloped areas located outside the upland review area where wetlands and watercourses may be threatened by sedimentation caused by erosion at upland construction sites. Such sedimentation is deemed to be pollution and may be cause for an enforcement action under the inland wetlands statutes (see definition of regulated activity above).

#### \* Soils

Combined with slope, the type of soil found adjacent to wetlands and watercourses is an important factor in how development may affect adjacent wetlands or watercourses. Soil characteristics such as texture, cohesiveness and organic content influence the creation of rill and gully formation as a result of erosion by water. In turn, this creates a potential for sedimentation of adjacent wetlands and watercourses. The United States Department of Agriculture, Natural Resources Conservation Service, has compiled lists of highly erodible soil map units which can be located using their published soil surveys. While these lists were compiled primarily for agricultural applications, they may also be useful in evaluating the erosion potential from construction activity.

Also, the permeability of a particular soil, the rate at which groundwater travels through a soil, is an important consideration when evaluating the potential for an upland review area to renovate wastewater discharges to the ground water that may subsequently discharge to a wetland or watercourse. This may be an important consideration when septic system leaching fields or storm water infiltration trenches are proposed adjacent to wetlands or watercourses.

For more information on highly erodible soils, refer to *Highly Erodible Soil Map Units of Connecticut*, USDA-NRCS (1986). For more information on soil permeability characteristics, contact your local USDA-Natural Resource Conservation Service Center (call 860-487-4011 for the center near you). Information on ground-water as it relates to sewage treatment can be found in *Seepage and Pollutant Renovation* (DEP Bulletin # 7) and *Carrying Capacity of Public Water Supply Watersheds* (DEP Bulletin # 11).

Except when soils are used to define wetlands, regulation of development based on soil characteristics is largely a responsibility of the town sanitarian and the planning and zoning commission(s).<sup>14</sup> However, where highly erodible soils are located adjacent to wetlands and watercourses, erosion and sedimentation control is especially critical and should also be addressed by the wetland agency.

Upland review area boundaries based on soil characteristics should be depicted as such on the official inland wetlands and watercourses map for the subject town.

#### \* Floodplain Limits

The landward boundary of a mapped floodplain, such as delineated by the 100-year flood mapped by the National Flood Insurance Program, has been determined using a theoretical design flood on the subject watercourse. Mapped flood limits have no direct relation to the location of wetlands or smaller watercourses on the floodplain. Also, the floodplain boundaries for most small watercourses have not been mapped. For these reasons, flood insurance floodplain maps may not reflect a reasonable boundary of the upland review area.

#### \*Urban Areas and Existing Development

Existing development of the area surrounding wetlands and watercourses has, more likely than not, already had an impact on the upland area's ability to protect those resources. Degraded conditions should not be used to justify further degradation. The wetlands or watercourses themselves may have been filled or modified for storm water or flood control. For these reasons any remaining fringe of undisturbed area between the wetland or watercourse and existing upland development may be all that there is to buffer adjacent water resources from further degradation from new development. In such urban areas, particular attention should be given to how storm water discharges are managed so as to minimize the opportunity for pollution and alteration of wetland or watercourse habitats.

New development in urban areas that contain degraded wetlands or watercourses, may provide an opportunity to improve these degraded resources while mitigating the impact of the new development. This can be accomplished by habitat restoration or enhancement or by using storm water management system retrofits that are designed to improve the quality of the storm water discharge.

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## Endnotes

1. This document was prepared in response to inquiries from municipal wetland commissioners, the Rivers Advisory Committee, the regulated community and other interested persons for guidance on implementing setback and buffer provisions in municipal regulations adopted under Connecticut's Inland Wetlands and Watercourses Act. Section 22a-42d of the General Statutes directs the department to provide guidance for the implementation of Section 22a-42a(f) of the General Statutes.
2. Over 80% of Connecticut's municipal wetlands agencies have regulations governing regulated activities in areas surrounding wetlands or watercourses.
3. Section 22a-42a(c)(2) of the General Statutes provides that a wetlands agency may delegate approval authority for non-significant activities proposed in upland review areas to its agent provided such agent has had DEP training.
4. Section 22a-42a(f) provides that the wetlands agency has jurisdiction over those activities proposed in the upland review area which are "... likely to impact or affect wetlands or watercourses." In documenting the necessity for regulating specific activities conducted in upland review areas, it is not sufficient to merely assert that the activity "may" impact or affect wetlands or watercourses.
5. Contact DEP for a copy of *Inland Wetlands and Watercourses Model Regulations*. DEP's *Model Regulations* provide a comprehensive guide for implementing the Inland Wetlands and Watercourses Act through municipal wetland agency regulations. *Model Regulations* is updated as needed to reflect current legislation.
6. "Ordinary high water mark" means a mark on the land caused by the presence and action of water, which presence and action is so common and usual and so long continued in all ordinary years so as to mark upon the land a distinction between the abutting upland and the watercourse. Such mark may be found by examining the bed and bank of any watercourse and ascertaining thereon an abrupt change in the characteristics of soil or vegetation or slope of the land. This term should be defined in municipal wetlands regulations.
7. Percent slope is most simply determined by dividing the difference in elevation between two points by the distance between the points (i.e., rise/run) and multiplying the result by 100. If a slope factor is used in regulations, the regulations must provide guidance as to how the slope should be measured in the field e.g., on shortest straight line transect from any wetland or watercourse boundary to the highest up gradient point on the land to be developed; number and location of transects; and, in recognition that

the actual slope of the land is not uniform, methods for averaging of slope over a site.

8. In implementing upland review area regulations, the wetlands agency must be cognizant of the “uses as of right” provisions of section 22a-40 of the General Statutes. Under section 22a-40, certain activities are uses of wetland and watercourses as of right or as a nonregulated use. Such uses are not regulated and do not require a permit from the wetland agency. For example, subdivision (4) of section 22a-40(a) prescribes that certain “... uses incidental to the enjoyment and maintenance of residential property ...” are permitted as of right: “[s]uch uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse or diversion or alteration of a watercourse.” Other uses permitted as of right include certain agricultural and forestry uses, boat anchorage and mooring, certain water company activities and maintenance of drainage pipes which pre-date the regulations. Nonregulated uses include a number of conservation and recreational activities. Persons proposing such uses should seek confirmation from the municipal wetlands agency that their proposed project does not require a permit.

9. DEP has not adopted an upland review area provision for state agency actions because, unlike municipal wetland agencies which have only one opportunity to review a project, DEP has a number of opportunities during both planning and permitting of state agency projects. DEP reviews state agency projects under the Environmental Policy Act (Findings of No Significant Impact, Environmental Impact Statements) and several permit programs under Title 22a and 25 of the General Statutes. As partners in state government, state agencies generally act cooperatively to address environmental issues. Utilizing its technical resources, the State strives to apply site specific best management practices during the different planing and regulatory reviews.

10. Depending on the wetland agency, upland review area widths range from 25 feet up to 650 feet from wetland or watercourse boundaries.

11. Section 22a-41 of the Inland Wetlands and Watercourses Act established the criteria for decision on permit applications as follows: In carrying out the purposes and policies of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. the environmental impact of the proposed regulated activity on wetlands or watercourses;
- b. the applicant’s purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses;
- c. the relationship between the short term and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- d. irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such



activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;

- e. the character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
- f. impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

Additionally, if the wetlands agency holds a hearing because it found that the subject activity may have a significant impact, the wetlands agency may not grant the permit unless it finds that the activity is acceptable under the criteria listed above and that there is no less environmentally damaging feasible and prudent alternative.

12. Under Section 22a-42a(b) of the General Statutes, the wetlands agency must provide the DEP with a copy of notice of its hearing on proposed regulations and a copy of the proposed regulations no less than 35 days prior to the hearing thereon. DEP must review and approve all proposed wetland agency regulations except proposed map revisions.

13. The methodology described in DEP Bulletin #9 is a resource planning tool intended to be used for town-wide or watershed-wide assessments of wetland resources and is not designed to be used by applicants or wetlands agencies to evaluate the significance of the impact of activities proposed in permit applications.

14. Section 22a-329 of the General Statutes provides that regulations adopted by a municipality pursuant to CGS Secs. 8-2 and 8-25 shall require that proper provisions be made for soil erosion and sediment control.

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### **Agency Mission**


The mission of the Department of Environmental Protection (DEP) is to conserve, improve and protect the natural resources and environment of the State of Connecticut and to do this in a way that encourages the social and economic development of Connecticut while preserving the natural environment and the life forms its supports in a delicate, interrelated and complex balance, to the end that the state may fulfill its responsibility as trustee of the environment for present and future generations. The DEP achieves its mission through regulation, inspection, enforcement and licensing procedures which help control air, land and water pollution in order to protect health, safety and welfare. The Department also improves and coordinates the state's environmental plans, functions and educational programs in cooperation with the federal, regional and local governments, other public and private organizations and concerned individuals, while managing and protecting the flora and fauna for compatible uses by the citizens of the state.

# EXHIBIT 4

1. Administrative Permits Issued

2. Commission Issued Permits

C. Enforcement



1. **Cease, Desist and Restore Order; 13 Green Valley Lakes Rd; Thomas & Kristen Chantrell, Owner;** Installation of a dock which encroaches approximately 20-feet into a watercourse located on an abutting property and the clearing, grading, removal and deposition of material on the land within 100 feet of a watercourse without an Inland Wetlands Permit. (Agreement to remove by August 31, 2018).

2. **Notice of Violation; 297 Boston Post Road; Al Smith Owner, Jason Pazzaglia, Other;** Outside storage of equipment, construction materials, and the stockpiling of earthen materials including but not limited to yard debris, mulch, woodchips, gravel, topsoil and other woody debris within 100 feet of a watercourse without or in violation of an Inland Wetlands Permit.

D. Correspondence

X. ADJOURNMENT

**\*\*Site Walk\*\***

The Site Walk for July 6, 2019 has been cancelled for lack of Agenda items.

NOTE

Changes to the law allow that anyone wishing to petition for a public hearing on an application may submit a petition with 25 signatures to the Inland Wetlands Agency or its agent within 15 days of the date of receipt. Applications are available for review by the public in the Planning Department during regular business hours.

# EXHIBIT 5

As the science of wetland and watercourse protection evolved, so did the knowledge that activities adjacent to these resources could negatively impact them. The language in the state statutes and the town's regulations addresses this potential and provides the agency with the authority to regulate any activity that may impact a wetland or watercourse. Technically, regardless of where an activity is relative to a wetland or watercourse, if the activity may impact the resource, it will be regulated.

How Can I Help?

Scientists have determined on average 100 to 150 feet of naturally vegetated land provides enough protection against an assortment of impacts from a diversity of land uses. In Greenwich, regulations set the Upland Review Area at 100 feet from wetlands and watercourses, unless those resources occur within the public drinking water supply watershed, then the buffer is 150 feet. While protecting the 100 and 150-foot buffer to wetland and watercourses is desirable, it is not always possible and sometimes not needed depending on the resource's value and the nature of the proposed work.

13. What can be done with seasonally wet areas on my property?

- [Inland Wetlands & Watercourses Agency \(IWWA\) - Application Review Process](#)
- [Inland Wetlands & Watercourses Agency \(IWWA\) - Applying for a Permit](#)
- [Inland Wetlands & Watercourses Agency \(IWWA\) - When a Permit is Needed](#)
- [Parking Services](#)
- [Planning & Zoning](#)
- [Police](#)
- [Public Works](#)
- [Public Works - Building Inspection](#)
- [Public Works - Sewer](#)
- [Purchasing & Administrative Services](#)
- [Representative Town Meeting \(RTM\)](#)
- [Retirement](#)
- [Senior Center](#)
- [Tax Collector](#)
- [Town Clerk](#)
- [Voter Registration](#)

**Town Hall**

101 Field Point  
Road  
Greenwich, CT  
06830

Phone: 203-622-7700

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# EXHIBIT 6

# Burlington CT Inland Wetland Regulations

**"Material"** means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.

**"Municipality"** means the Town of Burlington.

**"Nurseries"** means places where plants are grown for sale, transplanting, or experimentation.

**"Permit"** see license

**"Permittee"** means the person to whom a license has been issued.

**"Person"** means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

**"Pollution"** means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

**"Prudent"** means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

**"Regulated activity"** means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include activities specified in Section 4 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water on the land within the following upland review areas is a regulated activity:

1. within 500 feet measured horizontally from the ordinary high water mark of the Covey Road Bog, also known as the Black Spruce Bog, on Covey Road at Foote Road, centered at approximately 41°46'39.8" North Latitude and 72°58'07.3" West Longitude;



2. within 200 feet measured horizontally from the ordinary high water mark of the Lamson's Corner Bog, also known as the Major Curtis Bog, on Route 69 near Scoville Road, centered at approximately 41°44'42." North Latitude x 72°58'13.0" West Longitude;
3. within 200 feet measured horizontally from the ordinary high mark of Rock Road Bog, on Rock Road, centered at approximately 41°45'55.8" North Latitude x 72°58'50.5" West Longitude;
4. within 100 feet measured horizontally from the boundary of any other wetland or watercourse.

The Agency may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

**"Remove"** includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.

**"Rendering unclean or impure"** means any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.

**"Significant impact"** means any activity, including, but not limited to, the following activities which may have a major effect:

1. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.

# EXHIBIT 7

# Inland Wetland & Watercourses Regulations Glastonbury, CT

greenhouses that are primarily used for growing plants, trees or shrubs; farm buildings and structures that are essential to the farming operations; and the acreage of such land in actual use for farming operations that consists of tillable cropland, untillable permanent pasture, orchard land and woodland.

- l. "Farming" means use of a farm for the purpose of raising or harvesting any agricultural or horticultural commodity that is subject to and previously documented by the filing of a farm business declaration with the federal Internal Revenue Service.
- m. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.
- n. "Municipality" means the Town of Glastonbury, Hartford County, Connecticut.
- o. "Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.
- p. "Permit" means the whole or any part of any certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Agency.
- q. "Permittee" means the person to whom such permit has been issued.
- r. "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporation, governmental agency or subdivision thereof.
- s. "Pollution" means any harmful thermal, chemical, biological, physical or visual effect upon or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials allowed to be discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion or sedimentation resulting from any filling, regrading, or excavation or other earth disturbing activity.
- t. "Regulated activity" means any operation within, or use of, a wetland or watercourse involving removal or deposition of material, clear-cutting, or any obstruction, construction, alteration or pollution, or disturbance of the natural and indigenous character of the land of such wetland or watercourse, and any removal or deposition of material, clear-cutting, obstruction or construction within one hundred (100) feet of any wetland or watercourse,

but shall not include the activities specified in Section 4 of these regulations.

- u. “Regulated area” means an aggregate area comprised of any inland wetland or watercourse and the conservation buffer area as defined and determined pursuant to these regulations.
- v. “Remove” means to drain, excavate, mine, dig, dredge, suck, grub, clear-cut, bulldoze, dragline, blast or any similar activity.
- w. “Rendering unclean or impure” means altering the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.
- x. “Significant activity” means any activity, including but not limited to the following activities, which may have a major effect or significant impact on the wetland or watercourse for which an application has been filed or on any other part of the wetland or watercourse system:
  1. Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the inland wetland or watercourse or on any other part of the inland wetland or watercourse system, or
  2. Any activity which substantially changes the natural channel or may inhibit the natural channel or may inhibit the natural dynamics of a watercourse system, or
  3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space or other functions, or
  4. Any activity which causes or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse, or
  5. Any activity which causes or has the potential to cause a substantial diminution of flow of a natural watercourse, or groundwater levels of the wetland or watercourse, or
  6. Any activity which causes or has the potential to cause pollution of a wetland or watercourse, or
  7. Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

# EXHIBIT 8

# Rocky Hill

## INLAND WETLANDS AND WATERCOURSES REGULATIONS

- ff. **"REGULATED ACTIVITY"** means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 22a-40 of the General Statutes. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing or material and discharging of storm water on the land within 100 feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Agency may rule that if any other activity located within the upland review or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses then it too is a regulated activity.
- gg. **"REGULATED AREA"** means any wetlands or watercourses as defined in these regulations.
- hh. **"REMOVE"** includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut-timber, bulldoze, dragline or blast.
- ii. **"RENDERING UNCLEAN OR IMPURE"** means any alteration of the physical, chemical, or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity, or taste.
- jj. **"SIGNIFICANT IMPACT ACTIVITY"** means any activity, including, but not limited to, the following activities, which may have a major effect or significant impact:
1. Any activity involving deposition or removal of material, which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system.
  2. Any activity, which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
  3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support desirable fisheries, wildlife, or other biological life; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
  4. Any activity, which is likely to cause or has the potential to cause substantial turbidity, siltation, or sedimentation in a wetland or watercourse.
  5. Any activity, which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area.
  6. Any activity, which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
  7. Any activity, which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- kk. **"SOIL SCIENTIST"** means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.
- ll. **"SPRUCE SWAMP"** means a forested wetland characterized by the presence of Red/Black Spruce.
- mm. **"SWAMPS"** means areas with soils that exhibit aquic (saturated) moisture regimes and are distinguished by the dominance of wetland trees and shrubs.
- nn. **"SUBMERGED LANDS"** means those lands that are inundated by water on a seasonal or more frequent basis.
- oo. **"THREATENED and ENDANGERED SPECIES, SPECIES of SPECIAL CONCERN; SIGNIFICANT NATURAL COMMUNITIES"** means those species listed by CT DEP pursuant to Chapter 495 of the Connecticut General Statutes as threatened or endangered species or species of special concern. Known locations of threatened and endangered species and

# EXHIBIT 9

July 13, 2020

**FREEDOM OF INFORMATION ACT REQUEST**

**SUBMITTED TO:**

**Town of East Lyme Inland Wetland Agency  
Gary Upton  
Phyllis Berger  
Rosemary Ostfeld  
Theodore Koch  
Don Phimister  
Kristen Chantrell  
Dave Schmitt  
Sandy Gignac  
Doreen Rhein  
Jason Deeble  
Gary Goeschel  
Jen Lindo**

Pursuant to the State of Connecticut Freedom of Information Act, as codified in Chapter 14 of Connecticut General Statutes, I am requesting access to review and copy and any all documents, communications and correspondence that occurred during the period January 1, 2020 through and including the date access to review, in its entirety is provided, that refers or relates to the following subject or matters;

**DEFINITIONS:** Documents, Communications and Correspondence means and includes writings of any kind or nature, including drafts thereof, which also includes, but is not limited to, emails, text messages, memorandums, motions, notes, letters, research and opinions.

**DO NOT DESTROY ANY DOCUMENTS, COMMUNICATIONS OR CORRESPONDANCE.** By this letter, you are hereby given notice not to destroy, conceal or alter any paper or electronic files and other data generated by and/or stored on your computers and storage media (e.g. hard disks, floppy disks, backup tapes) or any other electronic data, such as voicemail. Your failure to comply with this notice can result in severe sanctions being imposed by the Court and liability in tort for spoliation of evidence or potential evidence. Through discovery we expect to obtain from you a number of documents and items, including files stored on your computers and your computer storage media. In order to avoid spoliation, you will need to provide the data requested on the original media. Electronic documents and the storage media on which they reside contain relevant, discoverable information beyond that which may be found in printed documents.



1. Any matter identified on the January 6, 2020, January 27, 2020, February 24, 2020, March 9, 2020, March 25, 2020, May 18, 2020, June 8, 2020 July 13, 2020 agendas of the Town of East Lyme Inland Wetland Agency each of which are attached in Ex. A.
2. Any ex parte and or private and or un noticed meeting(s) of any regular members and or alternate members of the Town of East Lyme Inland Wetland Agency.
3. Any and all communications and or correspondence with Town of East Lyme staff including but not limited to Gary Goeschel, Jen Lindo, William Mulholland, and Karen Zmitruk
4. Any and all communications and or correspondence with any member of the Town of East Lyme Board of Selectmen, Board of Finance, Planning Commission or Zoning Commission.
5. Any and all communications and or correspondence and or document(s) sent to or received from any member of the public that has communicated verbally or in writing with any member, regular or alternate, of the Town of East Lyme Inland Wetlands Agency.
6. Any and all communications and or correspondence sent to or received from The State of Connecticut, Connecticut Department of Energy and Environmental Protection.
7. Any and all communications and or correspondence that refer or relate to expert testimony.
8. Any communications, correspondence or documents sent to or received from The law firm of Waller Smith & Palmer and or any attorney or employee thereof including but not limited to Edward O'Connell, Esq. and Mark Zamarka, Esq.

In this regard attached please find the Court Order approving a Compromise and Settlement Agreement between New England National LLC et al and the Town of East Lyme, Ex. B. I would refer you to Paragraphs 5 F. and 8 B. and Exhibit A thereto where Niantic Real Estate and myself personally are identified as DEBTOR-RELATED COVENANT PARTIES.

9. Any correspondence, communication, or documents exchanged between members, regular or alternate, of the Town of East Lyme Inland Wetland Agency.

I thank each of you for your compliance<sup>3</sup> with the requested production in the time  
line required by the State of Connecticut Freedom of Information Act.

Respectfully submitted,

**NIANTIC REAL ESTATE LLC**

By   
\_\_\_\_\_  
Robert A. Blatt, Managing Member  
1890 Palmer Avenue Suite 300  
Larchmount, New York 10538  
(914)- 834- 0291

Cc: Mark Nickerson, First Selectman  
Camille Alberti, Chair, Board of Finance  
Kirk Scott, Chair, Planning Commission  
Matthew Walker, Chair, Zoning Commission

# EXHIBIT A

# EAST LYME INLAND WETLANDS AGENCY

MEETING OF MONDAY, JANUARY 6, 2020  
East Lyme Town Hall, 108 Pennsylvania Avenue,  
East Lyme, Connecticut  
Upper Meeting Room

7:00 p.m.

## AGENDA

Gary Upton, Chairman  
Vacancy, Vice Chairman  
Phyllis Berger, Secretary

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

#### I. ADDITIONS TO THE AGENDA

#### II. PUBLIC HEARINGS – NONE

III. PUBLIC DELEGATIONS – *Public Delegations is the time when members of the public are invited to speak to the Commission about certain matters. Issues or concerns related to approved wetland permits and in-house proposals or general topics of discussion are open to comment. Agenda items, referrals, applications subject to a decision by the Commission, a public hearing, or in litigation may not be discussed. The members of the Commission will not directly answer questions or make comment during delegations.*

#### IV. ACCEPTANCE OF MINUTES

A. Meeting Minutes of December 16, 2019 Special Meeting

#### V. EX-OFFICIO REPORT

#### VI. PENDING APPLICATIONS

#### VII. NEW BUSINESS

A. Application of the Town of East Lyme for the Realignment of Memorial Park Drive; Realignment of the Southern end of Memorial Park Dr where it intersects Pennsylvania Avenue.

B. Application of Mel Wiese, Agent for Roxbury Road LLC, Owner, for a proposed 6-lot residential conservation subdivision at property identified in the application as Roxbury Road, East Lyme Assessor's Map 16.1, Lot 43

#### VIII. OLD BUSINESS

#### IX. REPORTS

A. Chairman's Report

B. Inland Wetlands Agent Report

1. Administrative Permits Issued

2. Commission Issued Permits

FILED

Dec 31 2019 AT 1:32 AM (PM)  
*Kenneth*  
EAST LYME TOWN CLERK