

Forest Practices Advisory Board
June 23, 2016

Members attending: Tom Degnan, Christopher Martin, Peter Neiman, Joe Theroux, Ben Oko, Ian Branson, Bruce Spaman, Joan Nichols (9:35 arrival)

Absent: Patrick Comins, Mark Ashton

Guests: Douglas Emmerthal, Sheila Hoefle (recorder), Eric Hammerling

Introductions – Chris thanked members for attending the second of three meetings scheduled for 2016. Final 2016 meeting is scheduled for October 6, location TBD. Chris reminded Board members that additional meetings can be scheduled if the membership chooses to. Peter Nieman was introduced to Board as the new member representing the Forest Products Industry. Peter is co-chair of Berlin Inland Wetlands Commission and has retired from the building business after nearly 40 years of experience. All members introduced themselves with their appointing authority.

Review/Approve minutes of January 28, 2016 meeting.

Minutes of the January 28, 2016 meeting were reviewed. Motion to accept as written by Tom Degnan, seconded by Bruce Spaman, unanimous approval.

FPAB member appointments & expirations

Chris distributed information regarding member appointments including appointing authority and appointment expiration dates. Chris also distributed CGS 23-65g pertinent to the Board. Chris again welcomed Peter to the Board noting that his appointment was made by House Majority Leader Joe Aresimowicz. Mike Bartlett was a member for 17 years representing the forest products industry. Mike submitted his resignation from the Board last fall. Mike recommended Brennan Sheahan as a replacement, the Board agreed with recommendation. Brennan did receive an appointment packet from the House Majority Leader's office. It was filled out and returned and then lost by legislative office staff. A second packet was then sent to Brennan but in the interim Peter was appointed. Chris M reached out to Peter to discuss his qualification for representing the Forest Products Industry. Peter stated he has no forest products industry experience but is a wetlands commissioner for the Town of Berlin. The FPAB now has two municipal wetland officials, the other being Joe Theroux appointed by the Governor per PA 93-223 and no forest product industry representation.

At this time the DEEP Legislative Liaison suggested that the Division find the original appointment letters for the Board that detail the membership, the [criterion](#) they were appointed for and the appointing authority. Legislative liaison has also suggested clarifying the State Statutes for appointment. The board discussed assigning each public appointor to the specific membership criterion. Tom asked if the letters will be used to state the process of appointment or to ensure that the same manner is being followed. Chris said the FPAB membership criterion are are pretty good as written and are purposely intended to ensure broad and objective perspective on Connecticut forest practices. The FPAB design provides solid representation from forestland stakeholders as well as vested professional expertise to approve the best advice to the Agency. A possible statutory fix would be to state the appointing authority and the membership criterion needed. Peter added that he understands the situation and agrees that if the Board is looking for someone who can represent the Forest Products Industry that person is not him. Peter stated that he would follow up with the appointing authority too.

[The statutory language needing clarification is highlighted in CGS 23-65g\(b\) below. The House Majority Leader's interpretation is there is no specific appointment authority tied to criterion but rather](#)

vacancies shall be refilled by staggered dates as “the original appointments”. The Agency’s interpretation of “the original appointments” since the inception of FPAB in 1991 differs and is based upon appointment authority tied directly to membership criterion as follows:

1. Governor - Officer of an environmental organization headquartered in the state which is concerned primarily with forests
2. Governor - Representative of an environmental organization not primarily concerned with forests
3. Governor - Member of an Inland Wetlands agency
4. Speaker of the House - Owner of 10-250 acres of forest land
5. Senate Majority Leader - Professor of forestry or natural resources from a college or university in the state
6. House Majority Leader - Forest Products Industry Representative
7. Senate President Pro Tempore - professional forester in private practice
8. Senate Minority Leader - General Public
9. House Minority Leader - General Public

Sec. 23-65g. Forest Practices Advisory Board. Membership. Powers and duties. (a) There is established a Forest Practices Advisory Board consisting of the State Forester or his designee, and nine public members, six of whom shall be appointed one each by the president pro tempore of the Senate, the majority leader of the Senate, the minority leader of the Senate, the speaker of the House of Representatives, the majority leader of the House of Representatives, the minority leader of the House of Representatives and three of whom shall be appointed by the Governor. The members appointed shall include a professional forester in private practice, a representative of the forest products industry, an officer of an environmental organization headquartered within the state which is concerned primarily with forests, a professor of forestry or natural resources from a college or university within the state, an owner of not less than ten nor more than two hundred fifty acres of forest land, a representative of an environmental organization not primarily concerned with forests and a member of an inland wetlands agency.

(b) The appointed members of the initial board shall be appointed so that the terms of two members shall expire on December 31, 1993, the terms of two members shall expire on December 31, 1994, the terms of two members shall expire on December 31, 1995, and the term of one member shall expire on December 31, 1996. Thereafter, each member shall be appointed for a term of four years. **Vacancies on the board shall be filled in the same manner as the original appointments.** Each member of the board shall serve until his successor is appointed.

(c) The State Forester or his designee shall serve as chairman of the board. The board shall meet at least three times, annually, at such time and place as shall be designated by the chairman, or upon the written request of a majority of the members of the board. A majority of the members shall constitute a quorum for the transaction of business. The principal office of the board shall be the State Forester’s office.

(d) Members of the board shall be entitled to reimbursement for travel expenses incurred in the performance of their duties.

(e) The Forest Practices Advisory Board shall have the following powers and duties:

(1) To periodically review applicable regulations concerning forest practices or the certification of forest practitioners and to issue recommendations to the Commissioner of Energy and Environmental Protection for changes to such regulations;

(2) To periodically review the programs and policies of the department regarding forests, forest health and forest practices and to issue recommendations to the commissioner for changes to such programs and policies; and

(3) To provide advice and guidance to the commissioner regarding the certification of technically proficient forest practitioners and the revocation or suspension of such certification.

(P.A. 86-257, S. 2, 6; P.A. 91-335, S. 2; P.A. 93-223; P.A. 11-80, S. 1.)

History: P.A. 91-335 entirely replaced former provisions re logger registration board with provisions concerning forest practices advisory board; P.A. 93-223 added two gubernatorial appointments to the board and specified that one member represent an environmental organization not primarily concerned with forests and that one be a member of an inland wetlands agency; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (e)(1), effective July 1, 2011.

Discussion took place regarding the expiration of appointment dates for Board members. Chris suggested that before an individual's appointment expires they contact their appointing authority to request another appointment if the member wishes to stay on the Board. Board members were reminded that State Statute reads that appointments are valid after the expiration date until another appointment is made. Joan added that a Livestock Advisory Board is being formed and they are looking at the appointments for the FPAB as a model. There is some concern that if Board members let their appointment expire the positions could be used for political reasons.

Update – Indian Spring Land Co v. Greenwich Inland Wetlands & Watercourses Agency

On June 22, DEEP Commissioner Rob Klee, Deputy Commissioner Susan Whalen, Chris Martin and Sid Goldman met to discuss the case. Chris noted that Sid was a delight to meet. At issue is a 124 acre parcel in Greenwich that is forested, contains lots of invasive plants and has had no active management for many years. The property is currently enrolled in the PA490 program. A Connecticut certified Forester wrote the management plan for the area. Neighbors were concerned that forestry operations weren't the only intended use of the area due to the type of road that was planned to be put in that would have involved blasting ledge, removal of town trees and a barway. The case is in supreme court now. This case is of note to the Board because the DEEP Wetlands Brochure will be impacted by the outcome of this case. There were previous cases similar to this in Connecticut that decided that an Inland Wetlands Commission has the authority to regulate road construction in a forest practice if it impacts the wetlands. Eric asked if DEEP took a position or submitted testimony on this case. Chris stated that David Wrinn represented DEEP at the lower Superior court case. Joan reminded the board that there is a separation of powers for improved forest/agricultural roads versus new roads. Existing roads improved upon without a permit. New roads require the opportunity for authorities to review

Update 2016 Legislative Session

The Board discussed the annual proposed Conveyance Act. The Board agreed that a Constitutional amendment is needed to ensure that all conveyed lands are subject to a public hearing. In the past there have been some controversial proposed land conveyances.

Discussion took place regarding the budget issues that the State is facing and the potential impacts on DEEP. Chris noted that the budget shortfall continues to be updated regularly, each update shows a greater shortfall. DEEP budget from the legislature has been reduced to \$50 million, approximately a 12-15% reduction. This has resulted in an anticipated \$2 million less budget for the Environmental Conservation side of DEEP. The Bureau of Natural Resources will receive an \$800,000 reduction. State Parks Division will close state campgrounds and reduce the hours that life guards are on duty. Another item of note, Marine Fisheries Division and Inland Fisheries Division will be combined. The vacant

position in the Forest Practices Act Program will not be refilled. Joan asked about using funds from the Timber Harvest Revolving Fund to refill positions. Chris explained that the Division is allowed to keep \$100,000 in the account for management of State Forest properties. Unfortunately, both State Lands Management and Forest Practices Act Programs do not receive any federal funding. Eric reminded the Board that the DOF has 17 permanent staff members and more than half are eligible for retiring. Chris shared that the Division has been notified by one staff member who plans to retire in spring 2017. There is private lands forester has been high priority on the commissioners list for hiring. The Board determined that a letter should be sent to the Governor expressing the compelling need for forestry professionals to remain on staff at DEEP. Chris also noted that the majority of the funding received from the USDA Forest Service requires matching funds from the State. If the Division/Agency receives less State funds and cannot meet the required match, less federal funds would be received in subsequent years.

Update NLEB

Chris noted that Connecticut played a major role in keeping the NLEB off of the endangered species list. DEEP Wildlife Division staff presented a program for Certified Forest Practitioners on NLEB. The program was attended by 30 DEEP certified foresters, representing over 150,000 current actively managed forest acres attended. The program included both classroom presentation and field study. Other states have copied the model of the program. Ian shared that he has heard some grumbling within the Certified forester community that some jobs were delayed for approval on the town level because of the potential listing and that jobs funded with federal dollars are not allowed activity within 2 months of the mating season.

Update Online Forester Annual Reporting

The online Forester Annual Report effort is a success. Feedback from foresters was positive overall with good suggestions for next year. There are currently 140 certified foresters and 103 submitted annual reports online. The biggest issue was the foresters lack of familiarity with Google Survey Monkey and lack of knowledge with operating computers in general. Going forward Doug hopes that the agency will have a more appropriate reporting tool. Joan added that she thought reporting this year was much easier and faster this year.

Update PA490 Regulations

Chris distributed a document that outlined the proposed changes (attached). The red text has been removed and blue text added to the Regulation. The proposed changes have been submitted into the E-Regulations System. There are still several steps to complete before the Regulations can be revised, a fiscal analysis and small business impact statement need to be completed.

PA490 Training for Certified Foresters was completed this year utilizing a webinar. Training has been conducted every year, this is the second year that a webinar was used. Division staff are in the process of learning the best way to conduct the webinar. Assistance was given to Foresters over the phone with questions. Doug is working on developing a survey for participants. Certificates have been issued to those foresters who passed the quiz at the end of the training.

CAES/DEEP Forest Pest Memorandum of Understanding (MOU)

CAES and DEEP have entered into a new MOU to work jointly on forest pest issues. The original MOU was signed in 2012. The MOU allowed CAES to delegate authority to DEEP staff for forest pest work and inspection. Under the MOU DEEP staff are allowed to enter private property and inquire about

firewood. Foresters, solid waste inspectors, park supervisors and park personnel have been delegated this authority.

The Agency sponsored a Firewood Check at Hammonasset SP campground in June. Most campers transporting firewood had the required information with them, a few did not and were presented with information. EnCon staff were impressed with how many campers were aware of the need for required information.

The new nature center at Meig's Point in Hammonasset SP has opened. Forestry was given a small display area.

The Division has received numerous calls from CT residents with concerns about gypsy moth. Last year (2015) saw defoliation and this year it seemed to be more widespread. Next year could be just as bad if we do not have a wet spring. Not much tree mortality has been witnessed yet but multiple years of defoliation could result in tree mortality. Another outcome of the gypsy moth defoliation is the increased chance for fires. Needle cast on white pine has been noted as well. Chris shared that media outreach has been coordinated by the CT Agricultural Experiment Station. Chris anticipates DEEP and CAES meeting to develop some fact sheets due to the anticipated outbreak next year. Questions regarding chemical control of gypsy moth should be referred to CAES.

Review of Certification Enforcement Actions Taken

Several enforcement actions have been closed (see attached). Keith Rice was issued a court order to pay a \$1,000 fine, reduced from \$7,500. Mr. Rice also will advise the Commissioner of any forestry work activities. Enforcement Action was initiated with Mr. Rice in 2013.

Ryan Messier let his forest practitioner certification lapse and subsequently was discovered harvesting timber. Inland wetland issues were noted during inspection and shared with the municipality. The municipality issued a cease and desist order to Mr. Messier. Mr. Messier's consent order requires he notify the Commissioner of all forestry work activities through 2018 to allow the agency to monitor best management practices at the sites. The imposed civil penalty has been satisfied. If Mr. Messier violates the jurisdictional ruling an additional \$1,000 fine must be paid. Mr. Messier passed the forest practitioner certification exam for a Supervising Forest Products Harvester and certification has been issued.

Good of the Order

Joan – noted that Timpro recently sponsored several programs and purchased a subscription to Constant Contact. Joan explained that Constant Contact allows a user to upload emails and quickly and easily distribute emails to this list. Constant Contact tracks how many emails were returned undeliverable and also shows the open and click rates for the emails. Joan also thanked Sheila for her assistance.

Doug and Joan shared plans for National Forest Products week in October, a program is being planned to take place at Lockwood Farm under the pavilion that was constructed under the CT Grown Program. The program will be a collaborative effort with DEEP, Timpro, SAF, CTPA and CFPA.

The CT Farm Bureau through Joan will be sponsoring 2 or 3 programs on PA490 in September. Joan shared that 2500 copies of the Farm Bureau PA490 (2015 edition) remain. Joan explained that the Farm Bureau has purchased a new building and moved location to Wethersfield off of the Silas Dean Highway. The conference room capacity at the new facility is less and will fit approximately 30 people with AV and

conference calling capability. Discussion took place about conducting the October 6 FPAB meeting at the Farm Bureau.

Plant Science Day will be held August 3 in the Lockwood Farm pavilion. Joan shared that Lockwood Farm is open to the public Monday – Friday 8:30-4:30.

Meeting closed at 11:32, next meeting October 6 location to be determined.

Tom moved to adjourn, Joe seconded. Unanimous.

(Minutes were edited and amended by FPAB Chairman Christopher Martin and guest Douglas Emmerthal)