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OCT 23 2025

Town of East Lyme
Land Use

APPLICATION FOR DETERMINATION OF PERMITTED/NON-REGULATED ACTIVITY

1. SITE LOCATION (Street) and Description: Holmes Road/Upper Walnut Hill Road
Grassy Hill Road
Assessor's Map 55.0 Lot # 3-1

Note: It is the applicant's responsibility to provide the correct site address, map/lot number for the legal notice. Provide a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands and watercourses to be disturbed, soil type(s), and wetland vegetation.

2. APPLICANT: Arthur Carlson
Address: 19 Dean Road Phone: 860-739-6762
East Lyme, CT 06333 Fax: n/a
Business: n/a Cell: n/a
Email: _____
Applicant's interest in the land: Owner

***If the applicant is a Limited Liability Corporation or a Corporation provide the managing member's or responsible corporate officer's name, address, and telephone number.*

3. OWNER: East Lyme Land Trust, Inc.
Address: P.O. Box 831 Phone: _____
East Lyme, CT 06333 Fax: n/a
Email: n/a Cell: n/a

***As the legal owner of the property listed on this application, I hereby consent to the proposed activities. And I hereby authorize the members and agents of the Agency to inspect the subject land, at reasonable times, during the pendency of the application and for the life of the permit.*


Owners Printed Name: Arthur Carlson, President
Owners Signature: Arthur Carlson Date: 9/18/2025

4. Person Responsible for Compliance: Jeffrey Torrance
Address: 197 Upper Pattagansett Road, East Lyme, CT 06333
Phone Number: 860-961-5283 Email: jtorra5608@aol.com
5. Describe the Activity and Purpose: Farmland Restoration / Timber Cut
6. Describe mitigation measures such as erosion controls, added wetlands plantings, infiltration and run off: Silt fence on down gradient limits of activity prior to final farm land restoration
7. Is the property within 500 ft of an adjoining town? ~~Yes~~ No
8. Inland Wetland/Watercourse Information:
Area of wetland to be disturbed 0 sq. ft.
Area of watercourse to be disturbed 0 sq. ft.
Upland Review Area to be disturbed TBD sq. ft. (area within 300' of wetland)
Will fill be needed on site? ~~Yes~~ No
If Yes, how much fill is needed? n/a cubic yards
Will material be removed from site? ~~Yes~~ No
If Yes, how much will be removed? n/a cubic yards
The property contains (circle one or more) WATERCOURSE WATERBODY WOODED-WETLAND SWAMP
Name of Soil Scientist and date of survey n/a
n/a
9. Site Plan Title, Date, Engineer/Surveyor Name: _____

The undersigned owner hereby consents to necessary and proper inspections of the above mentioned property by the Commission or agent of the Commission, at reasonable times both before and after a final decision has been issued by the Commission. The undersigned also swears that the information supplied is accurate to the best of his/ her knowledge and belief.

Arthur Carlson, President

9/18/2025


Signature of Owner (s)

Date



PO Box 831
East Lyme, CT 06333
eastlymelandtrust.com

October 9, 2025

Hand Delivered
Gary Goeschel, Wetlands Enforcement Officer
Town of East Lyme Inland Wetlands Agency
108 Pennsylvania Avenue
Niantic, CT 06357

Dear Mr. Goeschel,

Attached please find an application for determination of non-regulated activity on our property located on Holmes Road and Grassy Hill Road. It is our understanding and belief that both the proposed Timber Cut and the Farmland Restoration projects we are undertaking are exempt activities under the State of Connecticut Inland Wetlands Act pursuant to Connecticut General Statute § 22a-40 (a) (1). See attached Exhibit 1.

Notwithstanding the noted exemption as evidenced by the attached Alta Survey, Exhibit 2, there will be no activity undertaken in nor disturbance to any inland wetland or watercourse. The areas selected, located off of Holmes Road 10 +/- acres and Grassy Hill Road 3 +/- acres were identified based on Soil Mapping obtained from the SCCOG GIS, Exhibit 3, and historical photographs obtained from the State of Connecticut.

The activities proposed are in furtherance of the specified planned uses and activities identified in our grant application to the Department of Energy & Environmental Protection Open Space and Watershed Grant application program and our pending application to the United States Department of Agriculture Natural Resources Conservation Service's Environmental Quality Incentives Program. See Exhibit 3.

Respectfully Submitted,


Arthur Carlson, President

EXHIBIT 1



Agricultural Exemptions, Farming, and the Inland Wetlands and Watercourses Act
Connecticut General Statutes Section 22a-40:
Permitted Operations and Uses
Subsection (a)(1): Farming

"Sec. 22a-40. Permitted operations and uses. (a) The following operations and uses shall be permitted in wetlands and watercourses, as of right:

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

1. This statutory subsection pertains to agricultural activities which are permitted in wetlands and watercourses as of right.
 - 1.1. Often referred to as the "exemption" section.
2. This statutory subsection does not apply just to existing operations and uses, it also applies to new or proposed operations and uses.
 - 2.1. The operation and use has no income requirement; it may be a hobby.
3. Court interpretation (case law) states that the Inland Wetlands Agency has the right to determine if a farming activity is exempt pursuant to this statutory subsection. The existence of an exemption (the application of the statutory language to the facts of a particular situation) is not determined by the applicant but rather by the Inland Wetlands Agency. This is so, because the agency always has the authority to determine the reach of its jurisdiction over inland wetlands and watercourses.
 - 3.1. Person claiming the benefit of the exemption has the burden of proving to the agency that the activity falls within the exemption.
 - 3.1.1. If evidence in the agency's record equally supports that the activity is exempt and is not exempt, then the applicant has failed to meet the burden of proof and needs to apply for a permit to conduct a regulated activity.

- 3.2. Exemptions are "narrowly construed," which means that the agency is precluded from interpreting the exemption more generously, in favor of the person claiming the benefit of it, than the words of the statute allow.
 - 3.3. Exemptions cannot be expanded upon by the agency, even if the agency thinks good policy reasons exist to do so; conversely, exemptions cannot be more narrowly read by the agency than the language of the exemption provision dictates, even if the agency thinks good policy reasons exist to do so.
4. The word "farming" is not defined within the Inland Wetlands and Watercourses Act. Therefore, use the definition found in Connecticut General Statutes Section 1-1(q).

4.1. **Sec. 1-1. Words and phrases.** *(a) In the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language; and technical words and phrases, and such as have acquired a peculiar and appropriate meaning in the law, shall be construed and understood accordingly.*

(q) Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoopouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

5. What is permitted as of right:

- 5.1. Grazing;
- 5.2. Farming;
- 5.3. Nurseries;
- 5.4. Gardening;
- 5.5. Harvesting of crops;
- 5.6. Farm Ponds of three acres or less essential to the farming operation;

5.7. Clearcutting of timber for the expansion of agricultural crop land;

5.8. Activities conducted by or under the authority of the DEP for the purposes of wetland or watercourse restoration or enhancement or mosquito control.

6. What is **not permitted** as of right and therefore requires an application for a permit:

6.1. Farm ponds greater than 3 acres;

6.2. Farm ponds of 3 acres or less not essential to the farming operation;

6.3. Road construction not directly related to the farming operation;

6.4. Road construction involving filling of wetlands or watercourses with continual flow;

6.5. The erection of buildings not directly related to the farming operation;

6.6. The erection of buildings involving filling of wetlands or watercourses with continual flow;

6.7. Relocation of watercourses with continual flow;

6.8. Filling of wetlands;

6.9. Reclamation* of wetlands;

6.10. Filling of watercourses with continual flow;

6.11. Reclamation* of watercourses with continual flow;

6.12. Clear cutting of timber for reasons other than the expansion of agricultural crop land;

6.13. Mining of top soil, peat, sand, gravel or similar material for the purposes of sale.

7. How to proceed with **determination of exemption**:

7.1. Agency or agent becomes aware of current activity or proposed activity for which no permit has been issued;

7.2. Agency or agent contacts actor requesting explanation;

7.3. Agency or agent requests presence of actor at next regular meeting to establish whether such activity is a regulated activity or a permitted as of right activity
-OR-

Actor files request for declaratory ruling on the agency's jurisdiction (if municipal regulations permit such a filing).

7.4. Agency finds facts which determine whether activity falls within the exemption;

7.4.1. Agency issues a jurisdictional ruling that activity is exempt; or

7.4.2. Agency issues a jurisdictional ruling that a permit be required; or

7.4.3. Agency issues a jurisdictional ruling that portions of the activity are exempt but other portions require a permit.

7.5. If actor is **unwilling to cooperate** with the agent or agency, and the agency finds the activity is not permitted as of right and therefore needs a permit, the agent or agency may issue, pursuant to Section 22a-44(a) of the General Statutes, **an order to cease and correct** such activities on the site until the actor has obtained such permit:

7.5.1. Agency must hold a hearing within 10 days of issuance of the order;

7.5.2. Duly authorized agent must offer evidence that the activity is "regulated";

7.5.3. Burden is on the agency to establish the activity is a regulated activity;

7.5.4. Agency must vote to affirm, revoke or amend the original order within 10 days of the completion of the hearing.

7.6. Agency may proceed directly to court to prevent actor from conducting activity without a permit,

-OR-

to enforce a final cease and correct order.

8. Appeals of municipal inland wetlands agency decisions

8.1. An appeal of an agency decision regarding the application of subsection 22a-40(a)(1) goes to the Superior Court as provided for in section 22a-43 of the General Statutes just like other appeals of agency decisions.

* **Reclamation:** The term is not defined in the CT Inland Wetlands and Watercourses Act. Webster's Ninth New Collegiate Dictionary "to make available for human use by changing natural conditions (~swampland)."

EXHIBIT 2

EXHIBIT 3

Duval Property Soil Map



SUMMARY OF SUBJECT SOILS

The following table gives an indication of the development uses of the various soil types.

Soil Symbol	Soil Description	Limitations to Development	Class	Prime Farmland	Important Farmland	Locally Important Farmland	Inland Wetlands	Non-Farmland	Acreage	% of Total
3	Ridgebury, Leicester and Whitman soils, extremely stony	Very Limited	7s				24.46 acres		24.46 acres	7.35%
17	Tinakwa and Natchaug soils	Very Limited	5w				3.38 acres		3.38 acres	1.02%
46B	Woodbridge fine sandy loam, 2 to 8% slopes, very stony	Somewhat Limited	6s			57.92 acres			57.92 acres	17.40%
47C	Woodbridge fine sandy loam, 2 to 15% slopes, extremely stony	Somewhat Limited	7s					32.78 acres	32.78 acres	9.95%
61B	Canton And Charlton soils, 3 to 8% slopes, very stony	Somewhat Limited	6s					13.69 acres	13.69 acres	4.11%
61C	Canton And Charlton soils, 8 to 15% slopes, very stony	Somewhat Limited	6s					5.39 acres	5.39 acres	1.62%
62D	Canton And Charlton soils, 15 to 35% slopes, extremely stony	Very Limited	7s					10.33 acres	10.33 acres	3.10%
73C	Charlton-Charfield Complex, 3 to 15% slopes, very rocky	Very Limited	6s			23.57 acres			23.57 acres	7.08%
73E	Charlton-Charfield Complex, 15 to 45% slopes, very rocky	Very Limited	7s					3.60 acres	3.60 acres	1.08%
74C	Narragansett-Hollis Complex, 3 to 15% slopes, very rocky	Very Limited	6s					11.45 acres	11.45 acres	3.44%
75E	Hollis-Charfield Rock Outcrop Complex, 15 to 45% slopes	Very Limited	7s					54.32 acres	54.32 acres	16.31%
84B	Paxton and Montauk soils, 3 to 8% slopes	Not Limited	2s	32.55 acres					32.55 acres	9.78%
85B	Paxton and Montauk soils, 3 to 8% slopes, very stony	Somewhat Limited	6s					26.50 acres	26.50 acres	7.96%
85C	Paxton and Montauk soils, 8 to 15% slopes, very stony	Somewhat Limited	6s					28.74 acres	28.74 acres	8.63%
103	Rippowam fine sandy loam	Very Limited Frequent Flooding	4w		4.28 acres		4.28 acres		4.28 acres	1.29%
									32.55 acres	
									4.28 acres	
									81.49 acres	
									32.12 acres	
									186.80 acres	
									332.96 acres	100.00%

EXHIBIT 4



Environmental Quality Incentives Program (EQIP)

Is EQIP Right for Me?



Can You Answer 'Yes' to the Following?

Then EQIP may be a good fit for
your operation

- ☒ I own or rent, and manage land for agricultural or forest production, such as cropland, rangeland, grassland or forestland.
- ☒ I have control of the land such as through ownership or a lease.
- ☒ I can prove irrigation history if my conservation work involves water conservation with irrigation system improvements.
- ☒ My land complies with highly erodible land and wetland conservation determination provisions (if unsure, ask your local USDA Service Center).
- ☒ I established or updated farm records with the Farm Service Agency for me and my operation.
- ☒ I have a social security number or employer identification number issued by the IRS.
- ☒ My average gross income is less than \$900,000 (does not apply to Indian Tribes).
- ☒ If I am a member of an entity or joint operation, I have authority to make management decisions for the business.

What is EQIP?

The Environmental Quality Incentives Program (EQIP) offers technical and financial assistance for working lands, including field crops, specialty crops, organic, confined livestock and grazing, and non-industrial private forest land.

Rather than take land out of production, EQIP helps farmers maintain or improve production while conserving natural resources on working landscapes.

What Are the Benefits?

EQIP may provide many benefits, including improved water and air quality, conserved ground and surface water, increased soil health and reduced soil erosion and sedimentation, improved or created wildlife habitat, and mitigation against drought and increasing weather extremes.

For example, EQIP can help you:

- Reduce contamination from agricultural sources, such as animal feeding operations.
- Efficiently utilize nutrients, reduce input costs and reduce non-point source pollution.
- Increase soil health to help mitigate against increasing weather volatility and improved drought resiliency.

How Does EQIP Work?

EQIP supports producers who improve and sustain natural resources on their operation by implementing structural, vegetative, and management practices.

For example, if you want to use EQIP conservation practices to improve irrigation efficiency, renovate pastureland or nutrient and pest management on your eligible land,



- NRCS offers technical assistance, and EQIP offers financial assistance through a contractual agreement.

If you decide to work with NRCS, you will receive a one-on-one consultation from a local NRCS conservation planner to evaluate your current management system and conduct an assessment of natural resources on your land. You will then work with the NRCS conservation planner to develop a free conservation plan that addresses the identified resource concerns.

Once you choose the conservation practices or activities that best fit your needs, and if your application is selected for funding, EQIP offers payments for implementing these practices on your land with the expectation that you will operate while maintaining the practices for the expected lifespan.

How Long is a EQIP Contract?

The length of an EQIP contract can vary depending on your goals and timeline, but cannot exceed 10 years.

EQIP Eligibility

Land Eligibility

Q. What lands are eligible for EQIP?

- A. For eligibility purposes in Farm Bill programs, NRCS considers any land on which agricultural commodities, livestock or forest-related products are produced as eligible land.

That land can include cropland, rangeland, pastureland, non-industrial private forestland and other farm or ranch lands.

EQIP has no minimum acreage requirement; however, EQIP is a competitive program that awards points based on resource concerns to be addressed and other factors.

Producer Eligibility

Q. Who is eligible to apply for EQIP?

- A. Applicants may include individuals, legal entities, joint operations or Indian Tribes that have control of the land and currently manage it for agricultural, forest and livestock production.

Special EQIP Initiatives

EQIP has a broad delivery system to put targeted conservation on the ground at the local level, across the entire country.



EQIP targets conservation through the following initiatives to address priority natural resource concerns on the most vulnerable lands and high priority watersheds:

- High Tunnel Initiative
- Organic Initiative
- Air Quality Initiative
- On Farm Energy Initiative

EQIP Payments

Q. What types of payments are offered through EQIP?

- A. EQIP offers payments for practices and activities which may be categorized as vegetative, structural, and management practices.

Producers may also apply for Conservation Activity Plans through a Technical Service Provider.

Historically Underserved (HU) Participants:

Historically underserved participants are eligible for increased payment rates and advanced payments to help offset the costs of purchasing goods or services. HU participants include socially disadvantaged, beginning, veteran and limited resource farmers and ranchers.

- **Dedicated funds** – at least 10 percent of EQIP funds are dedicated to socially disadvantaged and beginning farmers and ranchers.
- **Higher payment rates** – up to 25 percent higher than the standard practice payment rates.
- **Veteran Preference** – eligible veterans who compete in the beginning or socially disadvantaged farmers and ranchers funding pools, receive preference points.



Q. When are payments made?

- A. Under the general EQIP payment process, a producer is reimbursed after a conservation practice is certified as meeting NRCS standards and specifications. This process often means that producers must pay up front costs with their own funds, unless the participant opts for the advance payment option.

Q. Do I have to pay income taxes on my payments?

- A. Yes. All payments made to you by NRCS are reported to the Internal Revenue Service and should be reported as income on your tax return for the applicable tax year. You will receive a Form 1099 to report EQIP payments on your tax return.

EQIP Application and Evaluation**Q. How do I apply for EQIP?**

- A. Contact your local USDA Service Center and let them know you are interested in EQIP. A conservation planner will work with you to determine your eligibility.

NRCS accepts EQIP applications year-round and funding is provided through a competitive process.

State-specific application cutoff dates are set to evaluate applications for funding. Cutoff dates can be found at nrcs.usda.gov/statecutoffdates. If you apply after the application cut-off date, your application will automatically be deferred to the next funding cycle.

If you are new to working with USDA, you will need to establish your Farm Record with the Farm Service Agency (FSA). Establishing a Farm Record requires several forms and documents, so make an appointment with your FSA office as soon as possible.

Q. How are EQIP applications evaluated?

- A. Once NRCS completes an assessment of your operation and you choose the conservation practices or activities that you want to implement, NRCS will rank your application to determine how well your current and future management system will address national, state, and local natural resource priorities.

NRCS will rank your application against other similar eligible applications in the same ranking pool, with the highest scoring applications receiving contract offers first.

