



**MASSACHUSETTS ASSOCIATION of  
CONSERVATION COMMISSIONS, Inc.**

# MACC Newsletter

Vol. XV, No. 7

November 1986

## MACC CHOOSES WATER THEME FOR ANNUAL MEETING

The theme of the MACC Annual Meeting will be WATER. Workshops will cover a wide variety of water-related issues, from Basic Hydrology to How to Protect your Water Resources, many aspects of groundwater protection, as well as the ever-popular workshops, such as Wetland Delineation, and Enforcement.

**MARK YOUR CALENDAR NOW FOR THE MACC ANNUAL MEETING  
SATURDAY, MARCH 7, 1987; HOLY CROSS, WORCESTER**

### SHOULD A LOCAL WETLANDS BYLAW CONTAIN AN APPEAL TO A MUNICIPAL BOARD?

Adapted from a letter by Sally Newbury, Esq., Legal Services Counsel, Conservation Law Foundation.

I advise conservation commissions that they would be better off with no bylaw than one with an administrative appeal.

The composition of the appeal board is a major concern. Whatever the makeup of the group of townspeople who are given this task, they are bound to have much less expertise than the conservation commission. If a commission has so little confidence in itself as to permit others to overrule its decision, what credibility has it vis-a-vis the townspeople, or in challenging a DEQE superseding order? I don't know of any other town board that permits administrative appeals; why should the conservation commission?

Any appeals board is much more likely to be swayed by politics than a commission would be, and a great deal of municipal paper and hard feelings will have been generated during which time wetland values per se are probably lost in the shuffle.

(continued on page 4)

### MACC STOPS ATTLEBORO MALL CASE IN COURT!

Justice was served October 2 when the Suffolk Superior Court, at the request of MACC and concerned citizens in Attleboro, overturned the permit issued many months ago by DEQE allowing the Attleboro Mall to be built on 50 acres of wetlands known as Sweeden's Swamp. This sweet victory came on the heels of victory in Washington a few months ago when the Coalition to Save Sweeden's Swamp, made up of many environmental organizations, requested and won from the EPA a veto of the Corps of Engineers' permit under section 404 of the federal Clean Water Act.

The upshot of the Massachusetts court case is that Pyramid Company now lacks its permits under both state and federal wetlands protection laws.

The decision by the Honorable Cortland A. Mathers ruled that DEQE had committed an error of law in granting grandfather protection to this shopping mall project protecting it from the ban on work in wetlands in the 1983 DEQE regulations under the Wetlands Protection Act. Pyramid had convinced DEQE that its new plans were

(continued on page 4)

"The obvious intent of the legislation is the protection of bordering wetlands. When, as indicated by the preface to the new regulations, research advances indicate an absolute inability to carry out the mandate of the legislation without a near prohibition, then such prohibition becomes essential to performance by DEQE of its lawful obligation. A different course constitutes irresponsibility."

The Honorable Cortland A. Mathers

### SWEEDEN'S SWAMP REVISITED

A wonderful thing happened in the Suffolk County Superior Court this October; a trial court judge ruled that DEQE had made an error of law in giving a permit to The Pyramid Company to build the Attleboro Mall. In effect the court agreed with the federal EPA, but for quite different reasons. The EPA and Army Corps of Engineers were acting under section 404 of the federal Clean Water Act, which bans filling wetlands for non-water-dependent projects if an alternative site is available; and the EPA found that a site in North Attleboro (now being built by another company) was in fact available to Pyramid when it was deciding where to put its mall. The Massachusetts trial court, on the other hand, made its ruling under the state Wetlands Protection Act and the 1983 regulations. The legal connection between the two proceedings is that Pyramid had previously been using its Massachusetts permit as an argument to the federal courts to overturn the EPA decision. The state court ruling, if upheld, may thus influence the outcome of the various lawsuits which Pyramid, an athletic litigator, has mounted on the federal level.

The superior court decision is also valuable in its own right because it gives serious direction to DEQE in administering the new regulations. In essence the court ruled that DEQE should take seriously the preface to its 1983 regulations, which states that, in vegetated wetland bordering surface waters, "the Dept. has concluded, that the interests of the Act cannot be protected other than by leaving the existing wetland plant community intact." Pointing to the research that went into this preface, the court concluded:

"The obvious intent of the legislation is the protection of bordering wetlands. When, as indicated by the preface to the new regulations, research advances indicate an absolute inability to carry out the mandate of the legislation without a near prohibition, then such prohibition becomes essential to performance by DEQE of its lawful obligation. A different course constitutes irresponsibility."

The court added that the proponents proposal to build artificial wetlands as a form of mitigation "fails to recognize that DEQE's statutory interest is in preserving existing and natural wetlands, not in endorsing and overseeing the creation of artificial wetlands."

Regarding the specific project, the court noted that Pyramid had bought the site well after the effective date of the new regulations and was not entitled to the "grandfather clause" protection of the 1978 regulations. That the proponent had spent a lot of money, said the court, did not outweigh the long-term adverse impact such a project would have on the environment: "The impact on the environment is DEQE's statutory responsibility and primary concern, not the welfare of the sophisticated developer...How the proposed project might affect the area's economy is not DEQE's concern. The environment is."

Wow! says MACC. Right on!

We devoutly hope that DEQE will not appeal this decision. It ill behooves DEQE to stand in court, arguing against the value of a swamp which many experts, including the regional Army Corps office and the EPA, have declared a functional wetland. Letters to DEQE Commissioner Russell Sylva would be in order.

I will add that at a recent conference of the Association of State Wetland Managers, devoted to the topic of wetlands "replication" and attended by 450 scientists, teachers, and regulators, everything I heard confirmed that, while we can sometimes recreate wetlands vegetation, science cannot yet evaluate the ability of artificial wetlands to perform such wetland functions as improvement of water quality and provision of habitat for fish and wildlife. To vary the old New England adage, "If you can't fix it, don't break it!"

Alexandra Dawson, Esq.

**LEGAL BRIEFS**  
**NEW VERMONT STATUTE**  
**PROTECTS WETLANDS**

For decades Vermont, the state with the most comprehensive land use planning law in New England (generally called Act 250) lacked any real regulation of work in wetlands. Act 250 leans heavily on water pollution but did not, as enacted in 1970, recognize wetland values. For a few years the municipalities were supposed to enact "shoreland" zoning along bodies of surface water, but that law is not mandatory. For years the legislature considered wetlands protection legislation, but they wanted to use the approach of prior mapping rather than the all-inclusive approach of the Massachusetts Wetlands Protection Act.

Act No. 188 of the Acts of 1986 finally does establish such a wetlands law for Vermont. With the passage of this law, all New England states (and New York) have laws protecting at least some of their inland and coastal wetlands. Basically, the Vermont law directs the state water resources board to adopt "rules" for the "identification of wetlands which are so significant that they merit protection." On petition of a municipality, citizens, or on its own accord, the board may designate specific wetlands as significant, using 11 criteria similar to those used in our WPA (flooding, water quality, fisheries, wildlife habitat) plus erosion, endangered species habitat, education and research, recreation, and "open space character and overall beauty of the landscape." As usual, agriculture and silviculture are generally exempt. The law defines wetlands vegetatively, but does not require them to "border" on surface waters.

If the Secretary of Environmental Conservation finds an activity in violation of these rules, s/he can restrain it. However, the most likely application is in the law's addition of wetlands as value (G) under 10 VSA s. 6086 (a), the Act 250. This means that designated wetlands will be considered in reviews under that law which covers most activities of 10 acres or more in scope.



The impact of the law will largely depend upon whether money is made available to identify and designate significant wetlands. This has proved the stumbling block in other states with mapping programs, including NY, NH, ME, and the MA inland wetlands restriction program. It is all too easy for those opposed to, or lukewarm about, wetlands protection, to strangle such a program by lowfunding it. Let's hope Vermont lives up to its environmental reputation and does the job right!

Alexandra D. Dawson, Esq.



SHARR  
85  
1985 © Donna J. Barr

**LEGISLATIVE UPDATE**

Changes in Chapter 61A

Section 14 of Chapter 61A of the General Laws has been amended by the Legislature (H. 2321, signed into law July 22, 1986.) The law provides a mechanism whereby a Town may exercise its right of first refusal when 61A lands are sold and after a public hearing, assign the option to a nonprofit organization. The terms and conditions may be set by the mayor or board of selectmen. Such assignment "shall be for the purpose of continuing the agricultural or horticultural use of the major portion of the property."

Land Banks

Several home rule petitions for local power to collect a percentage fee on real estate transfers are languishing in the Committee on Taxation. Only the Barnstable County bill has moved and may have a chance of being passed. It is anticipated that widespread passage of local bylaws is the only way that the legislature will be spurred to take further action either by passing state enabling legislation or by passing the many forms of local bylaws that are before them.

Further information on either land banks or the Chapter 61A changes may be obtained by calling the MACC office (617) 381-3457.

**LOCAL WETLANDS BYLAW**  
(continued from page 1)

What are the standards that the appeal board uses to judge the appeal? If the appeals board decides against the commission, is there a remand?

A related problem stems from the fact that the permit is a set of conditions in most cases rather than a simple permission or denial. I should think the appeals board would consciously or unconsciously feel they are supposed to work a compromise here, much the way DEQE does before an adjudicatory hearing. Thus an Order might be weakened, but in such a way that the commission can hardly go to court.

One thing is clear, an administrative appeal provision absolutely invites litigation. The only people who have money to pursue litigation are abutters or applicants, primarily the latter. Anything that helps them out at the expense of the commission seems like a poor idea.

**REGULATIONS, REGULATIONS, REGULATIONS**

Numerous administrative agencies are busily promulgating regulations that will have an impact on wetland protection. MEPA regulations are being rewritten, Chapter 91 regulations are in the final stages of the process and the Right-of-Way Management Regulations are being reviewed by the Pesticide Board for final changes.

Here is one set of regulations in which you can still have input. The Division of Law Enforcement is proposing to adopt new regulations relating to the use and operation of a wide range of recreational vehicles. Subsections of the proposed regulations deal with controlling the operation of such vehicles on public land, protection of wildlife, and protection of ocean beaches and dunes.

Written testimony may be presented no later than December 1, 1986. Copies of the proposed regulations may be obtained from:

Department of Fisheries, Wildlife, and Environmental Law Enforcement  
Director, Division of Law Enforcement  
100 Cambridge Street  
Boston, MA 02202

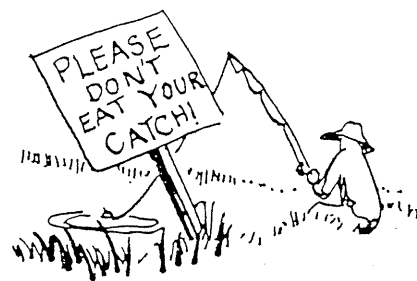
**ATTLEBORO MALL**  
(continued from page 1)

better than old plans filed under the 1978 regulations. The matter was heard by an outside lawyer appointed by DEQE as a hearing officer. The then Director of the Division of Wetlands testified at that hearing in favor of the developer. The new Commissioner of DEQE, Russell Sylva, accepted the recommendation of the hearing officer to allow the filling of about 25 acres of wetlands for the parking lots and buildings and the dredging of about 25 additional acres to "improve" the wetland. The citizens alleged in court that the project changes over time were so substantial as to warrant a new permit application under the statute.

MACC, represented by Gregor I. McGregor, Esq., argued that the new 1983 regulations and their Preface contain a scientific and policy judgement by DEQE that some of the values of wetlands cannot be replicated by engineering means. Attorney McGregor pointed out to the court that the Wetlands Protection Act says the agency must impose conditions adequate to protect those values and this cannot be done by allowing the wetlands to be filled.

After surveying the history of the project, the history of the 1983 regulations, the rationale for those regulations, the strictness of the standards in those regulations, and the policy in the statute, the Superior Court determined it was improper for DEQE not to apply the new regulations. The court remanded the matter to DEQE to apply them.

Pyramid has appealed this decision to the Massachusetts Appeals Court where MACC will file its brief and argue the case through Mr. McGregor, who has donated his time and the services of his firm, McGregor, Shea & Doliner. MACC and the Coalition to save Sweeden's Swamp have asked Governor Michael Dukakis that DEQE not be allowed to appeal.



Laura Zerzan From "ECONEWS"

## FROM THE COMMISSIONS

### Wetland Bylaws and Regulations

The Dunstable Conservation Commission has sent us a copy of their set of regulations effective May 1, 1986.

MACC has an updated package of rules and regulations for wetland bylaws, a valuable tool for commissions writing their own regulations.

### MACC Fall Picnic

All who attended the picnic at Buck Hill Conservation Center were treated to a guided walk led by Dick O'Brien, Superintendent of the central region of The Trustees of Reservations. It was a beautiful day and Dick had much expertise to share! The Spencer Commission turned out in full force as the hosting community.

### Fall Workshops Draw Commissioners

Commissioners from all around the state took advantage of the opportunity to learn a variety of subjects as well as to share experiences and get some free advice on issues important to their community by attending the Fall programs held in six locations. If you were not able to attend you will be pleased to know that we hope to repeat some of the most popular workshops at Annual Meeting on March 7, 1987.



© Phyllis V. Saroff

### Editor's Note:

Last month an article appeared under the "From the Commissioners" column, relating to the zoning passed in Franklin, that was taken directly from the Charles River Watershed Association newsletter which is written by Kathleen Thomas.

### MACC Newsletter

## UPCOMING EVENTS

### WETLANDS WORKSHOP

Barnstable County Cooperative Extension will provide a workshop on wetlands boundary delineation, wetland plant identification, and coastal bank decisions. Field trips will follow to allow a first hand look at some typical coastal and wetland sites.

November 20, 1986

Barnstable County Fairgrounds  
(Rt. 151 North Falmouth)

1:00 - 4:30 p.m.

Instructors: Karl Rask, Marine Specialist  
Brett Burdick, DEQE

Preregistration required, Limit: 35

Contact: Cape Cod Extension, (617) 362-2511  
x585

### WETLAND REPLICATION IN MASSACHUSETTS

The New England Wildflower Society is sponsoring a workshop on replication of wetlands. Designed for conservation commissioners and others dealing with the Wetlands Act, this in-depth workshop will provide valuable information on wetland replication.

Wednesday, February 4, 1987

Garden in the Woods, Framingham

6:00 - 9:30 p.m.

Fee: \$27, Limit: 35

Instructor: Garrett G. Hollands, IEP

Contact: Frances Clark, (617) 877-7630

### SAVING THE WETLANDS OF MASSACHUSETTS

The New England Wildflower Society is sponsoring a work shop to familiarize participants with the Wetlands Protection Act, how does it work, and how can it be used to protect unique floral communities and habitats? What can we do as private citizens to make sure the law is enforced? Specific cases will be used to illustrate the problems and possibilities.

Sunday, February 22, 1987

Garden in the Woods, Framingham

2:30 - 4:00 p.m.

Fee: \$7, Limit: 50

Instructor: Harlan M. Doliner,

McGregor, Shea & Doliner

Contact: Frances Clark, (617) 877-7630

## LANDMARK WETLAND CASE

The new DEQE Administrative penalty regulations (see article in October, 1986 MACC Newsletter) were put to the test shortly after they came into effect in what has resulted in the largest fine ever handed down in a wetlands violation case. The Western Regional office of the DEQE fined the Petricca Construction Company of Lanesboro \$90,000 for violating the Wetlands Protection Act and ordered the restoration of a stream and other areas which were illegally altered on property near Rts. 8 and 9 in Lanesboro. According to DEQE Commissioner Russell Sylva, "The magnitude of the penalty we demanded is a direct reflection of Petricca's deliberate continuation of the illegal work after DEQE issued its stop work order."

When a second site visit revealed that work was continuing in wetland areas despite an Enforcement Order, Petricca was issued a Temporary Restraining Order granted to DEQE by the Attorney General's office. Following two weeks of maneuvering by lawyers on both sides, Petricca agreed to the penalty and restoration demands imposed by DEQE.

The Petricca Company's determination to clear the trees and fill the wetlands on this site appears to have been due to the "shopping mall war" taking place in the Berkshires. The battle is on, with Pyramid pinning its hopes to the newly cleared site in Lanesboro. Petricca owns the land and has taken full responsibility for the violations, but the Pyramid connection is clear. Like a moth is drawn to light, Pyramid is once again drawn to a wetland area in its search for a mall site in Massachusetts.

DEQE is to be congratulated for its role in effectively using the new Administrative Penalty Regulations and for sticking to its guns during negotiations regarding the penalty assessment. Special kudos to the Western Region staff, whose unwaivering professionalism and dedication were a tremendous asset in the positive outcome of this precedent-setting case. And last, but definitely not least, a standing ovation for George Wislocki and the Berkshire Natural Resources Council for being alert and pursuing wetland violations. The message is clear - wetland violators will no longer be tolerated.

Sally Sheperdson

## SWAMPBUSTER CONSERVATION RULES

On June 27, 1986 the USDA released rules for the implementation of the "sodbuster" and "swampbuster" provisions of the 1985 farm bill. These provisions disqualify farmers from receiving farm program benefits if they are producing crops on highly erodible or wetland acres without adhering to the conditions required by a conservation plan. More importantly, newly broken or drained land will never be eligible for USDA program benefits.

Soil Conservation Service (SCS) conservationists will determine if an area meets their criteria for a wetland by the soils and the plant material. The rules make landowners ineligible for federal programs if they change the soil conditions, the water table, or the type of vegetation growing in a wetland area.

Those interested in further information or copies of the rules may contact: Farmland Project, 1616 H St., Washington, D.C. 20006



## CALL FOR CANDIDATES

The Nominating Committee is seeking candidates for the 1987 MACC Board of Directors. If you are a Conservation Commissioner who would like to serve, or if you know a commissioner or former commissioner whom you consider well-qualified, please submit name, address, telephone number, and background materials (including a resume if available) before December 15, 1986, to: MACC Nominating Committee, Lincoln Filene Center, Tufts University, Medford, MA 02155. A letter of support from the commission is helpful. Permission must be obtained from nominee before name is submitted.

### MACC BOARD MEMBERS TO VISIT COMMISSIONS

The Outreach Committee of the MACC Board of Directors has begun a series of informal, one-on-one meetings with conservation commissions. A Board member who hails from your region of the state would like to visit - to hear about your problems, and to find out what kind of assistance he or she and MACC can provide.

MACC Board members have wide-ranging backgrounds, but all have been or currently are conservation commissioners. Through these meetings you will be able to "pick their brains" and draw on years of collective experience. We hope you will take advantage of this offer - it just might make your job a little easier!

Please call the MACC office at (617) 381-3457 to arrange a meeting with a Board member from your area. These sessions can be scheduled at your convenience, though we suggest reserving an hour prior to a regular commission meeting. The members of the Board look forward to meeting with you.

### MACC REPRINTS POPULAR COMMUNITY REPORT CARD

MACC is pleased to make available an exciting new pamphlet, the Community Report Card, which can help you evaluate how well your town is performing environmentally. Topics covered include: environmental law, enforcement and permitting, long range planning, public input, citizen action, adequacy of staffing and budgets, and overall environmental awareness.

The Report Card, which was originally published in a different form by the Association for the Preservation of Cape Cod (APCC) in its excellent book on growth options for the Cape, was written by Gregor I. McGregor, Esq. Mr. McGregor is an environmental attorney and an MACC board member.

Here is an excerpt from the Community Report Card, the first "course subject" for your town. There are ten subjects in total, each of which contains ten questions. The report card gets people thinking and is a lot of fun. It affords a new perspective on community environmental protection. Try it yourself!

### "Environmental Law On The Books"

Massachusetts municipalities have extensive authority to adopt environmental bylaws and ordinances supplementing state environmental statutes. This municipal "environmental law" is the cutting edge of environmental protection today. Do not expect comprehensive federal and state legislation to bail you out when you have problems such as, threats of groundwater contamination, watershed development aggravating flood damages, dwindling open space and recreation resources, suburban sprawl, strip development, industrial pollution, or ugly buildings.

Do not wait for Washington or the State House. Create environmental law on your own terms tailored to your community.

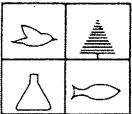
Score one point for each "yes" answer.

1. Has your Town Meeting adopted floodplain zoning?
2. Do you have zoning that protects wetlands?
3. Do you have aquifer, watershed, and well or reservoir protection districts in your zoning?
4. Do you have Site Plan Review governing large projects like shopping malls and office parks?
5. Do your Bylaws require a local "environmental impact analysis" for each major development?
6. Do you have Bylaws regulating underground storage tanks and hazardous materials?
7. Do you have a non-zoning Home Rule Wetlands Protection Bylaw that is administered by the Conservation Commission?
8. Have you adopted "phased growth" controls in zoning to match growth with what the community can afford in services?
9. Do your Bylaws cover sand and gravel removal and erosion control at construction sites?
10. Do your Bylaws address outdoor advertising, historic districts, and architectural design?

SCORE \_\_\_\_\_

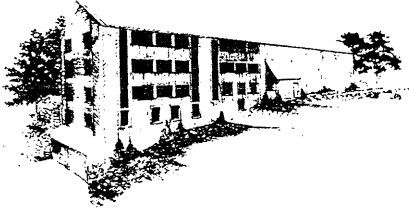
By permission of the author, MACC distributes the Community Report Card for \$1.00 per pamphlet.

# PROFESSIONAL DIRECTORY



## LYCOTT

**ENVIRONMENTAL RESEARCH INC.**



600 CHARLTON ST. 765-0101 SOUTHBRIDGE

- WATER ANALYSIS  
DRINKING WATER  
WASTE WATER  
STREAM SURVEYS  
\* STATE CERTIFIED
- POND and LAKE MANAGEMENT  
VEGETATION MANAGEMENT  
LAKE SURVEYS
- ENVIRONMENTAL STUDIES  
WETLANDS MAPPING  
WATER SUPPLIES  
GEOHYDROLOGY

KEEPING BUSINESS AND THE ENVIRONMENT GROWING TOGETHER




## THE MASSACHUSETTS GREEN PAGES

A comprehensive directory of environmental services and products, from aerial photography through zoning/subdivision review.

**For your copy, or to list in the 1987 edition call (617) 381-3454**

**Massachusetts Association of Conservation Commissions, Inc.**  
Lincoln Filene Center, Tufts University  
Medford, MA 02155



**The BSC Group**

Engineers  
Surveyors  
Scientists  
Architects  
Landscape Architects  
Planners

450 Summer Street  
Boston MA 02210  
617 350 4090

Boston  
Barnstable  
Bedford  
Halifax  
Norwell  
Springfield  
Worcester

**holmes and mcgrath, inc.**  
civil engineers and land surveyors  
200 main street, room 201  
falmouth, ma. 02540  
548 - 3564



Registered Professional Engineers  
Professional Land Surveyors  
Registered Sanitarians  
Hydrogeologists  
Environmentalists

- SITE PLANNING • ENVIRONMENTAL ASSESSMENT
- MUNICIPAL CONSULTATION • INFRASTRUCTURE DESIGN
- LAND AND SITE SURVEY • WETLANDS DELINEATION
- WATER RESOURCE CONSULTATION • GROUND WATER STUDIES
- LANDFILL STUDIES AND DESIGN

Gale Engineering Company, Inc.  
EIGHT SCHOOL STREET, P.O. BOX 21, WEYMOUTH, MA 02189 (617) 337-4253



Norwood Environmental Services Co.  
A Division of Norwood Engineering Co., Inc.

1410 Route One  
Norwood, MA 02062  
(617) 762-0143

3229 Cranberry Highway  
Buzzards Bay, MA 02532  
(617) 759-6791

- Groundwater Contaminant Studies
- Hazardous Materials Investigations (M.G.L. Chapter 21E)
- Environmental Impact Reports (M.E.P.A.)
- Aquifer Delineations
- Underground Tank Storage Laws

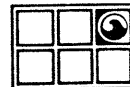
## McGREGOR, SHEA & DOLINER

ATTORNEYS AT LAW, P.C.

Environmental Law  
Wetlands Proceedings  
Real Estate Law  
Municipal Law  
Litigation

27 School Street  
Suite 603

Boston, MA 02108  
617-227-7289



SOLUTIONS TO SUBSURFACE CONTAMINATION

## GROUNDWATER TECHNOLOGY

1420 Providence Hwy.  
Norwood, MA 02062  
(617) 769-7600  
Offices worldwide

- Hydrogeologic Assessments & Hydrocarbon Spill Response
- Complete Aquifer Restoration Services
- Risk Management/Leak Detection
- Permitting & Expert Testimony



GHR ENGINEERING  
ASSOCIATES, INC.

CIVIL ENGINEERING  
LAB ANALYSIS  
SURVEYING  
WETLAND ASSESSMENT  
ENVIRONMENTAL ASSESSMENT

NEW BEDFORD, MA  
617-995-5136

LEXINGTON, MA  
617-862-8800

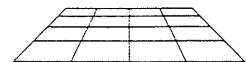
LAKEVILLE, MA  
617-946-0700

AERIAL PHOTOGRAPHY AND MAPPING



**JAMES W. SEWALL COMPANY**

P.O. Box 433  
Old Town, ME 04468



Tel. (207) 827 4456

### MACC STARTS BYLAW REGULATION PROJECT

More than 60 communities in Massachusetts have created local environmental law in the form of Home Rule wetlands protection bylaws. A local bylaw is a mere framework, an "enabling act" creating a conservation commission permit program protecting wetlands and related water resources and flood prone areas. A local bylaw is a beginning, not an end. It should empower the commission to promulgate regulations, and the commission should do so for the bylaw to be fully effective. Otherwise the bylaw is just a shell of procedures without all the definitions, standards, and controls which this local Home Rule approach allows.

At least three towns have gone to the next, crucial step and have promulgated regulations. For example, Brewster created a comprehensive set of regulations based on the structure, procedures, standards, and much of the approach of DEQE, with presumptions of significance.

MACC believes that no one set of regulations is perfect for all towns, although they are good starting places. There is danger in adopting any particular model just because it is available and easy to retype. In order to help towns develop sound regulations, the Governmental Affairs Committee of MACC has started a new Bylaw Regulation Project. It will produce a model MACC set of regulations, circulate them for comment, present them at workshops, and publish them for wide circulation.

Meanwhile, MACC urges that any town considering adopting regulations should:

1. Obtain the MACC packet of model rules and regulations.
2. Study the DEQE regulations, parts I, II, and III (omitting part II if you do not have coastal wetlands). Decide how you think the DEQE procedures, standards, wording, and approach are or are not aggressive enough and appropriate for your community.
3. Decide what kinds of wetland/floodplain resources are most valuable in your town, deserving of protection or management. Examine how well they have been delineated or identified.
4. Consider what activities in town are most threatening to these resource areas and how best to describe these activities in order to control them.
5. Decide whether to create presumptions of significance, performance standards, design specifications, and basic data requirements for all applicants. Identify types of projects warranting automatic approvals or (at the other extreme) special reviews.
6. Consider improving on the weaker provisions in the DEQE regulations, such as the definition of bank, the minimum qualifying size of a pond, the omission of protection for isolated (nonbordering) wetlands, and the regulation of work outside the buffer zone which may alter resource areas from a distance.

---

### MACC IS FOR INDIVIDUALS TOO!

MACC has provided 25 years of advice, assistance, and environmental leadership to Massachusetts conservation commissioners. But what about the next 25? Can MACC continue to meet commission needs, increase services, and improve the quality of life in your community? YES! You can depend on MACC - if MACC can depend on you. So please, return the membership form below TODAY! Keep MACC strong for the next 25 years.

I support MACC. Make me an Individual Member and send my membership card.

-----

Name \_\_\_\_\_ Phone \_\_\_\_\_ Date \_\_\_\_\_

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

Commission \_\_\_\_\_ Dates of membership \_\_\_\_\_

\_\_\_ I have enclosed \$15 for a one-year membership. \_\_\_ \$25 for non-commission members. Yes! I want to do even more! Enclosed is my tax-deductible contribution of \$ \_\_\_\_\_. Return to: MACC, Lincoln Filene Center, Tufts Univ., Medford, MA 02155

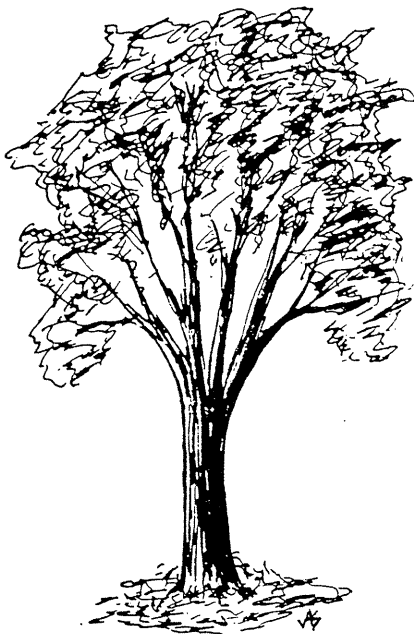
**WOODLAND MANAGEMENT GUIDE  
HELPS "FOREST OWNERS  
KEEP MASSACHUSETTS GREEN"**

"A Woodland Management Guide for Massachusetts" has been designed and published by the Middlesex Conservation District. A joint effort of the Department of Environmental Management, Forest and Parks, U.S.D.A., Soil Conservation Service, the Middlesex Conservation District, and Alexandra Dawson, Esq., this guide is for the woodlot owner in Massachusetts.

According to Thomas Quink, Chief Forester of the Massachusetts Division of Forests and Parks, "A comprehensive guide such as this one is long overdue. We hope it meets the needs of the Commonwealth's 103,000+ woodland owners who contribute substantially to the state's economic well-being. In keeping with the "Spirit of Massachusetts," our aim is to retain forests in a productive and healthy condition - a lofty but not unrealistic goal. Following the sound advice offered in this manual should help forest owners keep Massachusetts green ... and growing!"

To obtain a guide send \$6.00 plus \$1.00 for postage and handling to:

Middlesex Conservation District  
40 Nagog Park  
Acton, MA 01720



**NATURALISTS, ADOPT A TRAIL!**

Anyone who has gone hiking can readily appreciate the value of well-maintained trails. The trails provide access to remote, natural areas whose flora and fauna cannot otherwise be appreciated.

The Division of Forests and Parks is encouraging individuals, families, and organizations to volunteer for its newly approved Adopt-A-Trail Program. Volunteers in this program will be matched to specific trails which they will work to maintain. Projects which volunteers will work on range from physically demanding activities, such as brush clearing and bridge building, to less demanding activities, such as renewing blazes and signs, patrolling the area, and reporting back on the status of trails.

To become involved with this new project, write to:

Department of Environmental Management  
Division of Forests and Parks  
100 Cambridge Street  
Boston, MA 02202

**ELMS FOR ALL**

What are you planning to do for the approaching bicentennial of the U.S. Constitution? How about leaving something behind for the tricentennial! How about an American Elm?

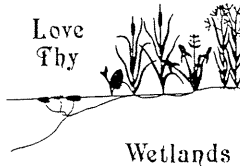
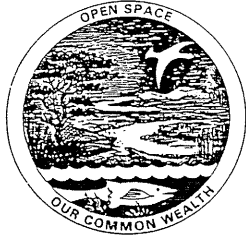
The theme for the U.S. Constitution bicentennial is "Plant a Living Legacy", so what better way to celebrate than to plant a tree which will live for hundreds of years and grow to heights of 90 to 100 feet. The Elm Research Institute is offering you an opportunity to receive a disease-resistant American Liberty Elm for the price of their annual membership, only \$10.

Additional, larger trees between 1 foot and 8 feet may be purchased individually for \$25 to \$100 or in lots of ten for \$15 to \$75. To order your elms or for more information write or call:

Elm Research Institute  
Harrisville, NH 03450  
(603) 827-3048

### AWARDS COMMITTEE SEEKS NOMINEES FOR ANNUAL MEETING

The Awards Committee is seeking nominees for the 1987 MACC Awards to be presented at the March 7, 1987 Annual Meeting. Here is your opportunity to honor those who have devoted a life-time (or only a major part of it) to commission work or those who have gone an extra mile for environmental awareness or protection. Don't miss this opportunity to recognize someone for their contribution to a better environment. Please submit the name and all pertinent information before January 1, 1987, to: MACC Awards Committee, Lincoln Filene Center, Tufts University, Medford, MA 02155.



MASSACHUSETTS ASSOCIATION  
of CONSERVATION COMMISSIONS, INC.

### HOLIDAY GIFT GIVING WITH AN ENVIRONMENTAL CONSCIENCE

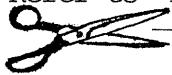
Conservation Commissions are referred to as the "environmental conscience of the community". By giving an MACC tee shirt, bumper sticker, or button you can spread your message about preservation of the environment.

Design from back of  
Silver Anniversary  
tee shirts



- Encourage wetland protection
- Increase open space acquisition
- Tell others about MACC's 25 years of environmental education and lobbying

Refer to "From the Resource Center" on page 12 for gift ideas.



### MACC HOLIDAY GIFTS ORDER FORMS

Your Name \_\_\_\_\_ Phone \_\_\_\_\_ Date \_\_\_\_\_

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

Send gifts (or membership! \_\_\_\$15 commissioner, \_\_\_ \$25 others) to:  
(We'll enclose a card to recipient in your name.)

Name \_\_\_\_\_ Phone \_\_\_\_\_

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

ITEM	SIZE	COLOR	QUANTITY	PRICE
------	------	-------	----------	-------

I have enclosed a check (made payable to MACC) for . . . . . \$\_\_\_\_\_.

Return to: MACC, Lincoln Filene Center, Tufts Univ., Medford, MA 02155 (617) 381-3457

**FROM THE MACC RESOURCE CENTER**

All prices include postage unless otherwise specified. Send request for publications with check made payable to MACC.

TEE SHIRTS - JOIN THE CELEBRATION! MACC's special Silver Anniversary Celebration tee shirts designed exclusively for MACC. Available in kelly green, silver gray, and royal blue. Sizes from small through extra-large. Limited quantity. \$7.00.

AND MORE TEE SHIRTS! "Love Thy Wetlands" and "Open Space - Our Common Wealth" designs. Wetland tees available in burgundy, navy, light blue, and silver gray; Open Space tees available in tan and light green. Sizes from small through extra-large. \$7.00.

BUTTONS AND BUMPER STICKERS. "Love Thy Wetlands" and "Open Space - Our Common Wealth" designs. Buy one for each member of your commission - or zoning board - or town DPW - or your son/daughter's sixth grade class! \$1.00 each, \$5.00 for seven, or \$8.00 for a dozen.

MACC DECALS. Featuring the classic MACC logo. The perfect way to display your support! \$.50.

MACC REVISED PACKAGE OF RULES AND REGULATIONS FOR WETLAND BYLAWS. This updated package includes the new rules and regulations passed by Brewster and Weymouth. A must for communities considering writing rules and regs. \$7.00

ADMINISTRATIVE PENALTY REGULATIONS. Contains a copy of the new DEQE Administrative Penalty Regulations along with an explanatory article written by Gregor I. McGregor, Esq. for the MACC Newsletter. \$5.00.

GUIDE TO THE OPEN MEETING LAW. Prepared by the Middlesex County District Attorneys Office, this guide includes: requirements, procedures, executive sessions, enforcement, coordination with other laws, and filing complaints. \$5.00.

LANDBANK PACKAGE. This package includes examples of some of the local bylaws that have been successfully passed (including one that has been written by a Conservation Law Foundation attorney), as well as a model bylaw prepared by Mass. Audubon. \$6.00.

FRESHWATER WETLANDS: A GUIDE TO COMMON INDICATOR PLANTS OF THE NORTHEAST. Clear illustrations and concise descriptions in this guide will help with identification of wetland plants, many of which are listed in the MA Wetlands Protection Act. Dennis Magee, 1981. \$10.00 picked up, \$12.50 mailed.

**iep**  
inc.

**CONSULTING ENVIRONMENTAL SCIENTISTS**  
Hydrology  
Wetland Mapping and Evaluation  
Terrestrial and Aquatic Biology  
Environmental Planning and Engineering  
Geology and Groundwater Science

NORTHBOROUGH: 617-890-2130, 617-393-8558 • BARNSTABLE: 617-362-6262

MACC is a private non-profit service corporation whose members are the conservation commissions of Massachusetts. Non-voting memberships are also available and include receipt of this newsletter. The MACC Newsletter is published eight times a year.

President.....Alexandra Dawson  
 First Vice-President.....Charles Costello  
 Second Vice-President....Robert Gray  
 Third Vice-President.....Sally Schnitzer  
 Secretary.....Robert Clark  
 Treasurer.....Marcel Kistin

Executive Director.....Pamela Resor  
 Assistant.....Jane Steven

MASSACHUSETTS ASSOCIATION OF  
 CONSERVATION COMMISSIONS, INC.  
 Lincoln Filene Center  
 Tufts University  
 Medford, Massachusetts 02155

Nonprofit Organ.  
 U. S. POSTAGE PAI  
 Permit No. 56583  
 Boston, MA 02205

Tatiana Assaykeen  
 97 Front Street  
 Hopkinton MA 01748