2014 Legislative Session: A Good Year for Water Resources

An off-again-on-again political stalemate prevailed from early in the session into the final days (during which legislators, incredibly, spent many leisurely hours honoring departing colleagues). Senate President Donald Williams and Speaker of the House Brendan Sharkey — both Democrats — were not on speaking terms most of the session. The traditional tension between the two chambers was dramatically exacerbated by a clash between Sen. Williams and Rep. Sharkey over GMOs (see below).

Democratic leadership left most of the important work to the very end, thus handing their otherwise weak opponents, the Republicans, the powerful weapon of the filibuster. Republicans gained considerable control over the pace and content of the final bills by threatening to keep talking on them until time ran out (midnight May 7). Much of the battling involved environmental bills. This not only kept our issues in the spotlight, it was a sign of wide recognition among legislators and the administration that protecting natural resources is an imperative in responsible public service.

(Continued on page 5)

Connecticut Watershed Network Conference Focuses on Roadside Pesticide Spraying

Roadside pesticide spraying by state and local governments was the main topic at the Connecticut Watershed Conservation Network conference May 30 at the Mattatuck Museum in Waterbury. A panel on pesticide spraying included speakers from the state departments of Transportation, Energy and Environmental Protection, and Public Health, as well as the nonprofit Watershed Partnership.

The DOT conducts spraying mostly to maintain required sight lines on roadways, ensure guardrails are visible, and control invasive vegetation. DOT sometimes uses mechanical means to control vegetation, but that is more time-consuming and costly than spraying. DOT works with DPH and water companies to alter spraying near public water supplies but not near rivers and streams. The state also sprays for mosquitoes to protect people from illnesses such as West Nile Virus.

Some of the concerns expressed about current

(Continued on page 4)
Okay, not really, but isn’t it easier to picture than some of the real issues that you trust Rivers Alliance to explain? I’m thankful, and impressed, that you care enough to read about the real stuff in this newsletter and on our website. Even obscure stuff: say, alternative wastewater treatment systems—or Water Utility Coordinating Committees—or legislation that recognizes (or not) that groundwater is actually connected to rivers. You readers are unsung heroes who know that monsters are found in many forms, including “tedious.” Thank you for your vigilance.

To be honest, I sometimes leave vigilance to Rivers Alliance because I don’t have time to track every issue myself. It’s like admitting that despite my good intentions, I’m really not going to paint the house myself, or do all the snow shoveling, or even figure out my own taxes. To avoid dire consequences, I pay someone to help me with it.

You, too? Well, that’s why we both donate to Rivers Alliance. Sometimes good citizenship means personal vigilance. Sometimes it means supporting trusty watchdogs and acting on their warnings.

But unlike paying taxes, support for river advocacy is voluntary. It’s not guaranteed to happen. There’s an upside to this if you think about it. Haven’t you ever wished that you could allocate your taxes to what matters most to you? A bigger gift to Rivers Alliance is the next best thing to bossing the IRS!

Seriously, your gifts keep the doors open and communications humming at Rivers Alliance. When zombie dinosaurs—or hazards less obvious but more dangerous—threaten our water, you don’t want to find out that RA’s doors have closed. Please make sure it won’t happen. And thank you.

Eileen Fielding
President

Planned Giving

The Rivers Alliance Planned Giving Program has just received a generous anonymous gift. We hope you will consider joining this important group of donors. It’s easy to include Rivers Alliance in your estate plan: You can name the organization as a beneficiary in your will, in a retirement plan, or in an insurance policy. The specific language for identification is “Rivers Alliance of Connecticut, Inc., 7 West Street, Post Office Box 1797, Litchfield, CT 06759, tax ID # 06-1361719.” For estate planning, we are lucky to have the guidance of financial advisor and philanthropist Valerie Friedman. If you have questions, you can be assured of getting expert answers. Call us any time: 860-361-9349. Or email rivers@riversalliance.org
Rivers Alliance has honored attorney Keith Ainsworth with its “Distinguished Service Award” for his dedication to environmental causes, pro bono help as needed, and expert testimony and guidance on environmental and anti-environmental bills in the Connecticut General Assembly. He is currently chair of the Connecticut Bar Association Environmental Law Section. He has served as counsel and advisor for Trout Unlimited, Madison Land Conservation Trust, Rivers Alliance, and many other nonprofit organizations.

Rivers Alliance Executive Director Margaret Miner presented the award on January 16, 2014, at a meeting of the CBA Environmental Law Section, which included a panel discussion of state water planning. Panelists were Denise Ruzicka of DEEP, Lori Mathieu of the Department of Public Health, and Margaret Miner.

Mr. Ainsworth was formerly first selectman in Haddam. He is now a resident of Madison, where he was active in the campaign to save the Griswold Airport property, adjacent to Hammonasset State Park.

Thank you, Mr. Ainsworth. Keep up the good work.

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The Council On Environmental Quality Releases Annual Report

Connecticut’s Council on Environmental Quality (CEQ) released its annual report for 2013. Most promisingly, the report notes that during 2013 the air in Connecticut was the cleanest it has been in decades. On the other hand, the rate of compliance with environmental laws, which averages 86 percent, declined to 72 percent in 2013, meaning inspectors found violations in one of every four environmental inspections. The report considers why 2013 had more than 1,000 violations, one reason being that as monitoring decreases, violations increase, similar to the situation on highways where, without visible police presence, drivers are more likely to speed.

The report highlights the miles of rivers affected by raw sewage, which remains at 78.6 miles of river. When heavy rainfall causes destructive amounts of water to flow into treatment facilities, the untreated raw sewage overflows directly into the rivers and Long Island Sound. No improvement has occurred since 2008, when the miles affected decreased from 80 miles of river to the current amount.

Also stagnant, according to the report, is the cleanliness of Connecticut’s rivers and streams, only 27 percent of which are classified as being clean enough for swimming and other water-contact activities. This percentage has not improved since 2012. Additionally, the CEQ report expresses concern about the role of climate change on Connecticut’s environment, specifically noting the increasing flood levels of rivers over recent years.

The annual report can be read in full on the CEQ website, www.ct.gov/ceq.
pesticide spraying approaches were:

- Scientific studies indicate that glyphosate (a chemical in popular pesticides such as Roundup, Razor, and Rodeo) is harmful to human and animal health, especially the functioning of reproductive systems. Alternative pesticides all appear to pose threats to humans and wildlife, especially to small animals like amphibians, as well as to children and pregnant women.
- Individual towns have little or no ability to regulate pesticide spraying within their borders. While the state can regulate, CT lacks clear guidelines and effective regulation. Comparatively, many other states require detailed plans to be approved and made public prior to spraying in accordance.
- Water companies do extensive water testing but are not required to account for most of the pesticides of concern. Overall, attendees noted a need for better data on pesticide use and a greater effort to find nontoxic alternatives.

Also on the conference agenda was an overview of the recent legislative session, as well as announcements, including one concerning “River Smart,” an initiative of Aspetuck Pomperaug River Partners to encourage landowners to reduce polluted runoff from their property into local streams.

For more on the conference visit our website, riversalliance.org

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Margaret Miner Receives *Lifetime Achievement Award* From the Connecticut Greenways Council

At the fifteenth annual Connecticut Greenways Awards Ceremony, which took place on Friday, June 6th, at Goodwin College, Susan Whalen, deputy commissioner of the Connecticut Department of Energy and Environmental Protection, and Bruce Donald, chairman of the Connecticut Greenways Council, presented 10 awards to groups and individuals for their dedication to the development of Connecticut’s greenways. The final award presented, the Lifetime Achievement Award, went to Margaret Miner, the executive director of Rivers Alliance. Ms. Miner and Rivers Alliance were recognized for work on river protection and promotion of blueways, specifically Rivers Alliance’s Connecticut Water Trails website.

The Rivers Alliance Water Trails Program site, www.ctwatertrails.org, is a one-stop hub for information on water trails and paddling opportunities in Connecticut. It connects the many groups that maintain and protect water trails to people interested in paddling the state’s many scenic waterways. The site promotes the use and appreciation of our waters with an interactive map presenting paddling locations across the state, as well as safety, events, and guidance information.

Also in a leading role at the ceremony was Laurie Giannotti, who coordinates the National Recreational Trails Program for CT DEEP, a source of funding for the CT Water Trails program and greenways in general. Attendees commented that the ceremony was full of positive energy demonstrating a bright future for Connecticut’s greenways.
A lot happened on the last day of the legislative session, and most of it was good for water resources. Here’s a summary of the session, with the emphasis on water. The first four bills discussed below were high priorities for Rivers Alliance.

State Water Planning. Extensive negotiations involving legislators, water utilities, environmental groups, and state agencies produced an agreed-upon bill that passed the House in April and finally crossed the finish line in the Senate with a few hours to spare. The bill, which is now Public Act No. 14-163 (An Act Concerning the Responsibilities of the Water Planning Council), sets up a lengthy, convoluted process for creating a state water plan. However, it represents an important consensus at last among legislators and state officials, including the governor, that Connecticut does need a statewide plan to manage our highly valuable water resources for the benefit of all.

The issue shot into public consciousness following a controversy over a proposed diversion of water from the Farmington River watershed in the Hartford area all the way to UConn in Storrs. Rep. John Hampton of Simsbury led the charge against that diversion and in favor of the water planning bill. The strongest sign that the state is serious about water planning is that there is $250,000 in the budget for it.

Protections for State-owned Conservation Lands. Public Act 14-169 aims to better protect state forests, parks, wildlife preserves, and other public lands from takeovers by towns, developers, or other persons. It made it through the House late in the afternoon of the last day. The purpose of the bill is to reduce the vulnerability of state-owned, open-space lands to takeovers. Almost none of the state conservation lands have any legal safeguard against being removed from state ownership via the legislature’s annual Conveyance Act or by other means.

In 2013, a broad coalition formed and worked with Environment Committee Chairs Sen. Ed Meyer and Rep. Linda Gentile, the governor’s office, and DEEP to create a bill that 1) provided that any conveyance of land in DEEP’s custody would have to go to a public hearing in the Environment Committee; 2) explicitly stated that DEEP has the authority to place easements or other conservation restrictions on its lands; and 3) directed DEEP, as DEEP desired, to create a registry of state lands that are most important for public use and benefit.

To the dismay of Sen. Meyer and open-space advocates, the provision for public hearings had to be deleted because of authoritative warnings that a bill with this provision would have no chance in the House, where the Conveyance Act usually originates. But the clarification of DEEP’s authority to place conservation restrictions on lands in its custody is vital to land protection and is a major step forward. It reverses a long-standing DEEP position that it does not have any such authority except on certain donated lands.

The lands registry established under this law is not a true legal barrier to state-land takeovers; but even so, it is a valuable program that will make it much easier for DEEP to defend its most highly rated properties. The bill also extends similar protections to agricultural lands.

The lead groups working on this issue were Rivers Alliance, Connecticut Land Conservation Council, Connecticut Forest & Park Association, and Sierra Club – Connecticut Chapter. This coalition will continue to press the case for more secure protection for public lands.

Pesticides and GMOs. Not good news here. Once again, all efforts to reduce kids’ exposure to lawn and turf chemicals at schools and other public places failed. (Currently, there is a ban on use of these pesticides at schools through 8th grade.) Of course, these same products harm aquatic resources and wildlife.

Reportedly the votes were there to pass the one good pesticides bill that made it through to the final week, but opponents threatened to talk (filibuster) it to death.

GMOs (genetically modified organisms) are linked to pesticide use because most frequently the modification is aimed at making a plant that will thrive in the presence of one or more pesticides. Early in the session, reacting to news that agribusiness is planning to introduce GMO grass seed, Senate President Don Williams proposed an amendment to one of the pesticide bills to ban this GMO. The GMO grass would be immune to the effects of glyphosate (in Roundup and related compounds); therefore, it could be maintained in emerald-perfect, monoculture condition by soaking in glyphosate.

Pro-pesticide legislators expressed outrage that Sen. Williams had put the ban in the form of an amendment that did not require a public hearing. Numerous legislators (including House Republican Leader Larry Cafero) protested that the public-hearing process is the foundation of fair and wise legislation. Probably so, but it is a process that is ignored every session, even on extremely important measures. In fact, legislators have resisted all reform efforts to require public hearings on bills. Still, Speaker of the House Brendan Sharkey was so offended by the Williams amendment that he initiated a rules change to allow the Senate’s GMO grass bill to be raised first in the House and killed. Thus began the war of the chambers (House and Senate) and the series of stalemates that lasted until the session ended.

Fracking Waste. This was the most complex and emotional of the environmental issues this session. Hydro-fracking is a process for using high-pressure water, sand, and chemicals to fracture rock and release oil and gas.

(Continued on page 6)
Hydro-fracking for natural gas is particularly productive in Marcellus shale, present in Pennsylvania (where extensive hydrofracking is underway), in New York (where hydrofracking may begin this year), and in a number of other states. The U.S. is so rich in fuel from hydrofracking that we are suddenly on the verge of energy independence.

Connecticut energy policy under Gov. Dannel P. Malloy is highly reliant on obtaining and distributing more natural gas, which is relatively cheap and burns relatively clean. But hydrofracking also wastes and contaminates huge quantities of water (5 million gallons per well), and is producing billions of gallons of toxic, radioactive waste annually. In New England, New York, and New Jersey state lawmakers and towns are considering or have adopted bans on importing fracking waste. This year, Connecticut followed suit. With strong popular support, the Environment Committee raised a bill banning fracking waste. DEEP backed a bill regulating fracking waste. (No one offered a bill welcoming fracking waste, but advocates for that position gained strength as time went on.)

A tug of war ensued between proponents of fairly permissive regulation and proponents of a ban or very strict, limited regulation. The latter group of proponents included a coalition of some dozen environmental and health groups and many legislators. Ed Meyer was the leader in the Senate and James Albis led in the House. Almost from day one, the enviro/health team had to give ground if they wanted a bill. The ban became a three-year moratorium on any importation of fracking waste into Connecticut. Enviros hoped that the moratorium would be used to study the issue and that any decision about letting in the waste would be postponed until the study was complete. For a time, proposed language seemed to provide (somewhat ambiguously) for this two-step process, but then new language stipulated that regulations would have to be written by a certain date.

Almost all parties also sought to delete a reference in Connecticut regulations that incorporates a dreadful federal exemption for fracking waste, removing it from the definition of hazardous waste; in other words, even if a load of fracking waste is totally lethal, it cannot be treated as hazardous. The deletion of this exemption could have been done immediately but has been postponed to the time when regulations are written.

The final change, sought by Sen. Len Fasano, altered the premise that all fracking would have to be treated as hazardous and opened the door for DEEP to treat at least some fracking waste as non-hazardous. When this change appeared, the coalition of enviros and health advocates formally registered opposition to the bill (up to then, members had been supportive or silent). But the bill, now approved by both parties, was on its way to passage. It offered opportunity for one final extortionist stroke: Rep. Craig Miner threatened to talk the clock down to zero unless the House and Senate approved a bill to allow, under certain circumstances, Connecticut fishing of glass eels (transparent baby eels that are being fished to near extinction to satisfy Japan’s voracious demand for this “delicacy”).

The stories, of course, are not over. As soon as the fracking waste bill passed with only minutes to spare, supporters and opponents of bringing fracking waste into Connecticut were gearing up to renew the battle. Subsequently, defenders of glass eels persuaded the governor to veto the glass eels bill. The fate of the eels will be decided this summer by the Atlantic States Marine Fisheries Commission.

Other Good Environmental News: The governor asked for and will get $2 million in bonding to help save The Preserve, a rare thousand-acre coastal forest located in Old Saybrook and Essex; Trust for Public Land was one of the lead negotiators. (Note, $2 million will be deducted from general space funding.) A bill to require natural gas distributors to plug leaks of methane, a potent greenhouse gas, squeaked through. Progress in the right direction was made on outdoor wood-burning furnaces, tree trimming, recycling, and collection of unused pharmaceuticals (rather than flushing them). A bill to do away with public hearings on subdivision applications quietly died after an extraordinary public outcry. No bill eliminating the Council on Environmental Quality was raised this session!

Not So Good: A bill to allow for shared, community solar installations failed. The Blue Plan for protecting Long Island Sound failed on the House calendar for lack of time. Bills to reduce children’s exposure to toxic chemicals died.

All in all, we can celebrate in moderation.

SUMMER READING

Richard Conniff, The Species Seekers: Heroes, Fools, and the Mad Pursuit of Life on Earth, W.W. Norton and Company, Inc., 2011. Mr. Conniff’s work is an intriguing tale of adventure, filled with biographical, historical, and scientific information. He paints vibrant, detailed portraits of the individuals behind the extensive categorization of species, which informs science today and reminds the readers that natural history has not been static; these discoveries altered human understanding of life on Earth. Richard Conniff lives in Old Lyme, CT, where he is an avid paddler. In addition to nine books, his work has appeared in Smithsonian Magazine, National Geographic Magazine, and The New York Times.
Drought + Green Desalinization
Traditional water desalinization that treats sea water is energy intensive and expensive. But a new approach uses solar energy to desalinate inland groundwater for irrigation of farmland.

As groundwater levels drop, the water becomes critically contaminated with salts and sometimes heavy metals. Flashy runoff flows carry more contaminants into the aquifer area.

California’s Panoche Water District is trying out a technology marketed by a new company, WaterFX. This uses a parabolic solar receiver to power the desalinization process.

The lower costs of using WaterFX and similar ventures may bring relief to farmers forced to buy costly irrigation water on the spot market. Another beneficiary may be municipal governments that have to find a way to dispose of salty drainage water.

A similar solar process is being used in Australia to desalinate sea water for commercial greenhouses.

Destruction NOT an Adverse Impact: A Weird Wetlands Case
The Woodbury CT Inland-Wetlands Agency aims to challenge a ruling in Waterbury Superior Court that appears to say that if a land-use application involves the destruction of an area of wetlands and if, as in this case, experts say that this destruction of wetlands will not adversely affect wetlands on the property, the commission may not deny the application on the grounds that the applicant has failed to offer an alternative that would reduce the adverse impact to wetlands. Logically, there is no such possible alternative because, under the application as submitted, “the proposed activity would result in no significant adverse impact and would actually result in an improvement to the wetlands” (Judge Vincent Roche, Zappone v. The Inland Wetlands and Watercourses Agency of the Town of Woodbury, April 15, 2014). The judge acknowledged that 845 square feet of wetlands would be lost under the Zappone application, but he also pointed to expert opinion that this would not adversely affect wetlands.

The commissioners pointed to their legal responsibility to determine in an approval that no alternative exists that would render the project less harmful to wetlands. Chairman Mary Tyrrell was quoted in Voices Newspaper (May 7, 2014) as expressing fear that the ruling, if not challenged, would set a bad precedent for the state “because why would the Inland-Wetlands Agency exist if the premise is that filling wetlands doesn’t hurt them and that does improve them?” The Woodbury Board of Selectmen approved a legal challenge on May 9 but asked the agency to try to reach a settlement with the applicant.

Climate Change: Will We Ever Wake Up?
On March 31, 2014, the distinguished United Nations Intergovernmental Panel on Climate Change (IPCC) released a report warning that climate change is affecting all parts of the world. All nations need to take immediate steps to prepare for adverse events, including floods, droughts, hunger, illness, infrastructure breakdowns, and political disruptions. The report stressed threats to clean water as a leading global problem. The response of world powers has done little to avert this obvious and impending threat. Climate Change 2014, Impacts, Adaptation, and Vulnerability. There is a link to the report on the Rivers Alliance website.

Secretary of State John Kerry said the report made clear that “the costs of inaction are catastrophic.” Earlier in March, more than two dozen U.S. senators, including Connecticut Senators Richard Blumenthal and Chris Murphy, staged a rare all-night Senate session to draw attention to the climate crisis. Maybe it’s time for an all-nighter across the nation to demand action. We are sleeping our way into misery for ourselves and our children.

NOAA and Noah in New England
The Northeast is getting more rain than it can handle, and we should expect more of the same and worse. The National Climate Assessment released in June confirmed that this region is experiencing an increasing frequency of intense, heavy rain events.

Between 1958 and 2010, there has been a 70 percent increase in the precipitation falling in strong storms. The assessment predicts this trend will continue. Yet Connecticut is still using data from 1961 in designing septic leach fields, detention basins, stormwater pipes, dam spillways, and other critical infrastructure related to stormwater management.

Engineers are allowed to use precipitation projections in TP 40 (Technical Paper 40) issued by the National Weather Service in 1961. Using old data holds down the costs of construction and repair but raises the likelihood of sewage overflows and flooded streets and homes. It’s time to start building for now and the next 50 years.

Save Some for the Fishes!
While many know this memorable phrase, few think of its greater implications. Fresh water is a finite resource, not just for fish but for people as well. According to the September/October 2013 issue of Sierra Magazine, freshwater makes up merely 2.5% of all water. And that number is dropping as the 68.7% of freshwater trapped in glaciers melts away. Another 30.8% of freshwater buried in underground aquifers is being sucked into agriculture. Meanwhile the water we try to save for the fishes in our lakes, rivers, and streams is only 0.5% of all freshwater on earth.

That’s 0.0125% of all water on the planet. As we pollute and waste surface water, perhaps we should start saying, “Save some for humankind.”
Rivers Alliance of Connecticut, Inc., is the statewide coalition of residents, watershed and river groups, and local businesses working together for river conservation. It is the only group addressing all the rivers and streams of the state regionally, developing supportive public policies, and educating the public about the importance of river conservation.

Rivers Alliance protects the rivers of the state by strengthening local groups, working as their advocate at the state and regional levels, developing supportive public policies, and educating the public about the importance of river conservation.